

## **THE LIFE OF THE CHILD BEFORE HIS/HER ADOPTION**

**WG MEETING OF NORDIC ADOPTION COUNCIL**

**REYKJAVIK, ICELAND**

**4 AND 5 SEPTEMBER, 2009**

**Mia Dambach, Children's Rights Specialist, International Social Service<sup>1</sup>**

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<sup>1</sup> Mia Dambach worked as a children's lawyer in Australia for five years before joining the ISS (Geneva) as a children's rights specialist. This paper is based on a presentation by Stéphanie Romanens-Pythoud and Cécile Maurin, children's rights specialists at ISS that they prepared for PAPS in Annemasse, France.

## **INTERNATIONAL SOCIAL SERVICE**

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The International Social Service (ISS) is an international non-governmental and non-profit organisation established in 1924, which includes the General Secretariat, a network of 14 national branches, 5 affiliated bureaus and correspondents in more than 100 countries. It offers its assistance to individuals and families who face personal or social problems linked to migration or international displacement. The services provided by ISS's network touch upon the protection of unaccompanied minors, neglected and abandoned children, child protection, adoption, family search, reunification and repatriation, legal assistance and individual counselling. All these activities are based on the international conventions related to family and child protection.

### **Dedication to children's rights**

The International Social Service created the International Reference Centre (ISS/IRC) as a division of the General Secretariat in order to promote better respect of the rights of children and their best interests. The ISS/IRC is dedicated to the ratification and implementation of international conventions relating to the rights of these children. In this spirit, it promotes the exchange of experiences and a worldwide collaboration between professionals of governmental, intergovernmental and non-governmental organisations. The ISS/IRC therefore has strong institutional experience and knowledge of the CRC and other international standards relevant to the protection of the rights of the child at international and regional levels.

### **Experience in legislative reform**

The ISS/IRC is accustomed to working in partnerships with international organisations such as UNICEF, European Union, Governments and other national entities to undertake country missions to provide technical support for legal reform on child protection systems. In recent years, the ISS/IRC has participated in several assessment missions on behalf of UNICEF and other international organizations in Rwanda, Ukraine, Cyprus, Moldova, Azerbaijan, Romania, Kazakhstan, Kyrgyzstan and Vietnam, focussing on child protection. The objective of these missions was to assess the legal framework and practices governing the child protection system in these countries, and to provide stakeholders with recommendations to improve the level of protection granted to children, in accordance with the legal tradition and system. Special focus was placed on possible law reforms consistent with international standards with UNICEF being responsible for the follow up. Expert technical legal support for countries in the process of law reform has been given to countries such as Guinea, Nepal and Luxembourg.

Since its creation in 1924, the ISS has also been actively contributing to the development of international instruments relevant to the protection of children and families, including the 1956 United Nations Convention on the Recovery Abroad of Maintenance, the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. Currently, ISS is co-convenor of the NGO Group in charge of the Draft United Nations Guidelines for the Alternative Care of Children and is part of the group of experts in charge of drafting the Guidelines.

### **Experience in training and capacity building**

The ISS/IRC is well versed in provided training and conferences and has considerable experience in preparing information, training materials and practical capacity-building tools designed to support practitioners, in particular in countries in transition or developing countries, such as its Monthly Review and its series of over 50 Factsheets. Together, they offer updated information on developments in the child protection sector as well as practice-focused guidelines designed to promote a rights-based and ethical approach in the daily practice of professionals.

## INTRODUCTION

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Common situations that children face prior to their adoption including poverty, living on the streets or in an orphanage can shape their future behaviour. However more generic issues such as the economic and political situation of the country as well as the child protection system, alternative care options and view of adoption etc are also likely to have some bearing on the child's life. Each of these elements (and many more) will mark the child's life history, although not always in the same manner, depending on his/her own character.

Johanne Lemieux<sup>2</sup> explains how the human brain develops and how it should a number of x neurons if the mother did not consume, alcohol, drugs as was not undernourished. She explains that unlike baby animals, human babies are born with a brain that is not yet fully developed. In the first months and years, the child's brain will develop based on his/her eating habits, sensory stimulation as well as the amount of affection received (ie: warm, adequate and constant). Whilst the stages of the child's development are not the focus of today's presentation, it is important to note that the 'life of child before his/her adoption' will affect future development.

It would be impossible to canvass the situation of each country of origin in this presentation. However, the ISS/IRC has prepared individual country situations for over 80 countries which can be accessed by the countries that directly finance the program. A copy of a country situation is provided as an annex to this presentation.

The aim of this presentation is to focus on the issues relating to the life of the child before his/her adoption that the ISS/IRC deems as essential for adoptive parents as well as Accredited Adoption Bodies (AABs) and other professionals accompanying them during the adoption procedure. We believe that by having regard to these issues, there will be greater opportunities to form healthy and sound ties with the adopted child as well as improve the chances of integrating into his/her new environment. The importance of collecting information will improve the parents understanding of the child's behaviour once adopted and help them to anticipate how to deal with certain compartments. It is also about sensitising prospective adoptive parents about the fact that the child had a life before adoption and having a regard to this past.

The ISS/IRC stresses the necessity of obtaining as much information as possible about each issue that is addressed. We understand that in many cases, little information is available about the child especially in cases where children are abandoned at a hospital or on the street. Despite this reality, general information can be easily accessed such as the life after the child was found as well as his culture, preparation for adoption etc.

The importance of gathering information is illustrated by the following brief testimony:

### **Testimony**

*The history started the 17 November, or the 18 or 19 or the 1<sup>st</sup>, who knows? ...From now on, each year, an anniversary will mark that a woman gave me life, the craziness, the death, the abandonment. It was then, one called life?! ...*

*There is so much bitterness in not being able to remember the first years of my life, but more than that, to not have any testimony of my early childhood. I am all alone to face my questions. As for me, I resemble a little Chinese, the imagination is fertile, fragile and flexible:*

*I dream, I invent stories, I invent one history, but I am lying, I am lying to myself, I know: It is not the same each time ...*

*I don't know where I came from. Where can I go now?*

« L'enfant meurtri – S'en sortir sans rancune », Genny Le Thi Mui, les Editions de la Chronique Sociales, Lyon, 1993, p. 8.

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<sup>2</sup> Based on training material 'Demystifying the dream in order to live through the reality better' by Johanne Lemieux (2002). This publication is on sale at [www.meanomadis.com](http://www.meanomadis.com). Contact [julie.leblanc@meanomadis.com](mailto:julie.leblanc@meanomadis.com)

With this in mind, I will use the following framework during this presentation:

1. International framework establishing the need to have regard to the child's life before his/her adoption
2. The life of the child before s/he was taken into care
3. The socio-cultural environment of the child
4. The alternative care conditions of the child
5. The child's preparation for adoption
6. Conclusion

## **1. INTERNATIONAL FRAMEWORK**

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### **The UN Convention on the Rights of the Child 1989 (UNCRC)**

The UNCRC specifically notes that when considering alternative solutions for a child permanently deprived of their family, 'due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background' (Article 20(3)).

In adoptions, compliance with this article would be almost impossible without background information about the child before his/her adoption. Therefore information should be gathered about the child's ethnic group, religious (eg: local beliefs), cultural (eg: local festivals, eating habits and clothing customs etc) and their linguistic background (eg: forms of communication that child is accustomed to).

### **The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (THC-93)**

Article 16 places a clear obligation on Central Authorities in countries of origin to prepare comprehensive background reports about the child to be adopted including family, medical history, ethnic and cultural background. As recognised earlier this information may be missing but international law nevertheless recognises the importance of this information by making it a requirement.

#### 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.

It is equally important to look at article 15 for receiving countries, given that the great majority of the audience today is from such countries. Article 15 stipulates that the report for PAPs should include information about the 'characteristics of the children for whom they would be qualified to care'. Without having detailed information about the characteristics of the child to be adopted, the matching process would be more difficult.

- (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.

It is therefore clear that it is important to collect as much information about the life of the child before his/her adoption in order to comply with international standards.

## **2. THE LIFE OF THE CHILD BEFORE S/HE WAS TAKEN INTO CARE**

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Numerous reasons exist why a child is separated from his/her family of origin, placed in an institution or in foster care and later placed for an adoption. They include but are not limited to the following:

- Biological parents may entrust their child for adoption (relinquishment)

Many families find themselves in situations where they reach a stage where they are unable to care for the child. Comprehensive studies on the root causes for relinquishment do not exist for most countries of origin, although the ISS/IRC has observed that poverty is often cited as the main reason for relinquishment. The risk of separation is heightened when poverty is compounded by circumstances such as the discrimination faced by single mothers (eg: Middle East and Asia) and the need to care for special needs children (and lack of resources). The lack of prevention mechanisms within the legal framework and community creates an even greater risk.

Based on various missions, the ISS/IRC has witnessed that there is very little support available to mothers intending to abandon or relinquish their child in the community or in hospitals. It is important that biological parents intending to abandon or relinquish their children are adequately supported by professionals about their options and consequences of their decisions.

- Abandonment

Closely linked to relinquishment of the child is abandonment which can occur at hospitals, near institutions or in a public space. The reasons for abandonment are similar to those mentioned for the relinquishment of a child except in these cases the biological parents desire to remain anonymous. It is important for the investigation of origins to be comprehensive, even if the information is limited only to the child's place of birth or cultural and ethnic identity.

In practice, the ISS/IRC has observed that in cases where investigations are undertaken, the results are often not fruitful and little additional information is obtained. The quality of investigation will usually depend on the different actors in charge in a particular area (eg: province or state). The lack of consistency among investigation procedures and lack of clarity about who is responsible for them creates a situation where there are insufficient guarantees that the child's origins will be adequately investigated.

### ***Example of abandonment***

*We found Marie on top of a rubbish dump, when she was only a few hours old. It was the Sisters who once again found the child, despite a pig having already started to munch on her fingers ...*

*Who left her there? Maybe they thought that she was already dead and after a few hours she regained life again ... Or perhaps her mother, tired and alone left her there so that someone else could find her? But why there?*

*The Sisters do not often favour adoption. They always hope that they will find a local solution for the child and they are right. But they have travelled all the streets of 'Brooklyn' and they have not encountered one person who knows where the little girl comes from. No-one saw her. No-one heard her. This is how Marie with her little hands and feet made it to the orphanage, where she is already missing part of her hands. Her skin is covered by dirt. A miserable sight. How could this little body endure so much suffering? How will she overcome this appalling traumatism that she has just suffered? Fortunately, Marie was quickly taken into the care of a family.*

*« Adopte-moi quand même... », Josette Dufour, éditions Fayard, France, 1991, p. 39.*

- “Doubtful reasons”

In many contexts, it clearly appears that abandonment and relinquishment are accepted modes answering the requests for adoptions lodged by foreign prospective adopters. It is very difficult to trace the exact conditions under which a child was ‘abandoned or relinquished’, but when these grey zones appear, one has to be very careful and try to get as much information as possible about the child and his/her background. Examples of ‘doubtful reasons’ include the sale and trafficking of children, as well as the lack of consent of biological parents.

- Administrative or judicial decision to remove a child from parental care in his or her best interests (for protection and/or to ensure appropriate upbringing and care).

Unfortunately this situation exists all over the world (eg: sexual abuse, violence or general maltreatment). In this case, judicial proceedings are usually held and based on a background report of the circumstances relating to the decision. Precious background information is contained in such reports as well as indications of what support the child has received. By finding out this type of information, adoptive parents will be able to provide any additional support necessary to address the child’s often complex background.

- Death of the parents

Children may be in need of alternative care if the extended family is unable to adequately care for them. It is important to identify how the parents died (eg: sudden, brutal, prolonged illness) and the effects on the child. It is also important to find out how the child’s grief was treated and what professional assistance, if any was provided. It may also be important to identify any genetic illnesses that are part of the family.

- Other reasons why children may be in need of care

Children may be separated because of their parents being involuntarily untraceable, having temporary or permanent incapacity to care for the child (imprisonment, illness, disability) or the child’s decision to leave or not return to the family home, child’s involuntarily internal displacement and arrival in a country as an unaccompanied minor seeking asylum or immigration, or as a victim of trafficking.

It is important to gather as much information about the abovementioned elements in order to obtain a more complete picture of the child. This information is vital for understanding the child’s daily behaviour.

***Example of consequences of the child’s experiences of needing alternative care***

*One thing is certain: the great majority of adopted children, young or old are extremely sensitive when they face situations where they perceive a form of rejection or worst, the risk of abandonment ... They have recurrent dreams that a person close to them will never pick them up from school or after work etc. All forms of criticism, even if constructive are another means of culpability or rejection... Others will never be able to have long lasting loving relationships since as soon as the relationship becomes more intense and intimate they prefer to leave straight away rather than being left themselves.*

*Based on training material ‘Demystifying the dream in order to live through the reality better’ by Johanne Lemieux (2002). This publication is on sale at [www.meanomadis.com](http://www.meanomadis.com). Contact [julie.leblanc@meanomadis.com](mailto:julie.leblanc@meanomadis.com)*

### **3. THE SOCIO-CULTURAL ENVIRONMENT OF THE CHILD**

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The socio-cultural environment of the child before adoption provides key insights into certain behaviours that s/he will exhibit later in life. It is essential to have regard to the following issues:

- Level of poverty

The level of poverty in the country of origin or region of the child can influence issues such as the health of the child and his/her development (eg: vaccinations, education etc). When poverty is particularly high, ICA may also be perceived either as a way to give children a better future or as a way to make money out of the adoption process. Corruptions, false declaration, induced consent, are common issues that arise in this context.

- Environment of the child

Whether the child comes from an area that is rural or urban will influence the services that the child will be able to access and daily lifestyle of the child.

***Testimony from a professional on mission in Nepal for an NGO***

*We stayed two months in a village south of the Chitwan park, seven kilometres from the Indian border, (the terai). There are no tourists here, no tools, no money ... It is a close knit society with a community spirit. There is malnutrition in the village linked to eating soil and weeds. The lack of money and the distance from the hospital (there are no roads or bridges) often compromises vital prognosis. In the rainy season, there is more diarrhoea and malaria. A little further from this community, we have discovered people living in the jungle. No child is cared for let alone educated here. During the night, elephants and tigers attack the huts. The form of habitation is also not protected against the winter cold. Among these conditions, there is very little agriculture. What can we say about hygiene and education? Survival from one day to the next...*

*Actes du Colloque de la 3ème journée Provençale de la Santé Humanitaire, tenue à Marseille le 20 novembre 2008, p. 13.*

- Political situation of the country

If the child has lived part of his/her life in a context of war, natural disaster or crisis, this political situation is likely to have future ramifications on the life of the child. It is essential to find out whether the child has suffered some trauma that needs to be addressed (eg: seeing a loved one die due to the political situation). These consequences can be manifest in sleeping disorders, nightmares, panic and anxiety attacks that would otherwise be inexplicable ... If adoptive parents know beforehand about the child's living conditions, they will be able to undertake the necessary remedial actions to care for the child.

- Health conditions of the country

It is important to understand the health conditions of the country of origin of the child in order to address with any deficiency that the child has experienced to date. Without stigmatising a particular country/region, experience shows that it is important to pay attention to issues of nutrition and AIDS, foetal alcohol syndrome is unfortunately widespread in certain regions, pollution, etc. Whatever the country the child is from, there is important information to be obtained that would help avoid problems that are often left unaddressed for too long a time.

***Testimony from a professional on mission in Mali for an NGO***

*In addition to the economic factors here, malnutrition is common place. Daily life consists of eating the kito (mali food) and cream which is based from millet from the same plate by hand. How does one know the portion for each child? Who will occupy them? The strongest persons here will be the ones who will survive, others ... sometimes the weak are not even fed.*

*Actes du Colloque de la 3ème journée Provençale de la Santé Humanitaire, tenue à Marseille le 20 novembre 2008, p. 11.*

- Daily living habits of the child

The type of information that could be collected might include the daily eating habits of the child. Do they generally eat on the ground or at table? Do they use cutlery or do they eat with their hands? What language do the carers speak with the child? Does the child sleep in the same room as others or alone? Does the child have a personal space in the home or is s/he always surrounded by other people? Does the child usually spend time outside the home or usually inside? In the case where the child lived within a family, it is equally useful to know whether the family is large, whether the parents are together or separated etc? Knowing this information about the child and more will enable him/her to have an easier transition period into the new environment, as well as provide a better comprehension about the child's reservations and reactions, which at times can be rather animated to what appears to be a trivial situation.

***Testimony from a psychologist who works in a institution for toddlers in Algeria***

*I have myself contributed to the inconvenience and discomfort of children in the institution for toddlers in Algeria, when one clear blue day, based on my own great ideas, I decided to put the children to sleep on their backs. By the afternoon I found them crying and hysterical due to the lack of sleep, given that they are accustomed to sleeping on their stomachs. It was as a result of this experience that I am now a strong advocate for insisting on training, considering in advance about our interventions and most importantly to be subjected to regular evaluations given that in addition to their fragile and vulnerable conditions, abandoned babies should not have to endure our methods, our embedded ideas, disappointments and betrayals.*

*Actes du Colloque de la 3ème journée Provençale de la Santé Humanitaire, tenue à Marseille le 20 novembre 2008, p. 15.*

- Concept of family in the country of origin of the child

How is the family viewed in the child's country of origin and particular region (eg: indigenous communities)? What place does the child occupy in the community?

***Various examples***

*In **Polynesia**, there is a trend to have 'multiple families' which is still culturally practiced today. It consists of having numerous adults responsible for the child and each of them is in charge of the care, love and good development of the child.*

*In **New Guinea**, when a child is born, the mother will rub him/her against herself as well as the father, other close relatives and even the domestic animals so that s/he will feel the love and trust. In these conditions as in the Polynesian case, there is a risk that the child will have a problem becoming attached to a one sole person or one sole couple. This child may be more inclined to go towards the whole world and have difficulties recognising his/her parents...*

*In **Ecuador**, in an Indian tribe 'Quecha', the child lives his/her first year attached to his/her mother. Afterwards, one day she will pose him on the floor and from then on, the child will have to take care of himself, helped only a bit by his brothers and sisters. Such children become independent very quickly.*

- Adoption culture

It is important to be aware that the western view of adoption does not exist in many countries of origin. For example, in Africa and in Asia, parents can confide their children for 'adoption' to other parents without the tie being cut. Under these conditions the child can return to his/her parents whenever they want to. The person in charge of the Central Adoption Authority in Burkina Faso explained in a conference earlier this year that a simple adoption is viewed as an informal placement. Therefore when an adoption is carried out in a country of origin that has a different view to western concepts, it is essential that the biological parents are fully informed of the effects of their decision.



Article 4 THC-93 is very clear on the need to ensure that the person giving their consent is informed of the effects of the adoption, that it is free without inducement and, if necessary, is given only after receiving counselling. Moreover, the THC-93 allows for the conversion of simple adoption into a full adoption (article 27). For every intercountry adoption, there must be a safeguard that there has been an informed consent for a full adoption (and all its legal and social effects) in cases where the child is going to a country that has ratified the THC-93. For example, persons giving their consent must be informed that there is a possibility of no contact in the future and no hereditary rights, which is a concept not familiar in some countries of origin.

Without ensuring that the consent follows such standards, there are greater risks that the tie with the child will not be solid and easily broken. PAPs should be vigilant in ensuring that the consent has been obtained in an ethical manner and that all grey areas have been addressed. Intuition will often be right, when something doesn't feel right, it often isn't.

**Case of where biological mothers had not given their consent- Vietnam**

*The adoption of children from the Ruc community – as shown by the research carried out by the anthropologist Peter Bille Larsen – dramatically illustrates the problems of not ensuring that mothers have given their fully informed consent. According to Mr Larsen's findings: 'within the last few years, several families had accepted to temporarily place their children in a provincial nurturing centre, only to later discover their children had been sent abroad. One mother explained how she had become worried and gone to town to see her children, only to be informed that they were gone. Officials had apparently told her that the distance had been too far to tell her about the children being adopted. It seems likely that a legal loophole was used involving illiterate ethnic minority parents signing over all rights to their children [and] thus allowing centre officials to have the children adopted without the consent of the parents. This occurred despite official letters from social authorities specifying the return of the children upon the improvement of living conditions back home.'*

*<http://vietnamnews.vnagency.com.vn/showarticle.php?num=01CAS150708>,  
<http://vietnamnews.vnagency.com.vn/showarticle.php?num=02COM160708>, accessed 14/10/08  
and  
<http://english.vietnamnet.vn/politics/2008/08/800516/>, accessed 14/10/08 and ISS Monthly Review 11-12/2008*

#### **4. THE ALTERNATIVE CARE CONDITIONS OF THE CHILD**

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Children who are adopted often spend a great party of their time in foster care families and/or institutions. It is therefore important to consider this environment as this potentially significant impact on the child's development. One should have regard to the following:

- Whether the child was taken into care of an institution or foster family

Whether the child was taken into the care of an institution or a foster family will influence the child's assimilation. A foster family is more akin to a biological family and the child will receive more personal attention/affection. Even in the smallest institution, the attention given to the child is more global and s/he will have to learn to fend for himself/herself at an early stage.

- If the child was living in an institution, it is important to identify the type of institution

Is the institution big or small? How many children did the child share his/her room with? Was the child left to himself/herself or was the child stimulated by activities? Was the institution only for children or was it mixed with adults? Was it dedicated to a particular group of children (eg: disabled, babies)? Are the staff trained? Are there psychologists? Are there social workers? Was there a legal professional to ensure that the child's papers are all regulated? Were the medical needs of the child taken care of? When the child arrived, was s/he tested for AIDS etc? What kind of food did the child eat?

**Example of institutional life**

*In some research about institutions in Sri Lanka, they found that 'while parents and guardians institutionalise children to provide them with material comforts, children consistently highlighted their need for emotional care. Children spoke out against the lack of privacy, integrity, identity and the absence of avenues of self-expression within institutions, things that are often impossible within the regimented environment of institutions. Material resources within institutions are also far from acceptable in most cases... State institutions failed to provide basic clothing to children. According to children they did not have sufficient clothes to wear. Many children had to be satisfied with one dress that had to be washed over and over. This meant that sometimes children had to wear wet clothes... Since sufficient beds were not available and the dormitories were crowded, some children slept in the corridors. These children invariably got wet on rainy days. In some instances children shared beds. Overcrowding was a problem in these institutions.'*

*Home Truths – Children's Rights in Institutional Care in Sri Lanka, Save the Children in Sri Lanka and Canada, 2005, p. 53-63.*

The impact of living in an institution can have long lasting effects on the child's behaviour. Johanne Lemieux provides the following example.

**Example of impact of institutional life on child**

*This is the scene: In a restaurant at lunch time, a little 2 year old Guatemalan girl is standing on her chair, stamping her feet and crying 'dos helados, dos helados' (two ice creams). Her new parents want to pacify her down to avoid further embarrassment and therefore succumb to the child's wishes. This scene is repeated during lunch for two weeks.*

*So here is the big challenge. How to tame the child without giving in to all his fancies? It is important to first understand that the child was brought up in an orphanage, the sole proof of attention and tenderness was obtained by food and objects. The child will try the same behaviour with you. It is also important to understand that the child has probably little understanding of what the rules and customs are of living in a house.*

*The challenge is to teach the child real proofs of love: availability, tenderness, intimacy, gentle and uplifting words. As much as possible, it is important to ignore the poor behaviour of children and underline the correct gestures, use positive reinforcements rather than apply punitive measures.*

*Based on training material 'Demystifying the dream in order to live through the reality better' by Johanne Lemieux (2002). This publication is on sale at [www.meanomadis.com](http://www.meanomadis.com). Contact [julie.leblanc@meanomadis.com](mailto:julie.leblanc@meanomadis.com)*

- If the child was placed in foster care

It is important to know what kind of relationship the child had with foster parents and potential foster siblings. Other questions that could be asked include whether professional help was provided to the foster family and whether the child was received counselling about why s/he was in a foster family.

- Contact of the child with family of origin and other significant persons

Has the child maintained contact with biological family or other persons within the community? How often? If the child had siblings, was s/he separated from them? If yes, did the child continue to have contact with him/her? How often? Given that some institutions prohibit the child to have contact with his/her family, this explains why some children have difficulty reintegrating to society. Some children have lived all their lives in an institution rarely seeing other persons and therefore can be scared of what to expect outside the institution.

- Number of placements and length of time

Some children have been moved from one institution to another. Each change results in ties with other children and staff being broken and new ones must be formed with less incentive for bonding with new persons. It is important to see how these successive ruptures have been addressed as they can result in serious bonding problems. A one year old child that has lived in five different settings will have greater difficulties in forming an attachment than a child who is five but has lived with the same foster family. In fact, the adopted child arrives in his family with a life line damaged by several ruptures.

Ms Lemieux, a social worker from Quebec draws parents' attention to the fact that a family tie must be retied firmly and with care, but also reminds them that it will never be as solid as the undamaged tie of a biological child. She invites them to experience it by testing the resistance of a cord that is intact and that of a cord broken in several places and tied again.<sup>3</sup>

It is also important to not minimise the consequences of a long placement in either a foster family or institution. The child will automatically make bonds in either setting and it will be painful when they are broken.

**Example**

*Lola is described as a little girl with cognitive problems. She communicates in an incomprehensible form, appearing to have the capacity to understand. She has adopted a victim attitude. Jeremy is an intelligent child but aggressive, he has not come to terms with the separation with his parents. He is known for his lack of social skills. Jack does not fit a particular type of description. The summary for the three children is that 'we are persuaded that the severe inadequacy of close relationships in terms of stimulation and affection has resulted in the poor development of Lola. We believe the same for Jeremy. We conclude that the family should be highly motivated to provide a lot of affection and stimulation, which were missing during a period where they were necessary.*

*Motivation and affection are not absent among adoptive parents, they are even overflowing. But the solution does not consist solely of substituting a favourable environment for economic poverty and other emotional gaps that the child has been subjected to. Good willingness and lots of love will not be sufficient to eradicate the pathogenic effects of the past.*

*« Moïse, Œdipe, Superman... de l'abandon à l'adoption », Sophie Marinopoulos, Catherine Sellenet, Françoise Vallée, éditions Fayard, 2003, p. 261-262.*

The impact of various placements and changes to a child's life is also illustrated by the following:

**Example of impact of various placements on child**

*Imagine that you are on a trekking trip in Nepal. Your Guide, who is in charge of assisting and guiding and you as well as ensuring that you are able to traverse the dangerous torrents, canyons and rocky paths in security requests you cross one bridge, then a second one and a third one. Without fail, all the bridges are damaged, broken and crumble below your feet. Imagine that you fall and have multiple injuries.*

*Your Guide promises you that the fourth bridge that you need to cross is perfectly solid. You are in a mountainous region in the middle of nowhere and you know that you do not have a choice: in order to return to the base camp, you need to cross this river ... but you are cautious, hurt and traumatised by the previous bridges.*

*What are you going to do this time? Be entirely confident in your Guide? Put your life in his hands one more time without any questions? Of course not. This time you will want to verify the solidity of the bridge and inspect for yourself its quality: above, below, pull on the strings, hit the*

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<sup>3</sup> Based on training material 'Demystifying the dream in order to live through the reality better' by Johanne Lemieux (2002). This publication is on sale at [www.meanomadis.com](http://www.meanomadis.com). Contact [julie.leblanc@meanomadis.com](mailto:julie.leblanc@meanomadis.com)

*structure even with force, throw rocks into the middle etc to observe the bridges' reaction (with anxiety).*

*If the bridge loses a piece, you will not engage yourself ... If however the bridge remains solid and flexible despite your attempts to weaken it, you will have the confidence, be reassured and do what is necessary to cross it despite your previous bad experiences.*

*The breakdown, abandonment, negligence lived by the child before his/her adoption are the 'trekkings of life' that have not worked out. The adoptive parents are bridges for their children.*

Based on training material 'Demystifying the dream in order to live through the reality better' by Johanne Lemieux (2002). This publication is on sale at [www.meanomadis.com](http://www.meanomadis.com). Contact [julie.leblanc@meanomadis.com](mailto:julie.leblanc@meanomadis.com)

## **5. THE CHILD'S PREPARATION FOR ADOPTION**

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The child's preparation for adoption also plays an important role in influencing the child's integration into his/her new country and capacity for adapting. This preparation should be undertaken irrespective of the age of the child given the importance of explaining to him/her what will happen on arriving in the new country. Unfortunately the preparation of the child is inadequately developed in countries of origin, which is often explained by a lack of resources.

Below are some selected elements for which PAPs should be aware of when they arrive in the country of origin and when they first meet the child. It is important that they ask the professionals in charge of the child, what type of preparation was provided and if necessary, provide remedies for any gaps. The questions could include the following:

- What was explained to the child about the impossibility of returning to their family of origin?
- What care has been provided to deal with the child's suffering, pain, grief? What psychological and physical care has been provided in cases of maltreatment, abuse, malnutrition etc?
- How was the child involved in the decision making process for his/her adoption? How was his/her opinion obtained and afterwards included?
- How was his/her future explained to the child? What were his/her emotions about a new life, new place and new family?
- How was the adoptive family presented to the child? Were the child's dreams brought back to reality? Children often have dreams about what kind of parents they want and the practical realities of these dreams need to be explained to him/her.
- How was the new culture explained to the child? It can be a real shock for the child to be placed in a culture completely different to what s/he is accustomed to. The eating habits, climate, the relationships between persons etc can vary between different countries. In some cultures, affection is shown openly with kisses and hugs. In other cultures the distance between individuals and lack of physical touching is a sign of affection. All these elements should be explained to the child in order to help him/her slowly integrate into his/her new environment.
- Was a life book ever prepared for the child? Even if a life book has never been prepared for the child, it is never too late. If one has been started, it is a good idea to continue the life book. It is a good opportunity to open up the dialogue with the child and help the child come into contact with the history of his/her adoptive parents.
- Was the child accompanied adequately given the ties to be broken with staff/children at the institution or members of foster family? This can be a real grieving point for the child.

Unfortunately children are rarely adequately prepared for in countries of origin, which makes it even more important that PAPs undertake adoptions with the aid of an AAB. AABs should be prepared to work with both the PAPs and child to be adopted.

## 6. CONCLUSION

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The famous saying 'once bitten twice shy' is applicable to adopted children, where their life before adoption has formed certain behavioural patterns such as cautiousness when meeting new people, attention seeking conduct and problems in developing close ties.

The above presentation is aimed at providing a brief overview of issues to consider in the life of the child before his/her adoption. The examples used are aimed at illustrating the importance of considering such issues and how they will manifest themselves in the behaviour of the adopted child. Some consequences of the child life experiences before being adopted may include insecurity, difficulties in attachment and the need to prove the unconditional love of his/her adoptive parents.

Given the close link to the child's past to his/her behaviour today, it is essential that parents collect as much information as possible dealing with the life of the child before he/she was taken into care, the socio-cultural environment of the child, the alternative care conditions of the child and the child's preparation for adoption.

The ISS/IRC recognises that even if one could gather all the background information about the adopted child that ever existed, which is a practical impossibility, the adopted child's behaviour can not be solely explained by his/her past. Some behaviour may never be explicable. However by collecting as much information as possible and appropriately dealing with what one finds out, one can better provide for the needs of the adopted child.

On that note, I will leave you with some interesting quotes:

Life can only be understood backwards, but it must be lived forwards.

**Soren Kierkegaard**

Learn about the future by looking at the past

**Tamil Proverb**

Those who have one foot in the canoe, and one foot in the boat, are going to fall into the river.

**Tuscarora**

## THAILAND

### Protection of the child deprived of, or at risk of being deprived of, the family of origin COUNTRY SITUATION

February 2009

#### SUMMARY

- A. [ISS/IRC Analysis of the situation](#)
  - [General situation](#)
  - [Children deprived of their family and actual responses](#)
  - [Adoption](#)
- B. [Legislation: Basic Summary](#)
- C. [Protagonists](#)
- D. Appendices :
  - 1. [Documents of the Committee on the Rights of the Child](#)
  - 2. [State Country Reports to the Committee on the Rights of the Child](#)
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#### A. ANALYSIS OF THE SITUATION

##### General situation

The Kingdom of Thailand (Thailand) was founded in 1238 and officially referred to as Siam until 1939. Established as a constitutional monarchy in 1932, King Phumiphon (Bhumibol) is the current ruler. The estimated population in 2005 was 65,493 296 (16.5 million being children) with 94.6% of Thais being Buddhist. 10% of the population lives below the poverty line and there are about 132,241 refugees, mostly from Myanmar. There are improvements in terms of basic indicators for children in Thailand where the rate of infant mortality for children less than 1 has decreased from 26 in 1990 to 7 in 2006, as a probability of dying from 1000 persons and for children under 5 it has dropped from 31 to 8 during the same period. The primary school enrolment rate is 92%.

Thailand was severely affected by the Tsunami in 2004 where at least 8 000 people lost their lives, leaving an estimated 1 709 unaccompanied and separated children of which 1 605 children were eventually reunited with their immediate families. The UN Committee on the Rights of the Child (UNCRC) in 2006 raised concerns including, inter alia, the minimum legal age of criminal responsibility, birth registration, statelessness, refugee and asylum-seeking children. The UNCRC was also alarmed about the increasing reports of domestic violence, child abuse and the lack of a national data base on cases of violence against children. More importantly, the UNCRC remained apprehensive about the wide occurrence of sexual exploitation including child prostitution, sex tourism and child pornography in Thailand.

**Sources:** UNICEF country analysis [http://www.unicef.org/infobycountry/Thailand\\_statistics.html](http://www.unicef.org/infobycountry/Thailand_statistics.html) CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/th.html>, UNCRC Observations 2006 <http://daccessdds.un.org/doc/UNDOC/GEN/G06/409/36/PDF/G0640936.pdf?OpenElement>, Human Right Defender Report <http://daccessdds.un.org/doc/UNDOC/GEN/G04/118/47/PDF/G0411847.pdf?OpenElement>, Wikipedia [http://en.wikipedia.org/wiki/Effect\\_of\\_the\\_2004\\_Indian\\_Ocean\\_earthquake\\_on\\_Thailand](http://en.wikipedia.org/wiki/Effect_of_the_2004_Indian_Ocean_earthquake_on_Thailand)

### **Children deprived of their family and actual responses**

Several Governmental bodies and NGOs such as the Department of Social Development and Welfare (DSDW), SOS Kinderdorf, and Foundation for the Better Life of Children assist children in alternative care or at risk of so being. The first priority is to provide assistance to children and families within the community which includes counselling, funds to start income-generating activities, money for child support, assistance for medical and education costs, and financial assistance which enable the child to remain living in the family. Foster families have also been established where there are evaluations every two months after placement. As a last resort, the DSDW may place children in 'welfare homes' which are operated by the government or in a home run by NGOs. In 2004, the Government spent 12.98 million baht (where 1 \$US is equivalent to 40 Thai baht) for the protection of children who are in need of alternative care where the total spending on children was 289 585.39 million baht.

The Thai Government has improved the conditions of the welfare homes by promoting educational opportunities, establishing vocational centres for training in agriculture and other programs for those with learning disabilities and special needs. However, the Thai Government has conceded that 'the number of abandoned children is increasing every year and legal measures are not conducive to giving protection and assistance to abandoned children. It is difficult to locate their records, which unnecessarily delays the arrangement of a foster family placement or adoption for them.'

In 2005, UNICEF estimates that there were 1200 orphans living in Thailand. The table below shows the number of children living outside family environment and separated from their parents (2002-2005) in terms of welfare homes, foster families and adoptions. These statistics remain fairly stable and show that ICAs account for approximately 10% of all adoptions.

<b>Types</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Children in welfare homes	4 609	5 003	4 364	4 509
Children foster families	396	396	396	412
Children adopted domestically	3740	4064	3395	3884
Children adopted ICA	538	594	586	504
<i>Source:</i> Department of Social Development and Welfare (list of responses to the UNCRC in 2005)				

In terms of adoptions, the Government has recognised problems with adoptive parents not willing to give their consent to the child to access information about their biological family. The DSDW has therefore implemented a training program for adoptive families regarding permission to let the child know about his biological family in accordance with age-specific appropriateness and maturity. For children adopted out of Thailand, the Government has implemented programs such as the Native Land Visit Program to give children an opportunity to know their origins.

### **ISS/IRC Comments**

The UNCRC raised concerns about the lack of information on children placed in alternative care facilities and standards governing such institutions. The ISS/IRC notes that there is limited disaggregated data publicly available on age, gender, special needs, sibling groups, waiting times and other outcomes. The ISS/IRC fully supports the UNCRC recommendation that the Thai Government 'undertake a comprehensive study to assess the situation of children placed in institutions, including their living conditions, care plans and services provided' in order to better develop policies and legislation to protect children. The proportion of money spent on children in alternative care also seems relatively low given the increasing number of abandoned children.

## Adoption

<p><b>Central Authority</b></p>	<p>Child Adoption Centre Bureau of Anti-Trafficking in Women &amp; Children Department of Social Development &amp; Welfare (DSDW) Ministry of Social Development &amp; Human Security 255 Ratchawithi Road, BANGKOK 10400 Phone: +66 (2) 354 7500 or +66 (2) 354 7511 Email: <a href="mailto:adoption@loxinfo.co.th">adoption@loxinfo.co.th</a></p>
<p><b>Adoptability</b></p>	<p>Only children may be adopted who have an unknown filiation or are an orphan or declared by the judiciary as abandoned or the parents or legal guardians have given their consent. Most adoptable children are orphans being cared for at children's homes or unwanted children born out of wedlock to single mothers. In the few cases where children are given up for adoption by a father/mother, they are often adopted by their new stepfather/stepmother when their parents re-marry.</p> <p><b>Sources:</b> UNCRC Summary Record of the Meeting held the 1st October 1998 (am) and French Diplomatic Mission <a href="http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html">http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html</a></p>
<p><b>Quotas</b></p>	<p>Thailand is accustomed to placing quotas on the number of children that each country can adopt. Thailand decides with which receiving countries it wants to cooperate, and how many children may be adopted. For example in 2008, there was a limit of 25 dossiers for children under 4 without special needs for the l'Agence Française de l'Adoption (AFA).</p> <p>These quotas do not apply to children with special needs. According to the Thai Central Authority, special needs children include amongst others those that are older than 4 years old, have a health problem (eg: hepatitis A,B,C,E, minor thalassemia, positive TB, child infected HIV positive and child turns to HIV negative, hearing loss requiring either hearing aid, surgery and/or speech therapy, serious eye defect needing an operation, or glasses or important " ptosis", needing an operation, suffering from hypothyroid condition, heart malformation that is well defined and can be operated and a partial colostomy after disease) as well those who have a mother who suffered from mental illness or intellectual deficiency.</p> <p><b>Sources:</b> French Diplomatic Mission <a href="http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html">http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html</a></p>
<p><b>Principle of subsidiarity</b></p>	<p>The Thai delegation explained to the UNCRC that national adoptions are always given priority to ICA. However there is no legislative reference to this principle.</p> <p><b>Source:</b> Summary record of the 1115<sup>th</sup> meeting <a href="http://www.unhcr.org/refugees/crc/c/sr.1115">CRC/C/SR.1115</a></p>
<p><b>Simple and/or Full Adoption</b></p>	<p>For ICA, an administrative decision is made by Thai authorities to place the child for a probationary period with the PAPs in the receiving country. At the end of this period, if the adoption is approved by the Thai Adoption Board, the PAP must register the adoption at the Thai embassy in the receiving country. The finalisation of the adoption occurs in the receiving country and whether it is a simple or full adoption depends upon the laws of the receiving country. The Thai decision is rather a decision of placement; the receiving country will not "recognise" it directly, but will have to pronounce an adoption.</p>



	<p><b>Sources:</b> French Diplomatic Mission <a href="http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html">http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html</a></p>
<b>Prospective Adoptive Parents</b>	<p>For ICA and domestic adoptions, the preliminary qualifications necessary for the PAP are:</p> <ul style="list-style-type: none"> <li>▪ Be at least 25 years of age and least 15 years older than the child</li> <li>▪ Be eligible to adopt a foreign child according to the laws of the receiving country (For ICA)</li> </ul> <p><b>Source:</b> 2003 Guidelines for ICA of a Thai Child, prepared by the Child Adoption Centre, Department of Social Development and Welfare (2003 Guidelines for ICA) and French Diplomatic Mission <a href="http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html">http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html</a></p>
<b>Consent</b>	<p>There must be a statement of consent from the person who has the power to give the consent to the adoption according to law. The consent of the child aged 15 and above must be given. There is no legislative reference about the person who has power to give their consent.</p> <p><b>Source:</b> Section 20 Child Adoption Act B.E 2522 (1979)</p>
<b>The file of the prospective adoptive parents</b>	<p>For domestic adoptions, the PAP must submit his application to the Director General (DG) if living in Bangkok or otherwise to the provincial governor with the following documents:</p> <ol style="list-style-type: none"> <li>(1) a copy of the identity card</li> <li>(2) a copy of the house register</li> <li>(3) copy of the marriage register or divorce register (if any)</li> <li>(4) medical certificate evidencing good physical and mental conditions</li> <li>(5) two 4.5 x 6 cm photos of the applicant and spouse (if any) taken within the past six months;</li> <li>(6) letter of consent or an order in lieu of consent</li> </ol> <p>For ICA, the responsible authority for adoptions in the receiving country must send to the DG the following documents with a completed AC5 form as annexed to the Ministerial Regulations</p> <ul style="list-style-type: none"> <li>▪ study report on living conditions and family (eg: maturity, ability, health, assets, liabilities...)</li> <li>▪ document stating that it will supervise the probationary placement</li> <li>▪ letter certifying residence of PAP</li> <li>▪ * confirmation that the adoption once accepted under Thai law will also be recognised in the receiving country</li> <li>▪ * a copy of a passport or other substitute document, a copy of an alien identity card or a certificate of residence;</li> <li>▪ * copy of the marriage register or divorce register (if any)</li> <li>▪ * medical certificate evidencing good physical and mental conditions</li> <li>▪ * certificate of work and income</li> <li>▪ * financial statement dated within the last 6 months</li> <li>▪ * certificate of property owned;</li> <li>▪ * four 4.5 x 6cm photographs taken within the past six months</li> <li>▪ * documents from the relevant authority in the applicant's country of domicile certifying that the applicant may legally adopt a child under the laws of that country</li> <li>▪ * documents from the immigration bureau or other relevant organizations in the applicant's country of domicile certifying the adopted child's entry into the country may be done in compliance with the laws of such country;</li> <li>▪ * letter of consent or a court order in lieu of consent</li> <li>▪ * copy of alien work permit</li> <li>▪ * certificate of behavior and suitability from at least two reliable persons</li> <li>▪ * criminal record check</li> </ul> <p>NB: Documents with a * shall be certified by the Thai embassy or consulate of the country in which the applicant is domiciled. All documents must be either in Thai or in English.</p> <p>Only one sole application may be made for adopting a child unless the PAP is part of the immediate extended family where more than one child can be adopted.</p>

	<p><b>Sources:</b> Section 20 Child Adoption Act B.E 2522 (1979), clause 11 -13, 18 Ministerial Regulation No. 9 (B.E. 2543) Issued under the Child Adoption Act B.E. 2522 (1979) and 2003 Guidelines for ICA</p>
<p><b>Matching process</b></p>	<p>After receiving a domestic adoption or ICA application, the DSDW shall investigate its contents focusing on living conditions and suitability of the applicant, check that the necessary consents have been obtained and the characteristics of the child to be adopted.</p> <p>In addition for ICA, if the DSDW find an appropriate match of a child with the PAP and the Adoption Board approves the initial match, photographs and information about the child will be sent to the competent authority of the receiving country for the consideration of the PAPs. If the PAPs agree, the DSDW prepares a report which is then considered by the Director-General or the provincial governor and he decides whether the applicant should be permitted to have custody of the child for a probationary placement. If custody is given, an application must then be sent to the Minister of the Ministry of Social Development and Human Security for permission to take the child out of the country.</p> <p>If the Director-General or the provincial governor does not agree to a probationary placement of the child, the applicant may lodge an appeal with the court within sixty days. The order of the court of first instance shall be final.</p> <p><b>Source:</b> Section 21-22 Child Adoption Act B.E 2522 (1979)</p>
<p><b>Initial Procedure and Probationary Period</b></p>	<p>For domestic adoptions, when the Director General or provincial governor orders a probationary placement of the child, the PAP may then receive the child in his custody. The period of probationary shall be at least six months. A competent official from the Child Welfare organisation shall visit the child and the family to observe the living conditions, relationships, mental and physical well being of involved persons and prepare reports for the Director General or provincial governor.</p> <p>For ICA, the PAP must collect the child in person unless the child is already in the receiving country or due to 'reasonable necessity', the child may be given permission to travel to the receiving country with a competent official with the expenses borne by the PAP. The responsible authority for adoptions in the receiving country must send a probationary placement report to the Director General every 2 months for the 6 month period. During the probationary period, if there is a change of address, the PAP must give at least 15 days notice before the change to the competent official or within 7 days from the change.</p> <p>If the PAP withdraws his application, they must return the child to the person who has the power to give consent or to the competent official without delay. During the probationary period, the father or mother of the child may request the cancellation of the adoption. The Director General or provincial governor may also cancel the application if it is against the welfare of the child or there is an assessment by a competent official that the PAP is not suitable. A probationary period is not required where the PAP is a blood brother or sister, half-blood brother or sister, great grandfather or great grandmother, grandmother, grandfather, uncle, aunt, or lawful guardian of the child to be adopted. Other groups exempted from having a probationary period include step parents and foster families who have had care of the child for at least 1 year.</p> <p><b>Source:</b> Section 19, 23 and 26 Child Adoption Act B.E 2522 (1979), clause 17 -18, 21, 27 Ministerial Regulation No. 9 (B.E. 2543) Issued under the Child Adoption Act B.E. 2522 (1979) and 2003 Guidelines for ICA</p>
<p><b>Decision</b></p>	<p>After the probationary placement is complete and the Director General or provincial governor considers that the placement was satisfactory, he will submit the file to the Child Adoption Board (or a sub committee entrusted by the Board) for review and approval of the applicant's registration under the Law on Family Registration.</p> <p>If the Adoption Board approves of the adoption, there should be a registration of the adoption</p>

	<p>of the child within 6 months under Thai law. For the purposes of registering the adoption, the consent given by the person who has the power to give consent to the adoption as submitted under Section 20 shall be regarded as the consent to the registration. If the child is residing in the receiving country, the registration may be made at the Thai embassy or consulate.</p> <p>If the probationary period is not satisfactory, it may be extended for a maximum of two times for no more than 6 months for each period. If the Adoption Board does not approve the adoption, the Director General or the provincial governor may order the return of the child. An appeal may be filed within 30 days of the decision.</p> <p><b>Source:</b> Section 9-15, 27, 29, 31 Child Adoption Act B.E 2522 (1979)</p>																																																						
<p><b>Adoption accredited bodies (AAB)</b></p>	<p>No person except the DSDW, the government agencies authorised by the DSDW or the Child Welfare Organisations licensed by the Director General shall take action in arranging the adoption of any child, directly or indirectly. Foreign AABs must show their authorisation and authority to act behalf of Thai child welfare organization as approved by the foreign Government before they given a license to work with a local Thai Child Welfare Organisation. A foreign child welfare organisation accredited to provide inter-country adoption services may enter into an adoption working agreement with an accredited adoption agency in another country. Without this working agreement foreign AAB's are not permitted to operate in Thailand</p> <p><b>Source:</b> Section 6 and 7 Child Adoption Act B.E 2522 (1979) and Ministerial Regulations</p>																																																						
<p><b>Transfer of the child</b></p>	<p>The DSDW will issue documents necessary for the child's travel, including a Thai passport. These documents will normally be issued on the same day as the meeting with the Adoption Board. The parent(s) will also receive the child on the same day.</p> <p><b>Source:</b> 2003 Guidelines for ICA</p>																																																						
<p><b>Statistics</b></p>	<p><b>Adoption from Thailand 2003 to 2007 – by number sent in 2006</b></p> <table border="1" data-bbox="367 1058 1459 1482"> <thead> <tr> <th>Country<sup>1</sup> Year &gt;</th> <th>2003</th> <th>2004</th> <th>2005</th> <th>2006</th> <th>2007</th> </tr> </thead> <tbody> <tr> <td>France</td> <td>83</td> <td>87</td> <td>84</td> <td>69</td> <td>71</td> </tr> <tr> <td>US</td> <td>72</td> <td>69</td> <td>73</td> <td>56</td> <td>67</td> </tr> <tr> <td>Finland</td> <td>64</td> <td>36</td> <td>42</td> <td>37</td> <td>27</td> </tr> <tr> <td>Germany<sup>3</sup></td> <td>32</td> <td>26</td> <td>43</td> <td>37</td> <td>n/a</td> </tr> <tr> <td>Sweden</td> <td>35</td> <td>27</td> <td>35</td> <td>30</td> <td>35</td> </tr> <tr> <td>Denmark</td> <td>10</td> <td>17</td> <td>16</td> <td>16</td> <td>31</td> </tr> <tr> <td>UK</td> <td>8</td> <td>11</td> <td>13</td> <td>16</td> <td>22</td> </tr> <tr> <td><b>TOTAL<sup>1</sup></b></td> <td><b>495</b></td> <td><b>515</b></td> <td><b>414</b></td> <td><b>360</b></td> <td><b>340<sup>2</sup></b></td> </tr> </tbody> </table> <p>These figures show a steady decrease in the number of children being adopted from Thailand.</p> <p><b>Source:</b> These statistics were kindly provided by Professor Peter Selman in October 2008.  (1) Adoptions also to Australia, Belgium, Canada, Germany, Ireland, Italy, Netherlands, Malta and Norway (2) 2007 figures – incomplete as no data for Canada, Germany and Ireland who together received 55 in 2006 (3) NB – AICAN figures much higher as they include step-parent adoptions</p>	Country <sup>1</sup> Year >	2003	2004	2005	2006	2007	France	83	87	84	69	71	US	72	69	73	56	67	Finland	64	36	42	37	27	Germany <sup>3</sup>	32	26	43	37	n/a	Sweden	35	27	35	30	35	Denmark	10	17	16	16	31	UK	8	11	13	16	22	<b>TOTAL<sup>1</sup></b>	<b>495</b>	<b>515</b>	<b>414</b>	<b>360</b>	<b>340<sup>2</sup></b>
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<b>TOTAL<sup>1</sup></b>	<b>495</b>	<b>515</b>	<b>414</b>	<b>360</b>	<b>340<sup>2</sup></b>																																																		

**ISS/IRC comments:**

The ISS/IRC notes with satisfaction that on 29 April 2004, Thailand signed and ratified the THC-1993, which entered into force on 1 August 2004. The ISS/IRC is also pleased that ICA's account for approximately 15% of all adoptions, showing that there is a respect for the principle of subsidiarity. Given that ICA quotas do not apply to special needs children, this creates a greater opportunity for these children to be adopted. The ISS/IRC also commends the legislative provision for a databank of PAPs and adoptable children, which should facilitate the adoption process.

However there are concerns that there are no clear legal provisions about the consent necessary especially as the adoption as such is not known in the Thai legal system.

## B. LEGISLATION: BASIC SUMMARY

INTERNATIONAL INSTRUMENTS	Signature (s) Ratification (r) Accession (a) In force (f)	Web sites
1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption	29 April 2004 (s and r) 1 August 2004 (in force)	<a href="http://hcch.e-vision.nl/index_en.php?act=conventions.status&amp;cid=69">http://hcch.e-vision.nl/index_en.php?act=conventions.status&amp;cid=69</a>
1989 UN Convention on the Rights of the Child	27 March 1992 (a)	<a href="http://www2.ohchr.org/english/bodies/ratification/11.htm">http://www2.ohchr.org/english/bodies/ratification/11.htm</a>
2000 Optional Protocol to the CRC, on the Sale of Children, Child Prostitution and Child Pornography	11 January 2006 (a)	<a href="http://www2.ohchr.org/english/bodies/ratification/11_c.htm">http://www2.ohchr.org/english/bodies/ratification/11_c.htm</a>
2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	27 February 2006 (a)	<a href="http://www2.ohchr.org/english/bodies/ratification/11_b.htm">http://www2.ohchr.org/english/bodies/ratification/11_b.htm</a>
1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children	Not signed	<a href="http://hcch.e-vision.nl/index_fr.php?act=conventions.status&amp;cid=70">http://hcch.e-vision.nl/index_fr.php?act=conventions.status&amp;cid=70</a>

COUNTRY LEGISLATION	Available at ISS/IRC Hard copy (h) Electronic version (e)	Web sites
Child Adoption Act B.E. 2522 (1979).	English & Thai (h).	Thai: <a href="http://www.dsdw.go.th/rule/t_porr2.pdf">http://www.dsdw.go.th/rule/t_porr2.pdf</a>
Ministerial Regulation No. 9 (B.E. 2543) Issued under the Child Adoption Act B.E. 2522 (1979).	English (h).	<a href="http://www.dekthaiyim.ch/system/files/child-adoption-act-1979.pdf">http://www.dekthaiyim.ch/system/files/child-adoption-act-1979.pdf</a>
<i>Directives for the intercountry adoption of Thai children</i> » updated in March 2003 by the Thai Central Authority (Department of Social Development and Welfare - DSDW).	English (h).	
Section 1598/19 of the Thai Civil and Commercial Code 1925 modified in 1976.	English (h).	French: <a href="http://membres.lycos.fr/rusiu/Thai/Page_43x.html">http://membres.lycos.fr/rusiu/Thai/Page_43x.html</a>
Constitution 1997.		English: <a href="http://www.oefre.unibe.ch/law/icl/th0000.html">http://www.oefre.unibe.ch/law/icl/th0000.html</a>

## C. PROTAGONISTS

### Central Authority and Competent Authority (art 23)

Child Adoption Centre Bureau of Anti-Trafficking in Women & Children  
Department of Social Development & Welfare  
Ministry of Social Development & Human Security  
255 Ratchawithi Road  
BANGKOK 10400  
Phone: +66 (2) 354 7500 or +66 (2) 354 7511  
Email: [adoption@loxinfo.co.th](mailto:adoption@loxinfo.co.th)  
Web: <http://www.dsdw.go.th/index.php>

Contact Person Mrs Chalatip PUNNABUTR  
Director of Child Adoption Centre  
Phone: +66 (2) 644 7990

Source: [http://www.hcch.net/index\\_en.php?act=authorities.details&aid=626](http://www.hcch.net/index_en.php?act=authorities.details&aid=626)

## D. APPENDICES

### 1. Documents of the Committee on the Rights of the Child

#### Second Report

- ▶ List of issues CRC/C/THA/Q/2 [E](#) | [F](#) | [S](#)
- ▶ Concluding observations, CRC/C/THA/CO/2, 17 March 2006 [E](#) | [E](#) | [S](#)
- ▶ Summary record of the 1113<sup>th</sup> meeting [CRC/C/SR.1113](#)
- ▶ Summary record of the 1115<sup>th</sup> meeting [CRC/C/SR.1115](#)

#### Initial Report:

- ▶ Concluding Observations, CRC/C/15/Add.97 [E](#) | [E](#) | [S](#)
- ▶ List of issues [CRC/C/Q/THA.1](#)
- ▶ Summary record of the 495<sup>th</sup> meeting CRC/C/SR.495 [S](#)
- ▶ Summary record of the 494<sup>th</sup> meeting CRC/C/SR.494 [E](#) | [F](#) | [S](#)
- ▶ Summary record of the 493<sup>rd</sup> meeting CRC/C/SR.493 [E](#)
- ▶ Summary record of the 491<sup>st</sup> meeting CRC/C/SR.491 [E](#)

### 2. State Reports to the Committee on the Rights of the Child

#### Second Report

- ▶ Second Periodic Report CRC/C/83/Add.15, 24 January 2006 [E](#) | [E](#) | [S](#)
- ▶ Written replies CRC/C/THA/Q/2/Add.1 [E](#) | [E](#) | [S](#)

## Initial Report:

- ▶ Initial Report CRC/C/11/Add.13

[E | F](#)

### 3. Alternative Reports

## Second Report:

- ▶ Thailand NGO Report on the Implementation of the Convention on the Rights of the Child  
[http://www.crin.org/docs/Thailand\\_NCYDCRC\\_ngo\\_report.doc](http://www.crin.org/docs/Thailand_NCYDCRC_ngo_report.doc)

## Initial report:

- ▶ Various reports submitted by NGOs  
Children from Burma Seeking Asylum in Thailand Human by Humans Rights Watch, Sexual Exploitation of Children in Thailand by Focal Point on Sexual Exploitation of Children, The Risk to Burmese Children in the Event that the Royal Government Forcibly Repatriates the Burmese Refugees by Burma Peace Foundation and The Need for Assistance and Protection for Refugee Children from Burma's Shan State in Thailand by Burmese Relief Centre  
[http://www.crin.org/resources/find\\_altrep.asp](http://www.crin.org/resources/find_altrep.asp)

### 4. Other sources of information

## PROCEDURE

- ▶ **U.S. Department of State**  
[http://www.travel.state.gov/family/adoption/country/country\\_337.html](http://www.travel.state.gov/family/adoption/country/country_337.html)
- ▶ **2005 Questionnaire on the implementation of the 1993 Hague Convention**  
[http://www.hcch.net/index\\_en.php?act=conventions.publications&dtid=33&cid=69](http://www.hcch.net/index_en.php?act=conventions.publications&dtid=33&cid=69)  
No Replies available for Thailand

## OTHER SOURCES

- ▶ **Child workers in Asia**  
<http://www.cwa.tnet.co.th/>
- ▶ **NGO Group for the CRC**  
[http://www.crin.org/docs/CRC41\\_Thailand.doc](http://www.crin.org/docs/CRC41_Thailand.doc)
- ▶ **Working Group on Children in Thailand and list on NGOs**  
<http://www.crin.org/organisations/viewOrg.asp?ID=1169>

  
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