

**Report on the Proceedings of the
Conference on “The Lonely Child: The Needs
and the Right to a Family”**

**Hilton Hotel, Addis Ababa, Ethiopia
15-17 February 2007**



**CIAI – Italian
Center for Children
Aid**



**FDRE
Ministry of Women’s
Affairs**



**CAI-Italian
Commission for
Inter-country Adoption**

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Acronyms

ACA	- Adoption Coordinating Agency (India)
CAI	- Commission for Inter-Country Adoption (Italy)
CAED	- Hosting Center for Children in Distress (Burkina Faso)
CARA	- Central Adoption Resource Authority (India)
CA	- Central Authority
CIAI	- Italian Centre for Children Aid
CPU	- Child Protection Unit (Ethiopia)
CREN	- Centre for Nutritional and Educational Follow-up (Burkina Faso)
CRC	- United Nations Convention on the Rights of the Child
DPEA	- Direction for the Protection of the Child and Adolescent (Department – Burkina Faso)
HC	- Hague Convention
MoJ	- Ministry of Justice
MoWA	- Ministry of Women's Affairs
NGO	- Non – Governmental Organization
NRA	- Non – Resident Indians
NOC	- No Objection Certificate
OVC	- Orphans and Vulnerable Children
RFC	- Revised Family Code
RIPA	- Recognized Indian Placement Agency
SCAB	- Social and Civil Affairs Bureau
UN	- United Nations

Executive Summary

The Conference "The Lonely Child: the Needs and the Right to a Family" was organized by the Italian Center for Children Aid (CIAI) in collaboration with the Ministry of Women's Affairs of Ethiopia and with the support of the Italian Commission for Inter-Country Adoption (CAI). It took place at the Hilton Hotel, Addis Ababa from 15-17 February 2007. 161 participants drawn from adoption agencies, child care organizations, government institutions, NGOs, resource persons from India, Ecuador, Burkina Faso, Italy and Ethiopia participated in the three-day long conference.

The objective of the Conference was to share experiences from Central Adoption Authorities and from the field, to raise the awareness of participants on local and international legislation in relation to inter-country adoption and on how to undertake inter-country adoption based on the best interests of the child and as a last resort.

The Conference commenced on February 15, 2007 with an opening address delivered by Dr. Bulti Gutema on behalf of Her Excellency W/ro Hirut Delebo, Minister of Women's Affairs – Ethiopia, followed by greetings conveyed to the session by representatives of CAI, CIAI, and the Italian Embassy in Addis Ababa.

After the opening session the following nine papers were presented to the plenary session on February 15 and 16, 2007 respectively. The presentations included:

Day One: February 15, 2007

- The Experience of Ethiopia by Dr. Bulti Gutema, MoWA, Ethiopia
- The Experience of India by Mrs. Aloma Lobo, CARA – Indian Central Authority for Adoption
- The Experience of Burkina Faso by Mrs. Hortense Nikiema, Representative of the Central Authority for Adoption in Burkina Faso
- The Experience of Ecuador by Mr. Arturo Matamoros, Juvenile Judge, Ecuador.
- The Experience of Italy by Dr. M. Bianca and Mrs. Anna Maria Marchio from CAI, Italy.

Day Two: February 16, 2007

- Abandoned Children: focus on their needs by Dr. Marco Chistolini, Psychologist and Consultant, CIAI, Italy.
- The Development of National Adoption: The Indian Perspective 1984-2006, by Mrs. Nomita Chandy, Secretary at Ashraya Children's Home, India.
- The Situation of Burkina Faso by Mrs. Clare Marthe Girard, Director of CAED, Child Care Institution in Burkina Faso.
- Case Histories: The Experience of CIAI Ethiopia by Mrs. Azeb Adefrenew, Country Representative of CIAI, Ethiopia.

Each of these nine presentations dealt with experiences of Central Adoption Authorities in the five countries, as well as the experiences from the field especially in relation to child care institutions.

The presentations were followed by group work where participants undertook extensive discussions and shared their experiences with one another. In the afternoon of the first day, the group discussions focused on the following themes:-

- *Group 1a* – Programs for the prevention of abandonment: legal and juridical aspects
- *Group 1b* – Programs for the prevention of abandonment: social and administrative aspects.
- *Group 2a and 2b* – “The institutionalized child and why the decision of adoption”.

In the afternoon of the second day all three groups discussed the same topic namely: Children, child care institutions and the role of the adoption organizations.

Day Three: February 17, 2007

The third day of the conference was devoted to group presentations on the first and second day group discussion sessions. The working groups presented their reports to the plenary meeting and their conclusions and recommendations were intensively discussed at the plenary session.

Some of the questions presented in the group reports and discussed at the plenary included:

- Reasons for child abandonment
- Requirements for admission to institutions
- Relationship with biological parents and alternative measures
- Preparation of the child for adoption
- Alternative child care methods

- Criteria for registration of child care institutions, and who controls these institutions
- Role of the institutions in terms of providing alternative child and family support measures
- The role and the relationship between the adoptive organizations and the child care institutions etc.

Following the discussion on group reports, Mr. Mengiste Ayele presented his reflections on the Conference. He noted that the conference had both positive outcomes and some shortcomings. He therefore, recommended measures such as giving utmost priority to domestic adoption, advised stakeholders to stop competing among themselves and to start working together towards a common goal, and underscored the need for family empowerment as well as for more follow-up and supervision of program implementation.

This was followed by closing remarks made by Mr. Angelo Moretto – the moderator of the plenary sessions. He said that the conference was very fruitful and strongly suggested that it is now time for the stakeholders to move from words to action. He also thanked all concerned for their contribution to the success of the conference.

As part of the closing program, a joint statement/declaration was issued by the participants. The statement which reflected the collective views and position of the conference participants was read by Mr. Angelo Moretto.

The joint statement charted the way ahead or showed the major steps to be taken by the adoption agencies, child care institutions, the Ministry of Justice, the Ministry of Women's Affairs and the Regional Bureaus of Labor and Social Affairs.

Some of the recommendations included measures aimed at: -

- Adoption agencies to support projects, promoting family reintegration and helping children in need;
- Child care institutions to provide transparent and complete documentation on the history and family background of the child;
- MoJ to provide clear rules and guidance for licensing agencies;
- MoWA and Regional Bureaus to support capacity building on the rights of children; and
- All the stakeholders to promote national adoption, to give particular attention to children with special needs and to strengthen cooperation and networking among all concerned bodies.

Finally a concluding statement was made by Dr. Bulti Gutema, Head of Mothers and Children Affairs Department of the Ministry of Women's Affairs of Ethiopia. In his statement, he noted that almost all of the problems encountered by the stakeholders are implementation problems that could be solved through joint planning and networking. He suggested that as a special and valuable forum this conference should not be a one-time event but has to be organized on a regular basis.

In winding up his statement, Dr. Bulti expressed his appreciation of the Conference, and thanked the CIAI and CAI for the organization of the conference, the resource persons for sharing their experiences, the moderator for his efficient and able facilitation of the conference proceedings and all of the participants for their attendance and active participation.

CONFERENCE ON THE LONELY CHILD: THE NEEDS AND THE RIGHT TO A FAMILY

1. INTRODUCTION

The conference "The lonely child: the needs and the right to a family" was organized by the Italian Center for Children Aid (CIAI), in collaboration with the Federal Democratic Republic of Ethiopia Ministry of Women's Affairs and with the support of the Italian Commission for Inter-Country Adoption (CAI).

The conference took place at the Hilton Hotel in Addis Ababa from 15 to 17 February, 2007. 161 participants from various organizations participated in the three-day conference. The participants were drawn from Regional Social Affairs Bureaus, child care institutions, adoption service providing organizations, Ministry of Justice, Child Protection Units, the Municipality, Ministry of Foreign Affairs and Immigration Office, Police Commission, international organizations and relevant NGOs. (See Annex 2 for a detailed list of participants).

The conference discussed a wide range of issues in relation to orphans and abandoned children in Ethiopia and in some other countries facing similar problems (India, Burkina Faso, and Ecuador) with a particular focus on adoption as an alternative child care solution.

The overall objective of the conference was:

- To share experiences on prevention and protection policy for the proper implementation and enforcement of laws against child abandonment, actions of protection and care within child care institutions and alternative systems of child care programs; and
- To raise the awareness of participants on local and international legislation in relation to inter-country adoption and on how to undertake inter-country adoption based on the best interest of the child and as a last resort.

In order to meet the objectives of the conference ten papers on the experiences of central adoption authorities and on experiences from the field were presented to the plenary sessions. These papers were made available to the participants and should be considered as integral parts of this report.

Furthermore, with a view towards enhancing participation and experience sharing, two afternoons were entirely devoted to group discussions and preparation of written recommendations. The first day, the topics discussed by the groups included the legal, juridical, social and administrative aspects of programs for the prevention of abandonment and about the institutionalized child and why the decision of adoption.

The second day the three groups had a discussion on children, child care institutions and the role of adoption organizations.

The reports from the group discussions, conclusions drawn from the discussions, joint statement of participants and concluding statements were presented to the plenary session on the third day.

The content of this report on the proceedings of the conference follows the sequence of events described in the conference program (See Annex 1).

Day One – February 15, 2007

2. OPENING SESSION

The conference “The lonely child: the needs and the right to a family” was opened on Thursday, February 15, 2007 at 9:30 a.m. following the registration of participants.

The moderator – Mr. Angelo Moretto (CIAI, Italy) – welcomed the participants to the conference organized by Italian Center for Children Aid (CIAI) in collaboration with the Ministry of Women’s Affairs (MoWA) and Italian Commission for Inter-Country Adoption (CAI). He hoped it would be a fruitful meeting especially for those participants who work directly with children. He then introduced the program of the Conference and informed the participants that Her Excellency the Minister of Women’s Affairs were unable to be present due to other pressing commitments.

2.1 Opening Address

The Moderator called upon Dr. Bulti Gutema to present the opening address on behalf of the Minister of Women’s Affairs.

Accordingly, Dr. Bulti started the presentation by welcoming all participants and guests to the conference. He noted that according to some studies, one out of every five children in developing countries is considered to be a child in especially difficult circumstances. In Ethiopia, the most recent actions taken to tackle the problems of these children includes the formulation and implementation of the Developmental Social Welfare Policy, the National Plan of Action for Children and Action Plan for Orphan and Vulnerable Children.

Orphaned and totally abandoned children for whom alternative care is required need priority attention and are the focus of this conference. With this in view, he urged all concerned stakeholders to coordinate their efforts to tackle the problems of these children so as to enable them to enjoy their rights as stipulated in national and international legal norms.

He said that inter-country adoption should be considered as a last alternative solution after exhausting existing options in the country. Furthermore he pointed out that the central focus of the whole process of adoption and the outcome of such processes should be ensuring the best interest of the child as stipulated in national laws and international conventions.

Finally, after thanking CIAI and CAI for organizing and financing the conference, he wished the participants success in their deliberations and declared the conference open.

2.2 Greetings from Italian Center for Children Aid (CIAI)

The greeting from CIAI was presented by Mrs. Paola Crestani – member of the Board of Directors at CIAI.

She thanked the participants, the representative of the Minister of Women's Affairs and representatives of India and Burkina Faso Central Authorities including the Judge Mr. Arturo Matamoros one of the promoters for the ratification of the Hague Convention in Ecuador.

In her introductory remarks she said that children are often said to be our future, but she believed that a new concept has to be stated i.e. "Children are our present and we must work in this present in order to have a future".

She said that one of the issues concerning childhood, which has become more and more significant over the years, is adoption: in- country adoption first and in the end, inter-country adoption.

She noted that the text of the Hague Convention and the law of its Italian ratification have been provided to the participants. In light of the provisions of the law, CIAI has strongly committed itself in Ethiopia, Burkina Faso, India, Cambodia, Vietnam, and Columbia. CIAI has been working in Ethiopia, since the beginning of the '90s and in partnership with the Ministry of Labor and Social Affairs, the Social and Civil Affairs Bureau of Addis Ababa and various local associations, it implements several development projects along with inter-country adoption.

The number of adoptions realized by CIAI in Ethiopia in 2006 was 16. CIAI is involved in:

- Various initiatives in favor of street children and kids in conflict with the law;
- Sponsorship program for needy and especially underprivileged families (In 2006 1,400 children have been supported and have been able to attend school and to improve their life condition);
- Capacity building program addressed to institutes and associations dealing with childhood; and
- Other central issues concerning AIDS and the promotion of basic education.

She noted that eight years after the publication of the law of ratification of the Hague Convention, it is possible to state that the goal of serious cooperation among countries in view of the interest of the child has not been completely reached yet.

She concluded by saying that we have to take up a cultural and political challenge: - Cultural because we have to believe, again and firmly, that the true subject of Adoption is the child and political because through dialogue, comparison and commitment, we have to find the most adequate institutional answers to make this basic right of the child acknowledged and accepted.

2.3 Greetings from Commission for Inter-Country Adoption (CAI)

Greeting from CAI was also presented by Dr. Massimo Bianca, member of the Commission and Representative of the Minister of Foreign Affairs in the Commission.

Dr. Bianca stated that he was proud to be present at the conference with his colleague Mrs. Anna Marchio and to present greetings to the representatives of the Ministry of Women's Affairs and other Ethiopian Authorities and to Paola Crestani – in behalf of the President of CIAI.

He said that they are proud to present the regards of Mrs. Rosy Bindi – Italian Minister of Family Affairs, and Mrs. Roberta Capponi – Head of the Commission and the staff of the whole commission who wish success to this meeting.

He stressed the strong will of the Italian government and the Commission, to strengthen the cooperation with the Ethiopian authorities in order to support as far as possible the Ethiopian children at risk.

The support must be a financial one as well and must aim in the first place to help the children to stay with their families since inter-country adoption must be a last chance as has been mentioned just now.

That is why in the spirit of amity and solidarity they look forward to see the full participation of the Ethiopian authorities to the understanding concerning the long-term intervention plans in Ethiopia signed by the Italian Ministry of Family Affairs and the accredited bodies, in the first place the CAI.

Finally Dr. M. Bianca concluded his greeting by saying that they look forward to see the signing of the bilateral agreement between the Ethiopian government and the Commission and that he was glad to see the representative of the Italian Embassy at the opening session of the conference.

2.4 Greetings from the Italian Embassy in Addis Ababa

Greetings from the Italian Embassy was presented by Mr. Martin Lorenzini – Head of the Consular Chancery of the Italian Embassy in Addis Ababa.

Mr. Lorenzini welcomed the participants and thanked them for attending the conference. He said that his special greeting goes to the representative of India, Burkina Faso and Ecuador who have come a long way to attend this conference and to the representatives of the Regions in Ethiopia.

He said that he would also like to thank the MoWA of the FDRE, CAI and last but not least CIAI for organizing this ambitious conference: a conference which will certainly contribute to a better understanding of the issue of international adoptions and help to identify the critical elements and enhance the cooperation between the different actors involved in international adoption.

Mr. Lorenzini said that adoption itself is a very complex issue with different aspects – legal, psychological and social. Inter-country adoptions are far more complex since different legal systems, different social structures and mentalities as well as an increased number of actors are involved. It is therefore of great importance that the experiences of different actors are shared and the opportunities of enhancing the cooperation are highlighted.

He said that today the most relevant institutions and organizations are represented at the conference and the most pressing issues are on the agenda.

The topics of the different working groups show the vast implications of international adoptions and particularly the need to identify a global approach to it.

Adoptions cannot only be considered as a relation between the adopted child and the adopting family, but also the causes that lead to adoption such as child abandonment

have to be taken into consideration and analyzed such as measures have to be put in place to tackle such issues.

The principle which should lead any action has to be the supreme interest of the child and as the title of the conference rightly puts it his needs and the right to a family.

He said that as head of the consular section of the Italian Embassy he was particularly interested with the legal aspects of adoption and more precisely with the verification of the documentation which is presented for the adoption. Therefore the role of the Consulate lies somehow in between of two legal systems – the national and legislation of the country of origin of the adopted child and therefore the instruments at our disposal are our national legislation, the legislation of the country of origin of the adopted children as well as international law both multilateral and bilateral. The Hague Convention represents the most important multilateral treaty in this field but even for those countries which have ratified the Convention; it does not mean that bilateral cooperation agreements are not needed any more.

The Hague Convention creates the overall framework such as providing guidelines for international adoptions; while bilateral agreements respond to the specific realities of single countries and allow a more detailed regulation of the inter-country adoption.

Italy and Ethiopia have actually been working for quite some time on the definition of bilateral agreement which for the time being is still a draft agreement. In the light of this conference, he believed that it may not be a bad thing that the bilateral agreement is not ratified, since it may be able to benefit from the outcomes of this conference, and from the recommendations of the different working groups as well as from the experiences which the representatives of India, Burkina Faso and Ecuador share with the participants. But when referring to experience sharing, he said that special mention should be made to all those actors who work in the field, especially social workers, psychologists and experts from NGOs and adoption organizations that create a basis for successful adoptions.

In conclusion he wished the conference participants three days of intensive work and looked forward to the conclusions of the conference. Finally he thanked once again the participants for attending the conference and the organizers for their valuable initiative.

3. SUMMARY OF PRESENTATIONS AND DISCUSSIONS EXPERIENCES FROM CENTRAL ADOPTION AUTHORITIES

3.1 The Experience of Ethiopia

An overview of the coping strategies for vulnerable children in Ethiopia was presented by Dr. Bulti Gutema – Head of Mothers and Children Affairs Department of MoWA.

He described the strategies put in place to improve the plights of children, and mentioned the following prevention strategies:-

- Developmental social welfare policy with emphasis on creating an environment conducive to addressing the condition of children in especially difficult circumstances;

- OVC Plan of Action which identified five thematic areas referring to legal and regulatory frameworks, situation analysis, advocacy and capacity building, consultation and coordination, and monitoring and evaluation.

According to Dr. Bulti the Rehabilitative Strategies include alternative child care strategies such as:-

- Community-based child care
- Foster family care
- Child family reunification
- Institutional child care, and
- Adoption

With respect to adoption, Dr. Bulti said that Ethiopia has ample experience both in domestic and international adoptions. He elaborated the following:-

- Issues to be considered in inter-country adoption
- The rights of adoption agencies
- Obligations of adoption agencies
- Illegal acts related to adoption
- Eligibility of the applicant, and
- The adoption process in Ethiopia

In his concluding remarks he also indicated traditional coping mechanisms to help OVC such as the capacity building of families, the extended family as well as other traditional coping mechanisms like 'Yetut Lij" or "Yemar Lij".

3.2 The Experience of India

The experience of the central adoption authorities in India was presented by Dr. Aloma Lobo – Indian Central Adoption Resource Authority (CARA).

Dr. Aloma started her presentation by mentioning the long existence of the institution of adoption in Indian society mainly for religious purposes and for other socio-economic reasons.

She stated that CARA is an autonomous body under the financial and administrative control of the Union Ministry of Women and Child Development. India signed the Hague Convention on inter-country adoption in 2003 and ratified it the same year.

To implement the Convention, the Ministry functions as the Administrative Ministry and CARA as the Central Authority. CARA functions through the Indian State Governments and Union Territories.

She gave an overview on the functions, objectives and structure of CARA at central and regional levels. The mission of CARA is to find a family for every orphaned, abandoned or surrendered child in the country. CARA chooses to promote in-country adoption to its maximum and ensures that no child is offered in inter-country adoption unless and until the child has been considered by Indian families.

Dr. Aloma Lobo described briefly the process of adoption in India as related to inter-country adoption, which it considers as an appropriate way for some children, who cannot for some reason find a permanent family in their country of origin.

She also outlined some limitations in the execution of adoption based on the experiences of CARA such as:-

- CARA is not fully autonomous and representation does not always involve the agencies who are the actual stakeholders in the whole process of adoption.
- Licensing of Indian agencies goes through the state governments and therefore there are delays and children wait.
- The multi-tiered system and the consequent time delays are detrimental to the waiting child.
- The issue of addressing the needs and situations of children with special needs is inadequate etc.

She presented the number of children placed in in-country and inter-country adoption for the period 2000 to 2005. For instance, in 2005 the number of in-country and inter-country adoption was 1541 and 867 respectively.

In conclusion she said that inter-country adoption must be carried out in strict conformity with the interests and rights of the child as envisaged under the Hague Convention on inter-country adoption – 2003.

At present sending and receiving countries have a better cooperation than ever before and India has an organized system that caters to the interest of such children. However, the existing system must be fine tuned continuously so that every child may find his family in the shortest possible time.

3.3 The Experience of Burkina Faso

The paper on the role and competencies of the Central Authority in Burkina Faso for inter-country adoption was presented by Mrs. Hortense Nikiema from Burkina Faso Central Authority for Adoption.

Mrs. Nikiema started her presentation by saying that Burkina Faso has given priority to the promotion and protection of vulnerable groups mainly children through its Ministry of Social Affairs and National Solidarity.

Many initiatives have been taken by the government and financial partners for the improvement of the conditions of children in need such as children's sponsorship, family and institutional placement and inter-country adoption. The number of children placed through inter-country adoption has grown from 6 in 1991 to 814 on December 31, 2006.

In order to preserve the right of the child, Burkina Faso has ratified the Hague Convention (HC) on January 11, 1996.

She described the role of the Central Authority in relation to processing of applications and supervision of the processing for inter-country adoption. With respect to applications she noted that there are two ways for candidates interested in inter-country adoptions namely, individual application and application through recognized organizations for inter-country adoption.

She in addition outlined the competence of the Central Authority by saying that the Ministry of Social Affairs and National Solidarity is the only authority which has the

central role regarding inter-country adoption in general and especially implementation of the Hague Convention. Its key role includes:

- the choice of candidates for inter-country adoption;
- the determination of adoptability of the children;
- matching or choosing a family for an abandoned child.

She also noted the main difficulties encountered in its operation mainly the slowness of the proceeding (it takes 8 months at least between matching and the verdict) and the misreading of the rules by all the involved stakeholders.

In conclusion, she said that inter-country adoption remains the last opportunity for the abandoned child to have a family who provides him/her with love and happiness. This has been outlined in the Hague Convention as a way to protect the child and the convention has outlined ethical rules. The Central Authority in Burkina Faso works in accordance with the convention and this has brought about results but difficulties and shortcomings still remain.

3.4 The Experience of Ecuador

The "Report on the Characteristics of the Legal System of Ecuador in the Framework of the Hague Convention on Protection of Children and Co-operation in Respect to Inter-Country Adoption of 1993" was presented by Dr. Arturo Marquez Matamoros – Second Judge of Childhood and Adolescence of Quito – Ecuador.

In his introductory remarks, Dr. Matamoros described the legal framework in connection with childhood and adolescence including international conventions and the role of the Central Authority in the framework of the Hague Convention.

Dr. Matamoros indicated that the current Central Authority i.e. the National Council on Childhood and Adolescence is a national collegiate body made up in equal proportion of members of the state and of civilian society in charge of overseeing the compliance of the rights established in the Code on Childhood and Adolescence. The Code includes several articles which identify obligations and responsibilities of the Central Authority.

In Ecuador, one of the guiding principles on adoptions (the subsidiarity principle) is the prioritization of national adoptions over the international ones. Furthermore, as stipulated in Article 3 of the Code of Childhood in Ecuador on matters that are not specifically established in said legal body, the other laws of the domestic legal order will be applied.

With respect to costs of professional services and fees Dr. Arturo M. Matamoros said that Article 32 of the Hague Convention of 1993 expressly prohibits earning undue material profits from International Adoptions. The adoption procedures in the framework of the Convention must operate with the necessary speed.

In conclusion, he stated that Ecuador has a constitutional, conventional, substantive and procedural legal regime to ensure the adequate operation of the Hague Convention of 1993. It offers the legal and administrative mechanisms and a Central Authority, with bodies that guarantee the rights of boys, girls and adolescents.

Finally, he presented statistical data on adoptions in Ecuador for the years 2004-2006. There are more national than international adoptions each year. For example, in 2006, there were 88 (76%) national as compared to 28 (24%) international adoptions.

In other words, the ratio of national to international adoptions is 3 to 1 with no significant difference in the number of adoption of boys vs. girls.

In addition within the country the number of adoptions in the "Difficult Adoption Program" involving children with some type of illness, a handicap, over 4 years old, or other special situations, is much less than the general adoption program, where as the converse is true for international adoptions.

3.5 The Experience of Italy

The experience of Italy was presented by Dr. Massimo Bianca and Mrs. Anna Maria Marchio – member of the CAI.

Dr. Bianca started his presentation with general remarks on adoption. He emphasized that according to the new Hague Convention on international adoptions, international adoption is an alternative as long as it can be proven that the original family cannot care for the boy/girl, and that there is no viable solution within the country. Furthermore, the international adoption should take into consideration the best interests of the child.

He mentioned that subsidiarity principle i.e. the prioritization of national adoptions over international adoptions, as an important principle of the Hague Convention.

He said that the subsidiarity principle is correlated with the objectives of the convention, and international adoptions should take place within the context of international law.

In Italy Law 476 of 31 December, 1998 has provisions regarding the adoption and foster placement of children. According to Article 1 of Law 476, the child has the right to be raised and educated in his or her own family. This right is regulated by the provisions of this law and by other special laws.

The state and competent authorities have to ensure the implementation of the law. Dr. Bianca said that the focus of adoption must always be the child.

Following Dr. Bianca, the experience of Italy was presented by Mrs. Anna M. Marchio. She recalled the fact that during November 2006, the Italian Minister for Family Policies signed the second Institutional Program Agreement for the period 2006-2008. This agreement aims at expanding cooperation with the central and local authorities with responsibility for the care of lone and abandoned children through arranging meetings and seminars, any measures adopted to improve pediatric health care facilities, training/education plans at all levels, and the involvement of families to pre-empt the conditions leading to their being abandoned.

The Hague Convention makes the Central Authorities the centerpiece of the system and gives them the task of supervising the whole adoption procedure and performing numerous other important functions, some of which can be delegated to private agencies.

In the case of Italy, she recalled that the Commission is a central government agency linked to the office of the Prime Minister and administratively “structured” within that office, while remaining independent of it. The various tasks entrusted to CAI include the following: -

- It is the liaison body with the Hague Conference and the other central authorities, and works with them for purposes of gathering information. It is also the reference authority for all the states of origin, to promote bilateral adoption agreements;
- At the national level, it is responsible for guaranteeing the regularity of the adoption procedures and the work of the authorized adoption agencies.
- CAI authorizes the entry into Italy of foreign children who have been declared adoptable or eligible for fostering, and is responsible for certifying that this has in fact taken place in accordance with the rules of the Hague Convention.

The adoption process is therefore closely controlled characterized by guarantees and the rule of law.

3.6 Plenary Discussion on Experiences of Central Adoption Authorities

The Moderator – Mr. Angelo Moretto – stated that most of the presentations emphasized three issues namely:

- o issue of children with special needs;
- o transparency of the procedures and how it can be ensured; and
- o the situation of sending countries or issue of national adoption.

He then invited the participants to raise questions and to give comments and suggestions on these and other issues related with the themes of the conference.

Accordingly, the following questions were raised and discussed during the plenary session.

Mrs. Nomita Chandy: According to Mrs. Chandy, Dr. Arturo Matamoros said during his presentation that there is a need for follow-up reports every month throughout the year. She asked why the need for so many reports and who is going to follow-up such reports?

In response Mr. Arturo Matamoros (Ecuador) said that reports are expected to be submitted four times during the first year and two times during the second year. Article 186 of the Code on Childhood establishes that the government of Ecuador, through the Central Authority on adoptions is responsible for performing periodic follow-up on the residence and living conditions of the boys, girls and adolescents adopted.

Mr. Mesfin Bekele (Benishangul Gumuz, Ethiopia): In Ecuador it is the judge who decides on the departure of the child. Why is this issue taken to the Judicial Authority and not to the executive branch of Government?

Mr. Arturo Matamoros: said that in Ecuador 65% of all of the work on such issues rests with the government while the remaining work is taken up by the judicial system.

Mr. Mengiste Ayele (JeCCDO): thanked CIAI and MoWA for organizing the experience sharing conference and addressed two questions to Mrs. Aloma Lobo (India).

- o India is a vast country with an enormous diversity of culture and social systems. It is progressing economically. He wanted to know the pertinent challenges in inter-country adoption faced by the Indian Central Authority for Adoption?
- o The use of ethical practices in in-country and inter-country adoption has been mentioned in the presentation of Mrs. Aloma. In his opinion this is very encouraging and is a good example for others. What kind of ethical practices are being used in India? Is it in written form?

Mrs. Aloma said that to the very extent possible her organization attempts to use ethical practices. This is applied by the Child Welfare Committees. They ascertain first whether the child is free for adoption, has not been given in Indian adoption etc.

Besides, there is a self-monitoring system in each state and they have guidelines and every step is check-listed.

Mr. Kinfe Nidaro Beka (Ministry of Foreign Affairs – Ethiopia)

- o In the presentations, the number of children given in adoption is increasing. How do we interpret such data? Is it an achievement? Or how do we see it?
- o What are the views of those who adopt children from abroad?

In response, Dr. Bulti Gutema said that the number of children being adopted is increasing in different countries including Ethiopia. This can be interpreted in many ways.

First, there are more children in need of adoption. For instance, if we consider HIV/AIDS, there are now many orphans who need new families. If one finds such families for the AIDS orphans, then it is an achievement.

Secondly, the number of adoption agencies is increasing and this also contributes to the increase in the number of adopted children. This can be taken as an achievement.

Thirdly, it also shows the serious problems prevailing in our country (Ethiopia).

In addition, Mrs. Aloma said that the availability of many children for adoption is an internal problem. If we are able to place more children in-country, it is an achievement. If the number of children covered in international adoptions is increasing, it is not an achievement.

Mrs. Hortense Nikiema (Burkina Faso)

Mrs. Nikiema asked whether the adopted children from Ethiopia are orphans or not? Some of the adopted children who go abroad could be AIDS orphans, what is the prevalence rate of AIDS in Ethiopia?

Dr. Bulti said that the law permits adoption for any child. The Family Law has several provisions and defines those eligible for adoption. They could be AIDS orphans, abandoned children, children whose parents are terminally ill or children whose family environment is not conducive to their welfare and development.

In any case every option should be examined thoroughly and if there is no viable option then they are eligible for adoption. He said that the prevalence of HIV/AIDS in Ethiopia is high and although he had no accurate figures, the adult prevalence rate could be around 4.4%.

Mrs. Almaz Asresahegn (NGO – All God’s Children International)

Mrs. Almaz asked what CIAI was doing for the families to know about their adopted children? A number of children are entering Italy and are successful. What does the organization do to let the adoptee know about his parents?

In response Mrs. Anna Marchio said that the adoption agency must prepare the families. The Commission for Inter-country Adoption has prepared a guideline on this matter. The Commission investigates the method used by adoption agencies to prepare families or to implement the guideline. In Italy there is a social service that supports the family both before and after the commencement of the adoption. The foreign agency in the country of origin must be informed about how the adopted child is doing in Italy.

To the question as to whether CAI could help adoption agencies here in Ethiopia to get information and to fulfill their responsibilities, the Moderator Mr. Angelo Moretto said that this needs a long answer and could be addressed the next day during presentation of case experiences.

Yitna Worku (MoWA)

Referring to India, he said that the number of children adopted within the country is more than those sent abroad in inter-country adoption. What is your experience and if it is the same, how did you achieve this?

Mrs. Aloma answered by saying that every agency first attempts to place a child within the country. If they are unable to do this within a specified time period then the child is given for inter-country adoption.

The experience of India shows that it is important to create awareness about adoption. This has to be reinforced by education on the right of the child. In India unlike the past when in-country adoption was low, most children are now adopted by educated couples. So it is the attitudinal change that has contributed to the increase in in-country adoption.

3.7 Group Discussion and Recommendations

The whole afternoon of the first day was devoted to group discussions on the following topics:

Group 1a: Programs for the Prevention of Abandonment: legal and juridical aspects.

Coordinator: Representative of Association Registration Office, Ministry of Justice, Ethiopia

Group 1b: Programs for the Prevention of Abandonment: social and administrative aspects.

Coordinator: Mrs. Hanna Shiferaw, Children and Family Welfare Department Head, Social and Civil Affairs Bureau of Addis Ababa.

Group 2a: The Institutionalized Child and Why the Decision of Adoption.

Coordinator: Mr. Hadish Halefom, Team Leader for Children under Difficult Circumstances, Ministry of Women's Affairs, Ethiopia

Group 2b: The Institutionalized Child and Why the Decision of Adoption

Coordinator: Mrs. Maheder Betew, Expert at Child Rights Protection and Welfare, Ministry of Women's Affairs, Ethiopia.

After the group discussion, each group spent some time on the preparation of the written recommendations for presentation on Day 3, February 17, 2007.

Day Two – February 16, 2007

4. EXPERIENCES FROM THE FIELD

The session started with the staging of a short drama on problems of children performed by trained shelter beneficiaries along with other children from the kebele. The play dealt with adoption and was delivered mostly in Amharic. The children and adolescents were free to develop the play which described the type of children eligible for admission to a child care institution and for adoption, the need for raising awareness on adoption, and the right procedures to be followed both before and after placement of a child in a child care institution.

After the end of the play, the Moderator informed the participants about the change in the program. He said Mr. Tilahun Teferra – Deputy Manager of the Social and Civil Affairs Bureau, Addis Ababa, and Mrs. Jacqueline De Goeij, Psychologist (Holland) were not available.

He then called on Dr. Marco Chistolini to present the paper on abandoned children.

4.1 Abandoned children: focus on their needs

This was presented by Dr. Marco Chistolini – psychologist and consultant at CIAI, Italy.

In his introductory remarks, Dr. M. Chistolini pointed out that being abandoned is always a serious attack on the child's right to receive care and protection by those who gave him birth.

He said that studies on the age of development have largely proved the importance of affective relation in the psychological development of a minor. Among the various theories focusing on the central role of affective relations, the theory of attachment by John Bowlby has been given special importance. Dr. Chistolini elaborated three styles of attachment resulting from the different quality of the relation experienced with the adult.

He further explained the effects being abandoned by one's own parents may have on the minor's growth. He emphasized how important it is for a child to grow up within a sufficiently adequate familiar environment and about the negative effects caused by abandonment.

He said that if the effects of being abandoned are poor self-confidence and poor or distorted relational capabilities, what the child needs can be summarized by two elements:

- Experiencing nourishing and reparatory relations;
- Understanding and accepting his difficult personal story.

The first element concerns the possibility to have, at last, adult interlocutors capable to understand and satisfy the child's needs of care and protection, making him feel loved and important.

The second element is helping the child to face his own personal story.

Dr. Chistolini explained about the important role of the institute for abandoned children, by acting as a link between what was before (the family of origin) and what will be afterwards (the adoptive family).

As a matter of fact, the transitional stage the institute represents is a considerably important step in the existential journey of the abandoned minor.

Finally he said that the minor must be helped to envisage his future life pointing out the reasons (why it is important for him), the characteristics of the new reality of life (photographs of the new family and house can be useful) and the positive and critical aspects. What the minor needs is both a cognitive and an emotional preparation.

4.2 The development of national adoption: the Indian perspective 1984-2006

The paper on the above topic was presented by Mrs. Nomita Chandy Secretary at Ashraya Children's Home, India.

Mrs. Chandy said that adoption in India was an age old practice resorted to by families to fulfill their religious obligations, or to continue the family line.

Today the adoption agency is deemed to be the "Guardian" of the child and can give the child in adoption. The most dramatic change that has taken place is the shift from In-family Adoption to the Adoption of an Un-known Orphan Child.

The Central Adoption Coordinating Agency has made extensive guidelines for the conduct and practice of in-country adoptions. CARA took on a strong promotional role of domestic adoption.

Currently there are 74 adoption agencies in India, licensed by CARA.

A priority of placement of children was made mandatory. The first priority was to try and restore the child to the biological parents. The second priority was for domestic adoption; the third for Indians abroad and finally inter-country adoption. The Supreme Court laid down that Adoption Coordinating Agencies must be set up in each state of the country and their main role was to promote in-country adoption.

She then explained about the adoption practice by mentioning the age requirements, basic minimum income, and legal marriage of at least two years duration. This is followed by the home-study done by a social worker and interview of the couple by an adoption committee of the agency. They are then given a child study report and all the medicals and a confidential report if there is one. After receiving an acceptance letter, the agency prepares a foster-care agreement and the child is in foster-care with the family, till such time as the adoption is legalized. The whole process takes about three months, if a child is available, plus two months to legalize the adoption.

Mrs. Chandy described the adoption trends and gave adoption statistics for the period 2001-2005. During this period there were 9171 in-country, 5276 inter-country and 1057 adoptions by Non-Resident Indians.

The children come into agencies either by direct relinquishment, or they are children found abandoned.

With respect to adoption costs, Mrs. Chandy said that it costs an Indian family on average, between \$ 330-550 to adopt a child, inclusive of legal charges. For Non-Resident Indians and People of Indian Origin they would pay the same as inter-country adoption charges which is currently \$ 3500 per case.

On the way ahead she said that the need is definitely to expand the adoption program and make strong in-roads into the large overpopulated states in the country, which virtually have no adoption program.

4.3 The Situation of Burkina Faso

The situation of Burkina Faso was presented by Mrs. Clare Marthe Girard – Director of CAED Child Care Institution.

Mrs. Girard started her presentation with a brief explanation about the historical background of activities in the field of child care. In short she described the establishment of AZN followed by the Center for nutritional and educational Follow-up (CREN). Faced with the increasing number of children, AZN created the Hosting Centre for Children in Distress (CAED).

The CAED is composed of two distinct structures: The CREN and the day nursery or orphanage.

Mrs. Girard described the main activities in the CREN i.e. nutritional follow up, sensitization on importance of breast feeding, health care, and training mothers on dietetics and how to bottle-feed a child. She said that children hosted inside the day

nursery/orphanage are motherless orphans and abandoned children. Most of the children hosted are 0-2 years old. The center also sensitizes the population about abandoned children. The CAED also assists children who stay in their family.

Children are sent to the center by biological parents, enlarged families when there are no biological parents, social services and by prefectures.

She described how the child care center works with the central authority. When the abandoned children arrive in the centre, they are sent to the central authority in order to fill out the application for inter-country adoption. These formal procedures are filled in and signed either by the prefect or any official authority in the capital city. Birth certificates are established in the prefecture and agreement is written either by the prefect or by a notary.

- Social investigations are written by a social worker from the Ministry of Social Affairs. It is the Ministry of Social Affairs which decides whether the child should be sent for inter-country adoption or not. The child is thus totally taken care of by the centre until placement is agreed. The provincial branch of the Ministry of Social Affairs will gather the necessary documents on the child to be sent to the Department for the Protection of the Child and Adolescent (DPEA) which is the central authority of the Ministry.
- Medical examinations are undertaken in order to know the health status of the children before the proposal for inter-country adoption.
- The staff of the centre are called by the court for an interview with a judge about the origin of the child before the final decision for inter-country adoption is taken.

In conclusion, Mrs. Girard explained how the center works with adoptive parents and listed the type and number of staff in the center.

4.4 Case Histories – The Experience of CIAI Ethiopia

Four case histories were presented by Mrs. Azeb Adefrsew – Country Representative of CIAI Ethiopia

Mrs. Azeb started her presentation by indicating the deprivation and distress faced by most orphan and abandoned children. Many children get separated from their siblings and close family members by becoming abandoned and sent to child care institutions or by going to live with different relatives. Separation from parents and siblings can have devastating social and psychological effects on children such as anxiety depression and negative attitude towards oneself and others. She presented four case histories.

The first case: is of three siblings (4, 6 and 9 years old) who had lost their father and then their mother.

The second case: CIAI came across is of two very young siblings who were placed on adoption separated from a large family in which the children enjoyed a lot of love and care.

These two cases were selected to demonstrate the importance of psychological support, avoidance of unnecessary separation among siblings and proper matching in

providing relief and helping to reduce the consequences of traumatic experiences related to the stress of sudden family death and separation.

Case 3: is about an 18 year old girl burdened with the responsibility of taking care of her four younger siblings when both of their parents died. There are many cases similar to the above where children are left without any adult care giver and elder children have to shoulder sole responsibility for households.

Case 4: is about a 2 year old child who was separated from her mother who was breast feeding her. It seems that whenever poor people go around looking for support to take care of their children, siblings or other relatives, most are advised to abandon the children making them believe that the children will have a better life.

Consequently, many orphaned children are abandoned by their families. In most cases, these families could bring up their own children if they get some support.

In conclusion, Mrs. Azeb said that many organizations are supporting such families through sponsorship and credit schemes. However, support to families should increase in scale and become economically empowering wherever possible by taking care to avoid dependency.

4.5 Plenary Discussion on Experiences from the Field

The Moderator – Mr. Angelo Moretto (CIAI) – said that a number of issues have been raised with respect to the presentations on experiences from the field. One issue raised is about why there is long term institutional care and whether this is right or wrong?

Another issue was in relation to whether there are possibilities to improve the in-country adoption? Other issues raised include the need for having careful case studies in order to understand the role of poverty, abandonment, separation etc.

After these brief remarks the Moderator opened the floor for discussion, and the following questions were raised and comments and/or suggestions made, in order to benefit from the discussion.

Mrs. Yirgalem Zemariam (SOS Children's Village – Ethiopia)

She said that she is impressed by the presentation of Mrs. Nomita. She asked two questions i.e. i) What measures are taken to convince couples to take up adoption. ii) Why are singles not involved in adoption?

In response Mrs. Nomita said that the organization works on the basis of choosing a family for a child and not "a child for a family". In most of the cases the children were in foster care. The organization also places a lot of special needs children abroad. There are many successful cases of handicapped children placed in Mexico, USA etc.

With respect to the second question, they have placed children for single mothers and fathers in Sweden. First priority for a child though is a family with both parents.

Mr. Woldesemiat H/Gebrael (Adoption Agency, Norway)

In his question which was addressed to Dr. Marco, he said that if there are parents who cannot provide care because of low economic status, who is to give them the required assistance?

He asked Mrs. Azeb why in case number 3 it was not possible for her to place the other two siblings in the institution because they were too old to find adoptive parents?

Dr. Marco said that it is difficult to answer this question since the task of helping poor families involves many different institutions and people. Both local and international institutions should help these people. In such situations we do not have to think about adoption. There are many people who want to involve the children in inter-country adoption but for this, the institution has to check and make sure whether a child is really abandoned and cannot stay in his own country.

In response Mrs. Azeb said that institutions have their own procedures. CIAI did a survey and in one institution they were going to raise the age of children they are going to take. However institutional care is not the best option. It is better if the children stay within their communities and in the future we should find solutions for such children.

Mr. Angelo Moretto said that we should not be happy with the answer to ascribe the reason for abandonment as economic.

Mr. Mengiste Ayele (JeCCDO)

Mr. Mengiste supplemented Dr. Marco's presentation by saying that: - The pertinent and immediate needs of children in general and disadvantaged children in particular are more or less the same. Identifying and prioritizing the needs should be the first step.

In dealing with abandoned children if their needs are not met they will be in difficult situation. First are the physical needs like food, shelter and clothing which are important and indispensable. The second sets of needs are social needs like protection, play and recreation and health care.

Emotional needs like sense of belongingness are very important. Because of resource problems addressing these needs is neglected in institutions.

Spiritual needs ought to be appreciated and respected. In general identifying or prioritizing needs will help our provision of assistance to the abandoned child.

Mr. Mengiste asked Mrs. Girard about the activities of the CREN and day care center. He said that to help destitute children, these institutions give food, health care services etc. I hope these organizations are not there to take over the responsibility of parents and communities but rather to empower them. Hence, do you have programs that strengthen the capacity of parents and communities to help them in their own setting?

In response to the comments of Mr. Mengiste, Dr. Marco said that from his experience primary needs are physical and this is normal. The other needs are also important especially for the future development of the child.

Mrs. Girard on her part said that the number of children helped in the center is small. The preference of CEAD is to make the children stay in their families. In her opinion a center can do many things but cannot replace the family. They attempt to make the children stay with their parents. The children accepted at the child care institution have no better option. Extremely malnourished children come to the centre. This happens not only due to lack of funds but also lack of knowledge. Since the families do not have milk, the center provides milk to the children. However, the families participate by paying a nominal fee.

Mr. Hadish Halefom (Team Leader for Children under Difficult Circumstances, MoWA)

Mr. Hadish mentioned the order of priority for adoption mentioned in the presentation of Mrs. Nomita and asked her whether they considered adoption by Indians living abroad as domestic or international adoption?

Mrs. Nomita said that the statistics presented by her was for domestic adoption of people who are in India. If they are abroad even for a short time, they are considered as persons living in India.

The NRAs do not need ACA clearance and the process is as for inter-country adoption.

Mr. Kinfe Nidaro (Ministry of Foreign Affairs)

He said that he knew about a local NGO working for the last decade helping 100 children at her home. She needs school fees for 40 children. He suggested to the conference participants to help this lady and declared that personally he was ready to give all or part of his per diem.

Mrs. Aster Fisseha (Pro Kind)

Mrs. Aster asked the Moderator how he would solve the problem if he met a homeless woman with a child.

Mr. Angelo Moretto responded by saying that everything cannot be solved with money.

He was talking about economic and not about social causes. If the reason for abandonment of children was money, he said that we should not feel happy and we should look for other real causes.

Mr. Tedla Diressie (Interpedia)

Mr. Tedla commented that he begged to differ if economic factors are taken as major causes for abandonment. He said that children from Ethiopia are abandoned in the streets of London and in the streets of other cities in Europe. It is obvious that such children are abandoned not for economic reasons but due to other factors. He said that on the contrary he knew of many poor families who kept their children sharing what they have.

He then asked whether in Burkina Faso they accepted adoption that was handled by individuals and not by organizations.

Mrs. Chandy said that in India many female children are abandoned for economic reasons such as inability to pay dowry and the like.

Another factor is the presence of dysfunctional families where children are abused and thus leave their homes. On his second point, she said that in India as far as inter-country adoption is concerned, they work agency to agency.

Mrs. Girard said that in Burkina Faso the centers have no right to give children in adoption by communicating with individuals.

Since they have ratified the Hague Convention they work with the central organization and not with individuals.

The child care institutions submit the documents and the central organizations do the placement after studying the case. The centers may not even know where the child is placed. Later on they get pictures etc and keep contact with the adoption agencies.

Mr. John Mc Kay (Awassa Youth Campus)

Mr. Mc Kay gave comments on three issues. First is the role of socio-economic conditions on abandonment. He said that in Ethiopia abandonment is considered profitable because the child can go abroad. This is one aspect of the issue.

The second issue is the question of domestic versus inter-country adoption. Adoption is now a trend in Ethiopia and if it is a trend it means there is profit.

The third issue is institutional care which has to be considered as a last resort. It may be needed since there are a lot of orphans in Ethiopia who need care. The reality is that it is the stronger and energetic children who are considered for adoption.

According to Dr. Chistolini, economic factors are important as causes of abandonment. One cannot be a good parent if he/she has no income. On the other hand, economic factors are not the only reason for abandonment. There are situations where there are families whose economic status is good but who are not able to care for their children. There are parents who think placement of a child in adoption abroad is good for the child. But this could be traumatic for the child who faces abandonment. Sometimes this fact is underestimated. Some think living in the USA etc is better for the child, but this may not be so.

Mrs. Girard complemented Dr. Chistolini's explanation by saying that social factors should be taken into consideration. In Africa how do we see the political situation? It is women and children we are discussing and from this perspective the political situation and what is happening in this area is important. The people have to move out of poverty.

Mrs. Chandy said that as far as institutional care is concerned, we serve adult interests. Sometimes they dump the children in institutions. If the parent cannot

provide care, even with assistance, then we should look for another parent. In India there is ownership of the children.

Inter-country adoption is more popular in Ethiopia now, whereas 15 years ago India was more or less at the same point, but we worked through the Supreme Court and the shift to in-country adoption has already happened.

Mrs. Azeb (CIAI) said that if we really try we can prevent abandonment. In this regard, increased awareness and community care are important.

Mr. Aberra Mekuria (ACCUEIL ET Portage)

Mr. Aberra noted that various disciplines are participating in this conference. When we discuss adoption we are looking at different actors. He mentioned cases of children who asked where they came from when they grew up. He asked how we handle the actors: the biological parents, the adoptive parents, the child, the country and the orphanages. If we tell the child, what will be the interaction between the biological and adoptive parents?

In response Mrs. Girard (Burkina Faso) said that this is a very sensitive issue and adoption is a life long responsibility. We have to undertake social investigation before placement for adoption and find out about the name, siblings, and socio-economic information etc of the child and provide such information to the central organization. We have to be able to address questions which could come from the adolescent like:

- Who are my parents?
- Who are my siblings?
- Why am I abandoned?
- Why am I forgotten? Etc...

These are important questions to be addressed before the onset of the adoption.

Mrs. Chandy supplemented the response of Mrs. Girard by saying that the first thing to be examined about any organization is the state of its documentation. In many countries there is resistance to giving information. But now psychologists and other professionals are doing a lot of work before they approach the adoption agencies. The centers in India welcome the adoptive parents and even organize visits and conferences for them.

Dr. Arturo Matamoros (Ecuador)

The presentations until now have covered much about child abandonment and the needs of the abandoned child. In view of this did Dr. Chistolini work on reproductive health or sexual issues and does he consider these as their need also?

Dr. Marco responded by saying that he does not have any experience in this field. His experience is about adopted children who live with families. Such children get sexual education through their adoptive families.

4.6 Group Discussion on Children, Child Care Institutions and the Role of the Adoption Organizations

Three groups were formed and the whole afternoon of the second day devoted for group discussion. All groups discussed the same topic i.e. children, child care institutions and the role of the adoption organizations specifically:

- relationship with the biological family and alternative measures;
- the preparation of the child for adoption;
- the role of the adoption organization in child care institutions.

The groups were organized based on the professional profile of the participants. They comprised of the following:

Group 1: Heads of Departments, Judges, CPU's officials,

Coordinator: Representative from the Ministry of Foreign Affairs and Immigration Office.

Group 2: Managers and Directors of Child Care Institutions

Coordinator: Mr. Mesele Tekuyae, Social Problem Prevention, Rehabilitation and Institutional Services Coordination Department Head.

Group 3: Social Workers, Psychologists, Legal Professionals from the NGOs and the Adoption Organizations.

Coordinator: Mrs. Azeb Adefresew, Country Representative of CIAI Ethiopia.

The three groups had extensive discussion(s) and prepared their written recommendations for presentation during the closing session on Day 3 (February 17th, 2007).

Day 3: February 17th 2007

5. CLOSING SESSION

5.1 Reports from the Group Discussion and Conclusions

5.1.1 Group Presentations of the First Day Discussion

Summary Report of Group 1a:

Presented by: Mr. Dawit Alemayehu

Programs for the Prevention of Abandonment: Legal and Judicial Aspects

The Role of the Office (MoJ)

1. Which criteria are followed to register adoption organizations?

W/ro. Manyahillishal, representative of MoJ said:

- Authenticated memorandum of association from the country of origin
- Certificate of registration from country of origin
- And support letter which describes that the organization is non profit
- Project proposal

2. Why should adoption organizations do cooperation development projects?

The group generally agreed that adoption organizations should do developmental projects. It is even a criteria of MoJ that adoption organizations should, in addition to

facilitating the adoption of child either within or outside the country, also be responsible for a program for carrying out developmental/cooperation projects.

But one participant insisted that adoption organizations should not be required to do developmental works/projects since their principal objective is facilitation of adoption for children and not service rendering through developmental projects. In addition, adoption organizations would be distracted from their main goal and might at last end up doing neither properly.

3. How is the regulation of the family law in terms of guardianship of minor?

It was discussed that the RFL 2000 contains more than 100 articles regarding guardianship of the child. Some of the most relevant provisions were also raised and discussed. However, the discussion focused on the problems of implementation of those provisions.

In short, it was agreed that:

- The law, as it is, is adequate and sufficient in addressing the issue of guardianship;
- There are observed problems in implementing them even by Judges in the courts;
- There is a glaring lack of awareness of the law relating to guardianship among the general public, including those that work with children;
- There is a felt need to create awareness on the relevant provisions to as many stakeholders as possible;
- Awareness creation is an important tool for the prevention of abandonment;
- There is also a need to protect girls/women from rape, it being one of the major reasons for unwanted pregnancy and abandonment;
- That women alone are not to be blamed for abandoning children. Men are always behind it;
- Various means of awareness creation should be sought and diversified.
- Rape alone is not the cause for unwanted pregnancy and consequent abandonment but other social and individual factors.

4. Should abandonment be done by notification or legal certification? (Presided over by an administrative body or a judge). (Discuss in comparison with the experiences of other countries).

At first, it was explained that the word "abandonment" should be understood from the point of not only neglecting (forsaking) a child anyhow, but also (or for this purpose) as an act of passing the child over to a third party (to orphanages or child care centers) through a legitimate process, i.e., by notifying to a concerned administrative organ or through a decision of the court.

It was noted that in other countries, a guardian of a child can abandon the child through notification or legal certification. This understanding was also to be applied to the next and last discussion point which is:-

5. Who abandons a child? What is the legal right for the abandonment of a child (related to guardianship)?

Opinion varied on these questions but the essential points raised included: -

- That, as long as there is a person on whom the law imposes the duty of guardianship as per Article ----- of the RFL, the effort should focus on letting the child stay with his/her legal guardian;
- That adoption and institutionalization of a child should be taken as measures of last resort, respectively;
- That community based organizations such as Idir, should be strengthened with the view to allow the child to grow in a family environment before adoption/institutionalization is resorted to;
- That the RFL confers to the guardian the right to seek the support of the relevant governmental bodies to be able to provide the facilities required for the proper upbringing of the child (Article ---);
- That the concerned governmental bodies can resort to local/international NGO's for recruiting their support in this regard;
- That government bodies should design strategies towards prevention of abandonment of a child through establishing mechanisms that would enable them to render the required support while the child stays within a family environment, and that adoption/institutionalization should be resorted to only under specific circumstances;
- That, if the need arises for adoption, every effort should be made to effect local adoption instead of inter-country adoption;
- That inter-country adoption should never be a means to bring improper financial gain and must be done with great caution and strict procedure;
- That, after all is said and done, the governing spirit and motive behind all of this should be in the best interest of the child.

Summary Report of Group 1b:

Presented by: Mr. Yemane Kejela

Programs for the Prevention of Abandonment: Social and Administrative Aspect

The Moderator has made brief introduction of the discussion point.

- In case of Ethiopia, there are child care centers having different modalities of operation
- Those who accept children provide them by providing necessary services to lead them to self reliance such as:
 - o Abebech Gobena Orphanage
 - o SOS Children's Village
 - o Selam Children's Village
- There are other orphan homes which accept children and keep them until they facilitate adoption for them.
- There are also child care centers promoting community based care.

Question 1 – Which are the child care institutions that can do adoption?

First of all there was problem to reach at a consensus as to what the question is about to address:

- All child care institutions that have license and project agreements with the relevant government body have the right to allocate (give) a child for adoption. Particularly in Ethiopia this is provided in the revised Family Code.
- Adoption agencies who are doing especially inter-country adoption should be registered and licensed for it and should engage in development activities as additional program.
- In this case the practice is similar with that of India.
- When the decision of adoption is made it was underlined during the discussion that, it should be considered as the last option (with reference to inter-country adoption).
- Burkina Faso – it is the government which decides as to who should do adoption.
- It was generally recommended that the body issuing adoption license should develop concrete criteria to determine who should do the adoption.

Question 2 - Who controls these institutions?

1. Mandated Government Bodies

At Federal level:

- Ministry of Justice because it is the one who issues the license
- Ministry of Women's Affairs.

Basically the operational duties and responsibilities in this regard are given to the Regional Social Affairs Bureaux.

But the Federal Ministry of Women's Affairs:

- Supports the activities by formulating the guidelines
- Capacity building
- Supervises and monitors
- Follows up the situation of the children who were given for inter-country adoption

Regional Bureaus

- Child care institutions are duty bound to sign project agreement with Regional Bureaux
- Regional Bureaux supervise, monitor and control the activities of child care institutions.

Police

Both at Federal and Regional level should follow-up the protection of child rights.

2. From the point of view of the duty to observe ethical practices

In this case it was discussed that the institutions working for and with children themselves have to feel responsible for their activities and remember that they are accountable for their actions.

- To this effect, it was explained from Social and Civil Affairs Bureau of Addis Ababa that a network of Adoption Agencies or orphanages and relevant government bodies has been established, and new guideline and directive developed with the central focus on Ethics and Code of Conduct in undertaking child care and adoption.

The whole effort of the framework is to prevent child trafficking and control illegal adoption.

3. From the perspective of the community in general

- Each individual member of the society has the responsibility to control child trafficking and stand as a safeguard for the rights of the children.
- Generally it was stated that the existing control system and mechanisms are not sufficient and need to be strengthened at all levels by all stakeholders. More specially:
 - o Information exchange and communication system should be strengthened aiming at all concerned: federal and regional bodies, NGOs, governments.
 - o Local government bodies who are engaged in screening children should do strict investigation and provide reliable information about the children referred to child care centers or for adoption.
- In India for e.g. intensive investigation works are made before a child is declared for adoption as stated by a representative from India and participating in the group discussion.
- It was also agreed that the purpose of such control is to identify and encourage those who are working according to the law, and to discourage those who are not.

*Question 3 – What is the role of the institution in terms of integrated activities and provision of alternative child and family support measures?
(For e.g. counseling, sponsorship program etc).*

Discuss by giving example of good experience and practices, which measures are working better.

- Integrated activities for the provision of services. In the case of orphanages particular reference was made to the practice of:-
 - o Selam children's village
 - o SOS children's village

Points were raised and discussed. Proper child care in institutions needs the existence of integrated services and facilities such as: food, shelter, health facilities, appropriate education and training.

Given these services in appropriate and required level, it is possible to run sustainable institutional care which lead children to level of self-reliance as learned from the above experiences.

It was stressed during the discussion that among other things, the psychosocial services should be in place which is mostly lacking in many institutions.

The provision of family support programs, family capacity building including financial and counseling support were identified as crucial areas of intervention to promote prevention measures.

The experience of kids care organization in:

- Child sponsorship
- Family reunification efforts in addition to the adoption endeavor were also raised.
- Experience of other organizations who are engaged in community based child care was also considered as point of intervention to be encouraged.

Finally, the experience from India, regarding the achievement of domestic adoption over the inter-country adoption was raised as interesting and good practice.

In relation to this a member of the group who is a representative from India was asked as to what methods and mechanisms were used to promote local adoption to such level?

The participant from India explained that:

- A package of promotion schemes such as:
 - o celebrating the national adoption day
 - o announcing list of adoption agencies in mass media
 - o requiring adoption agencies to first undertake domestic adoption as a condition to approval for their request for inter-country adoption and similar methods are used.

Question 4 – What are the procedures followed for a child to be admitted to a child care institution?

How are children recruited/selected?

Generally, it is the responsible government body which selects children and assigns them to institutions (kebele, police, hospital) approved by Regional Bureau.

Who should be admitted? It was discussed that the criteria as to who should be considered deserve institutional care or adoption is provided in the document presented by Ministry of Women's Affairs.

In case of Ethiopia:

- Abandoned
- Pure orphan
- Terminally ill parents
- Mental problem of the family

It was also discussed that institutions themselves set criteria of their own. As based on age, disability and so on and the factors for other and many such criteria can be that of:

- Lack of resources vs. the magnitude of the problem and therefore the need to set priority.
- Area of specialization such as HIV/AIDS, disability etc.
- Another factor can be donor interest as outlined during the discussion
- In general it was concluded that:
 - o Only needy children should be addressed
 - o All factors with regard to child care should abide by the guidelines and directive issued in each respective region.
 - o Networking should be promoted
 - o The practice of ethics needs to be developed
 - o The follow-up and control mechanism should be strengthened

We all should stand for child rights.

Summary Report of Groups 2a & 2b

The Institutionalized Child and Why the Decision of Adoption

Presented by: Mr. Samuel Getahun & Mr. Zenebe Yirgu

1. Reason for child abandonment and departure from family link ship.
 - o "Unwanted" pregnancy
 - o Family influence
 - o Cultural influence
 - o Conducive government policy
 - o Children e.g. HIV Positive
 - o Economic problems
 - o Natural disasters
 - o Burden due to large family size
2. Requirements to admit children to institutions
 - o Licensed institutions
 - o Compiling the background information about the child (all possible information)

Child:

- Orphans or
- Abandoned
- Vulnerable

Family:

- Background history
- Photographs
- Medical history
- Home study

Legal

- Supporting documents from police, kebele, idir
- Handing over person should present a court paper indicating that the power of attorney has been given.
- Standard in take form

3. In-country adoption

- MoWA – awareness creation trainings
 - Mass media
- Agencies and institutions
 - Counseling families
 - Empowering families
- Government
 - Encouraging institutions focusing on in-country adoption
 - Community mobilization and sensitization
- Avoiding barriers for in-country adoptions

Challenges

- Inheritance
- Awareness
- Lack of encouraging interested people

4 a. Relationship between biological parent and adoptive family

- Adoptive families have the right to know everything – Transparency about the child
- The choice relies on the adoptive parent until the child reaches the age of 18.

b. Information for the biological parent:

- They should know what is the future of the child ahead of time (expectation)
- Communication (may not exist)
- Financial
- The adoptive parent has full right
- After 18, the choice fully relies on the child, and the child only

5. Alternative for children which are illegible for adoption (disability, health-reason, age) special needs children

- Group foster care homes
 - Married couples
 - Mother
 - Volunteers
- Sponsorship
- Children's home (villages)

5.1.2 Group Presentations of the Second Day Discussion Children, Child Care Institutions and the Role of the Adoption Organizations

Summary Report of Group 1

Presented by: Mr. Abebe Guta

1. Relationship with biological family and alternative measures

- Remains maintained under Ethiopian law
- For all purposes, the adopted child shall be the child of the adoptive parents
- But the Indian experience does not recognize the tie to biological parent.
- Burkina Faso – similar to Ethiopia
- The participant from India suggested that Ethiopian laws should be in harmony with international law, specifically the CRC and the Hague Convention.

2. Preparation of the child for adoption

For all children:

- a. Ethiopian experience – recognizes that all children under the age of 18 are eligible for inter-country adoption.
- b. Indian experience – allows sending videos and photographs to an agency (recognized by the Indian government?) for the adoptive family to look at it.
- c. The Ethiopian experience does not allow video (photograph) to be sent before adoption is approved.

3. The role and the relationship between the adoptive organizations and child care institutions

The Constitution of Ethiopia Article 36(5) states that the state shall accord special protection to orphans and shall encourage the establishment of institutions which ensure and promote their adoption, advance their welfare and education.

- Should be ethical/not for gain
- Child care institution not to be financed by the adoption agency
- Burkina Faso – 92 Euro/Child
Indian Experience – 3500 USD/child for processing.

Summary Report of Group 2 – 2nd Day

Presented by: Mr. Wosenyelew Sahile/M

1. Relationship with the biological family and alternative measures

Care to be taken during pre-admission to an orphanage

- o Ensure that written request for admission of a child to an orphanage is made by the appropriate government agency.

- Ensure that the personal history of children to be admitted to a child care institution is presented by the family or organization responsible for his/her upbringing.
- If there is a gap in data about the child admit and care for the child and fill the gap at a later date.

Role of child care institutions – post admission

- When children are admitted to a child care center, they are separated from the family environment they are accustomed to. Hence they should be counseled in order to solve the psychological problems they have encountered
- Who brought the child to the child care center? And why? – Ensure whether other alternatives have been exhausted prior to entry into an orphanage?
- If they are going to give the child to an orphanage, ensure their guardianship through the appropriate government agency.
- Taking the family and other sources of information compile data on the child such as list of relatives, line of descent, and addresses. Keep this data in a personal folder along with photographs and if possible video pictures.
- Check and ensure the authenticity of data on the child gathered from different sources.
- Based on the compiled data:-
 - Arrange person from among relatives who can bring up the child and if he lacks adequate capacity prepare conditions conducive for him to obtain assistance.
 - In order to enable the child with family or distant relatives, choose before hand the best place for the child and to encourage his/her participation in order to know his/her interest.
 - When a relative or another person is found who can take the child prior to reunification prepare the family and the child psychologically so that they are able to tolerate one another; and
 - To make follow-up at regular intervals even after reunification.

Actions to be taken when the child cannot stay in-country with relatives

- First of all prepare him for in-country adoption
- In case there is no one in-country to adopt the child, give the child for inter-country adoption

Conclusion

Key tasks of orphanages to ensure that the children are protected and to create conducive conditions for their future life:

- Orphanages should adequately meet the basic needs of the children admitted to the institutions
- Parallel to the fulfillment of basic needs, the children should get education, health services and the love of those who care for them.

- Professionals who care for the children should be present in the orphanages
- Give continuous training for workers in child care institutions to raise their awareness on child care.
- To work with relevant bodies for children to get legal protection from other persons who may try to expropriate from them the property and wealth of their parents.

2. The preparation of the child for adoption

- o Persons who take older children to child care institutions give them only limited information.
- o Since this is inadequate and when adoption is preferred, child care centers should prepare the child by explaining clearly and accurately about.
 - The climate, population, culture and language of the country of destination.
 - What type of family he/she is going to join, and about color differences?
 - Introduce the adoptive family through exchange of photos.
 - Insure the willingness of the older child to live with his/her adoptive family.
 - The haste of orphanages and adoption agencies to give a child for adoption must be replaced by measured steps so as to understand the feelings of the child. If the child is unwilling, other alternatives should be sought.
- o Preparing children for inter-country adoption should not be left to orphanages only but similar work should be done in transitory waiting homes run by adoption agencies.
- o Finally when adoptive families come to take the child, they should be introduced to the child care center and get additional information about the child.
- o Establishing contact between the adoptive family and the child care center and exchange of information on the behavior and needs of older children and infants will strengthen the preparation process of the children. It will help the adoptive parents to prepare themselves if they know the diet preferences, sleeping time, health status and behavior of the infant.

3. The role and relationship between the adoption organization and the child care institution

- o The relation between a child care institution and adoption agencies should not be to increase profit of orphanages.
- o The relation should be based on the all round protection of the welfare of the child.
- o Child care centers and adoption agencies should realize their aims by working together in the upkeep of the all round development and safety of the children.

How to make their relation healthy?

- Both parties should follow strategies that promote responsibility, transparency and accountability among them.

- Their relation should not be only placing or receiving of children but incorporate a spirit of partnership in development.
- Development partnership between the two parties must be based on a written project document.
- It helps other children to grow up with relatives in their country of birth.
- It is better if a government agency signs as a third party the project agreements entered into between the two parties.
- The relation should not be limited to only the child care centers and adoption agencies, but should include the relevant stakeholders.
- In order to play the appropriate role rather than the efforts of one party it is better to work jointly and to get organized.
- Finally the network initiated earlier by the Addis Ababa Social and Civil Affairs Bureau should continue in a strengthened manner.

Summary Report of Group 3 – 2nd Day

Presented by: Mr. Mesfin Alemu

I. Relationship with biological family and alternative measures.

- o Their emergence
 - abandoned
 - orphaned
 - relinquished
- o Concern how the children could continue their family bond
- o The existing capacity of child care institutions is under question mark.
- o This shortcoming will be in continuum through adopting country and family
- o Do they have home
 - Yes but not identified!
- o The importance of accustoming for bondage
- o Service in transitory and permanent institutions?
- o Reintegration
- o Skill training.

Threats

- May be inflicted from the drawbacks of the chiks
- May loose their right for inheritance
- Inconsistent documentation and record keeping
- The need for consulting mothers
- Institutions collaborating with abusers in one way or another
- Are adoption agencies exercising their mandate to verify case studies
- Do they clear problem episodes at departure
- Assessment of relinquishment and rendering processes

II. Preparation Phase

- o The trend of SOS with regards to language
- o Humbling relationship
- o Make the campus population all social workers
- o Way of life training

- Cultural intimation of the adopting families
- One to one care

India vs. Ethiopia

Accepting that every child is unique and shall be treated as such:

- Schooling
- Slowly gaining to life style of the new environment
- Orienting the new family
- Acquainting the child with his/her legal family
- Ratification of eligibility of the adopting family
- Providing the adoptive family with full records of the case of the child

The time factor of preparation and bonding

III. The roles and relationships between adoption agencies and child care institutions

Adoption does not have to be the activity through which institutions are financed!

- Private adoption be stopped
- Adoption agencies shall assist orphanages in development packages
- Per-child payment shall be reduced
- Orphanages are better spread throughout regions.
- Orphanages
 - Vision
 - Mission
 - Objectives

5.2 Plenary Discussion on Group Presentations

Mr. Mengiste Ayele (JeCCDO)

Mr. Mengiste commented on the presentation of Group 3 and made the following corrections: -

- The potential children for inter-country adoption should not be discriminated.
- It is better if language and cultural education for potential children for adoption is done in the presence of the adoptive parents.
- Professionalism of social workers should not be compromised. They should be qualified. Guards and other staff can support the social worker but cannot substitute him/her.

Mr. Hadish Halefom (MoWA)

Mr. Hadish gave the following comments:

- Concerning adoption the MoWA has a guideline and adoption agencies and child care institutions were advised to use the guideline.
- He said that Kids care has been mentioned. There are thousands of agencies providing sponsorship. It is good to mention Selam and SOS which are models in this area.

- Children are not sent out of the orphanages. It is rather a process of family reunification.
- When we talk about giving cultural education, we have to ask whose culture – the child's or the adoptive parent's. In his opinion the adoptive parents have to come here in order to know the culture and environment of their child.
- With respect to question 2 in group 1b (i.e. who controls the institution?), the Group has mentioned some institutions but there are duties assigned by the government to each institution. Child care centers should be controlled by the Regional Social Affairs Bureaux and not by the Ministry of Women's Affairs. He said that it will be good if this plenary session reviews the role of each body once again. Agencies have operational agreement with Regional Social Affairs Bureaux.
- In Ethiopia adoption agencies do not give photographs before adoption is effected. The parents should give their preference with regard to age and sex but not looks.
- Mr. Hadish asked the session to elaborate on the gains to be acquired from signing the Hague Convention.
- If non-orphans are given for adoption, continuing relation between biological parents with their child could encourage families to give their children for adoption.

Mrs. Yirgalem Zemariam (SOS)

Mrs. Yirgalem corrected some statements made by one group regarding the role of SOS. She said that SOS did not throw out the children. It has two kinds of programs, namely:

1. Child support; and
2. Child reunification.

Mrs. Azeb Adefrsew (Country Representative, CIAI Ethiopia)

Mrs. Azeb underscored the need for data. It should be collected not for the sake of the child to get an abandonment certificate. Cultural training should not be over emphasized, but more importance given to counseling, which is professional work. Child care institutions and NGOs should cooperate. Case work should be done and it is good to have professionals. In addition she suggested that we should look into alternative methods.

Mr. Abebe Guta (Adoption Avenues)

Mr. Abebe noted that if a child is an orphan it does not mean he has no relatives. So when the child is above 18 years old it is good if he knows about his relatives.

Mr. Aberra Mekuria (Acceil et Portage)

The relation between adoptive and biological parents is a serious issue. The adoptive parents want to care for their adopted child. Some even listen to their request to know their relatives and on the way also help the relatives. In his view, there should be clear directive on this.

Dr. Bulti Gutema (Head of Mothers and Children Affairs Department of MoWA)

As a reminder Dr. Bulti said that there are no “children without parents” and such terms should be substituted by the word “orphans”. He gave the following detailed comments:

1. In the presentations child care institutions of a transitory nature have been mentioned. In Ethiopia we have standard guidelines but these guidelines were not used when such organizations got registered. So problems arise from this shortcoming and to redress this shortcoming the Ministry of Justice should apply the guidelines.
2. The role of child care institutions and adoption agencies should be clearly defined. One group has confused the two organizations.
3. Group 2a has implied that government institutions have encouraged abandonment. But what could they do other than providing policies and interventions.
4. Abandoned children – any government agency – police, hospital, kebele – takes the abandoned children to the nearest government institution and notifies the concerned body.
5. To the question whether the Family Law is without problems, he said we should review the law so that it fits into the existing reality in the country.

Mrs. Nomita Chandy (Director of Ashraya Children’s Home, India)

Mrs. Chandy presented the following recommendations or suggestions:

1. Rename the MoWA as the Ministry of Women and Child Affairs
2. Government should take concrete steps to strongly promote domestic adoption.
3. Take a legitimate adoption fee regulated by the Government to provide better child care rather than ‘donations’ which are unregulated.
4. Ministry of Women’s Affairs should license and monitor all adoption agencies and set criteria for licensing. This should not be done by MoJ.
5. Stop private adoptions all together
6. International, national laws and the convention – guidelines should be compatible with each other.
7. Make a very strong attempt to place special needs children in adoption
8. The court procedures to deem a child eligible for adoption should be defined.

Mrs. Hanna Shiferaw (Social and Civil Affairs Bureau – Addis Ababa)

Mrs. Hanna commented on need for networking, and asked the following questions: -

1. How much do grassroots staffs know about the guidelines? Awareness creation may be necessary on a wide scale
2. The control of child care institutions rests with the Regional Bureau. What is the role of the federal level?

She said that regions should prepare their own guideline. This has been done already by the Addis Ababa Region. Network has been established among child care institutions, the police and adoption agencies. The adoption agencies and child care institutions each have also their own network for purposes of cooperation and to fight child trafficking etc. In her opinion, all stakeholders should network.

In Addis there are about 30 child care centers and of these only five or six are proper orphanages while the rest are transitory waiting places for the children. These centers are being evaluated now by a committee and the problem has to be reviewed again.

Dr. Marco Chistolini (CIAI)

Dr. Chistolini commented on some points covered in the group presentations. He said that according to the results of a research conducted on adoption practices, only 20% of the adoptive parents look for a girl.

On the relationship between biological parents and the adopted child, he said that it is good to maintain relations with the country of origin and not with biological parents.

He also said that it is right for the adoption agencies to provide the child information about his/her personal history.

Mrs. Tewedaj Wondimu (CPU – Police)

Mrs. Tewedaj said that police has no facilities to care for the abandoned child and cited cases where children have died on their way to a child care center. Police also faces similar problem of logistics and care centers in connection with rape victims. Police has no place for such cases. Hospitals call police and do not provide any care.

In her view, it is better if the Red Cross works with the police to take abandoned children to child care centers.

One participant said that the relation of adoption agencies and child care institutions has not been smooth. There are also foster homes and he asked which government body controls foster homes?

Mrs. Clara Marthe Girard (Director of CEAD – Burkina Faso)

Mrs. Girard said that in all cases related to adoption, the Convention has to be applied entirely.

Mr. Alemayehu Mammo (JeCCDO)

Mr. Alemayehu said that the conference has looked into several factors influencing adoption practices. He recalled one problem mentioned by Group 1b the first day and by Group 3 on the second day in relation to causes of abandonment of children. He said socio-economic factors are among the causes of abandonment.

However, he said that the problem cannot be solved through adoption and institutional child care and suggested the following:-

- Adoption agencies should revisit their mission and create integrated child care programs.
- Orphanages should also design integrated socio-economic projects and not be limited to preparing abandoned children for adoption. They should involve all stakeholders and embark on community-based approaches to child care.

Mr. Arturo Matamoros (Juvenile Judge, Ecuador)

Mr. Matamoros commented that a lot has been said about regulations concerning orphanages and adoption agencies and in connection with the Ministry of Women's Affairs the problem of individual adoption and licensing.

In his opinion, all issues concerning adoption should be in the best interest of the child and not to satisfy ambitions of the governments. He asked what kind of insurance a child has about his nationality. So he summed up his comment by saying that for such questions, one has to refer to the Hague Convention.

Mr. Kinfe Nidaro (Ministry of Foreign Affairs)

Mr. Kinfe commented on the remarks made by a member of the CPU about poverty. In international relations, he said that no country is rich but only less poor; and no country is the poorest – it is only less rich.

Mr. Tedla Diressie (Interpedia)

Mr. Tedla recalled that child care institutions, adoption agencies and government institutions have been working separately. In Addis Ababa the civil service office conducted a series of meetings and seminars to bring them together. In his opinion, all government bodies and NGOs working in child care should come together and solve problems jointly. This applies even more to adoption agencies which have become negative over time.

He said that this conference has brought all relevant stakeholders together and they are discussing such issues today.

He underscored the point that assistance given to the children should be considered as their right and not as a service. Our aim should be to understand and accept their right. This point has come out clearly in this conference.

Adoption agencies and child care organizations have their own problems and they should get support from government bodies.

He finally suggested that similar conferences should be organized in the future.

5.3 Reflections on the Conference

Ato Mengiste Ayele presented his reflections on the three days conference in the following manner. He said that: -

- The topics presented and discussed at the plenary and group discussion sessions were very useful and comprehensive.
- The composition of participants was diversified and with a good gender mix.
- The resource persons were knowledgeable and helpful
- There were some shortcomings. For example a presentation on the "Survey on the Situation of Ethiopian Children in Child Care Institutions" would have helped to enrich the discussion, but the presenter was unable to attend. Even then the paper could have been discussed.

- There were confusing issues which were elaborated during the closing session. In his opinion there are no definitive reasons for abandonment, but inter-related causes. When we talk about social welfare we should make sure whether trafficking and commercialization of sex are really social welfare issues. We have to be careful in our discussion of issues which entail profit. In the case of private adoption agencies, we have to revisit the family law and see whether some of the provisions are for the benefit of disadvantaged children.
- Our understanding has not reached a high level. We should ask ourselves whether we are in the right direction. In this connection awareness raising should be done extensively.
- Laws and policies should be revisited especially those which are not friendly to children.
- Partners need to work together rather than compete among themselves. He felt better networking and linkages could bring better results and thereby solve mutual incriminations.
- Local adoption should be given priority attention. Inter-country adoption is being used as a solution but this should give place to domestic adoption which ought to be encouraged.
- Mr. Mengiste said that he saw capacity building as a problem shared by all stakeholders. A large amount of work has to be done in case of family empowerment.
- In conclusion, he said that all the points discussed at the different sessions need more follow-up and more supervision.

5.4 Closing Remarks

The Moderator – Mr. Angelo Moretto – gave some closing remarks on the content and proceedings of the conference.

He said that in his view the conference was very fruitful. The participants exchanged views, ideas and experiences freely. They identified actions taken that were good as well as those that were not good.

The participants discussed several issues and explored possibilities for cooperation between different bodies and institutions. In the process action points have been highlighted. In other words, he said that now it is time to move from words to “action”.

Finally, Mr. Moretto said that, be they small or big, actions need to be taken now and this must be our long lasting effort in favor of those for whom we all are here – the CHILDREN.

Mr. Moretto concluded his closing remarks by thanking all of the participants for attending and actively participating in the conference. He also thanked the MoWA and the Italian Commission for inter-country adoption for the support provided in the organization of the conference.

In particular he thanked all of the resource persons who have come a long way to attend this conference.

He thanked CIAI staff for their contribution to the conference and finally extended special thanks to Mrs. Renata Nardi who in his own words had the idea, which she pursued and organized and thus made this conference possible.

5.5 Joint Statement of the Conference Participants

The statement which reflected the collective views and positions of the participants was read by Mr. Angelo Moretto from CIAI- the Moderator of all plenary sessions.

The joint statement highlighted the conclusions reached at the plenary and group discussion sessions, and recommended action points for each of the relevant stakeholders.

The Conference invited the relevant bodies to renew their commitments to strengthen their partnerships and to work together and take responsibility for the implementation of the following actions:

Adoption Agencies – were requested to:

- Have an ethical and common behavior;
- Support projects aimed at family re-integration and helping children in need;
- Cooperate to develop national adoption.

Child care institutions:

- Provide transparent and complete documentation on the child i.e. his/her history and family;
- Cooperate with projects to help children and families in need;
- Provide all service, including psycho-social support to the children;
- Promote national adoption.

Ministry of Justice

- Provide clear rules and guidance for licensing agencies;
- Reconsider the obligation of maintaining the family of origin after the 18th birthday for adopted children;
- Provide clear rules on child guardianship.

Ministry of Women's Affairs and Regional Bureaus

- Support capacity building on the rights of children;
- Monitor child care institutions;
- Provide clear information about the meaning of adoption to biological parents/family; and
- Promote national adoption.

General

- Take particular care when links with the family of origin are not severed, especially with regards to ways and timing, the involvement of specialized professionals and the adoption organization.
- Give particular attention to children with special needs.
- Strengthen cooperation and networking among all concerned bodies.

5.6 Concluding Statement

The Moderator called on Dr. Bulti Gutema, Head of Mothers and Children Affairs Department, MoWA, to officially close the meeting.

In his short concluding statement, Dr. Bulti gave the following remarks. He stated that, as the conference was on the needs of the lonely child, children should have attended the conference. He also pointed out that, when we raise problems with regard to adoption, it is about the whole country and is not about Addis Ababa only.

He said that when we talk about children, who represent the future, we are talking about ourselves.

Dr. Bulti recalled that the conference has covered many issues both positive and negative. He underscored the point that 99% of the constraints encountered are implementation problems that could be solved through joint planning and networking.

He said that this conference should be seen as a forum that has brought experiences from abroad to the participants. There were similar meetings in the past but there has been no forum on an international level as this one. Hence, it is a special forum and such forum should be organized on a continuous basis.

In winding up his statement, Dr. Bulti expressed his appreciation of the Conference and thanked CIAI and CAI for the organization of the conference. He thanked the experts who came from Italy, India, Ecuador and Burkina Faso for sharing their experiences; Mr. Moretto for his efficient and able facilitation of the conference proceedings, and all participants for their attendance and for using even their spare time to attend the closing session.

Annex 1

**Ministry of Women's Affairs, Commission for Inter-Country
Adoption, Italian Center for Children Aid
Work Program of the Conference on "The Lonely Child: The
Needs and the Right to a Family"**

**Hilton Hotel, Addis Ababa, Ethiopia
(15 to 17 February, 2007)**

Day 1 – Thursday, February 15, 2007			
Time	Activities	Responsible	Moderator
8:30 – 9:00	Registration of participants	Organizers	-
9:00 – 9:40	Opening address	Dr. Bulti Gutema on behalf of H.E. W/ro Hirut Delebo, Minister, MoWA, Ethiopia	Mr. Angelo Moretto, CIAI, Italy
	Greetings from CIAI	Mrs. Paolo Crestani, member of the Board of Directors at CIAI	
	Greetings from Commission for Inter-country adoption(CAI)	Dr. M. Bianca -CAI	
9:40 – 10:30	Greetings from the Italian Embassy	Mr. Martin Lorenzini – Head of the Consular Chancery of Italian Embassy in Addis Ababa	Mr. Angelo Moretto, CIAI, Italy
	Experience from Central Adoption Authorities		
	1. The Experience of Ethiopia	Dr. Bulti Gutema, Head of Mothers and Children Affairs Department of Ministry of Women’s Affairs, Ethiopia	
	2. The Experience of India	Mrs. Aloma Lobo, CARA, Indian Central Authority for Adoption	

Time	Activities	Responsible	Moderator
10:30 – 11:00	Coffee Break	Conference Center	
11:00 12:00	3. The Experience of Burkina Faso	Mrs. Hortense Nikiema, representative of the Central Authority for Adoption in Burkina Faso	Mr. Angelo Moretto, CIAI, Italy
	4. The Experience of Ecuador	Mr. Arturo Matamoros, Juvenile Judge, Ecuador	
	5. The Experience of Italy	Dr. M. Bianca and Mrs. Anna Maria Marchio (CAI)	
12:00 – 13:00	Plenary Discussion	Participants	
13:00 – 14:00	Lunch Break	Conference Center	
14:00 – 16:00	Group Discussion		
	Group 1a – Programs for the prevention of abandonment: legal and juridical aspects	Discussion group members	Representative of Association Registration Office, Ministry of Justice, Ethiopia
	Group 1b – Programs for the prevention of abandonment: social and administrative aspects	Discussion group members	Mrs. Hana Shiferaw, Children and Family Welfare Department Head, Social and Civil Affairs Bureau of Addis Ababa
	Group 2a – The institutionalized child and why the decision of adoption	Discussion group members	Mr. Hadish Halaform, Team Leader for children under difficult circumstances, Ministry of Women’s Affairs, Ethiopia
Time	Activities	Responsible	Moderator
	Group 2b – The institutionalized child and why the decision of adoption	Discussion group members	Mrs. Maheader Betew, Expert at Child Rights Protection and Welfare, Ministry of Women’s Affairs, Ethiopia
16:10 – 16:30	Coffee Break	Conference Center	

16:30 – 17:30	Preparation of the written recommendations of each group	Group Rapporteurs	
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Day 2 – Friday, February 16, 2007

9:00 – 10:30	Experiences from the field		Mr. Angelo Moretto, CIAI, Italy
	Small drama on children's problems	Trained shelter beneficiaries	
	1. Abandoned children: focus on their needs	Dr. Marco Chistolini, Psychologist and Consultant, CIAI, Italy	
	2. The development of national adoption: The Indian perspective 1984-2006	Mrs. Nomita Chandy, Director of Ashraya Children's Home, India	
10:30 – 11:00	Coffee Break	Conference Center	
11:00 – 12:00	3. The situation of Burkina Faso	Mrs. Clara Marthe Girard – Director of CAED child care institution in Burkina Faso	Mr. Angelo Moretto, CIAI, Italy
	4. Case Histories – the experience of CIAI Ethiopia	Mrs. Azeb Adefresew, Country Representative of CIAI, Ethiopia	
12:00 – 13:00	Plenary Discussion	Participants	
13:00 – 14:00	Lunch Break	Conference Center	

Time	Activities	Responsible	Moderator
14:00 – 16:00	Group Discussion: children, child care institutions and the role of the adoption organizations		
	Group 1: Heads of Departments Judges, CPU's Officials, MoFA and Immigration Office	Members	Mr. Yitna Worku
	Group 2: Managers and Directors of Child Care Institutions	Members	Mr. Mesele Tekuyae, Social Problems Prevention, rehabilitation and Institutional services Coordination Department Head
	Group 3: Social workers psychologists, legal professionals from the NGOs and the adoption organizations	Members	Mrs. Azeb Adefresew, Representative of CIAI, Ethiopia
16:10 – 16:30	Coffee Break	Conference Center	
16:30 – 17:30	Preparation of the written recommendations of each Group	Representatives of each Group	-

Day 3: Saturday, February 17, 2007

Time	Activities	Responsible	Moderator
9:00 – 13:00	1. Group Presentation of the First Day Discussion	Representative of the group	Mr. Angelo Moretto, Italy
	2. Group Presentation of the Second Day Discussion	Representative of the group	
	Coffee Break	Conference Center	
	Plenary Discussion	Participants	
	Reflections on the Conference	Mr. Mengiste Ayele	
	Closing Remarks	Mr. Angelo Moretto	
	Joint Statement of the Conference Participants	Mr. Angelo Moretto	
	Concluding statement	Dr. Bulti Gutema	

List of Participants

<u>I. Ministry</u>		
Amelmal	Messele	Resident Identification and Civil Status Registration Service Bureau
Kinfe Nidaro	Beka	Ministry of Foreign Affairs
Manyahlshal	Madebo	Ministry of Justice
Yenealem	Mersha	Ministry of Women's Affairs
Yitna	Worku	Ministry of Women's Affairs
<u>II. City Administration</u>		
Alem Selam	Enedeg	Addis Ababa Immigration
Misrak	Teferi	Social and Civil Affairs Bureau, Addis Ababa
Tilahun	Tefera	Social and Civil Affairs Bureau, Addis Ababa
<u>III. CPU</u>		
Addis	Daba	CPU – Forum on Street Children
Ankala Wonda	Gemeda	CPU
Endba	Yissaye	CPU
Ketema	Rejiba	CPU
Lemma	Geberhiwot	CPU
Melaku Girma	Bekele	CPU – Team Leader
Mizan	Hailu	Addis Ababa Police Commission
Solomon	Sima	CPU – Forum on Street Children
Solomon Bekele	Tafa	CPU
Tewodaj	Wondimu	CPU
Tsehay	Gebre	CPU
Yared	Negussie	CPU

Yemisrach	Gezainghem	CPU
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IV. Regional Bureaus/Agencies

Alemayehu	Haile Giorgis	SNNPR – Bureau of Labor and Social Affairs
Belainesh	Hagos	Mekele – Bureau of Labor and Social Affairs
Cham	Okugn	Gambela – Bureau of Labor and Social Affairs
Daniel	Admasu	Mekelle – Bureau of Labor and Social Affairs
Getahun	Tsehai	Bahir Dar – Bureau of Labor and Social Affairs
Halane Massan	Mairane	Dire Dawa – Bureau of Labor and Social Affairs
Lucha	Wayessa	Oromia Police Commission
Mesfin	Bekele	Assosa – Bureau of Labor and Social Affairs
Wondu	Mekuria	Dire Dawa – Bureau of Labor and Social Affairs

V. Newspaper

Abebayhu	Gebeyaw	Addis Admas
Ayalew	Hsres	Nayadras News
Mengesha	Amare	Ethiopian Herald
Minassie Teshome	Edosa	Ethiopian News Agency
Tesfaye	Abera	Ethiopian Herald

VI. Child Care Institutions

Adissa	Benti	Children's House International
Adrajew	Zewale	Enat Alem Yehisanat Merja
Alemayehu	Mammo	JeCCDO
Almaz	Ashine	Almaz Ashine Children and Family Support Association
Anchelaw	Bure	Abebech Gobena Child Care and Development Organization

Aseffa	Kefele	Kedane Meheret Children's Home
Dawit Desta	Tamene	Forum Yudane Child Welfare
Fekadu	Sisay	Almaz Ashine Children and Family Support Association
Geday	Buzuneh	Hope for Abandoned Children and Orphan Care Association
Gil	Lossada	Global Infantil
Hana	Yakob	Sele Enat Mahiber
Hanibal	Hassen	H.C.F
Kokebie	Lemma	Berhan Hewot Children and Family
Letebrehan	Gebre Mariam	Fenot Lewegen Aid Organization
Lukas	Chekole	Ketchene Children and Youth Care and Rehabilitation Center
Mengiste	Ayele	JeCCDO
Samuel	Kassa	Betesida Hitsanat Merja
Sekina	Hussen	Enrichment Center for the Disadvantage
Serguten Michael	Teklu	ABA Selama Kesate Birhan Orphanage
Sidisse Buli	Negassa	Ahope Ethiopia
Sofia Mota	Manaye	Kibebe Tsheay Children's Home
Tsedale	Endrias	Hope for Children
Wasenyew	Sahilemariam	Gelgela Integrated Orphans and Destitute Family Support Association
Yemane	Kejela	Selam Children's Village
Yetnayyet Ayele	Zenebe	AC International Child Support
Yirgalem	Zemariam	SOS Children's Village Ethiopia
Yohannes	Fayissa	Kolfe Youth Care and Rehabilitation Center

Zegaye	Yegezu	Kids Care Children Welfare Association
Zenebe	Yiregu	Adera Child and Family Support Association
Zewditu	Yashu	Gelgela Integrated Orphans and Destitute Family Support Association

VII. Adoption organizations

Abebe Guta	Woge	Adoption Avenues
Aberra	Mekuria	Accueil et Partage
Abraham Talargie	H/Gebriel	Association Feyda
Almaz	Asrashin	All God's Children Enterprise
Anke	Jorrisma	Wereld Kinderne - The Netherlands
Assefa	Kebede	The Children of the Queen of Mercy
Assefash	G/Selassie	Flanders Inter Country Adoption Care
Aster	Fesseha	Pro Kind
Awgichew	Ersette	Eltern for Africa
Belayneh	Tafesse	Gladney center for Adoption
Beyene Ayand	Bruk	Ray of Hope
Brouk	Ahmed	Passerelle Association
Dagne	Gezahegne	Christian World Adoption
Daniel	Techane	Children of the Sun
Deribe Nesibu	Andarge	Family for You
Dinkalem	Batru	Association in Aiuti Umanitari (A.I.A.U.)
Elisabeth	Bakke	Adoption Scentrum Sweden
Gebeyhu	Molla	Mundi Adopta

Getachew	Werede	Adoption Association Inc.
Girmachew	Tadesse	American World Adoption Association
Giusy	Bianco	CIFA
Gro H.	Solstad	Adoption Forum Norway
Gunnel	Nahum	Adoption Centre Sweden
Haile	Ayalneh	International Adoption Guides
Hailu	Araya	Centro Aiuti Per l’Etiopia
Hailu	Asmir	Nova
Haregewoin	Berhane	Canadian Advocates for the Adoption of Children
Mantegbosh	Asmare	BNA Adoption
Marco	Pastori	CIFA
Mezgababu	Chanie	In Cammino per la famiglia
Mieke	Budde	Wereld Kinderen – The Netherlands
Piergiorgio	Corbetta	Nova
Roberta	Galbraith	Canadian Advocates for the Adoption of Children
Samson	Mengistu	Adoption Advocates Ent.
Samson Alemu	Biru	Addis Galicia
Sinateyehu	W/Semayat	Dove Adoption Inc.
Siyoum	Mengesha	Association de Ayuda a la infancia all mudon
Tassew	Mulat	PIAO
Tedla Diressie	Abebe	Interpedia Finland
Tefera	Fekede	AMI

Tefera	Solomon	Hope Adoption Agency
Teklu Abera	W/Aenia	Les Amis des Enfants Du Monde
Tenagne	Asguedom	PAIDIA Adoption
Trhas	Redda	Protestant Adoption Center
Tsegaye	Kebedew	Les Enfants Avant Tout
Woldesemayat	H/Gabriel	Adoption Forum Norway
Woldu	G/Selassie	Sourir D'Enfants
Workinch	Abebe	SOS Infant Ethiopia
Woudneh	Mulugeta	West Sands Adoptions and Counseling
Yeshareg	Degefu	Wereld Kinderen Child Welfare Association

<u>VIII. NGOs and others</u>		
Alessandra	Ferranti	Progetto Alem – Italy
Angelo	Vernillo	Regione Veneto
Ashan	Assagenew	Addis Ababa University
Donatella	Bison	Sara Canizzaro Child Reminders and Family Empowerment
Filippo	Sammarco	Progetto Alem – Italy
Hailu Hagos	G/Meskel	Hulegeb all rounded development and capacity building Association
John	Mc Kay	AYC
Mekdes	Zezelew	IFSO
Michela	Molin	Regione Veneto
Salvatore	Me	Regione Veneto
Tewodros	Belay	OVC Network

<u>IX. Resource Persons</u>		
Aloma	Lobo	CARA – Indian Central Adoption Authority
Angelo	Moretto	CIAI – Italy
Anna Maria	Marchio	CAI – Italy
Arturo	Matamoros	Juvenile Judge – Ecuador
Azeb	Adefresaw	Italian Center for Children Aid
Clara Marthe	Girard	Director, CAED Child Care Institution – Burkina Faso
Gutema	Bulti	MoWA – Ethiopia
Hortense	Nikiema	Central Authority for Adoption, Burkina Faso
Marco	Chistolini	Psychologist and Consultant, CIAI – Italy
Martin	Lorenzini	Italian Embassy in Addis Ababa
Massimo	Bianca	CAI – Italy
Nomita	Chandy	Director, Ashraya Children's Home, India
Paola	Crestani	CIAI – Italy
<u>X. Facilitators/Coordinators of Group Discussion Sessions</u>		
Haddush	Halefom	Ministry of Women's Affairs
Maheder	Betew	Ministry of Women's Affairs
Mesele	Tikuye	Social and Civil Affairs Bureau, Addis Ababa
Hanna	Shiferraw	Social and Civil Affairs Bureau, Addis Ababa
Dawit	Mekuria	Training Center for Judges and Prosecutors

<u>XI. Support Staff</u>		
Aster	Tadesse	Italian Center for Children Aid
Cosimo	Chiesa	Italian Center for Children Aid
Dagmawi	Tedla	Italian Center for Children Aid
Francesca	Silva	Italian Center for Children Aid

Giorgia	Giunta	Italian Center for Children Aid
Graziella	Teti	Italian Center for Children Aid
Henok	Alemu	Italian Center for Children Aid
Netsanet	Mulugetta	Italian Center for Children Aid
Renata	Nardi	Italian Center for Children Aid
Tadele	Mengesha	Private Consultant
Tafesse	Tedla	Italian Center for Children Aid
Tekalegn	Tadesse	Italian Center for Children Aid
Teklemariam	Bahiru	Italian Center for Children Aid
Tezeru	Girma	Italian Center for Children Aid
Tiruwork	Kebede	Italian Center for Children Aid
Tsion	Teferra	Italian Center for Children Aid
Woinshet	Gishen	Italian Center for Children Aid

6. SPEECHES

OPENING ADDRESS – MINISTRY OF WOMAN'S AFFAIRS

**Distinguished Guests!
Participants of the Conference
Ladies and Gentlemen!**

On behalf of the Ministry of Woman's Affairs I would like to welcome you all to this conference and welcome the guests from outside Ethiopia to our country. On behalf of the Ministry I also wish to express my delight at being here with you to make an opening remark on this conference organized by Italian Center for Children Aid to deliberate on the issue "The Lonely Child: "The need and the right to a family".

Dear Participants!

Children as a whole are vulnerable because of the fact that their physical and mental growth has not developed to the required capacity to take care of themselves and hence making them dependent on adults, particularly their parents.

Despite the vulnerability of all children however, there are segments of child population which are most vulnerable and these categories are usually termed as "Children in especially difficult circumstances: According to some studies, on out of every five children in developing countries is considered to be "a child in especially difficult circumstances: Given the fact that most of population of developing countries are young, the above estimate would give a clear picture of the extent of the problem that children developing countries are currently facing.

**Dear Participants!
Ladies and Gentlemen!**

In cognizant of the seriousness of the problem of children in especially difficult circumstances the Federal Democratic Republic of Ethiopia has, from the outset, put the welfare and well-being of these children as priority concern for policy and program intervention. The Development Social Welfare Policy, the National Plan of Action for children and Action Plan for orphan and vulnerable children are among the most recent actions taken to tackle the problem of these children.

In developing countries like Ethiopia, where few social support systems exist outside of families, and where basic social services are largely inadequate Vulnerable Children run greater risks of being subjected to different types if abuses and exploitation. Malnourished and stunted than other children. They also may be the first to be discriminated and isolated. When it comes to orphans of HIV/AIDS the situation becomes more aggravated and complicated.

Distinguished Guests!
Participants of the Conference
Ladies and Gentlemen!

As most of you are well aware, the government of Ethiopia, NGOs, UN Agencies and international community have, for a very long time, joined hands together and alleviate the sufferings of children who are in such difficult circumstances. Various program that focus on alleviating the problems of children have been designed and

implemented by different organization. It is worth mentioning here, to underline that despite such efforts the problems of these children are far from being solved. Therefore, I would at this juncture, like to urge all concerned stakeholders to coordinate their efforts to tackle the problems of these children so as to enable them enjoy their rights as stipulated in national and international legal norms.

Ladies and Gentlemen!

Out of the long list of children in especially difficult circumstances the ones that most need priority attention and which are the focus of this conference are those children who are orphaned and totally abandoned for whom alternative care is required.

In Ethiopia, Inter-country adoption is taken as one of the series of possible solutions for the children in focus after exhausting existing options in the country. I hope the participants of this conference would agree to this idea regarding inter-country adoption. I would also like to emphasize that central focus of the whole process of adoption and the outcome of such processes should be ensuring the best interest of the child as stipulated in the national laws and international conventions. Nothing more, nothing less.

Once again I call upon all parties involved in the process of adoption to see to it that the child well being is the central to the whole procedure.

In conclusion

I would like to take this opportunity to thank the Italian Center for Children Aid for organizing and financing this conference. I am also grateful to all partners involved to make this conference a reality.

Finally, I wish you a success in your deliberations; with these few remarks I declare the conference is opened.

I thank you.

REETING FROM CIAI – ITALIAN CENTER FOR CHILDREN AID

Presented by Mrs. Paola Crestani – member of the Board of Director at CIAI

I thank you all for coming to this meeting, which I hope will be the first of others to come.

Together with the MoWa -Ministry of Women Affairs, who I thank very much indeed for their co-operation and support in the organization of this Conference, there are the representatives of India and Burkina Faso central Authorities along with those who -in the same Countries- work in close contact with children who are in difficulties. I also thank the Judge Mr. Arturo Marquez Matamoros, who in his country, Ecuador, has been one of the promoters of the ratification of the Hague Convention, constantly participating in its implementation.

The aim of this Conference is to favour the exchange of information, above all among the sending Countries, and among those who every day have to face the problems of children at high risk of marginalization, of abandoned and orphan children.

Children are often said to be our future, but I believe we have to state a new concept: children are our present and we must work in this present in order to have a future.

One of the issues concerning childhood, which has become more and more significant in these years, is adoption. In-country adoption first of all and, in the end, Intercountry adoption.

I believe that from a theoretical point of view adoption is unanimously regarded as a valid alternative only when all the strategies to favour the child's stay into his family and/or his community of origin have been checked and carried out.

In order to make this concept actually effective it is, however, necessary to carry out a constant control and ensure that adoptions take place regularly; it is above all necessary to set some limits to an "**adult-centered**" culture, where the desires of the adult are turned into legitimate requests often disrespectful of the child's needs.

Besides the text of the Hague Convention, you will also find in your folder the law of its Italian ratification. As you can see, the law No. 476/98 is meant to create a system where Intercountry Adoption represents an effective instrument of defence, subsidiary to other forms of assistance to be carried out in the child's Country of origin through solidarity and cooperation development projects promoted by the same Associations.-

This choice was even more evident when it became compulsory to carry out the adoptive procedure through an authorized Association, despite the Hague Convention did not provide for it as the only possibility.-

I would like to point out that our Law strongly recommends that the Authorized Association should personally undertake to carry out cooperation projects in favour of children in the perspective of the subsidiary nature of Intercountry Adoption, which is deemed the last chance for a child, when all the other attempts to make him stay in his Country of origin have been made.

In those terms, CIAI has strongly committed itself in Ethiopia, but also in Burkina Faso, India, Cambodia, Vietnam and Columbia.

In Ethiopia, our host Country today, CIAI has been working since the beginning of the '90s and, in partnership with MoLSA (Ministry of Labour and Social Affairs), SCAB (Social and Civil Affairs Bureau –Region 14) and various local associations, it implements several projects of development along with Intercountry adoptions. As a matter of fact, in the year 2006 400.000 dollars have been transferred to Ethiopia against options.

A standard feature of our activities is and has been placing children's needs at the centre of the attention, above all the needs of all those minors who are at risk.

Within this perspective there have been various initiatives in favour of street-children such as the shelter project or the support to the Yessaca cooperative and to the "Fekat Circus", you will have the opportunity of appreciating tomorrow, but also other initiatives in favour of kids in conflict with the Law, who are inmates of the "Rehabilitation Institute for Juvenile Offenders of Addis Ababa".

Moreover, in order to promote education and prevent the abandonment of children there is an operating programme of sponsorship for needy and especially underprivileged families. Only in the year 2006 about 1,400 children have been supported in this way and they have been able to attend school and to improve their life condition.

Among other projects, it should be remembered our Capacity Building programme addressed to those Institutes and Associations who deal with childhood and this meeting is an integral part of.

Other central issues we have faced and we are still facing are those concerning AIDS and the promotion of basic education.

Today, however, eight years after the publication of the Law of ratification of the Hague Convention, it is possible to state that the goal of a serious cooperation among Countries in view of the best interest of the child has not been completely reached yet and the principles of the Convention risk drying up into formal enunciation, followed by no real application.

I conclude by saying that we have to take up a **cultural and political** challenge.

Cultural because we have to believe, again and firmly, that the true subject of Adoption is the child. It is the child who has been left alone, it is to him we have to give back the love of a father and of a mother. The child can never ever be the object of traffic and commodification.

Political because through dialogue, comparison, commitment, we have to find the most adequate institutional answers to make this basic right of the child acknowledged and accepted.-

It is necessary for all those who work in the field of Adoption to feel personally involved and actively do their best in order to defend both in Italy and abroad a view of Adoption which **actually** places the child "at the centre" and which is very keen on the child's best interest and happiness. But, besides principled declarations, all the institutionally involved subjects can, each one within its own competence, trigger a virtuous circle which, also through daily performances, can give back to Adoption its ultimate, but very important role of defence of lonely children who have no possibility to see their right to a family recognized in their own Country.-

STRATEGIES FOR VULNERABLE CHILDREN IN ETHIOPIA

Paper presented by Dr. Bulti Gutema – Ministry of Woman’s Affairs, Ethiopia

1. Prevention strategies

1.1 Developmental Social Welfare Policy

Developmental Social Welfare Policy has been formulated in order to prevent and control the further spread of the prevalent and deep-rooted social problems and to gradually eliminate them. The main objective of this policy is creation of a social condition conducive to a healthy life and sustainable development. It says, "Every effort shall be made to create an environment conducive to addressing problems of children in especially difficult circumstances".

This policy strategized community participation, partnership and coordination, research, capacity building, advocacy and awareness raising. Based on the direction set in this policy many civil society organizations are running different projects that address children issues.

1.2 OVC Plan of Action

OVC Plan of Action was developed to guide all stakeholders in addressing the issue of OVC in a holistic, coordinated and integrated manner.

OVC Task Forces were established both at federal and regional levels to facilitate the implementation of the plan. The OVC National Plan of Action identified five thematic areas referring to legal and regulatory frame works, situation analysis, advocacy and capacity building, consultation and coordination, monitoring and evaluation.

2. Rehabilitative Strategies:

2.1 Alternative Child Care Strategies

2.1.1 Community Based Child Care:

The guiding principle of this support mechanism is based on the ethical principles given in the Ethiopian law and UN Convention on the Rights of the Child and other related policies.

This program is implemented within the community to cater for the needs of children in especially difficult circumstances. Not only children, it can also benefit the family.

2.1.2 Foster Family Care:

Foster family care is recommended as an alternative temporary substitute care for a child deprived of his/her biological family. It offers temporary care for an unaccompanied child and creates an opportunity to cater for the child's basic physical, social, emotional, mental and spiritual needs.

It is goal-directed alternative family care where unaccompanied child is placed temporarily and get adequate care till he/she is either reunified with his/her biological parent/s or placed in other permanent care, or institution.

2.1.3 Child-Family Reunification:

If family can be traced, one of the solutions to solve the problem of unaccompanied child would be family re-unification followed by material and professional assistance to the family and the child reunified. If families can not be traced, other alternatives have to be explored.

The child-family reunification, is a primary option for unaccompanied children. It is carried out on the basis of standard procedures that ensure the best interest of the child.

Child-family reunification, is being carried out both by government and non- governmental organizations

2.1.4 Child Care Institution:

Child care institution is not encouraged in Ethiopia. However, the program is designed to upgrade the existing services of child care institutions, to set regulations for service provision as well as requirements for establishment of child care institutions in the country. Currently there are few government and non-governmental organizations catering for children services in child care institution.

Eligibility to be admitted to childcare institution

Children are admitted to child care institutions, with supportive document from the Regional Labour and Social Affairs Bureau or any other authorized government organization.

A child shall be a beneficiary of a child care institution under the following Conditions:

- the child should be fully orphaned/or
- the child should be fully abandoned; and/or
- the parents of the child should be terminally ill or mentally incapacitated.

Unaccompanied Child

Unaccompanied child is:

- A child who is fully orphaned
- an abandoned Child,
- a child with parents who are certified as terminally and /or mentally incapacitated or
- a child who cannot be allowed to remain in his/her family environment for her/his own best interest. Available documents indicate that Children are usually abandoned by household maids and young women and school girls.

2.1.5 Adoption:

Adoption is recommended as an alternative substitute care for a child deprived of his/her biological family and could not be cared within the community.

It is clear that adoption offers permanent and substitute family for a child and establishes a legal parent-child relationship. Ethiopia has rich experience both in local adoption and international adoption.

Issues to be considered in Inter-country adoption

Due attention is given to issues listed hereunder in Inter-country adoption.

- the adoption is authorized by competent authorities in accordance with applicable law;
- it takes place if the child can not be placed in a foster or local adoptive family or cannot in any suitable manner be cared for in the country;
- it is considered if the child enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- the placement doesn't result in improper financial gain for those involved in it;
- ensure that the placement of the child in another country is carried out in the best interest of the child;
- the views of the child being given due weight in accordance with the age and maturity of the child;
- article 19 (1), and Article 35 of the convention on the Rights of the child are given due attention.
- detailed background information and history of the child must be made available to the competent authority by the orphanages before process begins for inter-country adoption;

The Rights of adoption agencies

An adoption agency, with respect to the child, has the right to:

- ❖ Expresses its preference of age and sex of the child to be adopted

Obligation of Adoption Agencies

An adoption agency, with respect to the child, has the obligation to:

- 1.1 avoid selecting a child for adoption on the basis of ethnic group and religion;
- 1.2 respect the right of the child to get information on his/her biological parents/members of the extended family unless it is against the best interest of the child; and
- 1.3 respect the rights of the biological parents and/or members of extended family to get information on the adopted child unless it is against the best interest of the child.
- 1.4 submit a quarterly, bi-annual and annual report;
and
- 1.5 treat all case records as classified documents.

3. Illegal Acts

- 3.1 use the adoption of children as a source of financial or other gains;
- 3.2 abuse, sale and/or trafficking of children under coverage of adoption;
and
- 3.3 facilitating an adoption without the knowledge of the relevant governmental organization/s/.

4. Eligibility of the applicant

An applicant is eligible for inter-country adoption if/he/she is:

- 4.1 able to produce a document certifying that the applicant's State Law is consistent with the legal requirements of Ethiopia on adoption;
- 4.2 at least, twenty five years of age;
- 4.3 able to produce a document from a competent and accredited governmental body certifying that he/she has an income that is sufficient to raise the child;
- 4.4 able to produce a document from a competent and accredited governmental body certifying that he/she is free of any incurable and/or contagious disease and mental health problem;
- 4.5 able to produce a document from a competent and accredited governmental body certifying that he/she is free from any criminal activities;
- 4.6 able to produce a marriage certificate if the applicant is married; and
- 4.7 able to produce a document certified by a relevant governmental body, indicating the consent of the applicant's spouse to adopt the child.

5. Adoption Process in Ethiopia

- ◆ All documents required to be produced by potential adoptive family/parents need to be authenticated by the near by Ethiopian Embassy/mission.
- ◆ The documents should be authenticated in Ethiopia by the Ministry of Foreign Affairs.
- ◆ One copy of the document will be forwarded to the Ministry of Women Affairs for screening.
- ◆ Some of the documents need to be translated into Amharic, official language of the Federal Government.
- ◆ By Submitting copy of the document to one of the existing orphanages the representative of the Adoption Agency signs adoption agreement with the orphanage, from where a child is assigned for the family.
- ◆ The agreement and copy of the document will be submitted to the Federal Instance Court.
- ◆ The court requests the Ministry of Women Affairs to give its consent whether the family is illegible to adopt the child.
- ◆ The Ministry gives its consent officially in written to the court.
- ◆ The court decides the case based on the consents of the Ministry .
- ◆ After court decision letters will be written to Immigration for Passport and Visa, to Addis Ababa City Council for birth certificate to facilitate his/her traveling with the family, in few cases letter is required by_ Embassy
- ◆ Finally the child will travel with his family/parents/parent for his/her permanent domicile.

6. Traditional coping mechanism to help OVC

Besides the modern intervention mechanisms there are different types of traditional coping mechanisms in Ethiopia.

❖ Family

Capacity building of family is one of the coping strategies to keep children within the family environment recognizing the role of a family in upbringing and development of children and in rehabilitating those who are already in a problem many civil society organizations are involving in family integrated projects. Furthermore, capacity building of the family is also given due attention in macro strategies, like PASDEP.

• Extended Family:

In Ethiopia, the family system basically the extended family system is a strong and effective social unit. In spite of the distractive effects of man mad and natural factors, the extended family continues to provide the natural framework for the emotional, and material support essential to the growth and development of children. currently many children who have become victims of various factors are being supported within the extended family system.

There are also other traditional coping mechanisms like "Yetut Iij" or "Yemar Iij", which is mainly stems from compassion/ religion.

EXPERIENCE FROM THE ADOPTION CENTRAL AUTHORITY IN INDIA

Paper presented by Dr. Aloma Lobo – CARA Central Adoption Resource Authority, India

Introduction

This is my very first visit to the beautiful continent of Africa and I am truly happy to be here in your country.

I bring you greetings from my country and especially from the children of India.

I have been associated with adoption for more than 27 years...first as an adoptive mother, then as the chairperson of the ACA in our State of Karnataka and later as the Chairperson of the Central Adoption Resource Authority (CARA) in India. My term at CARA has just ended.

In India the institution of adoption is not new and was in existence even before Vedic Society. However at that time, the adoption of a child was often resorted to if there was no male offspring. Adoption was effected through an elaborate religious ceremony of giving and receiving and thereafter the child took the family name and was entitled to the family inheritance of his adoptive father while ceasing to enjoy that of his birth father. The children who were adopted were usually from within the family or at least from the same caste. Adoption was primarily concerned with strengthening the family by giving it direct heirs especially so for religious purposes. However a spiritual motive was not always solely responsible for increasing adoptions at that time. War and other calamities put many family lines in jeopardy. Also, rights to large estates were in question if there were no male heirs. Adoption was considered a fertile expedient for reviving such claims.

Adoption at that time was hardly ever done for the security and welfare of children in need.

We have come a long way....since those early times.....

CARA Introduction

The Central Adoption Resource Authority (CARA) is an autonomous body under the financial and administrative control of the Union Ministry of Women and Child Development. CARA was set up on June 28th 1990.

The Constitution of India has laid down directives for the care and protection and the rights of a child to a family. India signed the Hague Convention on Inter country adoption in 2003 and ratified it the same year. To implement the convention, the Ministry functions as the administrative Ministry and CARA as the Central Authority.

The mission of CARA is to FIND A FAMILY FOR EVERY CHILD

CARA functions in India through the State Governments and Union Territories.

CARA-Functions

* CARA functions as the clearing house of information of all children placed in inter country adoption.

The focus of adoption must be the child. CARA attempts through its measures to streamline procedures and to be child centered. The focus chooses to shift from "a child for a family" to a "family for a child".

* CARA is actively involved in the promotion of adoption within the country as we believe that a child adjusts best within his own socio cultural milieu .In today's India an increasing number of families are choosing to adopt a child whether they are without biological children or with children, single or married. However this phenomenon is mainly in urban areas though the concept is spreading through parts of rural India as well...slowly but surely. On account of the marked attitudinal change among Indian parents in recent times there is a waiting list for healthy infants and happily many parents are opting to adopt daughters.

* CARA regulates, monitors and develops programmes for the rehabilitation of children

* CARA has created uniform procedures throughout the country and these are updated regularly. This is to ensure uniform practice in all the states and to ensure that in all placements there is intervention of a licensed / recognized adoption agency which is necessary to give legal protection to the child and to the adoptive parents.

* CARA creates policy, licenses agencies both in country and foreign.

* CARA is involved in administration, training, publicity, liaison, capacity building of professional staff and sensitization of allied groups.

* CARA seeks to ensure that all adoptions are established using ethical practices and the present practice seeks to implement all the provisions of the Hague Convention on inter country adoption both in letter and in spirit.

CARA Objectives

To find a family for every orphaned, abandoned, or surrendered child in the country
The in country adoption of Indian children is governed by the in country Guidelines...2004 and

The inter country procedure is governed by a set of guidelines directed by the Supreme Court of India.

CARA chooses to promote in country adoption to its maximum and ensures that no child is offered in inter country adoption unless and until the child has been considered by Indian families.

CARA Central Structure

Ministry of Women and Child Development

-

CARA (an autonomous body)

-

Managing Committee

-

Secretariat

Managing Committee consists of government and non governmental members.

The committee consists of an appointed Chairperson, representatives from the relevant ministries, a legal representative, representatives from agencies doing inter country adoption, from the ACA, and from the Scrutiny Bodies

Secretariat The executive body working under the Secretary CARA appointed by the Ministry

CARA Regional Structure

State Government Agency

Adoption Cell

Adoption Advisory Committee

Adoption Coordinating

*Promotion of in country adoption

*Facilitation of in country adoption

*Liaison between agencies

*Liaison bet. agencies and ACA'S

*Data collection

*Clearance for inter country Adoption

*Publicity

The **Adoption Cell** is the cell within the state Government which oversees policy and the monitoring of adoption within the State. It is not directly involved with placements

The Adoption Advisory Committee is an advisory body to the State Cell. It has representatives from all the various bodies who are involved in adoption.

The ACA or **Adoption Coordinating Agency** is a Supreme Court mandated body.

Brief process of adoption in India-Inter country

Step 1) Enlisted foreign Adoption Agency....does paperwork for prospective adoptive family

Step 2) Role of Recognized Indian Placement Agency (RIPA)

Step 3) Child declared free for adoption by the Child Welfare Committee and for inter country adoption by the ACA after adequate efforts have been made to place the child with an Indian family.

Step 4) Matching of the child study report with the home study report of the family by the RIPA

Step 5) Issue of No Objection Certificate (NOC) by CARA

Step 6) Filing of the petition in the Court.

Step 7) Passport and visa

Visa and travel arrangements are made by the family.

Although our main objective is to place as many children as possible within the country, this is not always possible and the placement of a child with a family of Indian origin that lives abroad or with a foreign family is certainly the best alternative. We see inter country adoption as an appropriate way, for some children, who cannot for some reason find a permanent family in their country of origin, to find the love and care and the permanence of a family in another country.

Time frame...a minimum of 6 monthsTOO LONG.

Experiences with CARA

1) I certainly maintain that all the checks and balances that are put into place are necessary to ensure that :

- 1) Every child is truly free for adoption in the first place.
- 2) Every child is first given the opportunity to be adopted within the country.
- 3) The process ensures the well being of the child and of the birth and adoptive family.

BUT

The multitiered system and the consequent time delays are detrimental to the waiting child. The effects of these delays on the development of the child are hardly ever considered and more often than not these delays are entirely avoidable. We are not always child friendly. It is necessary to improve the networking and coordination amongst adoption agencies so that there is a sharing of knowledge, resources and concerns. It is required that adequate training and orientation modules for all adoption functionaries and those associated with adoption processes and to develop a code of conduct for all adoption practitioners.

2) CARA is not fully autonomous and representation does not always involve the agencies who are the actual stakeholders in the whole process of adoption. It is they who care for the child, know the child and who must have a working relationship with the foreign agency and the family.

3) Decisions are often made by persons who are not really aware of the various dimensions of adoption.

4) The database must be detailed and comprehensive to ensure a network that is effective with the ability to place every child.

5) There are many children who are without families. However it seems that too few children are actually released for adoption.

6) In India Family Adoption presents a different experience. as does

7) The adoption of Indian children by Indians who live in other countries and who may or may not be citizens of those countries.

8) Licensing of Indian agencies goes through the State governments and therefore there are delays and children wait. I believe that licensing and recognition should be done directly by the Central Authority.

9) However I believe that the 'Regional Process' works well because the agencies are able to work on a one to one basis with their foreign counterparts and with families. Also local monitoring is easier state wise and programmes can be initiated and executed by each state

10) Enlisted foreign adoption agencies sometimes tie up exclusively with a particular agency excluding all other possibilities of adoption through other agencies. This is not a preferred practice as it limits the chances of many children being adopted and

especially those children who have special needs. I understand that some Indian agencies may have had a long and trusted and mutually satisfactory relationship and therefore are able to dialogue effectively with particular agencies. As long as this relationship is not exclusive and opportunities are given to children to be adopted through other agencies as well it is acceptable.

Again once a child goes to another country the Central Authority is still concerned about the continued welfare of the child. However the CA has entrusted the child through the CA of the receiving country and must establish a certain trust that the welfare of the child will be taken care of. However disruptions whether pre or post legalization should be informed to the CA along with the aetiology and management of the case. This information will enable the subsequent placement of the child if relevant and will also enable the sending country to understand the potential of such cases.

11) Post placement services work and the system put in place by CARA has shown results eg. in the case of a disruption due to unavoidable circumstances the EFAS immediately took the child and placed the child successfully with another waiting family. It is imperative that these services are in place and are practiced with continued cooperation between the two countries. These services must be practiced with sensitivity and balance and with special recognition of the fact that though we live in one world our intricate differences make our interactions complex and often challenging....but oh' so interesting.

12) Record keeping....we need to formulate a system where there are adequate systems put into place so that many post adoption issues can be addressed. It may be good if the home study reflects the post placement services that are available in the area.

After all our commitment does not cease when the child leaves....this is just the First Day of the rest of his life....The Rest of his life is important too.

Inter country adoption presents unique challenges in securing accurate background information and history of children. Differences in culture, language all profoundly affect this process. The access to information and the reliability of such information may vary widely. Children are entitled to know with certainty that the story of their personal history was preserved as it actually happened. And whether a child chooses to search for his birth family or not, the available information must never be corrupted or falsified or deleted. Any original papers should be preserved in their entirety. The writing or the finger print may no longer be clear but the aura of his birth father or mother or grandmother will be there forever, I am sure.

The Central authorities should conduct a study among the various ethnic groups and their adjustment and integration into their new families and communities. This will go a long way in enabling sending countries to be more effective in preparing children and in formulating a system to assist the children post placement if required.

13) The issue of addressing the needs and situations of children with special needs is inadequate. Hardly are any of these children adopted within our own country and most are sent in inter country adoption. I believe that a greater awareness of these cases must be established.

14) Responses are important. CARA is certainly primarily concerned with the big picture but this should not obscure the smaller picture. The various issues of children

and of families must be promptly addressed. Licensing and recognitions must be prompt and correspondence replied to within the shortest possible time.

15) Statistics for the last 6 years.

<u>Year</u>	<u>In-country</u>	<u>Inter-country</u>
2000	1890	1364
2001	1960	1298
2002	2014	1066
2003	1949	1024
2004	1707	1021
2005	1541	867

16) The full strength of staff is required.

17) Most importantly we must remember that we are in SERVICE and that we are not a corporation.

18) The staff at CARA through my term had various limitations for reasons that were unavoidable but always showed a deep compassion for the abandoned child and strived to do their best for the rehabilitation of these children.

19) Adoption is a human issue.. We can never forget that that we are responsible for the lives and futures of the greatest asset of our countries...our children. It is our responsibility to ensure that the processes that are put in place best serve these children.

CONCLUSION

The matter of adoption evokes strong emotions in many people. Some are opposed to it while many know that it is a good and positive practice. For many children it is the only way in which they will find a loving and stable environment and for parents the opportunity to provide a loving and stable environment for a child.

Current international standards foresee inter country adoption as a solution for some children whose appropriate care cannot be ensured in their country of origin. Inter country adoption must be carried out in strict conformity with the interests and rights of the child as envisaged under the Hague Convention on inter country adoption - 2003.

Sending and receiving countries have a better cooperation than ever before and India has an organized system that caters to the interest of such children.

However we must understand that we must continue to fine tune systems so that every child may find his family in the shortest possible time.

A young and beautiful bride who stood at the threshold of her family home about to leave for the ceremony looked at her mother and said, 'I am at this moment thinking of my birth mother and I hope that wherever she is, she knows that I thank her for that beautiful gift that she gave me when she gave me to you and Dad. I can never thank her enough for the wonderful joys in my life...that her brave decision afforded me.

We, the sending country also send the receiving country a gift each time a child is adopted. I believe that an adoption unites not just a child and a family but it also builds bridges between people in different countries.

In a world of terrorist attacks, corporate scandals and ineffective governance in some countries it is important to find sources of hope, trust and faith. We are privileged because we often see this source...in the face of a little child looking up at us...with this same hope, trust and faith.

Our objective as a Central Authority is reflected in the following true story...

It was Aarti's 21st birthday and her American parents gifted her with a beautiful pink sari which they had bought from the bustling streets of Mumbai on their last visit to the city. They looked expectantly at her to see her joy but instead saw a tinge of sadness and her thoughts seemed far away.. She then hesitatingly said to them, "What I really want to do is to go to India and meet my "real" parents".

Aarti left a month later and though she kept in touch with her parents, somehow she seemed further than she had ever been from home. Her parents however knew that she had to do this by herself. Through various records and helpful staff at the orphanage and the fact that her birth mother had left a note and an address for her if she ever wanted it, Aarti did manage to trace her birth mother.

Three weeks later her parents were at the airport to greet their daughter and to welcome her back home. They were nervous and a trifle scared. Would their relationship have changed?

There she was suddenly...their beautiful daughter...smiling... and there was something different about that smile. She ran towards them, hugged both and with tears streaming down her face said, "At last, yes, I have found my REAL parents"

And the wheel turns around again...and again.

Thank you.

COMMUNICATION ON THE ROLE AND THE COMPETENCES OF THE CENTRAL AUTHORITY IN BURKINA FASO FOR INTER-COUNTRY ADOPTION

Paper presented by Mrs. Hortense Nikiema –Central Authority for Adoption, Burkina Faso

Introduction

Burkina Faso has given priority to the promotion and protection of vulnerable groups mainly children through its ministry of Social affairs and National Solidarity.

One of the missions vested in this department is to ensure among other the follow up and the implementation of the government strategy in this key area.

Many initiatives have been taken by the government and financial partners for the improvement of the children's conditions. In the domain of the protection of the child in danger, three kinds of activities are undertaken:

- Children's sponsorship
- Family and institutional placement
- Inter-country adoption.

Although the latter alternative is source of discussion within the society, the number of inter-country adoption has been increasingly growing since 1990.

The number of children from Burkina Faso adopted (inter-country adoption) has shifted from 6 children in 1991 to 814 on December 31, 2006. More than 80% of the children adopted were French families.

Since the year 2000, a growing number of other countries such as Italy, Spain and Belgium expressed the desire to adopt children from Burkina Faso. In order to preserve the right of the child, Burkina Faso has ratified the Hague Convention (HC) on January 11, 1996, The Hague convention dated May, 29th 1993 on the protection and cooperation in inter-country adoption. This convention was considered in use on May 1, 1996. Since then, the ministry of social affairs and national solidarity through its department of Direction del Protection de l'Enfant et de l'Adolescent (DPEA) i.e. Direction of the Protection of the child and adolescent) plays the role of the central authority regarding adoption proceeding in accordance with the article 6, of this convention.

I. The role of the Central Authority

The DPEA ensures the proceedings and acts as the central authority, makes sure they are in accordance with the Hague Convention.

So, the DPEA receives all the applications, assesses them, proposes children for inter-country adoption and works closely with the central authorities of the countries that ratified the HC.

1) How does DPEA work and process the applications?

There are 2 ways for candidates interested in inter-country adoptions:

a. Individual application

In accordance with the article 15 of the HC, the candidates who receive agreement in their countries of origin, send their applications to the central authority of their own countries which send directly the application to the central authority in Burkina Faso. For countries which do not ratify the HC, the applications can be sent either directly or through the diplomatic representations of Burkina Faso abroad.

b. The applications through recognized organizations for inter-country adoption.

In accordance with the article 12 of the HC, Burkina Faso has allowed some foreign organizations which act as intermediary for inter-country adoptions. These organizations send their application to the local representation of their organization. About 150 applications per year are registered in the central authority. It's worth not that this figure goes beyond the number of children adoptable so that the central authority has limited the number of applications. In this meantime, the delivery of authorization for recognized organizations is temporally stopped.

In accordance with the article 5 of the HC, the DPEA verifies that the candidates have been authorized for inter-country adoption in their countries of origin and it assesses the applications to make sure that they meet the criteria of selection of adoptive parents. Some correspondences are issued to inform the applicants about the results of their applications.

2) Supervision of the processing for inter-country adoption

In accordance with the obligations defined in the article 7 of the HC, the central authority of Burkina Faso, collaborates with the central authority of other countries/ or recognized organizations in order to ensure the protection of the children and transparency in the processing.

When the DPEA is informed about the proposal for an inter-country adoption, it send a written agreement to the central authority of the applicant country of origin, or to the recognized local representative of the organization to inform them whether the processing for inter-country can be carried on or not.

In accordance with the article 17 of the HC, the DPEA after approval from the central authority of the state of origin of the applicants informing to carry on the processing, the application is sent to the court of the area where the child is located in order to bring in a verdict. Adopters who want are allowed to hire a lawyer to follow their application. When the court brings in approval, the DPEA delivers a certificate of conformity and an authorization allowing the child to leave the country, the latter allowing the adoptive parents to establish formal proceeding related to the trip of the child.

As far as inter-country adoption is concerned, the DPEA also collaborates with notary who are allowed to execute deed for adoption and with the orphanages which take care of the children.

The central authority also answers information requested by central authorities of countries which ratify the HC. It cooperates in order to avoid practices that are not in accordance with the HC.

II. The competencies of the Central Authority

The Ministry of social affairs and National solidarity is the only authority which has the central role regarding inter-country adoption in general and especially the HC. So, it has the key competencies in:

a) The choice of candidates for inter-country adoption

The Ministry is the applicants' main interlocutor for inter-country adoption during the proceeding. It has the sole competence to receive and process the applications by considering pre-established criteria. By centralizing, the ministry aims at avoiding practices that are not in accordance with the HC such as the implementation of unlawful networks.

By doing so, it allows respecting at the same level the right of the applicants for inter-country adoption and the applications are processed regarding their order of arrival.

b) The determination of adoptability of the children

Being the central authority; it is up to the ministry to decide whether a child has to be adopted or not. The ministry takes into account the principle of subsidiarity for inter-country adoption as compared to domestic adoption. When the regional offices of the ministry are faced with a case of abandonment of a child for whom there is no possibility of domestic adoption, they write a report on the situation in accordance with the article 16 of the HC to inform the central authority.

This report is sent to the DPEA for inter-country adoption. As soon as the DPEA receives the report, it assesses the case, verifies that there is indeed no way for domestic adoption and it decides the type of adoption that can be suitable for the child. It chooses within the applications available, the suitable family taking into account the child history and needs.

c) Matching

One of the key competencies of the central authority is matching. In short, it means choose a family for an abandoned child. With regard to the importance of this step which engages the future of the child, the ministry of the social affairs has drafted a guideline regarding this process.

As there are various stakeholders involved in the area, to avoid slippage in the proceeding, the central authority is the sole authority to practice matching. The applications for inter-country adoption are centralized and are sent to the court to bring in the verdict. Orphanages which take care of children cannot propose a child for inter-country adoption. The court cannot bring in the verdict prior the approval of the DPEA. Being informed of this principle, applicants cannot circumvent the law as outlined in the article 29 of the HC to undertake directly the proceeding with the orphanage. This allows guaranteeing transparency in the proceeding regarding inter-country adoptions, to consider but the best interest of the child and avoid corruption.

d) Difficulties

The centralization of the process does not prevent the central authority from facing difficulties inherent to its functioning. The main difficulties encountered are as follows:

- the slowness of the proceeding
- in general it takes 8 months at least between matching and the verdict.

The child proposed for inter country adoption remains for a long time a temporary family of placement or in an orphanage which makes difficult the accommodation with the new family and may lead to the failure of adoption

- the misreading of the rules by all the involved stakeholders
- the misreading can be explained by the lack of training and exchange within stakeholders.

e) The perspectives

With regard to the difficulties mentioned above, the Ministry of Social Affairs and National Solidarity has tried to outline some perspectives.

One of the major perspectives is the implementation of multi sector-central authorities in charge of the follow up of the HC. It will be presided by the Ministry of Social Affairs and will gather representatives from other ministries such as Ministries of Justice, Foreign Affairs and Territorial Administration.

The Ministry of Social Affairs also planned to broadcast information about the HC within the stakeholders and to take into consideration domestic adoption. As a result, the follow up of children remains a concern for the central authority which works to improve this practice in order to get more information on the future of the children after adoption.

Conclusion

Inter country adoption remains the last opportunity for the abandoned child to have a family who provides him/her with love and happiness.

This has been outlined in the HC as a way to protect the child and this convention outlined ethical rules. The failure to respect this HC is a violation of child right and compromise the child future.

It's up to the stakeholders involved in the proceeding of inter country adoptions to guarantee transparency and to carry out the best interest of the child.

That's why the central authority in Burkina Faso works in accordance with the HC. This has undoubtedly brought about results but difficulties as well as shortcomings still remain. From has been just been said, the central authority in Burkina Faso is permanently in quest of knowledge and information regarding inter country adoption to improve its practice.

**REPORT ON THE CHARACTERISTICS OF THE LEGAL SYSTEM OF ECUADOR IN
THE FRAMEWORK OF THE HAGUE CONVENTION ON PROTECTION OF
CHILDREN AND CO-OPERATION IN RESPECT TO INTER-COUNTRY ADOPTION
OF 1993**

**Paper presented by Dr. Arturo Márquez Matamoros - Second Judge of
Childhood and Adolescence of Quito - Ecuador**

INTRODUCTION

Ecuador is a unitary state made up of twenty two provinces. Its constitutional structure has the following branches of government: Legislative, Executive and Legal¹. Of special interest in the legal order is the Political Constitution of 1998, which wisely gives priority to the Rights of Boys, Girls and Adolescents, in terms of granting them status as citizens and considering them social objects with rights; and since 2003 a Code on Childhood and Adolescence² has been in force, an instrument that collects most of the Conventional Rights produced by humanity in different discussion forums. The different treaties operate within the context of the legal bodies referred to above, including the Hague Convention on Protection of Children and Co-operation in respect to Inter-country Adoption of 1993.

Within the legal framework, the Childhood and Juvenile Courts, the Specialized Courts for Labor and Childhood of the Upper Courts, and in certain cases the Civil Courts and the Criminal Chamber of the country's Supreme Court, are in charge of resolving cases involving children and adolescents under 18 years old, and exceptionally adults up to 21 years old; keeping in mind that there are also Mediation Centers as alternative spaces to solve conflicts, as well as Local Councils for the Protection of Rights, which are administrative bodies belonging to the Municipalities of the country, which may also be summoned when rights are threatened or violated.

STATUS OF THE CONVENTIONS ACCORDING TO THE LEGAL ORDERING OF ECUADOR.

National Congress has the task of approving or not approving International Treaties and Conventions. Therefore, if the regulations included in these are approved, once they are published in the Official Registry, they become part of the legal ordering of the Republic and they prevail over any other laws or regulations of a lesser order, specifically, over Organic Laws, Ordinary Laws, Decree-Laws, Statutes, Ordinances, Regulations, Resolutions and other acts of the public power, except for the Political Constitution. In the event of a conflict between regulations of different hierarchy, the Courts, Tribunes, Judges and administrative authorities shall resolve these through the application of a law at the highest higher hierarchical level. It should also be kept in mind that the Conventions and Treaties in Ecuador are of a binding nature and are of mandatory compliance, as established in the constitutional ruling

¹ Art. 118.- The Institutions of the State are:

1. The bodies and departments of the Legislative, Executive and Legal Branches.

² The Code of Childhood and Adolescence has been published in the Official Register No. 737 of January 3, 2003, being in force in the territory of Ecuador on July 3, 2003, by express disposition of the final article of the aforesaid instrument.

contained in the first clause of Art. 18, which states: "The rights and guarantees established in this Constitution and in ***international instruments currently in force, shall be directly and immediately applicable by and before any judge, tribunal or authority.***" (sic).

INTERNATIONAL CONVENTIONS IN CONNECTION WITH CHILDHOOD AND ADOLESCENCE.

Ecuador has been a Government Part in many of the International Conventions regarding childhood and adolescence³, including the Hague Convention on Protection of Children and Co-operation in respect to Inter-country Adoption of 1993, which was subscribed to on July 31st 1995, and the text of which was published in the Official Registry No. 778 of September 11 1995. The adhesion of Ecuador to this and other Conventions produced by the Hague Conference on Childhood and Adolescence is a somewhat unknown fact, because in addition to those mentioned above, it has ratified or adhered to other Conventions which originate from organizations such as the United Nations (UN), the International Labor Organization (ILO), and the Organization of American States (OAS), making Ecuador both an active participant in the international legal community and a protagonist in establishing new Convention Laws.

CENTRAL AUTHORITY IN THE FRAMEWORK OF THE HAGUE CONVENTION OF 1993

The Republic of Ecuador, in compliance with Art 6 of the aforementioned Convention on adoptions, had designated as the Central Authority the "High National Court of Minors", a body which because of the lack of interest and of activity was later displaced. In the new Code on Childhood and Adolescence, the legislators granted and invested powers to the National Council on Childhood⁴, and one of its responsibilities is to appoint the Central Authority. In this context, the *current Central Authority, to the effects of complying with the obligations established in the Hague Convention of 1993, is the President of the Council on Childhood*⁵; and the Executive Secretariat with its corresponding Technical Staff is responsible for coordinating domestic activities and relationships with administrative and legal bodies, as well as promoting support and links with Central Authorities from other

³ Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children.- Convention of New York on Obtaining Food Abroad.- Convention on the Rights of the Child of 1989.- Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors.- Inter-American Convention on Support Obligations.- Inter-American Convention on International Restitution of Minors.- Inter-American Convention on International Traffic in Minors.

⁴ Art. 194 of the Code on Childhood and Adolescence.- The National Council on Childhood and Adolescence is a national collegiate body made up in equal proportion of members of the State and of civilian society, in charge of overseeing the compliance of the rights established in this Law. *It enjoys legal existence under public right and organizational, functional and budgetary autonomy... Its decisions are of mandatory compliance for all levels of the system.* Art. 195 of the Code on Childhood and Adolescence.- The National Council of Childhood and Adolescence has the responsibility of: literal i) *Appointing the central authorities to apply the international legal instruments and decide on the technical body responsible for following up and controlling the compliance with the commitments made by the government of Ecuador in said instruments and make the corresponding reports.*

⁵ Resolution No. 23 CNNA-2004, of October 27 2004. R. O. No. 475 of December 3 2004

countries, to ensure the objectives and purposes of the aforesaid Convention are adequately complied with.

Based on the above, it should be noted that the Code on Childhood from Ecuador includes several articles which identify obligations and responsibilities of the Central Authority, namely:

1.- Art. 185 establishes that once the adoption sentence is final and the adopted boy or girl is to be moved abroad, the Judge shall authorize his/her departure from the country only if the following conditions are met:

- a) That the boy/girl will travel with at least one of the adopting parents; and
- b) That the **Central Authority** has provided the certificate referred to in literal d) of article 17 of the Hague Convention on International Adoptions, this is, the Certificate of Conformity.

2.- On the other hand, Art. 186 establishes that the government of Ecuador, through the **Central Authority** on adoptions, is responsible for:

a) Performing periodic follow-up on the residence and living conditions of the boys, girls and adolescents adopted, and demanding that adequate measures are taken to improve said conditions when it is proven that they are not adequate for the integral development of the adopted children.

b) Require every year from the foreign Centers and Institutions that have promoted International adoptions the follow-up reports they are required to provide according to the international conventions, for a time period of two years at most.

c) The bilateral Conventions must establish that the follow-up shall be every four months during the first year and every six months the second year.

d) Coordinate with the Technical Unit on Adoptions the statistical registry of cases and compliance provided by different countries and international adoption bodies with the commitments made in the bilateral convention.

e) In cases of non-compliance in presenting the follow-up reports, terminate the bilateral international adoption convention.

3.- According to Art. 188, the government of Ecuador will not subscribe international conventions with organizations and countries that do not respect at least the rights, guarantees and procedures established in the Political Constitution, in the Convention on the Rights of the Child, in the Inter-American Convention on Children's Rights, in the Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors, in the Hague Convention on Protection of Children and Co-operation in respect to Inter-country Adoption, in the Code on Childhood and in the policies established by the National Council on Childhood and Adolescence.

If a bilateral convention is subscribed on the use of intermediaries for adoptions, at a minimum a commitment must be established to render reports on all matters required by the **Central Authority**, as well as the prerogative of the country to unilaterally terminate the convention in the case of non-compliance with the clauses of the convention.

4.- According to Art. 182, in order for an international adoption to proceed, it is necessary that:

- a) A treaty or convention exists between the countries, or between Ecuador and an adoption intermediary organization that is properly accredited;
- b) A **Central Authority**, office or authority exists in the country of residence of those who make the request that ensures the adequacy of the procedures and that the boys/girls and adolescents adopted will enjoy all the guarantees and rights that the country of adoption provides its citizens, and,
- c) That the guarantees established in the Convention on the Rights of the Child are included

Beyond the obligations established in the Code of Childhood, we must point out that the Hague Convention on Adoptions of 1993 requires the government of Ecuador to perform the following:

- 1.- Mutual cooperation with the Central Authorities of different states, as well as with the legal and administrative authorities of Ecuador.
- 2.- Provide information about the laws of Ecuador and statistics on the families and adopted children.
- 3.- Report and exchange experiences with other Central Authorities on the functioning of the Convention and to facilitate solutions for procedures in adoption processes.
- 4.- Provide advice and follow up on adoptions.
- 5.- Provide other Central Authorities general information concerning a specific case. ⁶
- 6.- Certify the organizations that may act as intermediaries in adoptions.
- 7.- Communicate to the Permanent Office of the Hague Convention the appointment of the Central Authority and its responsibilities; also communicate the names and addresses of certified organizations.
- 8.- Comply with and ensure that administrative authorities (Adoption Technical Unit) and legal authorities (Childhood and Adolescent Courts) comply with the dispositions of Articles 16 and 17 of the aforesaid Convention.

SUBSIDIARITY

In Ecuador, one of the guiding principles on adoptions is the prioritization of national adoptions over the international ones, which is why it is necessary to emphasize the exceptional legal base on international adoptions established in Art. 153 N. 2 of the

⁶ According to the third clause of Art. 168 of the Code on Childhood, specific information on the reports and studies made cannot be provided; only the adopted person after he/she is over 18 years old, the adoptive parents or persons who may demand an action to reverse the decision, i.e. the adopted person himself, the People's Defendant and persons whose consent was omitted, may have access. This disposition is related to what is established in Art. 30 of the Hague Convention of 1993.

Childhood Code and Art. 21 lit. b) of the United Nations Convention on the rights of the Child of 1989, to which Ecuador is a party.

SUPPLEMENTATION

Art. 3 of the Code on childhood in Ecuador establishes that on matters that are not specifically established in said legal body, the other laws of the domestic legal order will be applied; with this we wish to point out that there is very little margin for discretion on the part of the authorities not to comply with the dispositions of the convention or the national laws, more so because under the Constitutional regime no authority, either legal or administrative, may allege the lack of or insufficient specific legislation or procedures to justify the violation or non-recognition of the rights of children and adolescents.

NO FEES FOR ADMINISTRATION OF JUSTICE. COSTS OF PROFESSIONAL SERVICES AND FEES

Art. 203 of the Political Constitution guarantees that in cases involving criminal law, labor law, and cases of support and **minors, the administration of justice is free**, which means no fees are paid for the service offered by the government of Ecuador; however, it should be recalled that the Hague Treaty of 1993 does allow to cover costs for the logistics of direct services and professional fees at reasonable rates for the persons who intervene in the adoption process. What is expressly prohibited in Art. 32 of the Hague Convention of 1993 is earning undue material profits from International Adoptions, a disposition which is linked to Art. 155 of the code on childhood of Ecuador, which states the prohibition of obtaining improper economic benefits, to the point that anyone who acts as an intermediary in adoptions with the purpose of profiting from them may be fined between one hundred and five hundred dollars.

SPEED AND URGENCY IN PROCEDURES

The adoption procedures in the framework of the Convention must operate with the necessary speed. This is established in Art. 35 of the Hague Convention of 1993 establishes and this conventional disposition is linked with Art. 193 of the Political Constitution of Ecuador, which states that procedural laws will seek the simplification, uniformity, effectiveness and *speed of procedures*. The delay in the administration of justice, attributable to the Judge or magistrate, is punishable by law, which is also reflected in Art. 191 of the Organic Law of the Legal Function⁷.

DOCUMENTARY PROOF

Ecuador has adhered to the Hague Convention of October 5 1961 to suppress the legalization of foreign public documents "Apostille"⁸, and therefore documents which must be remitted or sent to each of the subscribing governments must comply with

⁷ Art. 191.- Magistrates and judges are under the obligation of *carrying out the processes within the legal terms without waiting for a petition from a party*. Negligence in compliance with this law will be punishable according to law.

⁸ Official Registry N. 357 of June 16 2004

this requirement; however, it should be remembered that in the case of documents for adoption processes which must be translated, the costs shall be covered by the future adopting parents.

CONCLUSIONS

1.- Ecuador has a constitutional, conventional, substantive and procedural legal regime to ensure the adequate operation of the Hague Convention of 1993;

2.- It offers the legal and administrative mechanisms and a Central Authority, with bodies that guarantee the rights of boys, girls and adolescents.

3.- Even though progress in the legal regime and its organic structure has been substantial, the country's officers and society in general must adapt to the new adoption procedures in order to ensure they are effective and trustworthy.

4.- The legal, structural and social improvement will allow boys and girls without families to gain access to one in the least time possible and with the proper guarantees.

ADOPTIONS IN ECUADOR – Statistics

Below are some statistics on adoptions in Ecuador. The source of information on these is the Technical Unit on Adoptions of the Social Welfare Ministry.

ADOPTIONS IN ECUADOR			
Year	2004	2005	2006
Number	144	102	116

Chart No. 1: Between 100 and 150 adoptions are performed in Ecuador each year.

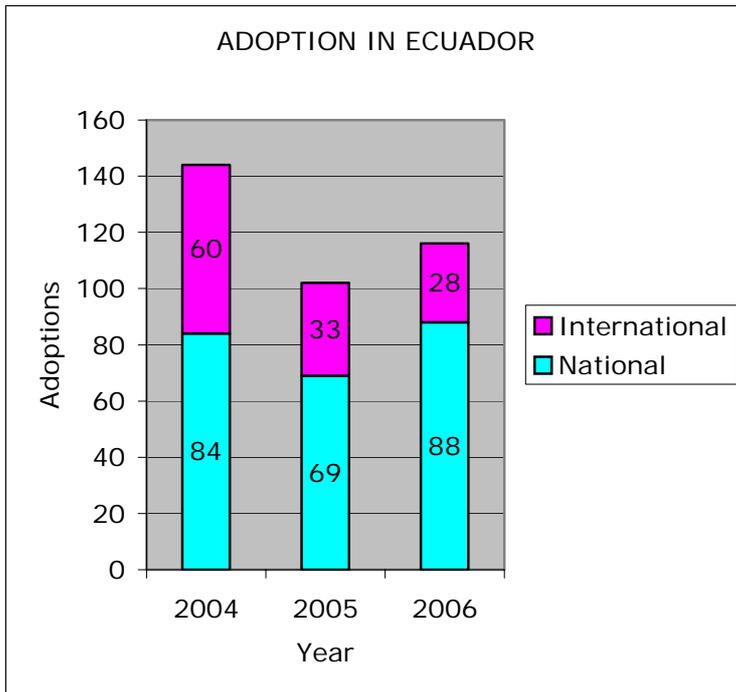


Chart No. 2: This chart shows that there are more national than international adoptions each year, which is due to the country's policy, established in the National Ten-Year Plan for the Integral Protection of Childhood and Adolescence, which states that national adoptions should take priority over international adoptions.

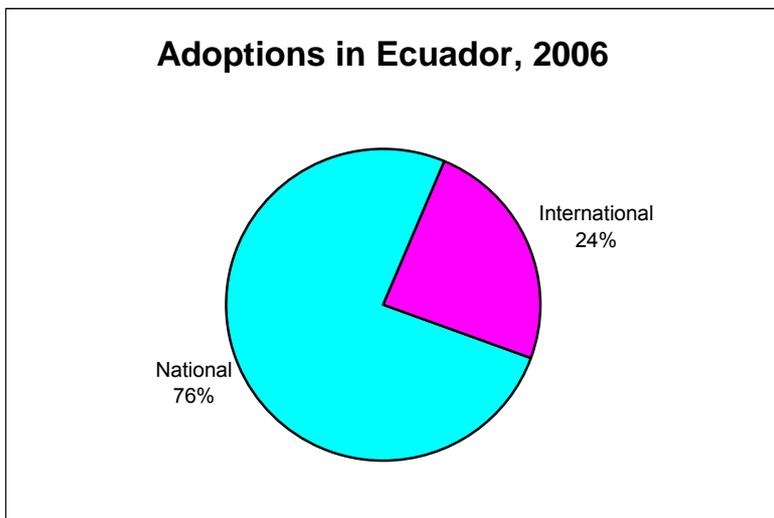


Chart No. 3: This chart shows the proportion of national to international adoptions in the year 2006. The ratio is 3 to 1, i.e., for every 3 domestic adoptions, there is one international adoption.

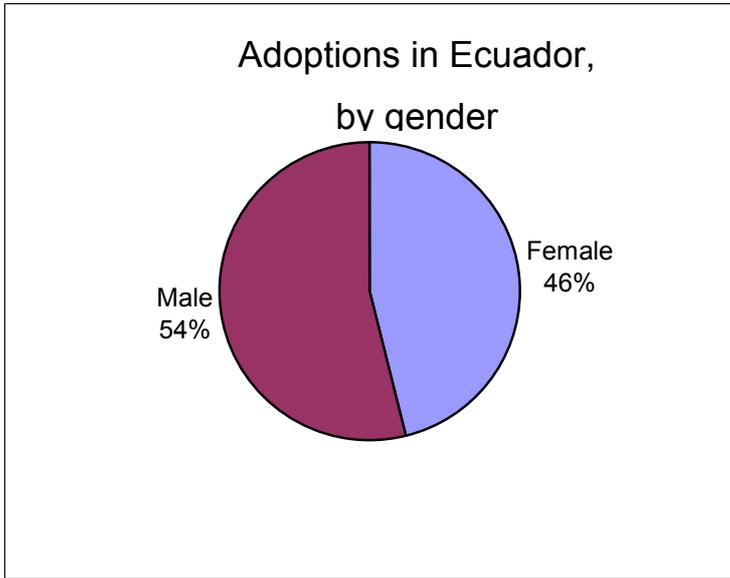


Chart No. 4: This chart shows that in Ecuador there is not a significant difference in the number of adoptions of boys vs. girls.

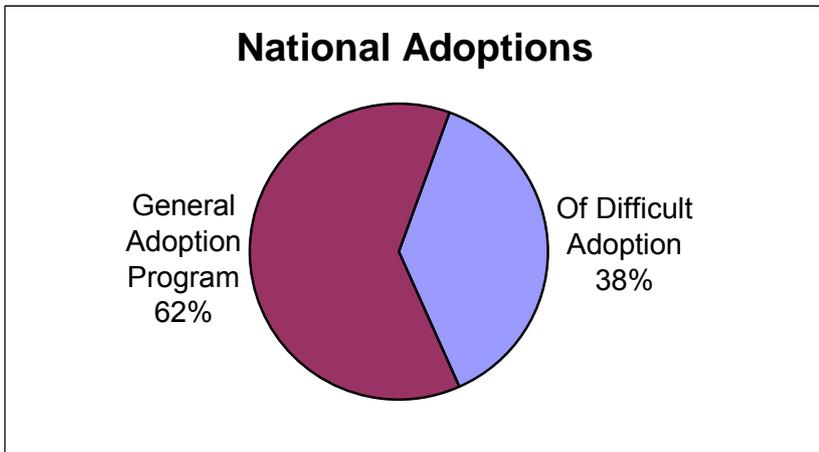


Chart No. 5: Adoptions in the "Difficult Adoption Program" are those of children with some type of illness, a handicap, over 4 years old, or other special situations. Adoptions in the "General Adoption Program" are for boys and girls without any of the conditions mentioned above. In adoptions within the country, the number of adoptions in the General Adoption Program is larger than in the Difficult Adoption Program.

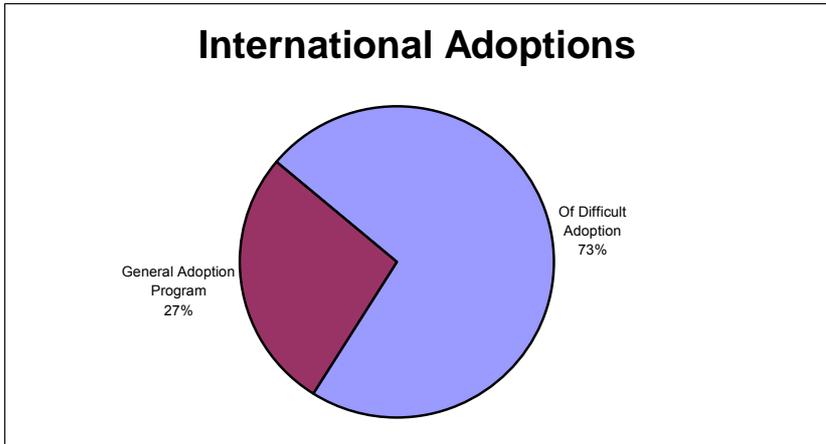


Chart No. 6: Adoptions in the "Difficult Adoption Program" are those of children with some type of illness, a handicap, over 4 years old, or other special situations. Adoptions in the "General Adoption Program" are for boys and girls without any of the conditions mentioned above. More international adoptions are performed within the Difficult Adoption Program than in the General Adoption Program, with a 3 to 1 ratio. International adoptions allow boys and girls who cannot find families in Ecuador to find a family abroad.

THE EXPERIENCE OF ITALY

Presented by Mrs. Anna Marchio – member of CAI , Commission for Inter-country Adoption, Italy

I am very happy to be here today to greet you in the name of the C.A.I. – Commission for Intercountry Adoptions, the Italian Central Authority for the Hague Convention of 29.5.2003, of which I am a member. I wish to greet all delegates to this international conference that is opening today in Addis Abeba organised by the MOWA – Ministry of Women’s Affairs – and the CIAI – the Italian Centre for Children’s Aid, and sponsored by the C.A.I.

This important event forms an integral part of the firmly established relations of collaboration and co-operation between the Federal Democratic Republic of Ethiopia and Italy under which, in November 2006, the Italian Minister for Family Policies signed the 2nd Institutional Programme Agreement for a long –term schedule of activities planned for implementation in 2006-2008 (the previous Agreement covered 2003-2005) to attain many very important objectives, all based on proposal submitted by Ethiopian NGO with the agreement of the Ethiopian Authorities.

These objectives, designed in particular for the agreed purpose of expanding cooperation with the central and local institutions with responsibility for caring for lone and abandoned children, also by convening meetings and seminars, comprised any measures adopted to improve paediatric healthcare facilities, training/education plans at all levels, and the involvement of the families to pre-empt the conditions leading to their being abandoned.

It must be said at once that the “institutional programme agreement” is a specific type of negotiated programming tool provided by Italian law (Law No 662 of 23.12.1996) to streamline the red tape in both the decision-making and the procedural phases. In short, it is an agreement between the central, and the local Administrations, and private entities (for our purposes here, all not-for-profit agencies) under which they undertake to co-operate on the basis of a scheduled survey of all the available financial and human resources in order to build up a long-term plan over several years to implement measures of common interest or functionally linked measures.

It is interesting to note that this instrument, whose approval by the government endows it with a particularly solemn character, is an innovation, because it introduces public-private cooperation. Precisely because of its flexibility it was used the first time to implement economic development plans, and only subsequently to implement social policy measures (Law No 328/2000).

Consistently with the subsidiarity principle in adoption, introduced by the Hague Convention, together with the obligation on the signatory and ratifying states to encourage cooperation between all the home Authorities and the organisations involved in implementing the Convention, the Commission has planned its cooperation activities in order to contribute towards bringing about a real change in the strategies for the benefit of children in their home countries (and we can claim similar positive results in Asia (Vietnam, Central and South America (Brazil), and in the Russian Federation).

Moreover, the Commission continues supporting deserving projects, even outside the scope of these “agreements”.

And this is one of the many tasks that have joined the others performed by the Commission, as the Italian Central Authority, over these six-plus years of activity (Law No 476 of 31.12.1998 ratifying the Hague Convention has been effective since 16.11.2000), and at the same time has been a positive experience, implemented thanks to the active cooperation of all the stakeholders, which deserves a special mention here.

Before moving on to examine, albeit very briefly, the experiences acquired over this very long period, I feel that I should make the short reference to the Italian statutory system implementing the Hague Convention principles.

This Convention, as one of its key elements, makes these Central Authorities the centrepiece of the (new) system, gives them the task of supervising the whole adoption procedure and performing numerous other important functions, some of which can be delegated to private agencies.

In Italy’s case, I would recall that the Commission is a public central government agency, linked to the Office of the Prime Minister, and administratively “structured” within that office, while remaining independent of it. Various tasks have been given to the CAI:

- for international purpose, this Commission is the liaison body with the Hague Conference, and the other central authorities, and works with them for the purposes of gathering information. It is also the reference authority for all the states of origin, to promote bilateral adoption agreements;
- at the national level, it is responsible for guaranteeing the regularity of the adoption procedures and the work of the authorised adoption agencies. Prospective Italian adoptive parents must necessarily resort to these not-for-profit agencies, which are required to comply with the highest standards of professionalism and efficiency and probity, also in the management of their accounts, because individuals are not longer authorised to operate independently on their own account, completely superseding previous widespread practices;
- it is the body responsible for establishing a genuine adoption culture, viewing adoption as a valid alternative to give dignity to a child only when the child cannot be brought up in its own birth family, in total compliance with the subsidiarity principle.

The C.A.I. authorises the entry into Italy of foreign children who have been declared adoptable or eligible for fostering, and is responsible for certifying that this has in fact taken place in accordance with the rules of the Hague Convention.

The adoption process is therefore closely controlled, characterised by guarantees and the rule of law.

The many and very loving Italian families which contemplate the exacting experience of taking on a lone child without adequate support are therefore carefully selected and must meet specific objective and subjective eligibility requirements.

We certainly believe that adoption is not necessarily, or only, be a final solution to a need to parent a child, but rather the starting point for resolving a child’s

painful, pathological situation. For Italian legislation (Law No 149 of 28.3.2001) has enhanced the rights of children to live with their own birth family and the right of the family to be given support when it finds itself in difficulties.

The statement of eligibility to adopt issued by the Italian judicial authorities (the Children's Court or the Court of Appeal) is only issued after evidence has been given that the couple meet the statutory requirements following investigations by the social services, which in this particular phase have an important role to play.

It is at this point that the authorised Agencies, which also have to be accredited in the countries in which they intend to operate, become the new protagonists on the world stage, because Italian law has given them public law powers, namely, powers of certification. They work with the couples in carry through the plan to adopt a foreign baby. And as I have already said, their intervention is mandatory and must be initiated no later than one year from the date of the decree of eligibility.

There are seven authorised Agencies for Ethiopia, and accredited here. The C.A.I. constantly monitors the regularity of the procedures followed for each adoption (the procedures are computerised, and to streamline the formalities a web portal with very high security standards has been instituted), and exercises oversight over the adoption Agencies.

And since the States of origin are entitled to be kept informed of the conditions of their citizens abroad, and the development of the child in its new family should at all events be monitored, the post-phase adoption is monitored and reports submitted.

This system, which provides controls and guarantees in every phase and at every level, has certainly yielded highly positive results over the years even though, as inevitably happens, it has been necessary to introduce adjustments and corrective measures from time to time.

The statistics show that 16.604 children have entered Italy fro adoption since 2000, 3188 arrived in 2006 alone, an increase of about 12% over 2005, a year in which the numbers declined because of the restrictions placed on them by a number of Eastern European countries. At the moment the children come from 70 different countries.

890 adoptions were completed in Ethiopia over the same period, and the number has been rising constantly, beginning with two children in 2000 to reach 227 in 2006. The number to date this year alone now stands at 29.

Other States of origin with substantial number of adoptions are the Russian Federation, Brazil, India, Peru, Cambodia, Vietnam and Poland.

But there are far more couples waiting to adopt, all carefully selected and counselled, so that three out of four will not be succeed in adopting. The average age of the adoptive parents is also raising: in 2000 it was 40.2 for the husband and 37.8 for the wife, while these ages rose in 2006 to 41.3 and 39.2, respectively.

There are also complaints of very long waiting times, increased costs of formalities, widespread bureaucratic complications, all of which are kept under close and constant review by the Commission.

It is hardly necessary for me to say we are far from espousing an adult-centric culture, and that the quality of the adoptions is certainly more important than numbers. And on the subject of quality, I wish to say at once that in the vast majority of cases the adoptions have been successful.

According to the statistics going back to 1987, the year in which a substantial number of adoptions began, there have been just under 40.000 adoptions in the past 20 years, which means that in Italy we now have a whole generation of "new children". These children – who are now young men and women – with their origins in distant lands, have made an inestimable contribution in terms of multiculturalism, opening up families, schools, and basically Italian society, to much broader horizons. These little "pioneers" have certainly faced difficulties, despite all the care, love and attention with which they have been surrounded, and they have had to overcome many obstacles and perhaps also creeping discrimination.

Our experience so far shows us once again that the changes we have introduced have now begun to bear fruit. Couples have become more mature and aware of their duties (for example, in relation to telling their children that they have been adopted); and the intention shown by schools has changed, and they seem to be better prepared to address the differences and to facilitate the integration of the children, helping them to overcome language barriers, and in more general terms opening up the broader cultural horizons, respecting and hence safeguarding, the culture of their countries of origin.

We have also fine-tuned the sensitivity of society and attention to the needs and the right of children, and the need to give them a voice; and this has been done in the more general realisation that, even today, we are faced with vulnerable children, persons with an obvious inability to defend, safeguard and advocate their rights for themselves. Even though it is true that our system has moved on from the traditional view of children as individuals incapable of looking after themselves and hence as the passive recipients of decisions taken by others, affecting their personalities and sometimes their very existence, to quite a different view of children as right-holders, and as decision-makers regarding their own present and their future.

Above all it is the benchmark statutory framework that has changed, and with it the road has been opened up to a new culture of adoption and of the procedures which have moved on from the "do-it-yourself" phase, and are now able to ensure that the children really are abandoned, according to investigations conducted in their country of origin, and are not the victims of people-trafficking or even only the object of targeted decisions by inadequate couples, driven mainly by self-interest.

Opening up to solidarity, recognising multiculturalism as an inalienable source of wealth are some of the values that have inspired the Commission's initiatives. Interpreting its role in a dynamic sense, among other things the Commission has financed research into particular issues (the problem of tracing the baby's origins, incorporating the children into the compulsory education system, studying the

school systems in their countries of origin), and has provided study grants and scholarships to promote research into the issues of fostering and adoption.

We are therefore more convinced than ever before of the need to continue in this same direction, considering the fundamental priority to be establishing ever-closer relations with the countries that are engaged in listening to the needs of the children, and guaranteeing their rights.

ABANDONED CHILDREN: FOCUS ON THEIR NEEDS

**Paper presented by Dr. Marco Chistolini – Psychologist and Consultant CIAI ,
Italy**

First of all I'd like to thank those who have organized this meeting for inviting me, thus giving me the opportunity of offering my contribution on such a delicate issue as the needs of abandoned children. I believe it's very important that all those who deal with these children, on various levels and in different ways, combine their efforts in favour of those whose rights have been so much affected. As a matter of fact, we don't have to forget that being abandoned is always a serious attack to the child's right to receive care and protection by those who gave him birth.

Before describing the needs of abandoned children, I'd like to make some more general remarks concerning the conditions that are necessary to assure an adequate psychological growth to any child. Studies on the age of development have largely proved the importance of affective relations in the psychological development of a minor.

Among the various theories focusing on the central role of affective relations, the theory of attachment by John Bowlby has been given special importance.-

In the 50s John Bowlby, an English psychoanalyst, maintained that owing to an inborn "mechanism" typical of human beings and which is the result of natural selection, children try to stay close to a welcoming and protective adult (usually the mother). Bowlby's great intuition was to understand that the maintenance of that relation (precisely called "of attachment"), which makes the child feel safe and understood, is not aimed at the attainment of other benefits, but it is a primary need of the child. Establishing a good relation of attachment with the affectively meaningful adult is a condition necessary for the child to explore the tangible (places, objects, etc.) and relational reality (other people). The figure of attachment, in fact, is the "safe ground" from which the child can distance himself in order to know the world, having interiorized the confidence that he shall find her again, at his disposal, as soon as he is in need. Moreover Bowlby postulated that through this special relationship the child builds some "internal working models", that is to say emotional and cognitive meanings of himself and of the world, which affect his image of the self and of the external reality, his expectations concerning himself and other people, his behaviour and the way he interprets events.-

Obviously, the presence/absence of this relation of attachment and the quality of the same have important consequences on the child's development. Mary Ainsworth, using the experimental "Strange Situation" which studied the reactions of 12 to 18 month-old children at the mother's absence and re-appearance, singled out three styles of attachment resulting from the different quality of the relation experienced with the adult.

They are:

- The child's confident style corresponding to the adult's free and autonomous style.
- The child's avoiding style corresponding to the adult's distancing style.
- The child's ambivalent style corresponding to the adult's entangled style.

These styles of attachment, which, we must remember, are the result of true relational experiences, correspond to different internal working models which affect the subject's way of perceiving and giving meaning to events as well as of establishing relationships with other people.-

More precisely, those children who have experienced adequate relationships shall structure a confident "style of attachment" which shall give them the opportunity of perceiving themselves as competent subjects worth of affection and other people as capable of listening and help. Vice versa, those children who have experienced inadequate relationships shall structure an insecure "style of attachment", with a debased image of themselves and a perception of other people as hostile, unwilling and unreliable. In particular, those who are brought up by hostile and/or affectively unwilling adults shall structure an insecure/avoiding style of attachment, based on a pseudoaffective autonomy and on the debasement of emotional aspects. These are the children who don't ask for help when they are in difficulty, who are very autonomous, who don't want "to disturb", who depart from their parents with no problems, at times introvert and reserved, others sociable and talkative, often treating people they don't know with familiarity.-

The behaviour that mostly strikes those who interact with these children is their way of displaying affection (kisses, hugs, etc.) with the greatest ease also to people they have just known. The parents report that these children have no problems parting from them and going with strangers. These behaviours (which in the USA are called "syndrome of everybody's friend") can be easily confused with a remarkable attitude to socialize and, therefore, they can arouse positive reactions in the adoptive parents and/or teachers. Actually, as we know well, they are difficulties in distinguishing between known people and strangers. Generally speaking, owing to this difficulty these children have problems establishing close relationships with other children of their own age, having a "bosom friend" and, with the passing of time, it can cause problems in the relationship with their partner and with their children-to-be due to a lack of empathetic capability and of getting in tune with other people's feelings.

On the other hand, children brought up by moody and anxious adults, inconstantly well-disposed, at times welcoming and others inaccessible, shall build an "insecure-ambivalent" style of attachment, marked by a very dependent, "difficult" and opposing behaviour, typical of those who, in a confused and suffering way, massively ask for attention without finding any real satisfaction. The relational strategy of these minors is that of control, they're constantly looking for attention not to lose their relation with the adult, "believing" that (fruit of their experience!) if the relation with the attachment figure was interrupted it would be hard to re-establish it.-

Further studies have pointed out a fourth style of attachment related to experiences of ill-treatment, abuse and serious negligence, identified as "avoiding-

ambivalent" or "disorganized-disorientated". These are often the children of violent adults and/or marked by "unsolved" experiences of loss. In the "disorganized-disorientated" style the "internal working models" developed are inconsistent and not integrated among them, with contradictory and conflicting images of the self and of other people.

Once the fundamental importance of the role relationships have during the minor's growth has been explained, we can now take into consideration the effects being abandoned by one's own parents may have.-

We know that being abandoned by those who should have assured protection and love deeply weakens the child's self-esteem. This happens because this event, besides its concrete consequences, represents for the child an implicit but very strong communication concerning his own value. As a matter of fact, he will but ask himself the meaning of his not being kept. Considering that children value their own person according to the relationships they experience, it follows that experiencing this situation make the child perceive abandonment as the sign of his poor value, of his inability of making himself loved. If we then consider that abandonment is often preceded by hard living conditions during which the subject was unable to experience the care he needed, it is easy to understand the problems these children may have.-

If the effects of all this are poor self-confidence and poor or distorted relational capabilities, what the child needs can be summarized by two elements:

- experiencing nourishing and reparatory relations;
- understanding and accepting his difficult personal story.

The first element concerns the possibility to have, at last, adult interlocutors capable to understand and satisfy the child's needs of care and protection, making him feel loved and important. Obviously, this task can be difficult to perform because the child might be discouraged and suspicious towards the adults who are looking after him. He might display an aggressive and provocative behaviour to check whether these adults are actually reliable and well-disposed or, on the contrary, he might make excessive demands of reassurance which are not easy to meet. When the child feels confident enough to express his affective needs he may often display some regressive behaviour. The child's bent "to regress" displaying attitudes, requests of care, games and relational modes that are typical of younger ages is something which happens quite often. The concrete manifestations of this phenomenon are various: from the request to sleep together with the parents, to that of being spoon-fed, passing through the game of breast-feeding, and so on. These, and others more, are important and positive expressions of the child's need and willingness to "recover", in part at least, relational aspects belonging to previous steps of his development he couldn't experience at the right time. The adoptive parents' welcome and appreciations of these demands are of the utmost importance to build an intimate and special relationship which is necessary to the child in order to feel protected and loved.

Appreciating the child's regressive attitude, however, does not mean accepting it passively and indiscriminately. These manifestations must be obviously managed and regulated. Therefore, once the parents have welcomed their child into their bed or accepted to play the "breast-feeding" game with him, they should ask themselves how to manage these relational aspects and, at the same time, overcome them; however considering the same important opportunities for the growth of the minor who, once he "has drunk his fill" of affective nourishment shall be able to start again and more promptly the journey through the various steps of his development.-

The second element is helping the child to face his own personal story. We know that this mainly consists in asking himself the reasons for his abandonment since the beginning (the well-known question: "Why was I abandoned?"). I believe that what the abandoned minor chiefly needs is being able to give a meaning to his own story, to understand why he has been abandoned. Several studies have pointed out that the greater capability of establishing complex relationships and of thinking over events which distinguishes human beings brings about our need of giving meaning and coherence to events, above all when these are painful or affect us directly. When faced by a serious occurrence which upsets us and which clashes with our expectations about the "normal" outcome of events, we all ask ourselves spontaneously and anxiously: "Why did it happen?". Also our children and kids, therefore, unavoidably bear inside them this difficult question. Some of them express it in a more or less direct way, others keep it inside, vaguely convinced that no-one can help them to find an answer; some others bury it in a remote corner of their soul and do their best not to think about it; the strategies used to deal with this difficult question are a lot and they differ in time, but the question is there and we cannot evade it.

There is no right answer, but a journey of understanding, maturation and acceptance which unwinds on two levels: cognitive and affective. A cognitive level because it implies thinking, associating, examining critically, evaluating what happened. An affective level, because the whole process is permeated by strong emotions: sorrow, pain, rage, solitude, relief What these children actually need is a "way to interpret" the event of abandonment. Thus explaining why their biological parents deserted them. In some cases the parents are dead and the child has been left alone. We mustn't think this may be a reassuring explanation, easy to be accepted by a minor. Death is not easy to accept, not even for the adults, let alone for a child. In fact, the child cannot ask himself why just his parents died, what is the meaning of this event, why none of his relatives could or wanted to look after him. Therefore, there is a lot of work to do in these situations.-

What shall we do, instead, when we face situations in which the parents are alive? Obviously, we cannot underestimate that socio-economical factors can meaningfully affect the parents' capability to look after their children. However, I think that an explanation only or mainly centered on socio-economical reasons is wrong and unfair. Experience shows us a lot of poor families in difficult conditions who bring up their children with love and dignity. And if there are parents who cannot look after their children for economical reasons, they have the right to be

helped and their children shouldn't be given in adoption. Other instruments, such as backing sponsorship, should be used in these cases. More often, however, abandonment is the result of the biological parents' poor capability of care, perhaps associated to poor social conditions. Poor capability of parental care is the true reason for abandoning a child or for looking after him unadequately. We then know that the scientific community widely shares the belief that the capability of being good parents mainly depends on the relationships experienced with the bringing-up adults. More simply, it is possible to state that the capability to love and protect our children is strictly related to the way we were loved and protected by our parents (or by other adults who looked after us). Therefore the minor shall be helped to understand that those who left him did not possess enough affective and relational resources to bring him up because they had not received them when they were children themselves. -

The role of the Institute

We have started talking about how important it is for a child to grow up within a sufficiently adequate familiar environment and about the negative effects caused by abandonment. If on one side it may be actually difficult to distinguish, among the several problems of a minor, how much is ascribable to the events preceding his introduction in the Institute and how much to the child's stay into the same, on the other side the results of several studies clearly point out the negative influence due to the lack of special affective relationships into the Institute. It could be reasonably objected that the quality and intensity of the negative effects caused by growing up in an Institute are meaningfully different according to the size and standards of the same. This is certainly true and it should urge us to improve the quality of the Institutes to the utmost. The point, however, seems to be another one: not what the Institute can *actively*, and negatively, cause to the child, an aspect which depends on its size, staff training, organization, etc, with extremely different results according to each single case; but what the Institute unavoidably lacks, that is (with some limited exceptions) the possibility of establishing special relationships with the inmate minor, which can represent that "safe ground" so much important for the building of his internal working models and for his psychological development. This lack has two effects. On one side it causes specific failures in the child's acquisition of the fundamental capability to establish successful relationships of attachment; on the other side, it prevents the child's inadequate and shocking past experiences from enjoying the reparatory effect coming from special affective relationships with their containing and reassuring effect. It is therefore extremely important that the child's time spent in the Institute is as short as possible and that this time is properly exploited in order to help him. From this point of view the Institute can have an important role for abandoned children, acting as a link between what was before (the family of origin) and what will be afterwards (the adoptive family). As a matter of fact, the transitional stage the Institute represents is a considerably important step in the existential journey of the abandoned minor. It's obvious that the meaning of the role played by the Institute goes far beyond its function, although very

meaningful itself, to assure a comfortable and protective place to a subject who has been much tried by events.-

Obviously, this shall never be a neutral place. If the topic of the past is never dealt with, the minor shall be encouraged to oblivion and to "repression", with an increasing difficulty in thinking of his past story, he will try to forget or which shall be for him an unexplorable issue and, therefore, impossible to work through. On the contrary, if the topic is faced in an inaccurate way, the child shall be driven to give his past story, and above all his role in it, wrong meanings which will be hard to change afterwards.-

It is very different when, instead, the staff of the Institute is capable of giving the minor adequate meanings concerning his past story, thus offering him essential help to work through his painful experiences as well as the opportunity of releasing positive energies to be correctly invested in new relationships. In this case it is especially important to give the minor a true and realistic explanation of the events he has experienced, resisting the temptation "to gild the pill", turning extremely painful experiences into positive ones.-

Eventually, it must be considered that dealing with the past becomes objectively more difficult when the child gets into the adoptive family. Once the minor has been adopted, in fact, the comparison with what happened before his adoption, although possible and necessary, shall be no doubt more complicated owing a series of reasons we can sum up as follows:

- The change of context encourages the child's defensive response of denial and overcoming of what happened (to let bygones be bygones).
- The adults of reference, the adoptive parents, tread on this ground with difficulty, because it is a painful issue which hammers into their aspiration of "exclusiveness", because they are not adequately prepared, and because they hardly know what happened before the adoption.
- Owing to the passing of time, the child unavoidably forgets of his past story, which becomes harder and harder to recover.

It is therefore especially important that this recovery and understanding of the child's past story starts during his stay in the Institute.-

This frame of reorganization of the past includes any kind of aid which may be useful to give the child tangible anchorages to help him keep his past memories alive. Concrete examples can be:

- Writing a diary in order to reconstruct the most meaningful steps of the child's existence, which may work as "historic memory" in time.
- Photographs and videos of the child, of the community staff and, if possible, of his family of origin.
- Meaningful objects such as, for example, clothes, toys, feeding bottle, blanket, etc.

Deeply related to the understanding of the past is the preparation of the minor's future placement, since it is not possible to explain a child why he will need to go and live with a new family without explaining him the reasons why he couldn't stay with his own. In short, the minor must be helped to envisage his future life pointing out

the reasons (why it is important for him), the characteristics of the new reality of life (photographs of the new family and house can be useful), the positive and critical aspects. It is both a cognitive and an emotional preparation (understanding with the mind and the heart) what the minor needs.

THE DEVELOPMENT OF NATIONAL ADOPTION
THE INDIAN PERSPECTIVE 1984 – 2006

Paper presented by Nomita Chandy –Secretary at Ashraya Children’s Home, India

AN AFRICAN PROVERB SAYS *“THE LAUGHTER OF A CHILD IS THE LIGHT OF A HOUSE”*.

Adoption in India is actually an age old practice and was called “Dattaka Homa” and was well-defined in our Vedic Hindu rites. The ceremony for these children termed as “ twice born ”, was conducted with the recital of Vedic hymns and chanting. The Shastra clearly laid down that the ceremony of giving and taking the child, was a mandatory ceremony, for the validity of the adoption. By the performance of this ceremony the transfer of dominion over the child from the “ Natural parents ”, to the adoptive parent, was complete and became final and IRREVOCABLE . The Shastra says “One should go to the giver of the child and ask him saying, “ Give me thy son ”. The other answers, “I give him”. The adoptive parents receive the child with the words, “I take thee for the fulfillment of my religious duties. I take thee to continue the line of my ancestors”.

It can be seen from the religious texts, that adoption was resorted to by families, to fulfill their religious obligations i.e. it was required that a “ Son ” should light the funeral pyre of his parents “. Secondly, there was a need to continue the family line. The references seem to be mainly for the adoption of a son. It also seemed, that in practice, most of the adoptions were in - family and brothers, or sisters, might actually be asked to give birth to a child for a sibling who had no son! This was also done to keep property within the family.

It was this religious custom which was incorporated into the Hindu Adoption and Maintenance Act of 1956 and it was settled in the law that, neither Dattaka Homa, nor any other religious ceremony were essential . The Hindu law in essence says that the father adopts with the consent of the mother. A family can only adopt a boy if they have a girl, or a girl if they have a boy. The adoption is irrevocable and the child has all the rights to name and inheritance, as the natural born child. The Act covers Hindus, Jains and Buddhists, but excludes all other communities.

Today the adoption agency is deemed to be the “ Guardian ” of the child and can give the child in adoption. The adoptive couple “ Take ” the child and the giving and taking that is mandated by the Hindu law, is effected by filing an Adoption Deed, after getting the concurrence of the court.

The most dramatic change that has taken place, is the shift from In-family Adoption, to the Adoption of an un-known orphan child. It is not as though In-family adoptions, do not take place in India. They do. However, more and more families feel that it is much more traumatic to adopt a child from within the family, when the parent of the child may be close by, or even living within the joint family in which they live. The secrecy, the fear of the child finding out, is something that agonizes them all the time. There are also a lot of secret and illegal adoptions that take place without any legal

process, when parents take children for a price, directly from nursing homes and hospitals. There are no statistics available for these adoptions.

What of other communities in India, like Christians and Muslims and Parsis, how do they get to adopt? There are conflicting views about whether the Muslim law allows adoption. However, if you look at most Muslim countries, like Pakistan and the Gulf countries, there are many orphan children, but they cannot be legally adopted, not within the country, nor through Inter-country adoption. This is particularly tragic when you have huge calamities, like the recent earthquake which rendered thousands of children orphan.

The Indian Parliament was unable to pass a secular Adoption law on two occasions, because of strong objections from Muslims and Parsis. The Muslim objection was mainly because of a concern that Muslim children should not be converted to any other faith, if adopted. The Parsis on the other hand, considered that you have to be born a Parsi, hence a child born of another faith, could not take on the religion of the adoptive parents.

However, the Government of India and the courts permit Non-Hindus to actually take a child in Guardianship under the Guardian and Wards Act of 1890. Guardianship is practically like an adoption, however, parents will have to confer rights of name and property upon the child, by means of a registered Will.

The Central Adoption Co-ordinating Agency, which is our Central Adoption Authority, has also made extensive guidelines for the conduct and practice of In-country adoptions. Many of these guidelines are a parallel to the Inter-country guidelines which were defined in detail by a Supreme Court Judgement dt: 1984.

Priority of placements:

It was in fact this Judgement, by the Supreme Court of India, that gave a strong impetus to domestic adoption.

A priority of placement of children was made mandatory. The first priority was to try and restore the child to the biological parents. The second priority was for domestic adoption; the third for Indians abroad and finally for Inter-country Adoption. The Supreme Court laid down that Adoption co-ordinating Agencies must be set up in each State of the country and their main role was to promote In-country adoption. All recognized Adoption agencies have to list all their children with the ACA's every month and a child who is legally free for adoption, should be listed with the ACA for one month. If in that period of time there is no Indian family available for the child, the ACA would give a No-objection Certificate and the child could be placed abroad. Special Needs children are exempted from this process. Secondly, as a condition of the Adoption License, recognized agencies have to do 50% of domestic adoption of all healthy, normal children, under the age of six.

Promotion of Domestic Adoption:

CARA, under the aegis of the Government of India, took on a strong promotional role of domestic adoption. Lists of all the recognized Adoption agencies are published in all the National newspapers once in a year. Adoption Week is celebrated in November each year and there is a lot of publicity, T.V. programmes etc. to mark the occasion. There are Indian agencies licensed by CARA and some more by the State Governments, exclusively to do In-country placements. CARA also has its own website. There are currently 74 adoption agencies licensed by CARA, in India.

The Government of India has promoted a " Shishu Greh " scheme, which totally financially supports agencies which wish to do only domestic adoptions, and the families adopting, can adopt without any charge.

The best advocates of adoption however, are adoptive parents themselves. There is now so much more openness about adoption, that in schools, or the workplace, you would come across adopted children, or parents. This acts as a catalyst for other couples thinking of adoption. Every recognized agency is also required to inform CARA, in their quarterly report, about what they have done in that time, to promote domestic adoption.

Adoption practice:

In practice, it is required that of the couple adopting the father (or older of the couple) should be under 45 yrs. to adopt an infant. The family should have a basic minimum income of Rs. 10,000/- (approx. \$ 225) a month. They should be legally married for at least 2 yrs. prior to the adoption and that it should be a monogamous marriage. When the couple come to the Agency, or the ACA, they will fill out a preliminary form and give it back along with a) A marriage certificate, or proof of legal marriage b) Birth Certificate, or proof of date of birth c) Health Certificates d) Income and Property Certificates e) Testimonials from three people who know them.

Once the documentation is in hand, a qualified Social worker does the Home –Study. This normally comprises of 4 sessions, spread over a period of about 2 months. There is one joint session at the institution, a single interview of each individual and a joint interview at their home. The couple also meet an adoptive family, as part of the process. Sometimes the ACA, or agency, holds a pre-adopt workshop for waiting families.

The Social Worker is really looking at the motivation of the couple to adopt. Reasons like wanting a son to conduct a funeral ceremony for parents, for instance, is frowned upon by modern day adoption practice. Secondly, the Social Worker looks at the suitability of the family, their relationship, the conditions in their home and how other members of the family view the adoption. This is particularly important when they live in a joint family. The Home Study is also an opportunity for the couple to ask more about adoption and the Social Worker underlines important issues like " Telling the child about the adoption " and the child's right to know about his, or her, past.

After the Home-Study is done, the couple are interviewed by an adoption committee of the agency and they are shown one child, depending upon the kind of child they want. Couples are permitted to say they want a girl or boy. They are given a child study report and all the medicals and a confidential report, if there is one. They can take the child to an independent Pediatrician, listed in a panel, by the ACA, to be assured that all is well with the child. We do not let any other family members see the child at this point and the decision has to be taken by the couple alone. Once they give us an acceptance letter, we make out a foster-care agreement and the child is in foster-care with the family, till such time as the adoption is legalized. The whole process takes about three months, if a child is available, plus two months to legalise the adoption. They can apply for a birth certificate after the adoption is completed, which names them as the parents of the child. Follow-up reports are done for about 2 years.

Adoption Trends:

Which kind of families adopt? By and large they are fairly simple middle-class families. Many of them have a biological child and choose to adopt the second. If they have a girl they adopt a boy and vice versa. In the South of India, there is a growing trend to want to adopt girls, which is diametrically opposite to the needs of parents in the North of India. In my city Bangalore, 8 out of 10 prospective families, want a girl. The reasons are, 'girls are more loving'; They are close to parents'; "They always keep up their ties with the family". I'm not sure if this is true or not, but this is what families feel. We also have placed children with single mothers (and are open to single fathers) provided that they can prove that they have an adequate support system to back them. We have even managed to place Special Needs children, like a blind child, with a local family. We are now managing to encourage older couples to adopt toddlers up to the age of 6. Recently, Indian couples have adopted HIV false positive children. Quite a few of our families, who were said to be infertile, have had a biological child after adopting.

In the old days I would meet families who would say, 'I want to adopt a fair male Brahmin baby boy'. Today though "fair" is still fairly high on the agenda, you rarely have a family who is concerned about the background from where the child comes, or the religion of the biological family. Our own belief is that children are born without religion and can adapt to the values and customs of the family who adopt the child. We do get families who want to know the time and date of birth of a child and will consult an astrologer about whether they should take the child.

This is a situation we are not really comfortable with and the Social Worker does try to counsel the family that in the case of an orphan child this data may not even be accurate. Families sometimes are particular about taking the child home on an auspicious time and day and we indulge them as long as it falls within our working hours!

More and more families are accepting that it is necessary to tell the child about the adoption and to accept that, "Adoption is a lifelong commitment and process". The confidential report given to the family contains all non-

identifying information about the child and families are encouraged to share this information with the child at an appropriate time. There is also this strange phenomenon, which we call the "Look alike factor ", where adopted children are considered to look like, one or the other, of the parents. I think it is more due to mannerisms and expressions which are learnt and the families intense need to totally identify with the child.

There are also many social and demographic changes taking place and we see more and more couples, both of whom work long hours and child care is becoming an issue we have to address more and more. For this reason many families are content to have just the one child.

Adoption Statistics:

While the total number of adoptions has hardly gone up in the last ten years, there has been a visible shift of numbers from Inter-country adoption, to In-country adoption. Adoption agencies themselves are now strongly motivated to develop the In-country programme and not because of any Government pressure. There is great satisfaction and pleasure in being able to keep up a regular contact with the adopted children and families and to see the children grow. Regular get-togethers and workshops held at the agency, build up a sense of family and community. The Adoptive families and children are looked upon by the agency as a resource they can tap onto at any time. There are now several adoptive family associations all over the country, who have become very proactive in all matters concerning adoption, including lobbying for a Civil Adoption Act. Families support the initiatives of the agency and many of them will come and celebrate a child's birthday at the Children's Home, or just drop by for a chat.

The adoption statistics for the following years are:

	<u>In-country</u>	<u>Inter-country</u>	<u>NRI's</u>
2001	1960	1298	197
2002	2014	1066	262
2003	1949	1024	257
2004	1707	1021	147
2005	1541	867	194
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	9171	5276	1057
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As you can see the total number of adoptions is not all that high, considering the size of India and the density of the population and poverty levels. According to the 1991 census of India, the child population in India was 319.6 million in the 0-14 age group. By implication, the total number of children deemed to be orphan would be ;

Paternal orphans	144.8 lakhs (14.48 million)
Maternal orphans	6.2 lakhs (0.62 million)
Total orphans	4.5 lakhs (0.45 million)

In this context, 3000-3500 adoptions a year, is just a drop in the ocean in terms of rehabilitating children who need homes and families. The point is, where are these children?

How we get children:

Children come into agencies either by direct relinquishment, or they are children found abandoned. For the abandoned child there is an elaborate process under the Juvenile Justice Act of 2000, to try and track a family by way of newspaper, T.V. and Radio announcements and Probation Officer visits.

In this process many children actually get restored to their biological families, as they may be lost, or have run-away. If a child is relinquished by the family, or mother, the mother has 2 months time legally, to take back her child after which the relinquishment is considered to be final.

Organisations like mine, do a lot of counseling of families and particularly of unwed mothers, to help them take the decision. We have a Women's Centre, and give even single parent families the option to parent their children with support from us. Under no circumstances do we pay women for giving up children, though not all agencies in the country are totally ethical and scrupulous about this.

Birth parent care:

While organizations, by and large, concentrate on the child and on the adoptive parents, very little attention is given to the birth mother, or birth parents. Normally, when a mother comes to give up her child, the Social Worker will talk to her about her circumstances and family history and reasons for giving up the child, which is documented in the intake form. The mother is told about her legal rights, i.e. that she has 2 months time after giving up the child, to change her mind. She will also be told about adoption and the kind of future that can be planned for her child. In appropriate cases, where we feel the mother could actually parent the child, we give her an option of going into our Women's Centre. Here we offer her a whole package of assistance, comprising of shelter along with her children, day care for young children and schooling for older children; Counseling and job placement. We assist her for a period of two years, to become self-sufficient and have the ability to stand on her own feet. For young mothers, who give - up their child, born out of wedlock, we try and effect some reconciliation with the family, who have thrown her out of the house in anger, as they feel she has brought a bad name to the family. Most of the time, with adequate counseling, they accept the girl back and then quite soon, arrange a marriage for her, sweeping the past under the carpet! These women disappear from our horizon and they will not shake the boat even, to even enquire about the child in the future. It remains a closed chapter and one wonders at the agony, she must go through thinking about a child who is " Lost " to her forever. For other families who have given a child because of a handicap, or inability to parent a large number of children, or because the spouse died, or disappeared, they might well come back to us periodically, and we share non-identifying information with them, including photographs and details of how the child is doing. Though the Indian law is

silent on the issue of disclosure, by and large, in a traditional society like ours, for children to actually track parents, later in their lives, is nearly impossible. In fact, data given by the mothers to the agency about their addresses may deliberately be incorrect. I feel, that perhaps a meeting of the child with the biological mother could be effected, with the agency as a mediator, provided that all parties concerned, are agreeable to meeting up with one another, and one was able to trace the mother after so many years.

Adoption costs:

It costs an Indian family on an average, between Rs. 15,000 to Rs. 25,000 (\$ 330 to \$ 550) to adopt a child, inclusive of legal charges. For NRI, or PIO families, (People of Indian origin) they would pay the same as Inter-country adoption charges which is currently \$ 3500 per case.

The way ahead:

Currently there are long waiting lists of families wanting to adopt. In Delhi alone there are 1500 waiting Indian couples. Non Resident Indian families, who feel that though they live and work abroad, they have a lien, on their homeland, are finding it very difficult to get a placement of a healthy young child and some are even opting to adopt older children and siblings. The need is definitely to expand the adoption programme and make strong inroads into the large over populated States in the country, which virtually have no adoption programme. The tragedy is that scores of children get institutionalized long term, in thousands of institutions and SOS children's villages, all over the country. There are many government institutions who have not been motivated to see adoption as a better alternative for the children. Unfortunately , adoption, in many quarters, is looked upon as a money making enterprise and the scams that have been uncovered periodically, only reinforces this belief. To my mind, the larger tragedy really is, that while there are so many loving open arms out there wanting a child, thousands of children languish elsewhere, never to know the joy and wonder that a family can bring to them. I end with an evocative poem, written by an unknown author " *A butterfly in the wind*".

A BUTTERFLY IN THE WIND

A child is...

A butterfly in the wind,

Some can fly higher than others;

but each one flies the best it can.

Why compare one against the other?

Each one is different!

Each one is special!

Each one is beautiful! ~ ~ Author Unknown ~ ~

EXPERIENCE FROM THE FIELD: THE SITUATION OF BURKINA FASO

Presented by Mrs. Clare Marthe Girard – Director of CAED child care institution in Burkina Faso

Historical background

The activities of AZN (Association Zoramb Naagtaaba) in the field of childhood started informally in 1993. Mothers and children in distress came to ask for help in the association; it is thus, the association started to rescue children who were in dramatic nutritional state whenever possible; here is the start up of the CREN (Centre de **R**ecuperation et d'**E**ducation **N**utritionnelle) i.e centre for nutritional and educational follow up.

In 1995, AZN hosted its first orphan child on the request of his father in distress who lost his wife and the second twin. Other abandoned children for cultural reasons were also sent to the association.

Faced with the increasing number of children, AZN created a centre to respond to the needs of the population: The “Centre d’**A**ccueil de l’**E**nfance en **D**etresse” (CAED) i.e hosting centre for children in distress was thus founded.

The intervention of CAED is focused in 4 provinces within 50 kms around the village of Guié. However, it may happen that children from provinces located far away are hosted.

The CAED is composed of 2 distinct structures: The CREN and the day nursery/orphanage.

A. The CREN

Children under severe malnutrition accompanied by their mothers are hosted in the CREN. Admission is made on the basis of a prescription made by a nurse. Hosting and consultations in the CREN are free and so is the training.

The CREN host a great number of babies accompanied by their mother, sometimes by grandmothers. Once arrived, the state of these children is often distressing. They lost weight and suffer from motor deficiencies, hence the need to take care of them quickly.

Each new child brings with him/her concerns, but hope and happiness at the same time when the mother goes back with his/her child in good health state.

Main activities in the CREN

- Nutritional follow up
- Sensitization on importance of breastfeeding children/or enriched porridge
- Health care according to the medical prescriptions
- Mothers’ training on dietetics and how to bottle-feed a child

B. The day nursery / Orphanage

1. Children hosted inside

- **Motherless orphans:** Some motherless orphans are totally taken care by the CAED exceptionally with the recommendation of the social worker. The family should show a deceased certificate or should have the witness of a reliable person. The child will be hosted in the day nursery accompanied by an older sister for duration of 2-3 years.
- **Abandoned children:** Abandoned children are generally sent by a member of the family. The member may have a letter of the nurse in case the child was born in a maternity hospital. With the recommendation of the CAED social worker and after an interview, the child is immediately admitted in the day nursery. All the information on the family is registered for the office of social affairs who will decide upon the future of the child. The child is totally taken care by CAED until placement.
- These children may be abandoned for cultural reasons (in the Mossi ethnic region, consanguinity even in the enlarged family are prohibited). The child who was born through such prohibited relations is considered as incestuous and should physically disappear according to the custom).
- It may happen that the identity of the father even both parents is unknown.
- The centre also host children who are source of family conflict awaiting agreement inside the family. In this case, hosting is temporary and may last only one to 3 months.

Most of the children hosted are 0-2 years old. Some are sent to the centre just after a few hours after their delivery while they are also children aged 3- 7.

The day nursery /orphanage of Guié vested its mission to host all the children in distress. The objective aims at saving life of these children in danger- also those whose health state is so desperate that their survival holds to their moral strength. Our primary deed is to alleviate the psychological and affective suffering of children who lost their mother, rejected or abandoned by the families. Then after, we strive to find out an appropriate and definitive solution to any situation we are confronted with.

However, it may happen that some of these children missed the primary health care and died just after their arrival in the day nursery. We do our best to limit cases of death. It is extremely difficult and also deeply human to help a dying child with dignity.

According to us, hosting these children is not encouraging their biological parents, this problem has always existed. Babies disappeared and all clues of their deliveries are deliberately cleaned.

How to struggle against this plague? This desire to take away children's life ? We do not host only but also sensitize the population:

- First of all, arouse people conscious about this reality
- Sensitize without judging i.e taking into account everybody ways of thinking and beliefs, practices a community thinks necessary to protect itself.
- At the authority level, lead sensitization and prevention campaigns

- Sensitize all the people working in the dispensaries, health care centres, maternity hospitals ...
- Propose to host the so called incestuous mothers in order to avoid that people do them harm.

2. Children hosted outside

The CAED also assist children who stay in their family. Our aim is to encourage and extol family solidarity which is so far deep rooted in the society and is about to be dropped away due to the lack of economic resources. We are convinced that keeping the child in family of origin remains the better place for the child; therefore, we sensitize families who fail to take their responsibilities.

Who are those children helped in their family?

- Children whose mothers died during delivery or after 6 months birth: if the centre host orphan children, our main objective is to support the family so that the child can grow within the family of origin. In this case, admission in CAED is made on the basis of birth certificate shown or witness of a reliable person.
- Babies whose mothers are seriously sick and cannot be breastfed
- Twins or triplets whose mothers do not have enough milk i.e (breastfeeding)
- Some adultery children rejected by the whole family only but a member such as grandmother or aunt who hosts the child. In such cases, we send the family to the administrative authorities (prefecture, court) in order to establish responsibilities until placement and taking care of the child is undertaken.

3. The Children's families

- *Families of origin:* after further study on the possibilities of an orphan child to grow in the family of origin, we host orphan children accompanied by a member of the family. Relationship with this family of origin is not broken until the release of the child. Unfortunately as mentioned above, we deplore many cases of abandonment hence the need to re-create a hosting centre for these children.
- *Family of placement:* They are chosen with care and thorough analysis. Decision is made during the stay of the child within the centre (once per month); they can call up on the services of the day nursery whenever needed, for example case of child illness. They prepare the child awaiting an inter-country adoption and take part to the child departure for his/her new family.
- *Adoptive parents:* We regret that the stay of the adoptive parents be shorter; Guie is located so far away, keeping in touch with the families is very difficult (we don't have enough news, no permanent relationship). We must think over with the involved partners for the drafting of the matching.

4. Who brings them?

Children are sent to us by:

- biological parents
- enlarged families when there are no biological parents
- Social services
- Prefectures

5. How we work with the central authority?

When the abandoned children arrive in the centre, we send them to the central authority in order to fill out the application for inter-country adoption. These formal procedures are filled in and signed either by the prefect or any official authority in the capital city. Birth certificates are established in the prefecture, agreement is written either by the prefect or by a notarius.

- Social investigations are written by a social worker from the ministry of social affairs. It is the ministry of social affairs which decides whether the child should be sent for inter-country adoption or not. The child is thus totally taken care by the centre until placement is agreed. The provincial direction of the ministry of social affairs will gather the necessary documents on the child to be sent to the Direction de la Protection de l'Enfant et de l'Adolescent. (DPEA) which is the central authority of the ministry.
- Medical examinations are undertaken in order to know the children health state before the proposal for inter-country adoption.
- We are called by the court for an interview with a judge about the origin of the child before the final decision for inter-country adoption is taken.

6. How we work with adoptive parents?

As soon as the child is assigned to adoptive parents by the central authority, the adoptive parents can now contact the day nursery /orphanage either directly or by the intermediary of the country representative of the organisation. Regular information and pictures are sent and the adoptive parents in return send their photos, correspondences, toys and clothes to establish a relationship with their child.

The encounter with adoptive parents and their child occur within the centre and to facilitate relationship a minimum of 3 days is required for the stay of adoptive parents before departure.

7. The Staff

They are young volunteer women, aged 25; more mature and commit themselves consequently. Some are educated up to 6 years secondary school. The team is dynamic, the best trained share their experience with the new comers, some are very professional, and they all request training at any time for their capacity building.

The staff is composed as follows:

- one social assistant
- one trainer
- one social worker
- 2 nurses
- One health care manager
- one cashier
- 23 nannies
- 4 sensitizers
- 5 cooks
- 4 persons in charge of laundry
- 12 dish washers
- 2 guards

The children are hosted in 3 sections:

- Babies (0-12 months)
- Infants (12- 36 months)
- Infants (36 months- 7 years)

The nannies are also divided into 3 sections (with day and night teams)

C. CONCLUSION

The CAED of AZN has been created to respond to the growing needs of the population: the issue of childhood in rural area. It collaborates with all the official institutions involved in children's right in general and especially orphans and vulnerable children care.

CASE HISTORIES: THE EXPERIENCE OF CIAI ETHIOPIA

Paper presented by Azeb Adefrsew – Country Representative CIAI Ethiopia

Dear Participants!

I feel greatly honored to share with you a few cases within the theme of the Conference. It is hoped that the best practices as well as the actions that fell short of respecting the rights of children could stimulate discussions and help draw recommendations that could help practitioners working in the area of alternative child care programs for orphans and abandoned children to act within the framework of the CRC and the Hague Convention.

The deprivation and distress faced by most orphan children start long before the death of parents but these problems become much greater when the parents finally die. Many children stop going to school to support their families and especially smaller children suffer from hunger and lack of attention. Worrying about sick parents, watching their parents suffer and die is a very traumatic experience for small children. For many of these children, the psychological trauma becomes worsened by the stigma attached to being AIDS orphans. As we all know, children who have lost their parents due to AIDS are denied of social and emotional support they need most due to discrimination. The emotional distress that these children have to go through is worse than the physical suffering they have to endure.

As had been expressed by the speakers before me, many children are left without any parental love and guidance after losing their parents through death or abandonment. Even though, relatives, neighbors and foster families are caring for many orphaned children many also remain without any care and support owing to the magnitude of the problem vis-à-vis the limited resources and fragmentation of efforts. Thus, many children get separated from their siblings and close family members by becoming abandoned and by going to live with different relatives or being sent to child care institutions. Separation from parents and siblings can have devastating social and psychological effects on children such as anxiety, depression and negative attitude towards oneself and others.

The first and second cases are selected to demonstrate the importance of psychological support, avoidance of unnecessary separation among siblings and proper matching in providing relief and helping to reduce the consequences of traumatic experiences related to the stress of sudden death of parents and separation.

Case 1:

The first case is of three siblings (4, 6 and 9 years old) who had lost their father first and then their mother. The death of their parents was very sudden and traumatizing. Shortly after this incident the two younger children got admitted to an institution. The elder sister was not admitted because it was felt that she was too old for adoption. After the separation, she became highly anxious about her small sisters. She missed them a lot and also felt helpless since her mom told her not to let them get out of her sight as she was dying. It was highly distressing for all three children to go through another separation but this was only for a short time.

As soon as the two younger children were assigned to CIAI it was decided to support the elder child in the institution and to look for adoptive families for all three. She was admitted and the youngest children felt more secured to have their big sister back in their life. Meanwhile, these children were provided with psychosocial support. Finally, it was possible to find a family for all three. They were placed in a family that has the capacity and strength to support them. The traumatic experience the children went through is so strong and could not be wiped out completely. Yet, it could be imagined how they would have suffered if they were separated and did not get psychological support as well as a supportive family.

Case 2:

The second case CIAI came across is of two very young siblings who were placed on adoption separated from a large family in which the children enjoyed a lot of love and care. Having lost both parents they were living with their grand mother and older sister who is married and has her own children. The children were 6 and 8 years old at the time of abandonment and admission to a child care institution.

They were always crying and asking to be back to their relatives. Especially the younger one, used to talk a lot about how her life was beautiful when she was with her relatives. She talked about going back to her family and about her wish to take care of her little cousin. Supporting the child to cope up with the separation and preparing them for adoption was very challenging. However, the adoption was in the best interest of the children since the grandmother is too old to care for them and the sister has her own children. Thus, after providing them with psychological support, the children were placed with adoptive parents who are capable and ready to provide them with further support.

The psychological support provided involves helping the children to express their inner feelings in words, through pictures or play in group or individual sessions; supporting them to develop positive feelings about their abandonment; and supporting them to develop positive feelings about being adopted. This is done in accordance to the experiences the children went through and their age.

There are also many cases where the children are left without any adult caregiver and elder children have to shoulder sole responsibility for households. These children are forced to fend for themselves and their siblings managing their households on their own without any protection, support and guidance from adults. Thus, the bigger children take over the role of adults in caring for their younger siblings. This is a coping mechanism used to keep the family from disintegrating in cases where there are no other options. It is often adolescent girls who assume responsibility for their younger siblings in the absence of parents.

Consequently, most of them drop out of school and become street vendors or daily laborers. These children also suffer from malnourishment and are excluded from any health care. Generally speaking, children living in child-headed households constitute a generation growing up without adult role models. They lack community connections being cut off from support networks that are essential for adult life. It is the right of these children to get economic, emotional and social support.

However, when very small children are involved, it becomes difficult to keep the family together. The smaller children are usually taken by relatives or admitted to child care institutions because they need adult care and protection. In such cases it is the best interest of the smaller children to be placed in adoption so that they could grow up in a family environment. This would also relieve the bigger children from being burdened with too much responsibility. However, if the bigger children are in very difficult situation with no one to care for them, they should also be provided with some kind of support. There are cases where information about the bigger siblings is disclosed only after their smaller siblings are placed on adoption and after the children suffered for some time. The following case is a good example of children who face such difficult situations.

Case 3:

An 18 year old girl was burdened with the responsibility of taking care of her five younger siblings when both of their parents died. She had to abandon her two smaller siblings because she was a 10th grade student at that time and had no income to support all the four siblings. Neighbors informed her of an institution which could support them. When she went there, she was advised to abandon her two youngest siblings so that they would find adoptive parents.

It was the only advice she was able to get and couldn't find any other alternative to keep the family all together. Thus, she had to decide to abandon the youngest ones at least to ensure their survival. However, it was not possible for her to place the other two siblings in the institution because they were too old to find adoptive parents. These children were thus left to their bigger sister who was trying her best to sell food staff and support her siblings. However, she was not able to make ends meet and the children were hungry most of the time. When CIAI found out about these children, arrangements were made to support them through sponsorship.

According to The Hague Convention, the child should remain in the care of his or her family of origin. However, there are many cases of children who are placed in institutions separated from their relatives. There are different reasons for abandoning children. In most cases relatives are too poor to support the children and in many other cases they refuse to take the responsibility since they have no attachment to the children. It is realized that efforts in the area of alternative child care have remained fragmented and small in scale compared to the magnitude of the problems of orphan and abandoned children. As depicted in the above cases separation from siblings and relatives creates distress in children. However, separation from a mother or a father is more traumatizing especially in the case of children below 5 years old and should be avoided as much as possible. This is illustrated with the following case where a 2 year old child was separated from her mother who was breastfeeding her.

Case 4:

CIAI came across this in the child care institution she was admitted to. At that time the child was in distress. She was very depressed and was unable to interact with any one. She showed sudden changes in her moods. When this child was assigned for CIAI and when her abandonment certificate was examined, it states that the child's mother abandoned her

because she is too poor to take care of her. It was also orally indicated that the mother is an addicted street dweller who is unfit as a mother. However, when CIAI found the mother after some effort and contacted her it was found out that she was convinced by some people to abandon her child.

She was not homeless but was living with her parents. Of course she is jobless and was depending on her parents with her two little children. Her parents threw her out later when they found out that she abandoned her child. She told us that her decision to abandon her child was so sudden that after a few days she decided to go to the competent authorities to get back her child. We took back the child to her and she was very happy to have her child back in her arms. She started breastfeeding her immediately. Her elder sibling who was also confused by the separation was delighted to see her sister again. Now the child has started living with her mother and sister support by CIAI through the sponsorship program.

It seems that whenever poor people go around looking for support to take care of their children, siblings or other relatives, most get advised to abandon the children making them believe that the children will have a better life. However, families could be willing to support their children if they are given other alternative solutions.

It should be realized that there are many instances where the responsibility of insuring the survival and well being of orphan children cannot be left to the extended family alone. The extended family system, which is the traditional safety net, had been eroded by complex socio economic problems.

Consequently, many orphaned children are abandoned by their families. In most case, these families could bring up their own children if they get some support. Many organizations are supporting such families through sponsorship and credit schemes. However, support to families should increase in scale and become economically empowering whenever possible with care for avoiding dependency.

CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

(Concluded 29 May 1993)

(Entered into force 1 May 1995)

The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children,

with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions –

CHAPTER I – SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are –

a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law;

b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;

c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

(1) The Convention shall apply where a child habitually resident in one Contracting State ("the State of origin")

has been, is being, or is to be moved to another Contracting State ("the receiving State") either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

(2) The Convention covers only adoptions which create a permanent parent-child relationship.

Article 3

The Convention ceases to apply if the agreements mentioned in Article 17, subparagraph *c*, have not been given before the child attains the age of eighteen years.

CHAPTER II – REQUIREMENTS FOR INTERCOUNTRY ADOPTIONS

Article 4

An adoption within the scope of the Convention shall take place only if the competent

authorities of the State of origin –

a) have established that the child is adoptable;

b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

c) have ensured that

(1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,

(2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,

(3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and

(4) the consent of the mother, where required, has been given only after the birth of the child; and

d) have ensured, having regard to the age and degree of maturity of the child, that

(1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,

(2) consideration has been given to the child's wishes and opinions,

(3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and

(4) such consent has not been induced by payment or compensation of any kind.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State –

a) have determined that the prospective adoptive parents are eligible and suited to adopt;

b) have ensured that the prospective adoptive parents have been counselled as may be necessary; and

c) have determined that the child is or will be authorized to enter and reside permanently in that State.

CHAPTER III – CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 6

(1) A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

(2) Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial or personal extent of their functions.

Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 7

(1) Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.

(2) They shall take directly all appropriate measures to –

a) provide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;

b) keep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 8

Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention.

Article 9

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to –

- a) collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary to complete the adoption;
- b) facilitate, follow and expedite proceedings with a view to obtaining the adoption;
- c) promote the development of adoption counselling and post-adoption services in their States;
- d) provide each other with general evaluation reports about experience with intercountry adoption;
- e) reply, in so far as is permitted by the law of their State, to justified requests from other Central Authorities or public authorities for information about a particular adoption situation.

Article 10

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the tasks with which they may be entrusted.

Article 11

An accredited body shall –

- a) pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;
- b) be directed and staffed by persons qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and
- c) be subject to supervision by competent authorities of that State as to its composition, operation and financial situation.

Article 12

A body accredited in one Contracting State may act in another Contracting State only if the competent authorities of both States have authorized it to do so.

Article 13

The designation of the Central Authorities and, where appropriate, the extent of their functions, as well as the names and addresses of the accredited bodies shall be communicated by each Contracting State to the Permanent Bureau of the Hague Conference on Private International Law.

CHAPTER IV – PROCEDURAL REQUIREMENTS IN INTERCOUNTRY ADOPTION

Article 14

Persons habitually resident in a Contracting State, who wish to adopt a child habitually resident in another Contracting State, shall apply to the Central Authority in the State of their habitual residence.

Article 15

(1) If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, as well as the characteristics of the children for whom they would be qualified to care.

(2) It shall transmit the report to the Central Authority of the State of origin.

Article 16

(1) If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall

- a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;
- b) give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;
- c) ensure that consents have been obtained in accordance with Article 4; and
- d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

(2) It shall transmit to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the reasons for its determination on the placement, taking care not to reveal the identity of the mother and the father if, in the State of origin, these identities may not be disclosed.

Article 17

Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if –

- a) the Central Authority of that State has ensured that the prospective adoptive parents agree;
- b) the Central Authority of the receiving State has approved such decision, where such approval is required by the law of that State or by the Central Authority of the State of origin;
- c) the Central Authorities of both States have agreed that the adoption may proceed; and
- d) it has been determined, in accordance with Article 5, that the prospective adoptive parents are eligible and suited to adopt and that the child is or will be authorized to enter and reside permanently in the receiving State.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State.

Article 19

(1) The transfer of the child to the receiving State may only be carried out if the requirements of Article 17 have been satisfied.

(2) The Central Authorities of both States shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.

(3) If the transfer of the child does not take place, the reports referred to in Articles 15 and 16 are to be sent back to the authorities who forwarded them.

Article 20

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 21

(1) Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular –

- a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;
- b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not

appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;

c) as a last resort, to arrange the return of the child, if his or her interests so require.

(2) Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article.

Article 22

(1) The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

(2) Any Contracting State may declare to the depositary of the Convention that the functions of the Central Authority under Articles 15 to 21 may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by bodies or persons who –

a) meet the requirements of integrity, professional competence, experience and accountability of that State; and

b) are qualified by their ethical standards and by training or experience to work in the field of intercountry adoption.

(3) A Contracting State which makes the declaration provided for in paragraph 2 shall keep the Permanent Bureau of the Hague Conference on Private International Law informed of the names and addresses of these bodies and persons.

(4) Any Contracting State may declare to the depositary of the Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with paragraph 1.

(5) Notwithstanding any declaration made under paragraph 2, the reports provided for in Articles 15 and 16 shall, in every case, be prepared under the responsibility of the Central Authority or other authorities or bodies in accordance with paragraph 1.

CHAPTER V – RECOGNITION AND EFFECTS OF THE ADOPTION

Article 23

(1) An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognized by operation of law in the other Contracting States. The certificate shall specify when and by whom the agreements under Article 17, sub-paragraph *c)*, were given.

(2) Each Contracting State shall, at the time of signature, ratification, acceptance, approval or accession, notify the depositary of the Convention of the identity and the functions of the authority or the authorities which, in that State, are competent to make the certification. It shall also notify the depositary of any modification in the designation of these authorities.

Article 24

The recognition of an adoption may be refused in a Contracting State only if the adoption is manifestly contrary to its public policy, taking into account the best interests of the child.

Article 25

Any Contracting State may declare to the depositary of the Convention that it will not be bound under this Convention to recognize adoptions made in accordance with an agreement concluded by application of Article 39, paragraph 2.

Article 26

(1) The recognition of an adoption includes recognition of

a) the legal parent-child relationship between the child and his or her adoptive parents;

b) parental responsibility of the adoptive parents for the child;

c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

(2) In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognized, rights equivalent to those resulting from adoptions having this effect in each such State.

(3) The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognizes the adoption.

Article 27

(1) Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognizes the adoption under the Convention, be converted into an adoption having such an effect –

a) if the law of the receiving State so permits; and

b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

(2) Article 23 applies to the decision converting the adoption.

CHAPTER VI – GENERAL PROVISIONS

Article 28

The Convention does not affect any law of a State of origin which requires that the adoption of a child habitually resident within that State take place in that State or which prohibits the child's placement in, or transfer to, the receiving State prior to adoption.

Article 29

There shall be no contact between the prospective adoptive parents and the child's parents or any other person who has care of the child until the requirements of Article 4, sub-paragraphs a) to c), and Article 5, sub-paragraph

a), have been met, unless the adoption takes place within a family or unless the contact is in compliance with the conditions established by the competent authority of the State of origin.

Article 30

(1) The competent authorities of a Contracting State shall ensure that information held by them concerning the child's origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.

(2) They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State.

Article 31

Without prejudice to Article 30, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 32

(1) No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

(2) Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

(3) The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 33

A competent authority which finds that any provision of the Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State. This Central Authority shall be responsible for ensuring that appropriate measures are taken.

Article 34

If the competent authority of the State of destination of a document so requests, a translation certified as being in conformity with the original must be furnished. Unless otherwise provided, the costs of such translation are to be borne by the prospective adoptive parents.

Article 35

The competent authorities of the Contracting States shall act expeditiously in the process of adoption.

Article 36

In relation to a State which has two or more systems of law with regard to adoption applicable in different territorial units –

- a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- b) any reference to the law of that State shall be construed as referring to the law in force in the relevant territorial unit;
- c) any reference to the competent authorities or to the public authorities of that State shall be construed as referring to those authorized to act in the relevant territorial unit;
- d) any reference to the accredited bodies of that State shall be construed as referring to bodies accredited in the relevant territorial unit.

Article 37

In relation to a State which with regard to adoption has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

Article 38

A State within which different territorial units have their own rules of law in respect of adoption shall not be bound to apply the Convention where a State with a unified system of law would not be bound to do so.

Article 39

(1) The Convention does not affect any international instrument to which Contracting States are Parties and which contains provisions on matters governed by the Convention, unless a contrary declaration is made by the States Parties to such instrument.

(2) Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.

Article 40

No reservation to the Convention shall be permitted.

Article 41

The Convention shall apply in every case where an application pursuant to Article 14 has been received after the Convention has entered into force in the receiving State and the State of origin.

Article 42

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

CHAPTER VII – FINAL CLAUSES

Article 43

(1) The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Seventeenth Session and by the other States which participated in that Session.

(2) It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.

Article 44

(1) Any other State may accede to the Convention after it has entered into force in accordance with Article 46, paragraph 1.

(2) The instrument of accession shall be deposited with the depositary.

(3) Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in subparagraph *b*) of Article 48. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 45

(1) If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

(2) Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.

(3) If a State makes no declaration under this Article, the Convention is to extend to all territorial units of that State.

Article 46

(1) The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the third instrument of ratification, acceptance or approval referred to in Article 43.

(2) Thereafter the Convention shall enter into force –

a) for each State ratifying, accepting or approving it subsequently, or acceding to it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance, approval or accession;

b) for a territorial unit to which the Convention has been extended in conformity with Article 45, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 47

(1) A State Party to the Convention may denounce it by a notification in writing addressed to the depositary.

(2) The denunciation takes effect on the first day of the month following the expiration of twelve months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

Article 48

The depositary shall notify the States Members of the Hague Conference on Private International Law, the other States which participated in the Seventeenth Session and the States which have acceded in accordance with Article 44, of the following –

a) the signatures, ratifications, acceptances and approvals referred to in Article 43;

b) the accessions and objections raised to accessions referred to in Article 44;

- c) the date on which the Convention enters into force in accordance with Article 46;
- d) the declarations and designations referred to in Articles 22, 23, 25 and 45;
- e) the agreements referred to in Article 39;
- f) the denunciations referred to in Article 47.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at The Hague, on the 29th day of May 1993, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Seventeenth Session and to each of the other States which participated in that Session.

OBJECTIVES OF THE HAGUE CONVENTION ON PROTECTION OF CHILDREN AND COOPERATION REGARDING INTERNATIONAL ADOPTION, DATED MAY 29, 1993.

Paper presented by Dr. Arturo Márquez Matamoros - Second Judge of Childhood and Adolescence of Quito - Ecuador

Several national and international events in recent years have had various repercussions on the social and economic relations in our countries. The national laws, the legal order, the institutionalism and even the control mechanisms were found to be insufficient and ineffective in terms of protecting girls/boys and adolescents; this reality was perceived by the Permanent Bureau of the Hague Convention on International Private Law after a preliminary study performed by the General Secretariat of this body revealed, among other aspects, the following:

- a.- That since the late 1970s international adoptions had become a global phenomena that results in children migrating long distances to different geographic regions, which creates problems of adaptation to different cultures;
- b.- That with the proliferation of independent adoptions it became necessary to establish minimum standards to ensure the best interests of the child;
- c.- That it had become necessary to create a Convention of a universal nature, since the Hague Convention of 1965 and the Inter-American Convention of La Paz of 1984, given their regional nature, were insufficient in terms of coverage and more widespread international adoptions;
- d.- That a multilateral Convention should be created to encourage cooperation in terms of administration, procedures and responsibilities between signatory States, as well as in terms of Applicable Laws, Competent Jurisdiction and Recognition of the Adoptions made in other States;
- e.- That passing national laws alone was insufficient to solve an issue that involves more than one State.

For these reasons, the new Hague Convention on international adoptions had and currently establishes the following as its specific and implicit objectives:

1. That international adoption is an alternative, as long as it can be proven that the original family cannot care for the boy/girl, and that there is no viable solution within the country.
2. That international adoption should take into consideration the best interests of the child.
3. That the children receive protection and basic guarantees both in the international adoption process and during their relocation to the country of destination.
4. Establishment of mechanisms for the cooperation between States through Central Authorities in order to have: a) Information on the future adoptive parents and the child to be adopted; b) Information on current legislation in force as well as statistical information; c) Follow-up reports on the adoptions; d) Information about the intermediary Centers or Agencies that have been enabled and accredited in the child receptor countries; e) Information on the bilateral Conventions made with Adoption Intermediation Centers or Agencies in each country; etc.
5. Ensure automatic recognition of the adoptions performed according to the Convention in the country of destination for the boys/girls.

6. Indirectly prevent the "abduction, sale or traffic of children"
7. Ensure that those responsible for the adoption procedures are the States, their Organizations (central and administrative authorities), as well as legal authorities, but not individuals.

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TRADUZIONE NON UFFICIALE

Law 184 of 4 May 1983 as amended by
Law 476 of 31 December 1998

UNOFFICIAL TRANSLATION
Provisions Regarding the Adoption and Foster Placement of Children

TITLE I

Foster Placement of Children

ARTICLE 1

The child has the right to be raised and educated in his or her own family.
This right is regulated by the provisions of the present law and by other special laws.

ARTICLE 2

In cases where the child's family is temporarily unable to provide the child with a suitable family environment the child may be placed in another family, if possible one with minor children, with a single person or with a family-based centre, who shall ensure his/her maintenance, upbringing and education.

In cases where no suitable foster family is available, the child may be placed in a public or private child care institution, preferably located in his/her region of residence.

ARTICLE 3

Until a guardian is appointed and in all cases where the exercise of parental authority or guardianship is impeded, the public or private child care institution shall exercise custodial powers over the child in accordance with Chapter I of Title X of Book I of the Italian Civil Code. The child care institution shall assume the powers and duties of the foster parent referred to in Article 5. If the parents resume the exercise of their parental authority, the care institution shall if necessary ask the magistrate responsible for guardianship matters (*giudice tutelare* – hereinafter the "magistrate") to set limits or conditions on the exercise of such rights.

ARTICLE 4

Foster placement shall be arranged by the appropriate local service, subject to the consent of the parents or of the parent exercising his/her parental authority, or of the guardian. If the child is twelve years old or, where appropriate, younger, his/her opinion and wishes shall also be taken into consideration. The magistrate in the child's place of abode shall make the measure executive by means of a decree.

In cases where the parents exercising their parental authority or the guardian have not given their consent, the juvenile court shall decide. Articles 330 et seq. of the Civil Code shall apply.

The foster care measure shall specifically state the reasons it has been taken, together with the timing and conditions for the exercise of the rights assigned to the foster parent. The expected duration of the placement shall be also stated, together with the local service entrusted with supervisory duties during the placement. These duties shall include providing the magistrate or the juvenile court with up-dated information on the foster care situation, depending on whether the measure was issued in accordance with the first or the second paragraph. The foster care placement shall be terminated by a measure issued by the same prescribing

authority, with due consideration for the child's best interest, if the situation of temporary difficulty of the family of origin has come to an end or if the continuation of the placement would be prejudicial to the child.

After the period set for the placement has expired, or if the circumstances referred to in the preceding paragraph have arisen, the magistrate shall, if necessary, ask the competent juvenile court to adopt further measures in the child's best interest.

The juvenile court, at the request of the magistrate or *ex officio* in the case referred to in the second paragraph, shall act in accordance with said paragraph.

ARTICLE 5

The foster parent shall take the child into his/her home and provide for his/her maintenance, upbringing and education. He/she shall take into account the wishes of the parents – as long as no decision has been issued in their regard under articles 330 and 333 of the Civil Code – or of the guardian, and shall observe any conditions laid down by the foster care authority.

The provisions of Article 316 of the Civil Code shall apply to the extent they are compatible.

The foster parent shall facilitate the relationship between the child and his/her parents and shall encourage his/her return to his/her family of origin.

The norms referred to in the preceding paragraphs shall apply, to the extent they are compatible, in cases of children living in a family centre or care institution.

TITLE II

Adoption

CHAPTER I – General Provisions

ARTICLE 6

Eligibility to adopt shall be restricted to spouses who have been married for a minimum of three years, who have not undergone any form of separation, including *de facto* separation, and are suited to raise, educate and maintain the child(ren) they wish to adopt.

The prospective adoptive parents must be at least eighteen years and no more than forty years older than the child. The prospective adoptive parents shall be allowed to adopt more than one child, either at the same time or with subsequent acts.

ARTICLE 7

Adoption shall be allowed for minors declared to be adoptable pursuant to the following articles. Minors who have reached the age of fourteen may not be adopted unless they personally express their consent. This consent must also be expressed if the minor reaches the age of 14 during the proceeding.

Such consent may in any case be revoked at any time until the adoption is definitive. If the child has reached the age of twelve, his/her personal opinion shall be sought. If the child is younger, his/her opinion may, if appropriate, be sought, unless this is prejudicial to his/her interest.

CHAPTER II – Declaration of Adoptability

ARTICLE 8

Children in a state of abandonment because they lack the moral and material care their parents or relatives are bound to provide shall, as long as the lack of care is not due to temporary *force majeure*, be declared *ex officio* to be adoptable by the juvenile court of the district where they reside.

The state of abandonment shall also be deemed to exist - where the conditions referred to in the preceding paragraph obtain - when the children are living in a care institution or are placed in a foster family.

Force majeure shall not be deemed to exist when the parents or relatives referred to in the first paragraph refuse the support services provided by the local services and when this refusal is considered by the judge to be unjustified.

ARTICLE 9

All members of the public may inform the relevant public authority of situations of abandonment of minors. Public officials, officers of a public service and those providing essential public services shall report as soon as possible to the juvenile court on the conditions of any child in a state of abandonment they learn about in the performance of their duties.

The state of abandonment may also be ascertained *ex officio* by the judge.

Every six months the public and private care institutions shall transmit to the magistrate of the place in which they are established the list of all the children in their care, specifying for each child their parents' place of residence, their relations with their family and their psychological and physical condition. After gathering the necessary information the magistrate shall report to the juvenile court on the condition of any children in care who result as being in a state of abandonment, specifying the reasons. Every six months the magistrate shall inspect the care institutions for the purpose referred to in the preceding paragraph. The magistrate may carry out special inspections at any time.

Anyone who is not a relative within the fourth degree of kin and takes a child to live in his/her home for a period of more than six months shall, after this period has expired, inform the magistrate, who shall transmit the relevant documentation to the juvenile court together with a report. Failure to inform the magistrate may result in ineligibility to accept foster children or adopt or to assume the status of guardian.

Any parent who permanently leaves his/her child in the care of a person who is not a relative within the fourth degree of kin for a period of six months or more shall give notice of this within the same period referred to in the preceding paragraph.

Failure to give such notice may result in withdrawal of parental authority for his/her child pursuant to Article 330 of the Civil Code and the initiation of the procedure for the declaration of adoptability.

ARTICLE 10

Having received the information referred to in the preceding article, the chief justice of the juvenile court, or a judge delegated by the chief justice, shall take urgent steps to arrange for the local services and law enforcement authorities to conduct detailed enquiries into the legal and *de facto* conditions of the child and the environment where he/she has been living, in order to ascertain whether the state of abandonment exists.

At any time until the preadoptive placement measure has been issued the court may prescribe any appropriate temporary measure in the interest of the child, including, where appropriate, the suspension of the parents' rights over their child or of the exercise of the functions of guardian, and the appointment of a temporary guardian.

In cases of urgent need, the measures referred to in the preceding paragraph may be adopted by the chief justice of the juvenile court or by a judge delegated by the chief justice.

The juvenile court shall confirm, modify or revoke said urgent measures within thirty days.

Once it has heard the public prosecutor, the parents, the guardian, the person representing the care institution or the foster parent of the child, and taking any other relevant information into account, the juvenile court shall decide in chambers. If the child is twelve years or older, his/her opinion and wishes shall also be taken into consideration. Where appropriate, younger children shall also be heard. The

public prosecutor and parents shall be notified of the measures adopted. The provisions of Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 11

When the enquiries provided for in the preceding article reveal that the parents of the child are dead and that there are no relatives within the fourth degree of kin, the juvenile court shall declare the child to be adoptable, unless applications for adoption are pending under the terms of Article 44. In this case the juvenile court shall decide solely according to the child's best interest.

In cases where the existence of biological parents who have recognised the child cannot be determined or whose maternity or paternity was declared judicially, the juvenile court, without further enquiry, shall immediately declare the child to be adoptable, unless someone who claims to be one of the biological parents requests that the procedure be suspended and for time to be made available to recognise the child. The court may suspend the procedure for up to two months, provided that the child is cared for during this period by his/her biological parent, by his/her relatives within the fourth degree of kin or in another suitable manner, and if the relationship between the child and his/her biological parent continues to exist.

In cases where a child cannot be recognised by the parent because the latter is too young, the procedure shall be postponed, if necessary *ex officio*, until the biological parent is sixteen, provided that the conditions set out in the preceding paragraph exist. When the parent is sixteen, he/she may ask for a further two-month postponement.

If the juvenile court suspends or postpones the procedure under the terms of the preceding paragraphs, it shall if necessary appoint a temporary guardian for the child.

If the child is recognised within the aforementioned time limits the procedure shall be declared closed where no moral or material state of abandonment exists. If the child is not recognised within the set time limit, he/she shall be declared to be adoptable without further formalities.

The court shall in any case inform both the presumed parents, or if this is not possible the parent who can be found, through the local services if appropriate. The parent(s) may exercise the rights provided for in paragraphs two and three above.

Once the child has been declared adoptable and preadoptive placement has been arranged, recognition shall have no effect. The decision for the judicial declaration of paternity or maternity shall be suspended and closed if the definitive declaration of adoption follows.

ARTICLE 12

When enquiries lead to the discovery of parents or relatives within the fourth degree of kin, as referred to in the preceding article, who have maintained a significant relationship with the child and whose place of residence is known, the chief justice of the juvenile court shall issue a motivated decree for them to appear within a suitable period before him or before a judge delegated by the chief justice.

If the parents or relatives reside outside the jurisdiction of the juvenile court, the hearing may be delegated to the juvenile court of their place of residence.

If they reside abroad the competent consular authority shall be delegated.

After hearing the declarations of the parents or relatives, the chief justice of the juvenile court or the delegated judge shall, if appropriate, issue a motivated decree to the parents or relatives setting out the measures required to guarantee the child's moral care, maintenance, education and upbringing. The judge shall arrange for periodic checks to be carried out directly by the magistrate or the local services, which may be appointed to intervene in order to improve the relationship between

the child and his/her family.

The chief justice or the delegated judge may also ask the public prosecutor to bring an action to oblige those legally bound to do so to pay maintenance. Where appropriate, the judge may also take provisional measures in accordance with the second paragraph of Article 10.

ARTICLE 13

In cases where the parents and relatives referred to in the preceding article cannot be traced or their residence, abode or domicile are not known, the juvenile court shall provide for them to be summoned in accordance with articles 140 and 143 of the Code of Civil Procedure, subject to further enquiries by law enforcement authorities.

ARTICLE 14

Before the declaration of adoptability is issued, the juvenile court may order the suspension of the proceeding when special circumstances have emerged from the enquiries which suggest that suspension might be in the child's best interest. In such cases the suspension shall be ordered by means of a motivated decree, for a period not longer than one year. The suspension may be extended.

The suspension shall be communicated to the competent local services so that they can adopt the appropriate measures.

ARTICLE 15

If at the end of the enquiries and checks provided for in the preceding articles the state of abandonment referred to in Article 8 proves to exist, the juvenile court shall declare the child to be adoptable when:

- 1) the parents and relatives summoned pursuant to articles 12 and 13 did not appear, without any justified reason;
- 2) the hearing showed that their failure to provide moral and material care persisted and that they were not willing to remedy this situation;
- 3) the measures prescribed under Article 12 were not complied with, under the parents' responsibility.

The juvenile court shall declare the child adoptable by means of a motivated decree, having consulted the public prosecutor and the representative of the care institution where the child lives, or the person who has him/her in foster care. If the child has a guardian, he/she shall also be heard. The wishes and opinion of children of twelve years or over, and where appropriate of children under twelve, shall also be taken into consideration.

The public prosecutor, the parents, the relatives referred to in the first paragraph of Article 12 and the guardian shall be given notice of the entire decree. They shall also be advised of their right to file an appeal in the form and within the time limit set out in Article 17.

The juvenile court shall appoint, if necessary, a temporary guardian and shall take the appropriate measures in the child's best interest.

ARTICLE 16

When the procedure referred to in the preceding articles is closed, and if it deems that the conditions for adoptability do not exist, the juvenile court shall declare that there are no grounds to proceed.

The last two paragraphs of Article 15 shall apply. Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 17

The public prosecutor, the parents, the relatives referred to in paragraph 1 of Article 12 or the guardian may file an appeal against the measure on the state of adoptability with the same juvenile court that issued the verdict, within thirty days of notification.

Once the appeal has been filed, the chief justice of the juvenile court shall appoint a special custodian for the child and shall issue a decree setting the hearing before the juvenile court, which shall take place no more than thirty days from the filing of the appeal. The judge shall also notify the decree to the appellant and to the child's special custodian and issue a summons to attend the hearing to the persons referred to in the penultimate paragraph of Article 15.

During the hearing the juvenile court shall hear the appellant, the persons summoned and the persons indicated by the parties. On the basis of their conclusions and those of the public prosecutor, and if there is no need for a further preliminary examination, the court shall decide immediately and read the decision. This shall be deposited with the clerk of the court within fifteen days and notified *ex officio* in its unabridged form to the public prosecutor, the appellant and the child's special custodian.

The public prosecutor, the appellant, or the special custodian may appeal the decision, within thirty days of its notification, before the juvenile section of the Court of Appeal. Having heard the appellant, the public prosecutor, and, if necessary, the persons referred to in the penultimate paragraph of Article 15, and having carried out the appropriate checks and enquiries, the juvenile section of the Court of Appeal shall decide in the manner set out in the preceding paragraph.

The decision of the Court of Appeal may be appealed on the grounds of violation of the law to the Supreme Court of Appeal (*Corte di Cassazione*) within thirty days from the notification.

ARTICLE 18

The definitive declaration of the state of adoptability shall be recorded by the clerk of the juvenile court in the special register kept in the clerk's office.

The registration must take place no more than ten days from notification that the decree of adoptability has become definitive. To this effect, the clerk of the judge to which the case has been appealed shall immediately notify the clerk of the juvenile court.

ARTICLE 19

The parents' exercise of their parental authority shall be suspended during the state of adoptability.

The juvenile court shall appoint a guardian, if none already exists, and shall adopt further measures in the child's best interest.

ARTICLE 20

The state of adoptability shall cease in the case of adoption or if the child reaches the age of majority.

ARTICLE 21

The state of adoptability shall also cease by revocation, in the child's interest, where the conditions set out in Article 8 cease to exist, subsequent to the decree referred to in Article 15.

The revocation shall be pronounced by the juvenile court *ex officio* or at the request of the public prosecutor or the parents.

The juvenile court shall decide in chambers, after obtaining the opinion of the public

prosecutor.

In cases where preadoptive placement is in progress, the state of adoptability may not be revoked.

Chapter III – Preadoptive Placement

ARTICLE 22

Spouses wishing to adopt a child shall apply to a juvenile court and specify whether they are willing to adopt more than one brothers or sisters. They shall be allowed to present several applications, including subsequent applications, to more than one juvenile court, provided they give notice of this. After receiving their application the juvenile court may ask the other juvenile courts for a copy of the personal and preliminary documentation concerning the spouses. The documents may also be sent *ex officio*. The application shall expire two years after presentation and may be renewed.

After ensuring that the requirements set out in Article 6 have been met the juvenile court shall issue instructions for appropriate enquiries to be carried out in accordance with the following paragraph. The court shall choose, from the applicant couples, the one that is best able to meet the child's needs.

The enquiries shall focus in particular on the applicants' aptitude to raise the child, their personal and economic circumstances, their health, their family environment and the reasons why they wish to adopt the child.

Having heard the public prosecutor, the applicants' parents or other forebears, if still alive, the child, if aged twelve or over and, where appropriate, even if younger, and omitting any other procedural formalities, the juvenile court in chambers shall provide for and lay down the conditions for preadoptive placement. Children aged fourteen or over shall give their express consent to the placement with the chosen couple.

The juvenile court shall inform the applicants of any relevant facts concerning the child that have emerged during the enquiries.

The placement of only one of several brothers or sisters, all of whom have been declared adoptable, may not be prescribed unless serious reasons exist for such a measure.

The public prosecutor and the guardian will be notified of the decree. Once the preadoptive placement measure has become definitive, it shall be recorded within ten days by the clerk of the court in the register referred to in Article 18.

The juvenile court shall monitor the satisfactory progress of the preadoptive placement directly or through the magistrate and the local services.

ARTICLE 23

In the case of serious cohabitation difficulties, the juvenile court shall revoke the preadoptive placement *ex officio* or at the request of the public prosecutor, or of the guardian or of those carrying out the supervisory role referred to in the last paragraph of the preceding article.

The revocation measure shall be adopted by the juvenile court in chambers by means of a motivated decree.

The public prosecutor and the party applying for revocation, the child if twelve years old or over and, where appropriate, even younger, the family with whom the child has been placed, the guardian, the magistrate and the local services, if appointed in a supervisory capacity, shall be heard. Any appropriate checks and enquiries shall be carried out.

The public prosecutor, the party applying for revocation, the family with whom the child has been placed and the guardian shall be notified of the decree.

Once the decree ordering the revocation of the preadoptive placement becomes definitive, it shall be recorded by the clerk of the court within ten days in the register referred to in Article 18.

In the case of revocation, the juvenile court shall adopt the appropriate provisional measures in the child's interest in accordance with Article 10.

Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 24

The public prosecutor and the guardian may appeal the decree of the juvenile court regarding the preadoptive placement or its revocation to the juvenile section of the Court of Appeal within ten days of notification.

The Court of Appeal, having heard the appellant, the public prosecutor, and, where necessary, the persons referred to in Article 23, and having carried out any other appropriate checks and enquiries, shall decide in chambers by means of a motivated decree.

Chapter IV – Adoption Declaration

ARTICLE 25

One year from the placement, the juvenile court which issued the declaration of adoptability, having heard the prospective adoptive spouses, the child aged twelve or over and, if appropriate, even younger, the public prosecutor, the guardian, the magistrate and the local services, if appointed in a supervisory capacity, shall ascertain that all the conditions referred to in the present chapter exist. If this is the case the court shall, without further procedural formalities, decide in chambers by means of a motivated decree on whether the adoption shall or shall not take place. If the child is aged fourteen or more he/she must give his/her express consent to being adopted by the chosen couple.

The legitimate or legitimised descendants of the prospective adoptive spouses shall be heard if they are aged fourteen or more.

The period referred to in the first paragraph may be extended by one year in the child's best interest, *ex officio* or at the request of the spouses with whom the child has been placed, by means of a motivated order.

If, during the preadoptive placement, one of the spouses dies or becomes disable, the adoption may, in the child's best interest, be authorised at the request of the other spouse on behalf of both, with effect, for the dead spouse, from his/her date of death.

If, during the preadoptive placement, the spouses separate, the adoption may be authorised for one or both spouses, in the sole interest of the child, at the request of one or both spouses.

The decree deciding on the adoption shall be communicated to the public prosecutor, the prospective adoptive spouses and the guardian.

In the case of a negative decision, the preadoptive placement shall cease and the juvenile court shall take the appropriate temporary measures in the interest of the child in accordance with Article 10.

Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 26

The public prosecutor, the prospective adoptive spouses and the guardian may appeal the adoption decree issued by the juvenile court within thirty days of notification by filing an appeal with the juvenile section of the Court of Appeal.

The Court of Appeal, having heard the appellant, the public prosecutor, and, where necessary, the persons referred to in paragraph 1 of Article 25, and having carried out all the appropriate checks and enquiries, shall decide in chambers by means of a

motivated decree. An appeal against the decision by the Court of Appeal on the grounds of violation of the law may be filed with the Supreme Court of Appeal within thirty days of notification. Once it becomes definitive, the adoption measure shall be recorded by the clerk of the juvenile court within ten days of being communicated in the register referred to in Article 18 and shall be communicated to the registrar for annotation in the margin of the child's birth certificate. To this effect the clerk of the judge to which the case has been appealed shall immediately notify the clerk of the juvenile court.

ARTICLE 27

As a consequence of the adoption, the adopted child shall assume the status of legitimate son/daughter of the adoptive parents and shall take and transmit their surname.

If the adoption is granted to the separated wife, the adopted child shall take her family's surname pursuant to paragraph 5 of Article 25.

The adopted child's relationships with his/her family of origin shall cease after his/her adoption, with the exception of matrimonial prohibitions.

ARTICLE 28

Any certificate of civil status referring to the adopted child shall bear his/her new surname only and shall make no reference to either his/her paternity or maternity or to the annotation referred to in the last paragraph of Article 26.

Registrars of civil status shall not give news, information, certificates, extracts or copies demonstrating the adoption relationship unless expressly authorised to do so by the judicial authorities.

TITLE III

Intercountry Adoption

Chapter I – Adoption of Foreign Children

ARTICLE 29

1. The adoption of foreign children shall take place in conformity with the principles and in accordance with the provisions of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on 29 May 1993 (hereinafter the "Convention"), in accordance with the provisions of the present law.

ARTICLE 29- bis

1. Persons resident in Italy who meet the conditions set out in Article 6 and wish to adopt a foreign child residing abroad shall present a declaration of availability to the juvenile court of the district in which they are resident and shall ask the juvenile court to declare that they are eligible to adopt.

2. In the case of Italian citizens residing abroad, with the exception of the provisions set out in

paragraph 4 of Article 36, the competent juvenile court shall be considered the court of their last place of residence or, failing this, the juvenile court of Rome.

3. Unless the juvenile court feels it necessary to issue an immediate decree of ineligibility because of evident failure to meet the requirements, it shall transmit, within fifteen days of presentation, a copy of the declaration of availability to the appropriate services of the local authorities.

4. The social services of the local authorities, operating individually or jointly, and where appropriate with the help of the local health and hospital authorities, shall perform the following activities:

a) provide information on intercountry adoption and related procedures, on

authorised bodies and on other forms of solidarity with children in difficult circumstances, in co-operation where appropriate with the authorised bodies referred to in Article 39-*ter*;

b) preparation of prospective adoptive parents, also in co-operation with the aforementioned bodies;

c) gathering of information about the personal, family and health circumstances of prospective adoptive parents, about their social environment, the reasons they wish to adopt, their aptitude to cope with an intercountry adoption, their ability to meet the needs of one or more children in a satisfactory manner, any particular characteristics the children they would be willing to adopt might have, and any other relevant information to enable the juvenile court to assess their eligibility to adopt.

5. The services shall transmit to the juvenile court a report on the activity carried out, including all the points referred to in paragraph 4, within the four months following the transmission of the declaration of availability.

ARTICLE 30

1. Once the juvenile court has received the report referred to in paragraph 5 of Article 29-*bis*, through a delegated judge if appropriate, it shall hear prospective adoptive parents, arrange any enquiries that might be necessary and issue within the following two months a motivated decree certifying the existence or otherwise of the requirements for adoption.

2. The decree of eligibility for adoption shall have effect for the entire duration of the procedure, which shall be initiated by the interested persons within one year of receiving notification of the measure. The decree shall also contain indications to ensure that the prospective adoptive parents and the child are brought together in the best possible manner.

3. The decree, a copy of the report and of any documents in the files shall be transmitted immediately to the Commission referred to in Article 38 and to the accredited body, if already specified by the prospective adoptive parents, referred to in Article 39-*ter*.

4. If the decree of eligibility is revoked, after having heard the interested parties, because of new circumstances that have a significant effect on the eligibility decision, the juvenile court shall immediately notify the Commission and the accredited body of the measure as referred to in paragraph 3.

5. Appeals against the decree of eligibility or unsuitability and against the decree of revocation can be filed by the public prosecutor and the interested persons with the Court of Appeal, in accordance with articles 739 and 740 of the Code of Civil Procedure.

ARTICLE 31

1. Having obtained the decree of eligibility, prospective adoptive parents shall appoint one of the accredited bodies referred to in Article 39-*ter* to carry out the adoption procedure.

2. As for the situations considered under paragraph 1*a)* of Article 44, the juvenile court may, once their personalities have been assessed, authorise prospective adoptive parents to carry out directly the activities referred to in sub-paragraphs *b)*, *d)*, *e)*, *f)* and *h)* of paragraph 3 of this article.

3. The body appointed to carry out the adoption procedure shall:

a) inform the prospective adoptive parents of the procedures it will initiate and of their real adoption prospects;

b) carry out the adoption formalities with the competent authorities in the country selected by the prospective adoptive parents from among those with which it maintains relations, and send them the adoption application along with the decree of

eligibility and the annexed report, so that the foreign authorities may formulate the proposals for a meeting between the prospective adoptive parents and the child;

c) obtain from the foreign authority the proposal for the meeting between the prospective adoptive parents and the child, ensuring that the proposal is accompanied by all available information pertaining to the child's health, family of origin and background;

d) transmit all information regarding the child to the prospective adoptive parents, inform them of the proposal for the meeting with the child and assist them with all the procedures to be followed in the foreign country;

e) receive the prospective adoptive parents' written consent to the meeting between them and the child, as proposed by the foreign authority, certify their signatures and transmit the deed of consent to the foreign authority, and carry out any other procedures it requires. The prospective adoptive parents' signatures may also be certified by the municipal official delegated to perform this task, by a notary or by a clerk of any court office;

f) receive from the foreign authority a statement to the effect that the conditions set out in Article 4 of the Convention exist and agree with the same authority, where the requirements have been met, on whether it is appropriate to proceed with the adoption. If it is decided that the adoption should not proceed, the authority shall record this decision and shall immediately inform the Commission referred to in Article 38 and convey its reasons to the same Commission. When so requested by the country of origin, the authority shall approve the decision to place the child or the children with the prospective adoptive parents;

g) immediately inform the Commission, the juvenile court and the local services of the decision taken by the foreign authority to place the child. The authority shall also ask the Commission to authorise the child or children to enter and reside permanently in Italy and submit the necessary documentation;

h) certify the date of placement of the child with the foster spouses or adoptive parents;

i) receive from the foreign authority a copy of the acts and documentation regarding the child and send them immediately to the juvenile court and the Commission;

l) supervise the arrangements for the transfer of the child to Italy and arrange for him/her to be accompanied by his/her adoptive or prospective adoptive parents;

m) provide, in co-operation with the local authority services, any support requested by the adoptive family from the time of the child's arrival in Italy;

n) certify the duration of any parental leave that might be required in accordance with sub-paragraphs a) and b) of paragraph 1 of Article 39-*quater*, where this leave is not related to the child's health. The body shall also certify the duration of the prospective adoptive parents' stay abroad, in cases of unpaid leave pursuant to paragraph 1c) of Article 39-*quater*;

o) certify the total amount of any expenses sustained by the adoptive parents in carrying out the adoption procedures for the purposes envisaged in Article 10, paragraph 1, sub-paragraph *l-bis* of the Consolidated Law on Income Tax, approved with Presidential Decree 917 of 22 December 1986.

ARTICLE 32

1. Once it has received the acts referred to in Article 31 and evaluated the conclusions expressed by the appointed body, the Commission referred to in Article 38 shall declare that the adoption is in the child's best interest and shall authorise the child to enter and reside permanently in Italy.

2. The declaration referred to in paragraph 1 shall not be permitted:

a) when the documentation transmitted by the authority of the foreign country does

not demonstrate a state of abandonment of the child and a statement attesting to the impossibility of placement or adoption in the child's country of origin;

b) if in the foreign country the adoption does not result in the acquisition of the status of legitimate child and the termination of the legal relationship between the child and his/her family of origin, unless his/her biological parents have given their express consent to these effects;

3. Even when the adoption declared in the foreign country does not result in the termination of the legal relationship with the family of origin, it may be converted into an adoption producing such effects if the juvenile court recognises it as being in conformity with the Convention. Only in the case of recognition of such conformity shall the registration be authorised.

4. Italian consular offices abroad shall co-operate with the accredited body, insofar as they are

competent to do so, to ensure the positive outcome of the adoption procedure. After receiving the formal communication from the Commission pursuant to Article 39, paragraph 1 *h*), they shall issue the child with an adoption entry visa.

ARTICLE 33

1. Without prejudice to ordinary provisions regarding the entry into Italy for family, tourism, study or health reasons, children without an entry visa issued pursuant to Article 32 or children who are not accompanied by at least one parent or by relatives within the fourth degree of kin shall not be permitted to enter Italian territory.

2. The Italian consular authorities may not issue entry visas to foreign children coming to Italy for adoption in cases other than those envisaged by the present Chapter and without prior authorisation by the Commission referred to in Article 38.

3. Those persons who have accompanied to the frontier any child who has been refused entry to Italy shall pay for his/her immediate return to his/her country of origin. The frontier offices shall immediately notify the Commission of such cases. The Commission shall then contact the authorities of the child's country of origin to ensure that a placement can be arranged in his/her best interest.

4. The prohibition under paragraph 1 shall not apply when, as a result of war, natural calamities or exceptional events in accordance with Article 18 of Law 40 of 6 March 1998, or any other serious objective impediment, it is not possible to carry out the procedures set out in the present Chapter, provided that entry to Italy is in the child's sole interest. In such cases the frontier offices shall notify the Commission and the competent juvenile court of the place of residence of the accompanying persons of the child's entry.

5. In cases where the public official or the accredited body discovers that a child has entered Italian territory in circumstances other than those permitted, said public official or accredited body shall notify the competent juvenile court of the place in which the child is to be found. The juvenile court shall take all appropriate temporary measures in the child's best interest and shall take action under Article 37- *bis*, where the necessary conditions exist, or shall notify the Commission so that it can contact the child's country of origin so that the case can proceed in accordance with Article 34.

ARTICLE 34

1. Any child who has entered Italy on the basis of a foreign adoption or preadoptive placement measure shall from the time of entry enjoy all the rights to which Italian children placed in foster families are entitled.

2. From the time of the child's entry to Italy and for at least one year, the social services of the local authorities and the accredited bodies shall, at the request of the interested persons, assist the foster family, the adoptive parents and the child in

order to facilitate the child's integration into the family and society. They shall report to the juvenile court on the progress of the integration process and on any difficulties that arise so that appropriate measures may be arranged.

3. The adopted child shall acquire Italian citizenship as an effect of the registration of the adoption measure in the register of civil status.

ARTICLE 35

1. Adoptions declared abroad shall produce the effects referred to in Article 27 in the Italian legal system.

2. If the adoption was declared in the foreign country before the child's arrival in Italy, the court shall verify that the provision issued by the declaring authority shows that the conditions for intercountry adoption under the terms of Article 4 of the Convention exist.

3. The court shall also verify that the adoption does not run counter to the fundamental principles underlying Italian family and children's law, having regard to the child's best interest. If the certificate of conformity with the Convention referred to in sub-paragraph *i*) and the authorisation referred to in sub-paragraph *h*) of paragraph 1 of Article 39 exist, it shall also prescribe the registration of the adoption measure in the register of civil status.

4. If the adoption procedure is to be completed after the child's arrival in Italy, the juvenile court shall recognise the provision issued by the foreign authority as a preadoptive placement, unless it runs counter to the fundamental principles underlying Italian family and children's law, having regard to the child's best interest. It shall set a term of one year for the placement, starting from the date of the child's entry into his/her new family. At the end of this period, if the juvenile court believes that it is still in the child's best interest to stay with the family, it shall declare his/her adoption to be effective and prescribe its registration in the register of civil status. If the court does not believe the placement is still in the child's best interest, it shall revoke the placement even before the end of the preadoptive period and shall take the measures envisaged in Article 21 of the Convention. In such cases, minors aged fourteen or over shall be required to give their express consent to the measures to be taken; minors aged twelve or over shall be consulted in person; and younger children may be consulted if appropriate and if in the opinion of the psychologist appointed by the juvenile court this is not prejudicial to their psychological and emotional well-being.

5. The juvenile court competent to issue the measures shall be the court of the district where the prospective adoptive parents are resident at the time of the child's entry in Italy.

6. Without prejudice to the provisions of Article 36, the registration may not be ordered when:

a) the adoptive measure concerns prospective adoptive parents who do not possess the requirements envisaged by the Italian law on adoption;

b) the requirements set out in the declaration of eligibility have not been met;

c) the conversion into an adoption producing the effects referred to in Article 27 is not possible;

d) the foreign adoption or placement procedures were not performed through the offices of the central

authorities and an accredited body;

e) the child's entry into the adoptive family has proved to be prejudicial to his/her best interest.

ARTICLE 36

1. Intercountry adoption of children from countries ratifying the Convention or which

have concluded bilateral agreements in the spirit of the Convention, may only take place following the procedures and with the effects provided for in the present law.

2. Adoption or preadoptive placement, declared in a country that has neither ratified the Convention nor signed any bilateral agreement, may be declared valid in Italy if:

a) the foreign child's state of abandonment or the biological parents' consent to an adoption that will result in the child acquiring the status of legitimate son or daughter of the adoptive parents and the termination of any legal relationship between the child and his/her family of origin can be ascertained;

b) the prospective adoptive parents have been declared eligible to adopt under Article 30 and adoption procedures have been carried out through the offices of the Commission referred to in Article 38 and of an accredited body;

c) the requirements set out in the decree of eligibility have been respected;

d) the authorisation provided for in Article 39, paragraph 1 h) has been granted.

3. The provision in question shall be issued by the juvenile court which issued the decree of eligibility for adoption. The Commission shall be notified of this and shall take the appropriate measures provided for in Article 39, paragraph 1 e).

4. The adoption declared by the competent authority of a foreign country at the request of Italian citizens who are able to demonstrate at the time of the declaration that they have been residing continuously in that country and have been officially domiciled there for two years, shall be recognised in Italy for all legal purposes through a measure of the juvenile court, provided it complies with the principles of the Convention.

ARTICLE 37

1. After the adoption, the Commission referred to in Article 38 may convey to the adoptive parents, through the juvenile court if appropriate, only that information which is relevant to the adopted child's health.

2. The Commission and the juvenile court that has issued the measures referred to in articles 35 and 36 shall keep any information they have acquired concerning the origins of the child, the identity of his/her biological parents and his/her medical history, together with that of his/her biological parents.

3. As far as access to other information is concerned, the provisions for the adoption of Italian children shall apply.

ARTICLE 37-bis

1. The Italian legislation on adoption, foster placement and the measures to be taken in urgent cases shall apply to any foreign child finding him/herself in a state of abandonment in Italy.

ARTICLE 38

1. A Commission for Intercountry Adoption shall be set up within the Presidency of the Council of Ministers for the purposes set out in Article 6 of the Convention.

2. The Commission shall consist of:

a) a chairman appointed by the Prime Minister, who shall be a magistrate with experience in matters relating to children or a senior state official with similar specific experience;

b) two representatives of the Social Affairs Department of the Presidency of the Council of Ministers;

c) a representative of the Ministry for Foreign Affairs;

d) a representative of the Ministry of the Interior;

e) two representatives of the Ministry of Justice;

f) a representative of the Ministry of Health;

g) three representatives of the joint Conference referred to in Article 8 of Legislative

Decree 281 of 28 August 1997.

3. The chairman's term of office shall be two years and the appointment may be renewed only once.

4. Members of the Commission shall hold office for four years. The regulations adopted by the

Commission shall be drawn up in such a way as to ensure the gradual turnover of its members on the expiry of their term. In order to meet this requirement the regulations may extend the term of office of the members of the Commission for periods of no more than one year.

5. The Commission shall call on the services of the permanent staff of the Prime Minister's Office and other government departments.

ARTICLE 39

1. The Commission for Intercountry Adoption shall:

a) co-operate with the central authorities for intercountry adoption in the other countries and gather any necessary information in order to implement the international conventions on adoption;

b) propose the drawing up of bilateral agreements on intercountry adoption;

c) authorise the activity of the bodies referred to in Article 39-*ter*, ensure that the register of said bodies is properly kept, supervise their activity and carry out inspections at least every three years, and revoke their accreditation in the case of serious non-performance of their duties, incapacity or violations of the provisions of the present law. The Commission shall carry out the same functions with respect to the activity performed by the intercountry adoption services referred to in Article 39-*bis*;

d) take appropriate action to ensure that the accredited bodies are distributed evenly throughout Italy and their representative offices are evenly distributed in foreign countries;

e) keep all the documentation and information concerning intercountry adoption procedures;

f) promote co-operation amongst the various operators in the field of intercountry adoption and the protection of children;

g) promote training schemes for persons operating or intending to operate in the adoption field;

h) authorise the entry and permanent residence of the foreign child adopted or placed with a view to adoption;

i) certify that the adoption complies with the provisions of the Convention, as envisaged in Article 23, paragraph 1, of the Convention;

l) also co-operate with bodies other than those referred to in Article 39-*ter* on initiatives relating to information and training. Any decision by the accredited body not to agree with the foreign authority that the adoption should proceed shall be examined by the Commission at the request of the spouses concerned. If the Commission does not confirm the decision, it may proceed directly or by delegating another body or office to carry out the procedures provided for in Article 31.

3. The Commission shall meet periodically with the representatives of the accredited bodies in order to examine any problems that have emerged and co-ordinate the planning of the actions implementing the principles of the Convention.

4. The Commission shall present a biannual report to the Prime Minister, who shall transmit it to the Parliament, on the state of intercountry adoption, on the implementation of the Convention and on the conclusion of bilateral agreements, including with non-signatory countries.

ARTICLE 39-*bis*

1. The regional governments and the autonomous provinces of Trento and Bolzano shall, insofar as they are competent to do so:

a) co-operate to develop a network of services to carry out the tasks provided for in the present law;

b) supervise the functioning of the intercountry structures and services operating at the local level in order to ensure adequate levels of service;

c) promote the drawing up of operational protocols and conventions between the accredited bodies and the services, and regular contacts between these and the judicial bodies with responsibility for children.

2. The regional governments and the autonomous provinces of Trento and Bolzano may set up an intercountry adoption service that meets the requirements envisaged in Article 39-*ter* and carries out the tasks referred to in Article 31, paragraph 3, on behalf of those couples who so request, on presentation of their application for intercountry adoption.

3. The intercountry adoption services referred to in paragraph 2 shall be established and regulated by a regional or provincial law implementing the principles provided for in the present law. The administrative functions for the intercountry adoption service shall be delegated to the regional governments and to the autonomous provinces of Trento and Bolzano.

ARTICLE 39-*ter*

1. In order to obtain and maintain the accreditation envisaged in Article 39, paragraph 1 c), the bodies shall:

a) be directed and staffed by persons who are suitably trained and skilled in the field of intercountry adoption and meet suitable ethical standards;

b) make use of the services provided by social, legal and psychology professionals entered in their professional register who are capable of assisting the spouses before, during and after the adoption;

c) have a suitable organisational structure in at least one Italian region or autonomous province, and the necessary staff to function adequately in the foreign countries in which they wish to operate;

d) operate on a non-profit basis and implement fully transparent accounting procedures, including transparent indication of the costs entailed in carrying out intercountry adoption procedures, and follow a correct and verifiable operating methodology;

e) be free of and not exercise any prejudicial discrimination against prospective adoptive parents, including any forms of ideological or religious discrimination;

f) undertake to participate in activities promoting the rights of children, preferably through development aid projects, including co-operation with non-governmental organisations, and activities implementing the principle of subsidiarity in intercountry adoption in the children's countries of origin;

g) have their registered office in Italy.

ARTICLE 39-*quater*

1. Without prejudice to the provisions of other legislative measures, adoptive parents and families with a child in preadoptive placement shall be entitled to the following benefits:

a) leave from work, as provided for in Article 6, paragraph 1, of Law 903 of 9 December 1977, even if the adopted child is over six;

b) absence from work, as provided for in Article 6, paragraph 2, and Article 7 of Law 903/1977, until the adopted child is six;

c) leave from work for the duration of any visit to the foreign country that may be necessary for the adoption.

CHAPTER II – Expatriation of Children with a View to Adoption

ARTICLE 40

Persons resident abroad, whether Italian citizens or otherwise, who wish to adopt an Italian child, shall present their application to the competent Italian consul for their area, who shall forward it to the juvenile court of the district where the child lives or where the child was last domiciled. Failing this, the juvenile court of Rome shall be competent.

2. Foreigners permanently residing in countries that have ratified the Convention shall be subject to the procedures laid down by the Convention with regard to the actions and duties of the central authorities and accredited bodies, rather than the procedure laid down in the first paragraph. For all other cases the provisions of the present law shall apply.

ARTICLE 41

1. The consul of the place of residence of the adoptive parents shall supervise the progress of the preadoptive placement with the help, if necessary, of the appropriate Italian or foreign social assistance organisations.

If it should emerge that the child is having difficulty adapting to the family or if circumstances that are not compatible with the preadoptive placement emerge, the consul shall immediately notify in writing the juvenile court which authorised the placement.

The consul of the child's place of residence shall ensure, insofar as he is competent to do so, that the measures issued by the Italian authority with respect to the child become effective and, if necessary, provide for the child's repatriation.

2. In the case of adoption of a child permanently residing in Italy by foreign citizens permanently residing in countries that have ratified the Convention, the functions assigned to the consul by this article shall be performed by the central authority of the other country and the accredited body.

ARTICLE 42

If an adoption proceeding for a child placed with foreigners or with Italian citizens resident abroad is in progress in Italy, any adoption measure authorised by a foreign authority for the same child shall not be enforceable.

ARTICLE 43

The provisions set out in paragraphs 6, 7 and 8 of Article 9 shall also apply to Italian citizens resident abroad.

With regard to the performance of consular functions, articles 34, 35 and 36 of Presidential Decree 200 of 5 January 1967 shall apply, where compatible.

The competent juvenile court of the child's last place of domicile shall be competent to verify the state of abandonment of the child abroad and to provide for any temporary measures in his/her interest in accordance with Article 10, including, if necessary, his/her repatriation. If the child's previous domicili was not in Italy, the juvenile court of Rome shall be competent.

TITLE IV

Adoption in Special Cases

Chapter I – Adoption in Special Cases and Its Effects

ARTICLE 44

Even in cases where the conditions set out in the first paragraph of Article 7 have not been met children may be adopted:

a) by persons linked to the fatherless and motherless child by blood ties within the

sixth degree of kin or by a steady and lasting relationship dating from before the death of his/her parents;

b) by the spouse, where the child is the son/daughter, natural or adoptive, of the other spouse;

c) where preadoptive placement proves to be impossible.

In the cases indicated in the preceding paragraph, the adoption shall be permitted even if there are legitimate children.

In the cases mentioned in sub-paragraphs a) and c), non-married persons shall also be allowed to adopt.

If the prospective adoptive parent is married and not separated the child must be adopted by both the spouses.

The prospective adoptive parent must in all cases be at least eighteen years older than the child(ren) he/she wishes to adopt.

ARTICLE 45

The consent of the adoptive parent and of the child shall be required for the adoption.

If the child is under fourteen consent shall be given by his/her legal representative.

If the child is twelve or over his/her wishes and opinion shall be sought in person; younger children may also be heard when appropriate.

ARTICLE 46

The consent of the child's parents and, if married, of the child's spouse is required for his/her adoption.

When consent under the first paragraph is denied, the court, having heard the interested persons, may, at the request of the adoptive parent and if it thinks the denial is unjustified or contrary to the child's interest, authorise the adoption. Exceptions to this are cases where the consent was refused by the parents of the child exercising their parental authority or by the spouse of the child, if living with him/her. Similarly, the court may authorise the adoption even when the persons called to express their consent cannot do so due to disability or because they cannot be traced.

ARTICLE 47

The adoption shall be effective from the date of the authorisation decree.

Until the decree is issued, both the adoptive parent and the child may withdraw their consent.

If one of the spouses dies after giving his/her consent and before the decree has been issued, the procedures required for the adoption may still be carried out at the request of the other spouse.

If the adoption is authorised, it shall be effective from the time of the adoptive parent's death.

ARTICLE 48

If the child is adopted by two spouses, or by the spouse of one of his/her parents, both spouses shall have parental authority over the adopted child.

It is the adoptive parent's duty to maintain, educate and raise the adopted child in accordance with the provisions of Article 147 of the Civil Code.

If the adopted child owns property, the adoptive parent shall manage it until the child reaches the age of majority. The adoptive parent shall not hold it in legal usufruct, but he/she may spend any income to maintain, raise and educate the child and shall be obliged to invest the remainder in an income-bearing or profitable manner.

The provisions of Article 382 of the Civil Code shall apply.

ARTICLE 49

The adoptive parent shall draw up an inventory of the adopted child's property and send it to the magistrate no more than one month from the date of the adoption decree. The provisions contained in Section III of Chapter I of Title X of Book I of the Civil Code shall be observed, where applicable.

If the adoptive parent fails to draw up the inventory within the set time or draws up a false inventory, the magistrate may deny him/her the right to manage the property, without prejudice to any obligation to pay damages.

ARTICLE 50

If the adoptive parent(s) cease to exercise their parental authority, the juvenile court, at the request of the adopted child, his/her relatives or relatives in law, or the public prosecutor, or also *ex officio*, may issue the appropriate provisions for the care of the adopted child, his/her representation and the administration of his/her property, even if it deems that the parents should resume the exercise of their parental authority. The provisions of Article 330 et seq. of the Civil Code shall apply.

ARTICLE 51

The court may revoke the adoption at the request of the adoptive parent in cases where an adopted child aged fourteen years or over has made an attempt on the life of the adoptive parent, or his/her spouse, descendants or ascendants, or in cases where the adopted child has committed a crime against any of these persons that is punishable by a custodial sentence of no less than three years.

If the adoptive parent dies as a consequence of the attack, the revocation of the adoption may be requested by those persons who would be entitled to the inheritance in the absence of the child and his/her descendants.

Once it has gathered the necessary information and carried out the necessary enquiries, and once it has heard the public prosecutor, the adoptive parent and the child, the court shall deliver its decision.

After hearing the public prosecutor and the child the court may also issue the appropriate provisions for the child's care, his/her representation and the administration of his/her property by means of a decree issued in chambers.

Article 330 et seq. of the Civil Code shall apply. In cases where the measures provided for in paragraph 4 are adopted, the court shall inform the magistrate so that a guardian may be appointed.

ARTICLE 52

If the acts described in the preceding article were committed by the adoptive parent against the child, or against his/her spouse, descendants or ascendants, the adoption may be revoked at the request of the adopted child or of the public prosecutor.

Once it has gathered the necessary information and carried out the necessary enquiries, and once it has heard the public prosecutor, the adoptive parent, the adopted child if aged twelve or over and, if necessary, also younger, the court shall deliver the verdict.

Once it has heard the public prosecutor and the child, if aged twelve or more and, if appropriate, also younger, the court may issue the appropriate measures for the child's care, his/her representation and the administration of his/her property by means of a decree issued in chambers, even if it deems that the parents should resume the exercise of their parental authority.

Article 330 et seq. of the Civil Code shall apply.

In cases where the provisions under paragraph 3 are adopted, the court shall inform

the magistrate so that a guardian may be appointed.

ARTICLE 53

The public prosecutor may file for the revocation of the adoption as a consequence of the violation of the adoptive parents' duties.

The provisions laid down in the preceding articles shall apply.

ARTICLE 54

The adoption shall cease to have legal effect when the sentence of revocation becomes final.

However, if the revocation is declared after the adoptive parent's death due to an act attributable to the child, the child and his/her descendants shall be excluded from the adoptive parent's succession.

ARTICLE 55

The provisions laid down in articles 293, 294, 295, 299, 300 and 304 of the Civil Code shall apply to the present chapter.

Chapter II – Forms of Adoption in Special Cases

ARTICLE 56

The juvenile court of the district of the child's abode shall be competent for any decision on his/her adoption.

The consent of the adoptive parent, of the child if aged fourteen or over and of his/her legal

representative shall be expressed in person to the chief justice of the court or to a judge delegated by the chief justice.

The consent of the persons referred to in Article 46 may be given by a person with special power of attorney conferred by means of a public deed or a certified private deed.

Articles 313 and 314 of the Civil Code shall apply, without prejudice to the competence of the juvenile court and the juvenile section of the Court of Appeal.

ARTICLE 57

The juvenile court shall ascertain:

- 1) whether the circumstances under Article 44 exist;
- 2) whether the adoption is in the child's best interest. For this purpose the juvenile court, having heard the child's parents, shall arrange for the appropriate enquiries regarding the adoptive parent, the child and his/her family to be carried out by the local services and law enforcement authorities.

These enquiries shall concern in particular:

- a) the adoptive parents' aptitude to raise the child, their personal and economic circumstances, their health, and their family environment;
- b) the reasons why the adoptive parent wishes to adopt the child;
- c) the child's personality;
- d) the compatibility, in terms of living in the same household, of the adoptive parent and the child, taking the personalities of both into due consideration.

TITLE V

Amendments to Title VIII of Book I of the Civil Code

ARTICLE 58

The title of Title VIII of Book I of the Civil Code shall be replaced as follows: "The adoption of adults".

ARTICLE 59

The title of Chapter I of Title VIII of Book I of the Civil Code shall be replaced as follows: "The adoption of adults and its effects".

ARTICLE 60

The provisions under Chapter I of Title VIII of Book I of the Civil Code shall not apply to children.

ARTICLE 61

Article 299 of the Civil Code shall be replaced as follows:

"Art. 299. – *Surname of the adopted person* – The adopted person shall take the adoptive parent's surname and shall put it before his/hers.

If the adopted person has not been recognised by his/her biological parents, he/she shall only take his/her adoptive parent's surname. Recognition after the adoption shall not result in the adopted person taking the surname of the parent who has recognised him/her, unless the adoption is subsequently revoked. Any biological son/daughter who has been recognised by his/her parents and subsequently adopted shall take the adoptive parent's surname.

If the adoption is done by a married couple, the adopted person shall take the husband's surname.

If the adoption is done by a married woman, the adopted person, not being her husband's son/daughter, shall take the surname of the woman's family".

ARTICLE 62

Article 307 of the Civil Code shall be replaced as follows:

"Art. 307. – *Revocation due to unworthy conduct by the adoptive parent*. – Where the acts referred to in the preceding article were performed by the adoptive parent against the adopted person, or against his/her spouse, descendants or ascendants, the adoption may be revoked at the request of the adopted person".

ARTICLE 63

The title of Chapter II of Title VIII of Book I of the Civil Code shall be replaced as follows: "The Forms of Adoption of Adults".

ARTICLE 64

Article 312 of the Civil Code shall be replaced as follows:

"Article 312. – *Enquiries by the court*. – The court, after gathering the necessary information, shall ascertain:

- 1) whether all the terms of the law have been complied with;
- 2) whether the adoption is in the adopted person's best interest".

ARTICLE 65

Article 313 of the Civil Code shall be replaced as follows:

"Art. 313. – *Provisions of the court*. – The court, having heard the public prosecutor and omitting any other procedural formality, shall decide in chambers by means of a motivated decree whether the adoption shall take place or not.

Within thirty days of notification the adoptive parent, the public prosecutor and/or the adopted person may appeal the decree to the Court of Appeal, which shall decide in chambers, having heard the public prosecutor".

ARTICLE 66

The two first paragraphs of Article 314 of the Civil Code shall be replaced as follows:
"Once it becomes definitive the adoption decree shall be recorded by the clerk of the competent court in the special register no more than ten days after notification, which shall take place no more than five days after registration by the clerk of the judge to which the case has been appealed. It shall then be communicated to the registrar for annotation in the margin of the adopted person's birth certificate.
The procedure referred to in the preceding paragraph shall also be followed for the registration and annotation of the revocation of the adoption, once it becomes final".

ARTICLE 67

Paragraphs 2 and 3 of Article 293, paragraphs 2 and 3 of Article 296, and articles 301, 302, 303, 308 and 310 of the Civil Code are repealed.
Chapter III of Title VIII of Book I of the Civil Code is also repealed.

TITLE VI

Final, Penal and Transitional Provisions

ARTICLE 68

The first paragraph of Article 38 of the implementing provisions of the Civil Code shall be replaced as follows:

"The provisions under articles 84, 90, 171, 194, paragraph 2, 250, 252, 262, 264, 316, 317-*bis*, 330, 332, 333, 334, 335 and 371, last paragraph, and in the case of children the provisions of Article 269, paragraph 1, of the Civil Code shall fall within the competence of the juvenile court".

ARTICLE 69

In addition to the provisions of Article 51 of the implementing provisions of the Civil Code, any provisions issued by the juvenile court pursuant to Article 10 of the present law shall be recorded in the register of guardianships.

ARTICLE 70

Public officials or persons appointed to carry out a public service who fail to report to the juvenile court on the conditions of any child in a state of abandonment they come to know about in the performance of their duties, shall be punished pursuant to Article 328 of the Penal Code. Persons carrying out an essential public service shall be punishable by imprisonment of up to one year or by a fine of up to 400,000 lire.
Persons representing public or private care institutions who fail to send the magistrate a list every six months of all the children living or cared for in their institution, or who provide incorrect information about the family relationships of the children in their care, shall be punishable by imprisonment of up to one year or by a fine of up to 2,000,000 lire.

ARTICLE 71

Anyone who, in violation of the legislation in respect of adoption, places a child permanently with a third party or sends him/her abroad for permanent placement shall be punishable by imprisonment of between one and three years.

If the act is committed by the guardian or by any other person with whom the child has been placed for his/her upbringing, education, supervision or custody, the penalty shall be increased by half.

If the act is committed by a parent, his/her conviction shall result in the loss of his/her parental authority and the initiation of the adoptability procedure; if it is committed by the guardian, the latter

shall be removed from this role; if it is committed by the foster parent, the latter shall be declared ineligible for foster care or preadoptive placements and disable for guardianship. If the act is committed by public officials, by persons appointed by a public service, by persons practising medicine or law, or by persons belonging to public or private social assistance institutions in the cases referred to in Article 61, numbers 9 and 11, of the Penal Code, the penalty shall be doubled.

The penalty laid down in the first paragraph of the present article shall also apply to persons who, giving or promising money or other benefits to a third party, illegally take children into permanent placement. The conviction shall result in their being declared ineligible for providing foster care or preadoptive placements and disable for guardianship.

Anyone who acts as an intermediary in bringing about a placement as referred to in paragraph 1 shall be punishable by imprisonment of up to one year or a fine of up to 2,000,000 lire.

ARTICLE 72

Anyone who, in violation of the provisions of the present law, brings a foreign child into Italy for definitive placement with Italian citizens in exchange for money or any other benefit, shall be punishable by imprisonment of between one and three years. The penalty laid down in paragraph 1 shall also apply to those who, giving or promising money or any other benefit to a third party, receive foreign children in a permanent illegal placement. Conviction shall result in their being declared ineligible for providing foster care or preadoptive placements and disable for guardianship.

ARTICLE 72-*bis*

1. Anyone who, on behalf of a third party, carries out any activity concerning the adoption of foreign children without having previously obtained accreditation in accordance with Article 39, paragraph 1 *c*) shall be punishable by imprisonment of up to one year or by a fine of between one and ten million lire.

2. The legal representatives and directors of associations or agencies dealing with the activities under paragraph 1 shall be punishable by imprisonment of between six months and three years or by a fine of between two and six million lire.

3. Without prejudice to the cases referred to in paragraph 4 of Article 36, any persons who, in order to adopt a foreign child, avail themselves of the services of associations, organisations, bodies or persons that are not authorised in the forms laid down by the law shall be punishable by the penalties established in paragraph 1, reduced by one third.

ARTICLE 73

Anyone who comes into possession of information concerning adopted children through the

performance of his/her duties and divulges any such information that might make it possible trace a child whose adoption has already been authorised or reveals in any way information concerning his/her status of legitimate child through adoption, shall be punishable by imprisonment of up to six months or by a fine of up to 900,000 lire.

If the act is committed by a public official or a person appointed to a public service, a penalty of imprisonment of between six months and three years shall apply.

The provisions under the preceding paragraphs shall also apply to persons who divulge this information after the preadoptive placement has taken place, without the authorisation of the juvenile court.

ARTICLE 74

Registrars of civil status shall immediately transmit to the competent juvenile court

the notification, signed by the declaring person, that a married person has recognised his/her biological son/daughter who has not been recognised by the other parent. The court shall provide for the appropriate enquiries to be carried out in order to ascertain the veracity of the recognition.

In cases where there are well-founded reasons to consider that there are sufficient grounds to contest the recognition, the juvenile court shall take, *ex officio* if appropriate, the measures provided for in paragraph 2 of Article 264 of the Civil Code.

ARTICLE 75

Persons granted legal aid at the State's expense shall be given legal assistance for the procedures under the present law.

Settlement of the expenses and fees shall be arranged by the judge, who shall issue a specific order, at the request of the defending counsel, once his/her assistance can be considered to be completed.

The provisions of paragraph 2 of Article 14 of Law 533 of 11 August 1973 shall apply.

ARTICLE 76

The provisions already in force when the present law comes into force shall continue to apply to any procedures regarding the adoption of foreign children that are in progress or already completed at that time.

ARTICLE 77

Articles 404 and 413 of the Civil Code are repealed. Prohibitions and authorisations under Article 87 of the Civil Code shall apply to affiliations already authorised on the date of the entry into force of the present law.

ARTICLE 78

The fourth paragraph of Article 87 of the Civil Code shall be replaced as follows:

27 "At the request of the interested persons the court, by means of a decree issued in chambers, may, once it has heard the public prosecutor, authorise marriage to take place in the cases referred to in numbers 3 and 5, even in cases of affiliation or natural filiation. The authorisation may also be granted in the case referred to in number 4, when the relationship derives from a marriage that has subsequently been annulled."

ARTICLE 79

Within three years from the entry into force of the present law spouses meeting the requirements laid down in Article 6 may, as long as the measure coincides with the interests of the child and of the affiliated person, ask the juvenile court to issue a motivated decree declaring that the effects of the adoption are extended to the affiliated or adopted persons in accordance with Article 291 of the Civil Code, previously in force, if the parties were children at the time of the provision in question.

The court shall arrange for the appropriate enquiries regarding the adoptive parents and the adopted or affiliated person to be carried out as laid down in Article 57.

The wishes and opinion of adopted or affiliated persons aged twelve or over and, where appropriate, even younger, shall be sought. Children aged fourteen or over must give their express consent.

The spouse of the adopted or affiliated person, if living with him/her and not legally separated, must give his/her consent.

The opinion of any descendants aged fourteen or over of the adopted or affiliating persons shall be sought.

If the adopted or affiliated persons are legitimate or recognised sons/daughters, their parents' consent shall be required. In cases where the parents cannot be traced or in the event of their unjustified refusal the court, at the request of the adoptive parents or the affiliating persons and having heard the public prosecutor, the parents of the adopted or affiliated person and the adopted or affiliated person, if aged twelve or more, shall decide with a sentence which, if the application is accepted, shall substitute for the parents' consent.

The provisions of articles 25, 27 and 28, insofar as they are compatible, shall apply to the decree extending the effects of the adoption.

Any decree of the juvenile court denying the extension of the effects of the adoption may also be appealed by the adopted or affiliated person if he/she has already reached the age of majority.

ARTICLE 80

The judge, where appropriate and with due consideration for the duration of the placement, may provide for any family allowance and social security benefits to which the child is entitled to be paid temporarily to the foster parent.

The provisions of Article 15 of Presidential Decree 597 of 29 September 1973 and subsequent

amendments, and articles 6 and 7 of Law 903 of 9 December 1977 shall also apply to the foster parents referred to in the preceding paragraph.

The regional governments shall lay down the conditions and procedures for providing support to the families, individuals and family -based centres with which children are placed so that the placement may be based on their willingness and suitability to accept any child regardless of economic circumstances.

ARTICLE 81

The last paragraph of Article 244 of the Civil Code shall be replaced as follows:

"The action may be also brought by a special custodian appointed by the judge, after summary

information has been gathered, at the request of the son/daughter aged sixteen or over but still a minor or of the public prosecutor in cases where the child is younger".

ARTICLE 82

The acts, documents and provisions relating to the procedures envisaged by the present law as they affect minors shall be exempt from stamp duty and registration tax and any charge, tax and fees due to the public administration. The acts and documents regarding the implementation of the provisions issued by the judge during the above proceedings shall be similarly exempt.

The costs deriving from the implementation of the present law, which have been estimated at

100,000,000 lire per year, will be met through a corresponding reduction of chapter 1589 of the budget of the Ministry of Justice for the 1983 fiscal year and corresponding chapters for subsequent years.

The Ministry of the Treasury shall be authorised to issue its own decrees to make any necessary variations to the budget.

Translation: AB/Technical Secretariat of the Italian Commission for Intercountry Adoption, 9/11/2000