

Responses to Questionnaire on the Practical Operation of The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.

Country: NEW ZEALAND

A. EXPLANATIONS AND QUESTIONS

1) Description

(a) New Zealand is a receiving State.

(b) New Zealand acceded to The Convention on 1 January 1999.

(c) New Zealand was represented at the 2000 Special Commission by the Central Authority representatives. The conclusions and recommendations were discussed by relevant authorities.

2) Good Practice

2 (a) (i) The Central Authority has developed a best practice model for intercountry adoption and how it interacts with accredited agencies.

An “Education and Preparation” programme has been developed for adoptive applicants. It covers the needs of children in intercountry adoption, attachment issues, identity formation, and cultural and social identity among a range of topics.

The practice of “open adoption” is now more widely accepted in New Zealand and promotes opportunities for adopted children to have ongoing contact with their birth families throughout their growing years.

The Adult Adoption Information Act 1985 enables adult adopted persons and their birthparents to have access to identifying information about each other.

(ii) The quality of information about the child in the child study report in the Philippines. Their matching process and focus on the child’s need as a paramount consideration.

2 (b) Unable to make comments as the Guide has not been received as yet.

2 (c) Proposals to remedy these inconsistencies have been developed but not progressed this financial year.

(ii) Lack of response to correspondence from Central Authorities for information about establishing a programme.

No assessments available for family adoption proposals from India.
Agencies offering children to applicants who have no valid home study and are acting outside CARA's guidelines.
Request for extra "donations".

2 (d) Not applicable

3) Questions Concerning Scope

- (a) In New Zealand the courts have considered the issue of habitual residence of a child in relation to an application for adoption where the child was born to a surrogate mother. It was determined that the habitual residence of the child was that of the commissioning parents who had returned New Zealand with the child immediately after the birth which had taken place in another Contracting State.
- (b) There has been an incident where the child has been born in New Zealand and relatives have by consent taken the child to another Contracting State. The habitual residence of the child has again been considered to be that of the adoptive applicants rather than that of the birth mother.
- (c) There have been incidents where the child was removed from the country of origin and entered the receiving country on a visitors permit "for the purpose of adoption".

Child entered the country on a falsified birth registration.

4) General Principles for Protection of Children

- (a) Care and protection legislation in New Zealand considers best care options based on the principle of subsidiarity. Kinship care is considered a first option and a family group conference is called to explore the options available within the extended family. If this is not a possibility children and young people are placed in foster care, family homes or other residential programmes depending on their needs.
- (b) All children made available by relinquishing parents in New Zealand are placed locally by the birth parents choosing adoptive parents from an "approved pool". There have been a few occasions of New Zealand born children placed overseas for adoption with relatives.
- (c) Provided the natural guardian or person having the guardianship of the child has signed consent to adoption there are no conditions that would render a child unadoptable in New Zealand.
- (d) Not applicable

- (e) New Zealand has not made use of the recommended model form for the Statement of Consent to Adoption, as there is an existing affidavit in existence within the Adoption Act 1955.
- (f) Not applicable in New Zealand
- (g) All adoptive applicants must have police checks, medical checks and provide referees who know them well. Checks are also made of Child Youth and Family's own database identifying any previous contact that may relate to child abuse, neglect or poor parenting.
- (h) All applicants are required to attend three all-day adoption education and preparation seminars. The information gathered from documentation and social work interviews culminates in an assessment by social workers of their suitability. In domestic adoption, the applicants then develop a personal profile, which will be accessed by relinquishing birth parents to assist them to choose a family appropriate to parent their child. For inter-country adoption the assessment culminates in a Home Study Assessment Report and the process then follows the Convention.
- (i) Counselling as such, is not included in New Zealand legislation. The education and preparation programmes that applicants are obliged to attend are exploratory seminars that encourage self-development. As a matter of good social work practice elements of counselling are always incorporated into any interview or preparation work done with applicants.
- (j) Once adopted the child becomes as if born to the parents therefore is able to access all of the health and welfare services available across the country. Anyone or organisation is able to provide adoption related post placement services in respect to counselling and welfare. The Department of Child Youth and Family Services through the Adoption Information and Services Unit provides post-placement support services related to ongoing open adoption placements and adult adopted people and their birthparents who request mediation pre-reunion counselling and support during and after contact has been made. Extended family members are equally able to, make use of the service. Searching for parties to past adoptions internationally is done through the International Social Service network.

5) Central Authorities

- (a) The Chief Executive of the Department of Child, Youth and Family Services (Child, Youth and Family), the Government statutory social service agency in New Zealand, is the Central Authority under the Hague Convention on Inter-country Adoption (NZCA). Child, Youth and Family provides local and inter-country adoption services for the citizens and residents of NZ. The NZCA is also responsible for the accreditation of non-government organisations to undertake certain functions.

The Chief Executive of Child, Youth and Family has all the duties may exercise all the powers and must perform all the functions of a Central Authority under the Convention.

The Chief Executive has delegated operational policy development and service delivery of local and intercountry adoptions and services under adult adoption information to the National Manager, Adoption Information and Services Unit (AISU). The AISU within Child, Youth and Family performs directly all of the functions under Chapter IV of the Convention.

- (b) The AISU has a staff of 81. Her social work staff comprises one principal advisor; 4 senior advisors at national office level; 3 Practice Managers who supervise supervisors and ensure quality practice; 14 Social Work Supervisors, some of whom also carry case loads; 43 Social Workers, most of whom work full-time. The National Manager, Adoptions also has a designated legal advisor. All social workers have inter-country adoptions as part of their caseloads. Overall approx 36% of the social work caseload is inter-country adoption related. 40% are local adoption related and 24% are post adoption services under the Adult Adoption Information Act 1985.

Of the adoption staff 90% are appropriately tertiary qualified and the average length of service in adoption social work is 10.7 years.

- (c) All staff receive induction and ongoing training as identified in their personal development plan.
- (d) New Zealand has limited its programme with other Central Authorities due to competing demands for resources in the welfare sector.
- (e) Communication between countries with different languages is always complex and expertise in translating is required. Misunderstandings can emerge during translation. Technical equipment varies between countries and communications don't always appear to have been successful.

6) **Accreditation**

- (a) The NZCA grants accreditation to accredited bodies.
- (b) To date the NZCA has accredited 2 organisations.
- (c) Standards for the accreditation of non-government organisations guidelines and legislation has been provided in 2000.
- (d) Standards for the accreditation of non-government organisations guidelines and legislation has been provided in 2000.
- (e) Standards for the accreditation of non-government organisations guidelines and legislation has been provided in 2000.
- (f) Bodies accredited by the NZCA are supervised by way of regular meeting discussions and financial audits yearly.
- (g) The supervision of accredited bodies is by way of regular meeting discussions and financial audits yearly.
- (h) No difficulties have been encountered so far by the NZCA.
- (i) The NZCA are not aware of any contraventions.
- (j) The conditions are set out in the regulations and must be adhered to.
- (k) No difficulties have been experienced by NZCA.
- (l) No difficulties have been experienced by NZCA.
- (m) Yes this would be a very valuable tool for all countries.

6 (2) The NZCA will not undertake to accredit foreign accredited bodies in New Zealand.

- (a) Not applicable
- (b) Not applicable
- (c) Not applicable

6 (3) New Zealand has sufficient accredited bodies of its own to not require to accredit foreign accredited bodies to work in New Zealand.

6 (4) The development of model guidelines and standards.

6 (5) Very much needed. Evaluation of the services, supervision, recruitment of staff and what processes are in place to ensure the principle of subsidiarity has been complied with.

6 (6) The NZCA will not approve bodies or persons.

7) Procedural Aspects

(a) The NZCA would like more information about the child where this is available. New Zealand has open adoption practice and access to information for adult adopted people and their birth-parents, therefore requests for information is high.

(b) Not experienced any difficulty

(c) The experience is variable, some excellent - others not so transparent.

(d) No difficulty experienced.

(e) The NZCA is having difficulty with India in relation to relative adoptions.

(f) Not applicable.

(g) No difficulties experienced.

(h) The waiting period from accepting the child and being able to travel has been very long in some instances.

2) It is possible under current domestic adoption legislation for prospective adopters to make their own arrangements if the sending country permits this.

3) Where this is permitted there are ongoing concerns with the lack of transparency around the process used or any fees sought. There is a lack of a matching process and any exchange of information about the child.

4) There have been two placement disruptions, one relative adoption where the child returned to the country of origin to other family members. The second child will be re-placed within New Zealand in consultation with the country of origin.

5) We would favour this course of action.

6) No cases have come to our attention where this occurred

8) Private International Law Issues

(1) (a) No we are not aware of any

(b) No we are not aware of any

(2) No difficulties experienced

9) Recognition and Effects

1) No

2) No

3) No

4) No

10) Payment of Reasonable Charges and Fees

(1) No fees are charged in New Zealand in respect of intercountry adoptions.

(2) No experience in this area.

(3) Such changes should be transparent and receipted. Evidence that this money is spent for the purpose it was obtained for should be provided by way of monitoring by the appropriate body.

(4) The NZCA believes this is an undesirable practice.

(5) The NZCA has no evidence.

(6) The NZCA has no evidence of this.

(7) Not applicable.

(8) An international schedule of fees should be available and easily accessible to determine what costs are reasonable.

(9) In countries where individual applications are permitted it is difficult to determine or control what payments are made.

11) Improper Financial Gain

- (1) New Zealand adoption legislation does not permit this.
- (2) No action has been taken.
- (3) Not aware of any difficulties.
- (4) Same as (1) – no further measures have been taken.
- (5) We have no measures preventing soliciting.
- (6) Where the NZCA took some action, responses were slow when the issues were raised.

12) Relative Adoptions

New Zealand has a large number of intercountry family adoptions and we believe the same standards should apply.

13) Children with Special Needs

New Zealand has a “pool” of approved adoptive parents and is able to place local special needs children within New Zealand and do not need to consider intercountry adoption.

14) Other Forms of Cross-Border Child Care

- (1) New Zealand is involved in international placements of children other than for the purposes of adoption.
- (2) Yes. Some of these placements have broken down and result in the child coming into the care of the state in a foreign country.
- (3) New Zealand is currently considering the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the protection of Children.

15) Avoiding the Convention

The NZCA is aware there are occasions where this is attempted. There are occasions where individuals have brought in a child on a visitors permit with the intention of remaining in the country and later apply for adoption.

Where there are no immigration restrictions between countries it is possible for children to be moved without the safeguards of the Hague Convention.

16) Additional Safeguards and Bilateral Arrangements

- (a) New Zealand has a bilateral agreement with China which works very effectively; Convention safeguards are applied.
- (b) Not applicable

17) Limits on Number of States with whom Co-operation is Possible

The NZCA has limited its number of Hague Convention country agreements for financial considerations and size of the New Zealand population and the demand for ICA. It's also necessary to consider that an appropriate fit for the child is created to ensure an easier adjustment, particularly for older children and possible return visits to country of origin.

B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION

18) The NZCA does have regular seminars on the adoption and the Convention. We would welcome participants from other countries. We keep informed of such activities by being an Affiliated Bureau of International Social Service, Geneva and their Resource Centre.

19) Yes we would support this.

20) The NZCA would strongly support a discussion about Relative Adoptions. Monitoring of accredited agencies; universal fee scales and transparency of fees charged. Universal guidelines for accreditation.

Other issues such as approx age limits of adoptive applicants. Limits on family size. Limits on the number of post-placement reports and years they should continue.

21) Nil