

PRESS RELEASE

Asian-African Tsunami Disaster and the Legal Protection of Children

The Secretary General of the Hague Conference on Private International Law (HCCH), noting with great concern reports in the media about the irregular removal of children victims of the recent tsunami disaster that affected several Asian and some African countries, makes the following information available to governments, international organisations and the public.

HCCH has developed several important tools to protect children against risks involved in their cross-border movements. International child abduction and intercountry adoption, in particular, are the objects of two specific multilateral instruments.

The 1980 Convention on International Child Abduction

Children and their families are protected against the risks of wrongful removal across international borders by the *Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*. In the region affected by the disaster, both *Sri Lanka* and *Thailand* are parties to this Convention, which is in force for more than 70 other countries. This Convention is based on a system of co-operation through national Central Authorities and reinforces the principle that all States should take measures to combat the illicit transfer and non-return of children abroad (Articles 11 and 35 of the *UN Convention on the Rights of the Child*).

The 1993 Convention on Intercountry Adoption

Children and their families are protected against the risks of illegal, irregular, premature or ill-prepared adoptions abroad by the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*. In the affected areas, *India*, *Sri Lanka* and *Thailand* are parties to this Convention, to which more than 60 other States are also parties. This Convention, which also operates through a system of national Central Authorities, reinforces the *UN Convention on the Rights of the Child* (Article 21). The Convention seeks to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children. In 2000, HCCH adopted a Recommendation to the effect that States parties should, as far as practicable, also apply the standards and safeguards of the Convention to the arrangements for intercountry adoption which they make in respect of States that have not yet joined the Convention.

Intercountry Adoption of Displaced Children

HCCH, in consultation with UNHCR, in 1994 adopted a specific Recommendation urging all States - whether or not parties to the 1993 Convention - to observe particular caution in order to prevent irregularities in respect of any cross-border adoptions of refugee children and children who are, as a result of disturbances in their countries, internationally displaced.

The Recommendation *inter alia* provides that States to which a child has been displaced "before any intercountry adoption procedure is initiated shall take particular care to ensure that –

- all reasonable measures have been taken in order to trace and reunite the child with his or her parents or family members where the child is separated from them; and
- the repatriation of the child to his or her country, for purposes of such reunion, would not be feasible or desirable, because of the fact that the child cannot receive appropriate care, or benefit from satisfactory protection, in that country."

In the spirit of this Recommendation, it is clear that in a disaster situation, like that brought about by the tsunami, efforts to reunify a displaced child with his or her parents or family members must take priority and that premature and unregulated attempts to organise the adoption of such a child abroad should be avoided and resisted.

The Permanent Bureau of HCCH is prepared to give whatever assistance or advice it can to authorities in the countries affected in relation to these matters. Please contact the Deputy Secretary General, Mr William Duncan.

For more detailed information on the aforementioned instruments please see HCCH website at: www.hcch.net, and then choose:

- Hague Convention on International Child Abduction (Convention #28):
http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=24

- Hague Convention on Intercountry Adoption (Convention #33):
http://hcch.e-vision.nl/index_en.php?act=conventions.text&cid=69

- Recommendation on Displaced Children:
http://hcch.e-vision.nl/index_en.php?act=publications.details&pid=934&dtid=2

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