



# ANNEX

## “SEARCH FOR ORIGINS”

### CHINA

### Reviewed by local contacts

#### ACCESS TO ORIGINS IN CHINA

##### Historical context of adoption in the country

Historically, China has a long and rich adoption tradition dating from the Imperial times. Indeed, during these days, families who did not have any sons would adopt boys, oftentimes nephews, to continue the male lineage. Both boys and girls were adopted formally and informally, usually becoming fully integrated into their adoptive families.

(Domestic) adoption, especially informally, has always existed in the Chinese culture and still to this day it is perceived by Chinese as a permanent family solution for orphans and abandoned children. However, China enacted detailed legislation recognising adoption only in 1981, with the [Marriage Law](#). Prior to January 1981, there were no standardised adoption laws and regulations in China. Commonly, adoptions were orally agreed to by the adoptive parent(s) and biological parents and/or surviving family members. There may or may not be a written record dating from the time of the adoption in these older cases. Parties to pre-1981 adoptions, however, often secured Notarial Adoption Certificates at a later point in time that listed the biological parents' names, adoptive parents' names, and the date of the adoption. These certificates were meant to be issued only after the notary ascertained that an adoption took place conforming to local practice and regulation.

To fully understand the adoption phenomenon in China, one must refer to the [One Child Policy \(OCP\)](#) which has profoundly affected its evolution in the country. The OCP is a population planning initiative first introduced by the government in 1979 with the aim of curbing the country's population growth by restricting many families to have a single child. This initiative was part of a much broader effort to control population growth that began in 1970 and spanned over half century. Features of the OCP included minimum ages at marriage and childbearing; one child for many couples; minimum time intervals between births; heavy surveillance; and stiff fines for non-compliance.

Couples were hence allowed to have only one child (increased at two-child limits in 2015 and three-child limits in May 2021), although there were exceptions for rural families and ethnic minorities. In [July 2021](#), all limits, as well as penalties were removed. This programme had wide-ranging social, cultural, economic, and demographic effects, dramatic consequences and far-reaching implications on the adoption system. Under the OCP, hospital birth and household registration (*hukou system*) are both prohibited without birth permission. Children “born out of plan” had no legal identity, as they could be or were not registered as legal residents in the hukou system, and thus were

unable to obtain official documents, including birth certificates and passports. Secondly, patriarchal attitudes and a cultural preference for sons was well-publicised leading to the abandonment and placement in orphanages of unwanted infant girls. This is believed to be the reason behind why the majority of Chinese adoptions in the past years mainly concerned girls. Thirdly, it has also caused the phenomenon of the so-called “[black children](#)”, children born outside the one-child policy, and not reported to the authorities for birth registration process to avoid financial or social penalties. In such cases, many families preferred to give up privately their children to other relatives or families. According to [some authors](#), these unregulated and unregistered adoptions, were more common than the adoptions registered within the Chinese public administration. Fourthly, the OCP caused the sprouting of many illicit practices such as child-trafficking related to adoption. Indeed, because the welfare children’s institutions received donations for each adoption realised, they were eager to receive abandoned infants and children to be placed for adoption, hence transforming the once-unwanted Chinese girls into valuable commodities worth stealing. There have been also reports of poor families “selling” unplanned babies to richer couples in China.

If by 1988, China allowed for limited intercountry adoptions under its adoption requirements (only 12 children from China were adopted by American families in 1988 because the application process and adoption requirements were harsher for foreigners than the procedures governing domestic adoption), within just a few years, China’s healthy infant and toddler girls were in high demand in developed countries worldwide; adoptions grew rapidly<sup>1</sup>. Indeed, in the 1990s, China, coupled with Romania and Russia, dominated the scene of intercountry adoption.

In response to an increasing foreign demand to adopt Chinese children, and an attempt to equalise domestic and intercountry adoptions, the Chinese government codified its adoption laws and regulations in the [Adoption Law of China](#) on December 29, 1991, which came into effect on April 1, 1992. The Adoption Law unified intercountry adoptions and eliminated much of the confusion and corruption associated with intercountry adoptions at local level. Later on, in 1999, in an attempt to facilitate adoption and remove the crowded conditions in the orphanages, China enacted [amendments](#) to the Adoption Law in November 1998 which took effect on April 1, 1999.

Under the 1992 Adoption law, a Notarial Adoption Certificate was required in all adoption cases, and the inability to obtain a Notarial Adoption Certificate was prima facie evidence that no legal adoption ever took place. Therefore, adoptions taking place after January 1981 and before April 1, 1999, are considered valid only with the issuance of a Notarial Adoption Certificate. Additionally, for adoption cases initiated during this period, the date of issuance of the Notarial Adoption Certification serves as the effective date of adoption. Under the 1999 revised law, Notarial Adoption Certificates are no longer required, nor are they used to establish the effective date of adoption. Instead, a Certificate of Registration of Adoption is used, and the effective date of an adoption is the date of registration (see “Adoption registration” section in the Country Situation).

The Adoption Law has now been repealed by the **new Civil Code**, being family and adoption matters codified in its Chapter V.

Finally, it should also be pointed out that in China, birth certificates were not mandated by law until 1994, so prior to this official documentation of a person's birth depended on local authorities. The People's Republic of China issued its first birth certificate on [January 1, 1996](#).

*Sources:* Wikipedia; Chinese [Civil Code](#); Peter Selman, [Intercountry adoption in the new millennium; the “quiet migration” revisited](#), in Population Research and Policy Review 21: 205–225, 2002; Crystal J. Gates, [China’s Newly Enacted Intercountry Adoption Law: Friend or Foe?](#), 7 IND. J. GLOBAL LEGAL STUD. 369 (1999); Margaret Ryznar, [Adoption in China: past, present and yet to come](#)”, in Georgia Journal of International and Comparative Law , 2017; Cui, Can and peng, Sha and Li, Cai and Zhang, Chuanchuan and Wang, Zhen and Zhang, Xiaoling and Wei, Liyuan, Clan Culture, [One-Child Policy and Child Trafficking of Illegal Adoptions in China](#) (2018); Rachel A. Bouman, [China’s Attempt to Promote Domestic Adoptions: How Does China’s One-Child Policy Affect Recent Revisions in China’s Adoption Law and Measure Up to the Hague Convention](#), 13 Transnat’l Law. 91 (2000).

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1 For example, the annual number of adoptions from China to the United States rose from 61 in 1991 to 4,206 in 1998. See P. Selman cited in the sources.



## CURRENT SITUATION

### Legislation

There is no specific law on this issue. Some relevant provisions can be found in the new [Civil Code](#) in force since January 2021.

### Rights and conditions for access to information

**Legal obligation to inform adoptees about their adoption:** The law is silent in this regard.

**Rightholder(s):** Adopted persons and adoptive parents.

**Right to remain anonymous:** the new [Civil Code](#) recognises the right to adopters, biological parents or guardians to oppose a veto against disclosing adoption information (art. 1110).

Sources: [HCCH country profile](#) (2022); [Questionnaire on the practical operation of the 1993 Adoption Convention](#) - Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021.

### Information keeping

**Competent authority(ies):** CCCWA, social welfare institutes and registry office of the provincial department of civil affairs preserve the information concerning the child's origins.

**Duration:** The information concerning the child's origins are preserved indefinitely.

**Types of information kept:** In 2015, China developed and put into use the **Child Placement Information System for Inter-country Adoption** to realise the electronic storage and processing of adopters and adoptees' information (i.e. information concerning the child's origins and the adoption of the child).

Sources: [HCCH country profile](#) (2022); [Questionnaire on the practical operation of the 1993 Adoption Convention](#) - Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021; ISS/IRC local contacts.

### Procedure

**N.B. :** There is not an official and standardised procedure for the search of origins, besides the fact that the CCCWA has not established a specific programme for tracing the origins of adopted children. Chinese authorities at all levels do not actively support the search for origins, but neither do they disapprove of such efforts.

ISS/IRC contacts informed that they were unable to identify any government programmes providing reunification or tracing services for biological families. These services appear to be primarily in the non-profit or private for-profit sectors. There are many organisations assisting and/or supporting adoptees in tracing their biological families in China (for instance, [ICAV](#), [My China Roots](#)", [Holt International](#), [Chinese Adoptee Alliance](#) (formerly FCCNY), [Research-China.org](#), [Baobeihuijia.com](#) or the "[Nanchangproject](#)").

**Competent authority(ies):** Questions about personal background should be addressed to the CCCWA, the main point of contact for the entitled persons interested in obtaining additional information about their child's or their own pre-adoption background. According to the [US Department of State](#), however, the CCCWA may have limited information for adoption cases occurred prior to 2011.

**Access to the adoption file:** Adoptees over 18 can have access to the adoption file/documents independently, whilst those younger than 18 need to be accompanied by their adoptive parents. Adoptive parents need to apply through their adoption agency. According to the [CCCWA's website](#), "foreign adopters and adoptees .... shall submit to CCCWA an application for referring to archives and passport copies of the persons who intend to check the archives. The application shall declare the purpose, time, the content of the archives to be referred to and the former name of the adoptees as well as the approval number of the *Notice of Traveling to China for Adoption*". For further information, please contact [Archives Management Division of CCCWA](#).



**Type of information:** the CCCWA may disclose the following documents: birth Certificate; adoption certificate; abandonment certificate, and medical examination.

**Contact request to the biological family:** No State assistance is provided to adoptees seeking for their origins. See below.

**Possible search results:** No official information.

**Follow-up:** No official information.

**Refusal of Contact:** No official information.

**Required documents:** Civil society organisations normally assist with document collection and communication with the search partners in China.

**Cost:** no official data. Costs vary according to each organisation.

*Sources:* [CCCWA](#); [HCH country profile](#) (2022); [Questionnaire on the practical operation of the 1993 Adoption Convention](#) - Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021; [US Department of State](#); several organisations: [ICAV](#), [My China Roots](#), [Holt International](#), or the [Nanchangproject](#), and ISS/IRC local contacts.

### Heritage tours

The [CCCWA](#) provides help in organising return trips for Chinese adoptees and their adoptive parents.

The organisation [Bridge of Love for Adoption Service \(BLAS\)](#), entrusted by the Ministry of Civil Affairs is responsible for the organisation, coordination and implementation of foreign adoptive family root-seeking tours. The trips can include a visit to the city where the adoptee is from, as well as a visit to the social welfare institute.

Moreover, the Chinese authorities have launched Chinese cultural education lottery fund projects launched to help children adopted internationally to pay a return visit to their welfare institutions and to experience Chinese culture.

Also, there are civil society organisations organising heritage tours, such as "[My China Roots](#)" or the "[Nanchangproject](#)".

*Sources:* [CCCWA](#); several organisations: [ICAV](#), [My China Roots](#), [Holt International](#), or the [Nanchangproject](#), and ISS/IRC local contacts.

### Biological family (or other relatives) seeking the adoptee

Under Chinese law, biological families and other persons are not entitled to have access to the adoption file of the adoptee.

However, more and more biological families have created Facebook pages or organisations with the aim of searching for their children adopted abroad (see for instance [International Child Search Alliance](#), ICSA).

*Sources:* [HCH country profile](#) (2022); [Questionnaire on the practical operation of the 1993 Adoption Convention](#) - Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021; several organisations: [ICAV](#), [My China Roots](#), [Holt International](#), or the [Nanchangproject](#).

### Preparation and support provided

**Legal obligation of counselling of the adoptee:** Not provided by law. Preparation, support and is usually provided by civil society organisations.

**Counselling of birth relatives:** The law is silent on this aspect. However, civil society organisations, such as [Nanchangproject](#), can provide emotional support to birth families.



**Training of professionals:** the [Law on the Protection of minors](#) (arts. 14, 84, 101) recognises the importance of strengthening personnel training, but no specific training on the search for origins is mentioned in the legislation.

Sources: [HCCH country profile](#) (2022); [Questionnaire on the practical operation of the 1993 Adoption Convention](#) - Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021; several organisations: [ICAV](#), [My China Roots](#), [Holt International](#), or the [Nanchangproject](#).

## Challenges

**Discovery of irregular/illicit practices:** Trafficking for the purpose of adoption in China has been a recurrent issue. Already in 2005 and again in 2013, the Committee on the Rights of the Children expressed concerns about the extreme high number of “children ... estimated to be abducted, trafficked and sold every year, including for illegal adoption purposes” (see [CRC/C/OPSC/CHN/CO/1](#), para. 11 & [CRC/C/CHN/CO/3-4](#), para. 56-57).

Moreover, some [academic papers](#) (2018) related that “the dominant driver of child trafficking in China is illegal adoption. The child trafficking for illegal adoption in China includes not only the child abduction and trading, which is a great public concern in China, but also private adoptions from relatives and friends...”.

## Statistics

No official data available.

By way of an example, since 2018, the Nanchang Project has been contacted by over 200 biological families who are searching for their children, and, to date, has made over 40 matches between searching Chinese families and children who were adopted abroad.

Sources: [Nanchangproject](#); ISS/IRC local contact.

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