INTERCOUNTRY ADOPTION AND INTERCOUNTRY ADOPTION SERVICES

ABSTRACT

In Canada, adoption comes under the jurisdiction of provinces and territories; however, many federal government departments play a role in the process. Social Development Canada, (Intercountry Adoption Services) is the lead federal department in intercountry adoption.

Intercountry adoption is intended to provide a permanent solution for a child who cannot, for whatever reason, be brought up by his or her parents, and for whom no suitable care can be identified and arranged in his or her country of origin.

More and more Canadian families are adopting children from foreign countries to build the kind of family they want. Over the past five years, Canadian families adopted approximately 10,000 children (about 2000 per year). The tables in this article provide statistical data on children adopted between 2000 and 2004.

While adoption meets some of the needs of each member of the adoption circle, the primary focus in adoption is to safeguard and serve the best interests of the child. Therefore, it is incumbent upon Canadian authorities, and authorities in the child's country of origin, to ensure that that child's best interests are paramount.

This article provides general information about intercountry adoptions, the roles played by the provincial, territorial and federal governments, the process involved in adopting a child from another country, and issues related to intercountry adoption.

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Provincial/territorial role

Under Canada's Constitution, the provinces and territories are responsible for social welfare matters, including adoptions. Each province and territory has its own legislation and policies regarding adoption and its own administrative structure. They are responsible for case management of individual adoption arrangements and supervision of adoption agencies that place children within their jurisdictions.

Intercountry adoption laws

Canada's role in intercountry adoptions is guided by the principles enunciated in Article 21 of the *United Nations Convention on the Rights of the Child*, and the *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption*. These international conventions are intended to protect children's fundamental rights, to provide safeguards to ensure that intercountry adoptions take place in the best interests of the child, and to establish a system of cooperation among states to prevent the abduction, sale or trafficking of children.

Federal Departments involved

The following four departments have a role in intercountry adoption.

- Social Development Canada (SDC) is the lead federal department on intercountry adoption. SDC is also the Federal Central Authority under the *Hague Convention on Protection and Co-operation in Respect of Intercountry Adoption*, and as such, ensures, along with the provinces and territories, that the Convention is implemented. Intercountry Adoption Services (IAS) has the responsibility to undertake the work on the department's behalf.
- The Department of Justice is the official liaison to the International Conference on Private and International Law, i.e. the Permanent Bureau for the *Hague Convention on Intercountry Adoption*.
- Foreign Affairs Canada, through its missions abroad, provides consular services and acts as Canada's diplomatic liaison in communications and problem resolution.

- Citizenship and Immigration Canada considers applications of sponsorship from citizens and permanent residents who wish to adopt a child from a foreign country. CIC ensures that adoptions proceed in accordance with immigration legislation and in accordance with laws of foreign countries.

Role of the Intercountry Adoption Services (IAS)

IAS provides a liaison and coordination service to the provincial and territorial Adoption Co-ordinators. As such, its role is to work closely with them to provide links between the them and other federal departments and foreign countries involved with intercountry adoption issues.

Intercountry Adoption Services carries out three main functions:

- Facilitating issue resolution between provincial/territorial jurisdictions and other countries. IAS focuses on issues that affect multiple Canadian jurisdictions. This includes obtaining information on child trafficking for the purposes of adoption and facilitating pan-Canadian responses to such situations. As well, it works on policy issues that affect multiple jurisdictions.
- Gathering data and research. This includes gathering and disseminating information that would be of value to provincial/territorial adoption authorities such as legislative developments in other countries that could affect domestic practices, as well as data on various aspects of adoptions.
- Facilitating communications and strong working relationships among adoption officials in Canada at the federal, provincial, and territorial levels. This includes sharing knowledge and experiences in working in intercountry adoptions. IAS chairs a federal interdepartmental committee on intercountry adoption.

The Adoption Process

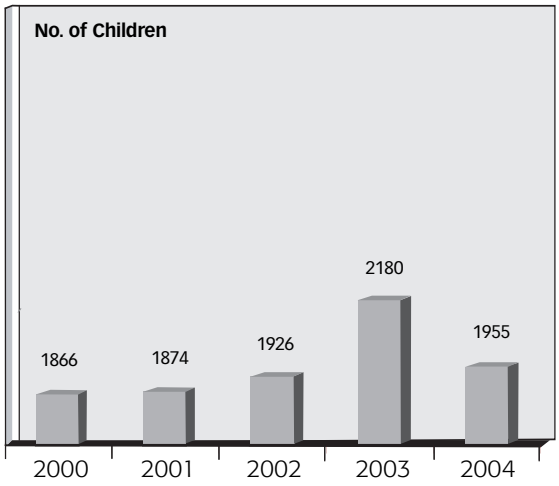
The adoption process and requirements vary by country; however, the following steps outline the process generally followed by prospective adoptive parents. It is generic and does not take into account variances that occur in each province and territory.

i) Prospective adoptive parents contact an agency or provincial/territorial officials responsible for intercountry adoptions. Currently, only Quebec, Ontario, Manitoba and British Columbia license agencies to facilitate intercountry adoptions. In other jurisdictions, the work is undertaken by government officials.

ii) A social worker who is independent or who is either from an agency or provincial/territorial ministry conducts a home study to determine the suitability and eligibility of prospective adoptive parents to adopt. Provincial/territorial legislation determines, as well as the requirements of the country of origin of the child, what is included in a homestudy.

iii) Prospective adoptive parents provide the documentation required by the child's country of origin.

Total Number of Children Adopted (2000-2004)



Source: Citizenship and Immigration Canada

iv) The province/territory or licensed agency sends the home study along with all the documents required to the appropriate authorities of the country of origin of the child.

v) The authorities abroad normally match a suitable child to the prospective adoptive parents and send a profile (Child Report) of the child to the province/territory or licensed agency.

vi) The province/territory or licensed agency notifies the appropriate authority/ agency in the country of origin of the child that the prospective adoptive parents have accepted the child proposal.

vii) Adoptive parents submit an Application to Sponsor and Undertaking Form (Citizenship and Immigration Form IMM1344) to the Case Processing Centre (CPC) in Mississauga.

viii) The CPC processes the application and informs the appropriate Canadian visa office abroad.

ix) Generally, the authority/agency in the child's country of origin notifies the agency or authority in Canada that the child is ready to be adopted.

x) Prospective adoptive parents travel abroad to meet and bring their child home and to complete any other requirements necessary for the adoption. In some countries, prospective adoptive parents may attend the adoption hearing or visit the adoption authorities.

xi) Adoptive parents obtain a passport from the child's country of origin and a visa for the child.

xii) Upon return to Canada, post-adoption requirements by country of origin go into effect.

Information on adoption procedures and requirements for each province and territory can be found on the Social Development Canada website at: www.sdc.gc.ca/en/hip/sd/09_provTerrGov.shtml

Adoptions from Top Ten Countries in 2003 and 2004

Country	2003	2004
China	1112	1001
Haiti	150	159
Russia	92	106
South Korea	73	97
United States	74	79
Philippines	58	62
Thailand	38	40
Colombia	37	38
India	70	37
Ethiopia	14	34

Source: Citizenship and Immigration Canada

Adoption Issues

As interest in intercountry adoption is increasing, so too are the number of problems such as inefficient processes, illegal practices, disregard of laws/regulations, and trafficking of children.

The following are some of the intercountry adoption issues that are addressed by IAS.

Child Trafficking and Corruption

In certain countries, processes are very slow and adoptive parents may feel obliged to bribe officials to speed up the adoption process. In other situations, the documents on the child may not meet immigration or provincial adoption requirements, and officials will accept money to falsify the documents. Some officials accept a small "gift" from parents, such as leather briefcases, expensive perfume and even wallpaper. In still other situations, foreign adoption officials may be involved in child trafficking schemes. They may work with agents/agencies/ orphanages that give small sums of money to poor mothers for their child. The agents/agencies/orphanages then charge exorbitant fees for adoption services, and provide bribes to government officials to permit the operation of such schemes. Sometimes mothers are offered shelter and food for their child in a childcare centre and when the mothers return to fetch their child, they find the child has "disappeared."

This problem is compounded by the fact that provinces and territories have no control over the foreign adoption agents/agencies/ orphanages that are associated with licensed Canadian agencies. It is sometimes difficult for the agencies to know exactly what their agents and orphanages in foreign countries are doing. Provinces and territories sometimes become aware of corruption when parents who have adopted advise them of unethical practices they may have experienced. Parents who have been involved in bribes are usually reluctant to come forward for fear that their newly adopted child will be taken away from them, a highly unlikely scenario.

When it becomes apparent that child trafficking or corruption is involved in adoptions from any one country, IAS with its provincial and territorial counterparts, as well as its partners from the Department of Justice, Foreign Affairs Canada and Citizenship and Immigration examine solutions, including placing a moratorium on adoptions. Currently there are moratoria due to child trafficking on adoptions with Guatemala and Cambodia. Canada has also placed moratoria on adoptions from Vietnam and Georgia due to concerns about corruption and child trafficking. Canada has recently signed an "Agreement" with Vietnam outlining the process which must be followed when adoptions occur between the two countries. It will go into effect when each province/territory is ready to implement it.

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Canadians Living Abroad Who Wish to Adopt

There are a number of Canadians working outside Canada for a long period of time and who wish to adopt. The country where the expatriates are living often will not process the adoption without approval of the Canadian adoption authorities. This situation can arise both when the prospective adoptive parents live in the country from where they wish to adopt and when the prospective adoptive parents live outside Canada in one country and wish to adopt from another country. Provincial/territorial authorities cannot approve of the adoption because they have no jurisdiction over Canadians living outside their borders, and the federal government cannot approve of the adoption because it does not have jurisdiction over adoption.

Recently, a process has been established whereby the province/ territory will write a letter for the foreign adoption authorities indicating that it has no jurisdiction over Canadians living abroad. It will be accompanied by a letter from the Canadian Ambassador in the appropriate country explaining immigration and citizenship policy for adopted children.

It is anticipated that this process will work for most countries. Although a process for China has not been finalized, IAS is working with adoption authorities there to come to a common understanding on this matter. Some countries that allow foreigners to adopt under domestic legislation simply ask for a letter from the last province/territory of residence stating that the adoption will be recognized should the child return to Canada.

Medical Examinations

Prospective adoptive parents need more information on the health status of their child before they decide to adopt. Without adequate information, there is a risk of adoption breakdown if parents adopt children with medical difficulties with which they cannot cope. Parents cannot depend completely upon either the medical information provided with the child proposal nor the medical examination done for immigration purposes for the following reasons:

- The medical information on the child that is sent with the Child Report is not always dependable. Medical reports that are completed in the child's country are often insufficient and even, at times, unreliable.
- The medical information obtained from the medical examination performed for immigration purposes is limited and sometimes occurs after the adoption has been completed.

Intercountry Adoption Services is currently working with Citizenship and Immigration Canada to address this matter.

Citizenship

Currently, children adopted by a Canadian parent must first become a permanent resident (land in Canada) to be eligible for citizenship. Children adopted by a Canadian parent and continuing to reside outside Canada may apply through a special measure that allows them to obtain citizenship through the discretionary power of the Governor-in-Council. However, children born abroad to Canadians are given Canadian citizenship upon application. In this context, the newly elected government during the recent election campaign promised automatic citizenship to children adopted abroad, which would eliminate the difference between biological and adopted children.

Research

Many intercountry adoption issues require further research. For example, much more information is needed on the outcomes for internationally adopted children compared to children raised in orphanages; how to prepare parents to adopt internationally; the impact of intercountry adoptions on both receiving countries and the countries of origin; the relationship of child trafficking to intercountry adoption; and the relationship between intercountry and Canadian domestic adoption. A small, but significant, community of adoption researchers in Canada is working on some of these topics.

Conclusion

As the planet becomes more integrated, intercountry adoption will continue to be part of world-wide migration patterns. Both relatives and non-relatives will wish to adopt orphaned and abandoned children. However, the ongoing increased interest of prospective adoptive parents to adopt children from foreign countries has created many problems which need to be resolved. In order to help decrease and, hopefully, eliminate these problems, federal and provincial/territorial governments, foreign authorities, agencies and the adoption community as a whole, must work together to implement measures that ensure intercountry adoptions occur in the best interests of the child.

Note

[1] The opinions expressed in this article are those of the author and do not necessarily reflect the views of Social Development Canada or the Government of Canada.