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**Intercountry Adoption Agencies and the HCIA**

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The International Forum on Intercountry Adoption & Global Surrogacy (ICA Forum) took place at the International Institute of Social Studies (ISS) from 11 to 13 August 2014. The goal was to provide an opportunity for scholars and practitioners to come together to provide an evidence base for international adoption and surrogacy problems and/or best practices. The ICA Working Paper series summarizes the deliberations that took place at the Forum.

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## **Abstract**

This report discusses concerns raised by participants of Thematic Area 3 (Intercountry Adoption Agencies and the HCIA) of the International Forum on Intercountry Adoption and Global Surrogacy held in August 2014. The aim is to report the views of those participating in this area on the issues raised by the Hague Conference (HCCH) as likely to be matters of concern at the 4<sup>th</sup> Special Commission scheduled for June 2015.

After an opening session, the Area shared sessions with 4 of the other Thematic Areas and in the reports on those joint sessions there will inevitably be some overlap with the reports from the other areas involved, but this report will seek to view issues from the perspective of the agencies and the Central Authorities responsible for accrediting them and delegating activities as allowed under the 1993 Convention.

The issues discussed included the meaning of subsidiarity and the ‘best interests of the child’; the extent to which agencies in receiving States took on board the views of first parents and of the country of origin of the child; the crisis facing agencies and other accredited bodies as the number of inter-country adoptions falls while the children involved are more likely to have ‘special needs’, so that the task of selecting and preparing prospective adoptive parents - and the provision of post-adoption support - becomes more complex at a time when income is falling. This led to an exploration of the meaning of special needs and how agencies should identify such adoptions.

Throughout the sessions participants examined the argument that agencies, which had been seen as a solution to the problems of independent adoptions, have become a part of the problem and at worst accused of trafficking and ‘rescue’, ignoring the principle of subsidiarity and the rights of the child and her first family.

In a joint session with Thematic Area 5 the possible lessons for cross-border surrogacy from sixty years intercountry adoption were explored and the arguments for a new Hague Convention to deal with this activity examined, with a particular focus on the possibility of accrediting persons and bodies involved.

## **Keywords**

Intercountry adoption, agencies, subsidiarity, The Hague Convention on Intercountry Adoption.

## Acronyms

ACPF	African Child Policy Forum
AFIN	Adopción Internacional y Nacional
ART	Assisted Reproductive Technology
BAAF	British Agencies for Adoption & Fostering
CA	Central Authority
CCAA	China Centre for Adoption Affairs
CCCWA	China Centre for Children's Welfare and Adoption
CIAI	Centro Italiano Aiuti all'Infanzia
HCCH	Hague Conference on Private International Law
HCIA	Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption
ICA	Intercountry Adoption
ISS	International Social Service
PAP	Prospective Adoptive Parent
SN	Special Needs
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Emergency Fund

## INTRODUCTION

When considering the possible agenda for the fourth Special Commission meeting, the Hague Conference Permanent Bureau noted that certain themes of particular interest were emerging (Hague Conference on Private International Law, 2014):

- a. The implementation of the principle of subsidiarity;
- b. Adoptions by foreign nationals (short and long-term residents), dual nationals and relatives living abroad;
- c. The adoption of special needs children;
- d. The selection and preparation of prospective adoptive parents, including the management of their expectations and the long waiting periods before the adoption takes place;
- e. The financial aspects of intercountry adoption (ICA);
- f. 'Open' adoptions;
- g. The use of the internet and other modern technologies in the adoption process and, in particular, in relation to the search for a child's origins;
- h. The use of intercountry adoption in the context of international surrogacy arrangements.

All of these seemed of relevance to Thematic Area 3, although it was agreed that the issue of adoptions by foreign nationals etc. (Point 2 above) was not suited to the Forum aims. As originally envisaged the remit for this area, agreed after discussion with the Hague Conference, was 'evaluation of agency regulation - strengths and weaknesses including financial transparency; use of communication technologies in the adoption process, both pre- and post-adoption; selection and preparation of prospective adoptive parents, including management of expectations.'

## Overall Goals of Thematic Area

Running throughout this is the dilemma and debate about whether agencies are the solution to problems of trafficking and malpractice in ICA or a major part of the problem. A good starting point is the *Report on Intercountry Adoption*, drawn up by Hans van Loon for the Special Commission of the Hague Conference Permanent Bureau June 1990 (van Loon 1993). Section C of the report looks at the distinction between 'independent' and 'agency' adoptions from the perspective of receiving countries and countries of origin.

In Denmark and Sweden only agency adoptions are allowed – and Sweden and the Netherlands have preferred agency to independent adoptions but allow the latter if approved by their Central Authority (CA). But many PAPs (Prospective adoptive parents) prefer independent adoptions to avoid restrictions or because they have direct contacts in a state of origin. Agencies also vary in their remit. Some are concerned primarily with mediation - with home studies carried out by government and preparation courses or post-adoption support run separately. Others are full-service covering the whole range from preparation and approval to post adoption.

A major issue in respect of agencies has been the issue of financial integrity and concerns over excess profit making. This has led to questions about the meaning of 'improper financial gain' in the *United Nations Convention on the Rights of the Child* (UNCRC) – does this mean that *proper* financial gain is permissible - and how could this be defined? There is also concern over agencies that also provide aid to states of origin – or to the orphanage from which children are received for adoption. Other issues for discussion

could include the issues of Evangelical Christian agencies in the USA (Joyce, 2013; Smolin, 2012); the existence of large numbers of agencies in some countries such as Italy; the role of non-accredited persons or bodies as allowed by Article 22 of the HCIA – and found especially in the USA.

We shall also need to look at the role of agencies in states of origin: The van Loon report noted that in 1990 shortage of resources meant that few countries of origin had bodies which can provide support for birth parents and explain the implications of western style adoption. There were exceptions – e.g. in South Korea where ICA was only allowed through four agencies. In some other countries – Thailand, Philippines, Colombia, Costa Rica – governments did not allow private arrangements or provided government guidance on ICA. In many countries the central authority supervises the process – e.g. CCCWA (China Centre for Children's Welfare and Adoption) in China. Little is known about the relative merits of these different arrangements.

## **Demographic Background**

The Forum was held at a critical time in the history of intercountry adoption, twenty years after the entry into force of the 1993 *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* (HCIA). The annual number of adoptions recorded by receiving countries peaked at over 45,000 in 2002 (See Table 1 in Appendix A) but has fallen steadily in the subsequent decade, with less than 17,000 in 2013. This has coincided with a growth in the number of adoptions of children with special needs. The result is a financial crisis in many adoption agencies, a growing number of people approved for adoption who are waiting many years for a child and a rise in the recourse of childless persons to ARTs including global surrogacy. There have also been changes in those countries from which children are moving (Tables 2 and 3), with declining numbers from traditional sources such as Korea and China and a rise in adoptions from Africa (Tables 4-6). Finally some have linked the decline to a rise in the recourse of childless persons to ARTs including global surrogacy, an issue that is discussed further in Chapter 4 of this report.

## **Participants**

Sixteen people indicated this area as their prime interest, but most of the sessions were joint with other areas so that the number of participants overall reached as many as 50. This report aims to reflect the views of those in Thematic Area 3 but will inevitably touch on many points raised by members of other areas. Thematic Area 3 Participants are listed in Appendix B. Laura Martinez-Mora attended most sessions as the HCCH observer.

## BEST INTERESTS AND SUBSIDIARITY

This joint session with Thematic Areas 1 and 2 provided an ideal starting point for our discussions. Overall, it was felt that the key question was, ‘How can we ensure that accredited adoption bodies work ethically and in the best interest of children?’ This will be discussed in more detail in the report of Thematic Area 1 and was to provide a focus for our conclusions as a result of a final joint session where Nigel Cantwell raised issues arising from his UNICEF (United Nations Children’s Fund) report that was published shortly after the Forum (Cantwell, 2014).

Monica Dowling introduced the session by looking at the HCIA definition of subsidiarity and how this linked to arguments about the ‘best interests’ of the child. There was a need to identify concrete examples of good practice in both areas. She was followed by Kay Johnson, who spoke movingly of her work in China and pointed out that subsidiarity can be violated by discriminatory practice in countries of origin, in this case the one-child family policy. She also noted that there have always been enough domestic adopters in the country but intercountry adopters were preferred — another breach of subsidiarity (Johnson 2004). The decline in adoptions from Chinese orphanages is due to a drastic decline in the percentage of healthy ‘adoptable’ children in their care. Most children are now disabled children abandoned because parents cannot care for them due to the poor rural health care infrastructure and inadequate healthcare insurance. These are the *special needs* children now available for intercountry adoption (Johnson, 2012).

## Roundtable Discussions

There were three groups based on participants from Thematic Area 3 and most issues discussed centred on how agencies perceived the concept of subsidiarity. Participants found the papers from ISS (International Social Service) on the *Principle of Subsidiarity* (ISS, 2005, 2007) a useful starting point. It became clear that the term subsidiarity was not fully understood and that The Hague Convention definition varied from that used in the Convention on the Rights of the Child. AFIN (2010) suggests the use of the term ‘adoptability’ to embrace both subsidiarity and other key Hague requirements such as consent. Among the issue raised in discussion were:

*What Role does the HCIA see for Agencies in Ensuring the Best Interests of the Child – and Upholding of the Subsidiarity Principle?*

Participants noted that many countries, especially in Africa, did not have the notion of full adoption, a theme developed in the subsequent session on countries of origin. Others picked up the arguments about best interests, asking how can we ensure that agencies work ethically and in the best interests of the child?

*Does Subsidiarity mean that Children Should be made Available for Intercountry Adoption if In-country Solutions Fail?*

It was felt that this was for the country of origin to decide and there was concern about calls from some Western commentators for many more children to be adopted internationally (see e.g. Juntunen, 2009; Wallace, 2003). Others argued that the concept is western and ignores the fact that informal adoption and fosterage is preferred solution in many countries. More attention was needed to examining how to encourage in-country solutions.

### *What does Subsidiarity Mean in Respect of Heritage and/or Relative Adoptions?*

The ISS paper asks what happens, for example, when a child without parents has a chance of either being placed with an aunt outside the country or in an unrelated family living in his own country? Participants raised other questions: e.g. should heritage adoptions be seen as ‘domestic’?

### *Is Intercountry Adoption to be Preferred over High-quality Institutional Care and/or In-country Foster Care, which would Allow Birth Parents an Opportunity to get their Children Back?*

Participants raised the issue of what was meant by *high quality* institutional care and what happens if a first mother indicates a preference for intercountry over domestic adoption. Another area explored was the issue raised by outgoing adoptions from the USA, where one issue may be the preference of the first mother for intercountry over domestic adoption, but this may be complicated by financial considerations. Some adoptions from the USA to the Netherlands were said to be adoptions by same-sex couples of mixed race children, who were hard to place for domestic adoption, so that the principle of subsidiarity was not broken. The rights of the child were seldom discussed in these debates (Groza and Bunkers, 2014; Naughton, 2012).

### *Should Intercountry Adoptions be Used after Disasters and Other Emergencies?*

There was also concern over intercountry adoptions after emergencies such as the Asian Tsunami and Haiti Earthquake (Dambach and Biglietto, 2010; McGinnis, 2005; Rotabi and Bergquist, 2010; Selman, 2011). The Hague Conference issued an information note (Hague Conference, 2010: 2), which stated that ‘...in a disaster situation, like that brought about by the earthquake, efforts to reunite a displaced child with his or her parents or family members must take priority. Premature and unregulated attempts to organise the adoption of such a child abroad should be avoided’.

Many felt that there should be *no* adoptions after such emergencies and disasters - a view reflected in the legislation of several receiving countries including Spain and Italy. It was widely felt that the reaction of some countries – notably, Canada, France, the USA and the Netherlands – to the earthquake in Haiti was inappropriate, despite the supposed focus on expediting adoptions already in progress, as it was impossible for such adoptions to be carried out with due regard to the principle of subsidiarity (Selman, 2011). The justification in terms of ‘expediting’ adoptions in process was also questioned, as were the 1,000-plus ‘humanitarian’ visas issued by the USA.

### *Should Private and Independent Adoptions be Allowed?*

While most participants felt that private and independent adoptions should not be allowed – one wrote as a comment “NO NO NO” – there was a lack of clarity about the situation with respect to relative adoptions or cases where adoptions took place in the child’s country of origin where the adoptive parents were living at the time, with the child being subsequently brought into the adopters’ home country, which might be many thousands of miles away.

### *Accreditation of Agencies*

Another major issue identified was where the agency becomes the problem (O’Connor and Rotabi, 2012; Smolin, 2006, 2010, 2013) — with concerns over financial arrange-

ments as a market in intercountry adoption developed. There were many agencies in the USA that sought to promote and increase intercountry adoption, spelling out a philosophy of orphan rescue, often underpinned by strong evangelical Christian beliefs and citing biblical injunctions to adopt. Estimates of orphan numbers were cited with little understanding of the view of orphans by kin in the country of origin.

The role of evangelical Christianity in US agencies urging adoption as rescue has been documented in detail by Kathryn Joyce (2013) in her book *The Child Catchers*, and the scriptural/theological justification has been challenged by David Smolin (2012). It was noted that in such cases, subsidiarity was marginalised, as any child adopted was seen as gaining by the opportunity to be raised in a good Christian home. However, others pointed out that such beliefs had also influence the work of Holt International, who would now see themselves as working within the HCIA framework.

There was a strong feeling that the process of accreditation needed to pay more attention to financial irregularities, an issue discussed further in the final session.

## CONNECTIONS TO BIRTH CULTURE AND BIRTH KIN, AND THE POTENTIAL FOR OPEN INTERNATIONAL ADOPTION

This second session with Thematic Areas 1 and 2 involved small group discussions with members of all three thematic areas (see Appendix 2) in each group. In the opening presentation, Barbara Yngvesson spoke about the dangers of the ‘clean break’ philosophy which seems to characterize most intercountry adoptions and asked how ‘best interest’ could be reconceptualised so as to relate to the changing needs and experiences of the adopted person over time?

The presentation by Hollee McGinnis gave us the perspective of an adoptee (McGinnis, 2014). She argued that we should think about ‘What is the best interest of the child now, and throughout his or her lifetime and generations to come?’ She referred to her research for the Donaldson Institute (McGinnis, 2009), in which she argued strongly that we need to go beyond culture camps and fostering pride in one’s heritage to talk about racism and helping adoptive parents and adoptees prepare for racial bias. McGinnis also spoke about *Also-Known-As*, the organization she founded in New York City for adult intercountry adoptees (McGinnis, 2012).

McGinnis went on to challenge the need for ‘clean-break’ adoptions and asked us to think whether we could create an adoption system that does not re-traumatize children by denying that their birth parents and birth kin matter. This opened up later discussion of the possibility on open intercountry adoption. Her final words are worth quoting in full:

*Adopting across race, nationality and culture is complex and requires courage, honesty, commitment, and of course love. So we must be willing to talk about the hard stuff- the discrimination, inequalities, and prejudices that exist in the world.*

### Roundtable Discussions

This second session involved small group discussions with members of all three streams in each group. My summary of these will focus on issues affecting agencies but will inevitably overlap with that provided in the reports from Thematic Areas 1 and 2.

Key questions were what agencies in receiving countries should do to respect the rights of birth families; what is the role of agencies in states of origin; and how should they engage with birth parents?

#### *Is Consent Freely Given?*

This emerged as a major area of concern and built on the discussions of adoptability in the previous session. It was seen as important for agencies in receiving states to do all they can to ensure that consent has been freely given to avoid the recurring stories of stolen children and child trafficking. But questions remained about how the idea of consent could be applied to abandoned children as in the early days of adoption from China. The HCIA requires consent to be given *after* the birth of the child, but many noted that often it is sought earlier

#### *Homeland Tours and the Search for Origins*

Participants explored what role agencies should play in organizing/encouraging homeland tours or in supporting search and reunion by – or on behalf of – adoptees. How might sending countries better provide clear information for adoptees if/when they search for their birth families? Could agencies mediate searching? Participants also

explored what role adoption agencies take in post adoption support for adoptees and their families? And what is the impact of new communications technologies on the role of agencies in this area? — a topic discussed further in the conclusion.

### *'Open' Intercountry Adoption*

There is now a large amount published on open domestic adoption in the USA (Grotevant et al., 2013; McRoy et al., 2007), that demonstrates clear advantages for all members of the adoption triad, especially the first parents, but there is little written and virtually no research on open intercountry adoption (Schermann, 2012). Discussion was, therefore more about the feasibility and desirability of more contact (Fronek and Cuthbert, 2012).

Round table discussions of the possibility of 'open' intercountry adoptions found many sympathetic. Participants from the United Kingdom noted that adoption with contact was increasingly the norm in domestic adoption. In the UK such contact was primarily 'letter-box,' which in principle could also be practiced in intercountry adoption. However, a recent study (Neill et al., 2013) suggests that direct contact, especially with grandparents, can often prove more successful in domestic adoption.

Other discussion went back to Barbara Yngvesson's points about the dominance of a clean break assumption in receiving states and the frequent citing of first parents' beliefs that their children would keep in touch and eventually return (Bos, 2007; Högbäck, 2013; Roby and Matsumura, 2002; Yngvesson, 2010). This was felt to be true of many first families in Africa (ACPF, 2012; Mezmur, 2009a, 2009b), which is becoming a major source for adoptions (see Appendix A, Table 4).

The issues surrounding the possibility of 'open' intercountry adoption are discussed in more detail in the report by Riitta Högbäck from Thematic Area 2. The role of agencies in this could be modelled on domestic adoption in the UK where local authorities often initiate contact arrangements, but the continuation will be dependent on the wishes of the adoptive parents and are not backed by legal requirements.

The research in the USA (Grotevant et al., 2013; McRoy et al., 2007) clearly shows that open adoption benefits first mothers, but is also seen positively by adoptive parents and aids the adoptee by giving new possibilities for search and re-union in adulthood.

More adopters have extended their homeland tours to include a search for first families, but where these succeed, the follow-up may be problematic if the first family wants to maintain regular contact – e.g. by Skype – or there is expectation of financial support. In other cases this could lead to problems for the birth mother if other members of the family did not know of her experience. Some felt, however, that adoptees should make decisions about searching when they felt ready for it and that adoptive parents, however well intentioned, were doing it for their own concerns.

Overall there was agreement between the three streams that first parents continue to be the 'hidden dimension' in intercountry adoption and that the HCIA failed to address their rights, although some argued that often their rights were seen in terms of a right to privacy which could clash with rights of adoptees to more knowledge about their origins. Agencies in some states of origin have acknowledged the growing interest of returning adoptees and sought to mediate attempts to trace their first family.

A final point raised was the importance of acknowledging the role of the extended family, especially in Africa where grandparents often play a crucial role in relation to the so-called AIDS 'orphans'. Any move towards more contact should acknowledge the importance of the wider family and also of siblings who may prove to be the most important potential contact for international adoptees.

## **THE ROLE OF INTERMEDIARIES IN INTERCOUNTRY ADOPTION AND CROSS-BORDER SURROGACY**

Our third session was held jointly with Thematic Area 5 (Global Surrogacy Practices – see report by Marcy Darnovsky). Diana Mare and Laura Briggs, who also made one of the opening presentations, have provided notes on this session and the round table discussions. There were also presentations by Lisa Ikemoto, who reflected on a couple of the high-profile surrogacy scandals in California, and the state's legislative responses to them, and Carmel Shalev, who described the marketing practices of cross-border surrogacy brokers in Israel.

This was an opportunity for both groups to learn from each other and recognize where there were useful lessons to be learned from the longer history of ICA, but also where cross-border surrogacy created new issues where there were no simple parallels.

Cahn (2011, 2011a) has looked at the possibility of applying adoption research to the experience of assisted reproductive technologies, arguing that adoption's lessons are particularly relevant when the technology involves the use of 'donor' sperm, eggs and embryos, thereby creating families in which the child is not genetically related to one or both parents. She identifies several areas in which adoption's lessons could be useful. These include secrecy and the withholding of information; a focus on the best interests of children; the creation of 'non-traditional' families, particularly as more single, gay and lesbian adults use ART (assisted reproductive technology); the impact of market forces; and legal and regulatory frameworks to inform standards and procedures.

Although the article is not primarily focused on surrogacy, Cahn notes the issue of compensation to surrogates, 'where fees for the women who carry and deliver babies for others typically range from USD\$8,000 to \$15,000, but can run much higher' (Cahn, 2011: 3). The acceptability of paid surrogacy is itself hotly debated but many of the issues also apply to 'altruistic' surrogacy. Cahn's discussion is limited largely to domestic adoption and domestic ART but shows clearly the potential for looking at the lessons from intercountry adoption for global or cross-border surrogacy.

In the last few years this has resulted in a number of publications on the subject (Das Gupta and Das Gupta, 2010; Twine, 2011; Panitch, 2013). Rotabi and Bromfield (2012) note that 'Undertaking a commercial surrogacy arrangement in the United States is a legally daunting process that can cost upward of \$70,000, compared to India, where it can be arranged with little legal 'red tape' for about \$12,000, including medical and surrogate fees (Haworth, 2007)'. The recourse to such arrangements has been noted in the UK (Crawshaw and Blyth, 2013) where the number of parental orders relating to children born to overseas surrogates now matches the number of intercountry adoptions and in Australia where there are said to be more 'off-shore surrogacy' arrangements than intercountry adoptions (Cuthbert and Fronek, 2014). The subsequent discussions took place against the background publicity about 'Baby Gammy', the child born of commercial surrogacy in Thailand, who was then ostensibly abandoned by the contracting parents (Mamamia News, 2014; Murdoch, 2014).

### **Roundtable Discussions**

Consideration of the role of the surrogate raised interesting questions about terminology — who is the 'birth' mother in cross-border surrogacy? A month after this Forum, I attended a conference on domestic and intercountry adoption in Cork, Ireland, where the term 'birth mother' was rejected by the biological mother of children who had been adopted and wanted to be known rather as the 'first' or 'natural' mother of their child.

A key point of discussion was *who* are the intermediaries in cross-border surrogacy and could they be subject to a process of accreditation as required in the HCIA. Lisa Ikemoto mentioned several: attorneys; recruiters; brokers; clinics; medical tourism agencies. The problems of surrogacy *agencies* were highlighted by the case of Planet Hospital (Cowan and Reef, 2014; Lewin, 2014a).

Most of the debates on surrogacy – and especially global surrogacy – have focused on the exploitation of the surrogate in poor countries, who will typically have to leave her own children in order to live in a clinic while she is pregnant. Others argue that the surrogacy offers a new opportunity for poor women to earn money that can transform the lives of her own children and that what is needed is regulation of the industry, not banning.

Some argued that making surrogacy more legitimate would increase opportunities for illegal adoption, because of the possibility that one can serve as a cover for the other. Laura Briggs noted that ‘many children the world over are “placed” before they are born’ and that the thing that apparently distinguishes surrogacy from adoption is the origin of the gametes or the nature of the contracts. Women in wealthy countries are being forced to delay childbearing as a result of shrinking real wages, the inequality between women's and men's wages, and job insecurity until late adulthood. Hence, adoption, ART (assisted reproductive technology), and ultimately surrogacy seem like forced choices, albeit ones reliant on other women's subordination and exploitation by reasons of race, class, and geography. She suggested that we follow Ana Anagnost (1995) and talk about the *euphemized violence* for both women who lose their children and those compelled to delay childbearing.

What are the conditions that lead to surrogacy, and are they violent in the same way as those that give rise to child relinquishment for adoption? Briggs cited Foucault's writing about the era of bio-politics, the era in which reproduction and population are subject to governance by states and others and Kalindi Vora (2009), who writes about this as the era of bio-capital — in which the products of the body and its labour, like kidneys or reproductive labour, are becoming alienable, much as land and labour became in the early years of capitalism. So maybe we should think about it more as sharing a field with other kinds of cross-border labour arrangements: sedimented colonialism, efforts to delegitimize people but not their labour (i.e., ‘illegal’ workers), the racialized, gendered, and geographical devaluing of certain people that makes some labour ‘cheaper’ than others.

However, for Thematic Area 3, the issue that emerged most strongly was the perceived marginality of the child in most surrogacy arrangements. Little attention seemed to have been paid to when and how (and indeed whether) the child should be told of the circumstances of her birth.

We now recognize that most internationally adopted persons want to learn more about their country of origin and biological/first families. We also know that many children born through the provision of third-party sperm or eggs want more information about the gamete providers. Will some or many children born through surrogacy be told of this, and if so, will they too want more information about the surrogate who gave birth to them? Will some or many parents want to establish and maintain a relationship with the surrogate who gestated their child? What role should intermediaries be encouraged or required to play in these situations? These issues become more acute in cross-border surrogacy where the surrogate will live in another country and often be of another racial origin.

Arguments that global surrogacy will replace intercountry adoption because it is cheaper, ensures that the child is young and usually genetically related are also rather

simplistic — as are suggestions that ICA agencies will move into cross-border surrogacy. Global surrogacy is particularly attractive to same-sex couples, who have very limited opportunities to adopt internationally, although the recent legislation in India shows that restrictions can also be imposed in the case of global surrogacy. And those who work in adoption are frequently reminded that ART and surrogacy don't work very well; adoption is presented to many would-be parents as the 'sure' option in the face of the 30-40 per cent success rates of ARTs, (probably lower for surrogacy); so only in the presence of many women do we have any certainty of a pregnancy.

## **Do We Need a Hague Convention on Global Surrogacy?**

Views on the need for a new convention on global surrogacy were very divided — as reflected in the decision not to have a vote on the topic in the final session of the Forum, following the points made by representatives from the HCCH that there was much more work to be done in providing a factual basis for such a decision which incorporated the views of as many countries as possible.

It was recognised that there are many differences between intercountry adoption and global surrogacy and that rules relating to adoption 'which is, above all, a measure of child protection for children deprived of their family environment' (ISS 2013), cannot simply be applied to surrogacy. The 2010 HCIA Special Commission 'viewed as inappropriate the use of the Convention in cases of international surrogacy' but recommended that the Hague conference should carry out further study of the legal issues surrounding international surrogacy. This has led to a series of preliminary documents culminating in the publication in March 2014 of *A Study of Legal Parentage and the Issues Arising from International Surrogacy Arrangements* (Hague Conference, 2014c), which supports the decision to continue work on a possible convention in Preliminary Document 3b (Hague Conference 2014b).

Those in favour pointed to the success of the HCIA in regulating intercountry adoption, ensuring citizenship for those adopted transnationally and seeking to ensure that it was always in the best interests of the child. The HCIA has also sought to establish agreement about the keeping of records of the child's birth. All of these are needed in global surrogacy. Meanwhile the number of such arrangements continues to grow. ISS (2014) estimate that in 2013 approximately 20,000 children were born annually from international surrogacy and there are reported to be around 3,000 clinics in India alone, with surrogacy 'tourism' worth over \$2 million. The need to monitor clinics and agencies seemed urgent (Das Gupta and Das Gupta, 2010; Twine, 2011; Panitch, 2013).

Opponents argued that an international convention would only legitimise the procedure and could be manipulated by intermediaries to maximise their profits. Some feared that if there were an international treaty from The Hague on issues of the civil status of children born as a result of surrogacy it would be a clear signal to intermediaries and contracting agencies that global surrogacy has an international legal stamp of approval and represents a set of contracts that are or should be enforceable. To some extent, the dubious legal status of these contracts potentially provides a real resource for 'surrogates' to object to their terms, as in the Baby M case in Arizona, NJ (Lewin, 2014a). On the other hand, Laura Briggs noted that one of the most interesting features of the HCIA is that birth mothers have used it for international human rights claims (giving the example of Norma Cruz, who was one of the plenary speakers at the Forum). She hoped that, if a similar convention were developed for surrogacy, it would be with an eye toward creating similar opportunities for women engaged in reproductive labour for hire.

Otherwise, a convention could almost certainly be a bonus for the reproductive surrogacy intermediaries.

Most participants in Thematic Area 3 felt that work should continue on a possible convention and that there was certainly a need for international agreements to ensure that children born through global surrogacy had the same rights as other children in terms of citizenship and parentage. There was also a strong feeling that any convention must tackle the financial issues surrounding intermediaries and aim for some form of accreditation. But a major concern was that the rights of the child to information about the manner of their birth and information about the surrogate as well as any donated gametes were in danger of being marginalised and that these should be included in any international treaty.

## **‘SPECIAL NEEDS’ ADOPTION**

Our fourth meeting was a joint session with Thematic Area 1 on the topic of inter-country adoption involving children with ‘special needs’.

### **Introductory Presentations**

The session opened with presentations by two European agencies.

Irene van Ark of Wereldkinderen, the Netherlands, focused on special needs (SN) adoption from China, noting that the adoption of SN children from China had been increasing in the Netherlands. This raised the question of whether there are now more SN children available for adoption or just more information on children available for intercountry adoption that defines them as Special Needs? Data from the CCAA provided for the 2010 Special Commission points to a change in children available as they are older and more are boys as well as being defined as special needs (See Appendix A – Table 8).

Paolo Palmerini from CIAI, Italy, stressed that the first important point when speaking about children with special needs (SN) was the definition. It is difficult to extract relevant data useful for comparison when there is not a uniform definition. In Italy they refer to SN in one of the following cases: a child of more than seven years, a group of siblings or a child with some health related or cognitive problem.

According to the Italian Central Authority, the two categories used are children with *bisogni particolari* (particular needs – minor and non-permanent health related problems) and children with *bisogni speciali* (special needs – major and permanent health related problems). CIAI considers as ‘special’ every child aged at least seven years old or member of a group of siblings or with some kind of physical problem or a history of abuse or violence. We have to keep in mind these different definitions when we hear that ‘in 2013 28 per cent of ICAs in Italy involved children with special needs’ or when we affirm that 70 per cent of the adoptions concluded by CIAI in 2013 involved children with special needs.

### **Roundtable Discussions: What is the Role of Agencies in Special Needs Adoption?**

In subsequent discussion, the importance of agencies preparing prospective adopters appropriately to parent children with additional needs was acknowledged. This is particularly the case with couples who have experienced fertility issues and want to parent a young child — they need to be assisted in bridging the gap between the child they aspire to parent and the children available for adoption.

In intercountry adoption specifically, young children where little if anything is known about their background are higher risk. Prospective adopters need to understand that institutional care itself can result in special needs. It was also felt that in the assessment and preparation of prospective adopters, professionals need to explain what they mean by the term *special needs*.

#### *Home Studies*

There is not yet a generalized understanding of what special parental skills we should look for in prospective adoptive parents for special needs children, but there is a danger that they may seek such children to avoid the longer wait for a healthy infant. The

separation of home studies and mediation in some countries may make assessment less problematic, especially if linked to preparation courses. The importance of good accredited bodies has never been higher. ISS (2014a, 2014b) has noted that the assessment of the prospective adopters, of their resources and their motivation, is decisive in the success of a late adoption. However, the assessment process varies considerably between receiving countries and between agencies within those countries and these differences become more crucial as special needs adoptions increase (Crea, 2012). One participant talked of the need for 'special accredited bodies for special needs children' and this is an area to which the HCCH may want to return.

### *Preparation*

Preparation is also vital for any child placed for international adoption and this again is especially crucial for those with 'special needs' as well as for older children for whom cross border placements are more likely to be traumatic and will often involve loss of their language and the need to acquire a new one. In the Netherlands, preparatory courses are required for all prospective adopters and these take place before the home studies and are organised by a government body, although agencies may do additional preparation after approval.

In most other countries it is up to each agency to design their own preparation course and to determine best practice. Tailoring courses to the needs of a specific child is difficult as the child is often unidentified so that preparation needs to be generalised. Should there be extra training available at the point of referral? There was recognition that the referral brings a new realm of work with trying to identify the needs of a specific child at this time, often with limited information available.

Palmerini (2014) talks of the importance of training, not only to increase the theoretical knowledge of parents but also to build and strengthen parental skills, which CIAI does mainly through psychomotor education. There is perhaps a need for accredited bodies to share their experience in this, as has been done in the biennial meetings of EurAdopt Agencies.

A need was also seen for preparation in states of origin for the children sent for adoption where these are older or have special needs. Such children will be very aware of being taken away from familiar surroundings and having to acquire a new language and get used to new types of food.

The HCIA says very little about 'matching', but many participants felt this was vital for special needs children and will involve close co-operation between central authorities and accredited bodies in both receiving countries and countries of origin.

### *What is the Role of Agencies in Providing Post-adoption Support?*

It is widely acknowledged that post-adoption support for all adoptive families is currently inadequate (Smith 2014). The need for better services is even more important in the case of special needs children placed for intercountry adoption. No matter how good the training was, how deeply accurate the case study, a couple that has adopted a child with special needs will most likely need a life-long support. There is therefore a strong responsibility for the accredited body to also make such support available at reasonable conditions. Paolo Palmerini told us that CIAI had created a network of 30 psychologists that offer clinical services in five different locations in Italy (five regional capitals) covering the entire national territory.

But this must not be restricted to ‘special needs’ placements as problems may arise later and support must be provided for the adoptee as an independent person — hence need to address issues of search and reunion. This latter point also reminds us of the need for post-adoption support for first parents (see Riitta Högbäck’s report on Thematic Area 2).

Should the support be essentially the responsibility of the mediating agency? Or is there a danger that this will distract from the need to make mainstream agencies aware of the issues? The value of the involvement of accredited bodies is that they will know the adoptive parents and post adoption support will link to their responsibility for post adoption reports to the child’s country of origin and provide insights which can improve the assessment and preparation processes.

Growing concern over the ‘re-homing’ of children in the United States (Twohey, 2013), where an underground network of parents were using the internet to pass on adopted children they could not handle, has highlighted the need for receiving countries to ensure the safety of children placed through intercountry adoption.

### *Research*

It was felt that more research was needed — and above all evidence-based practice into what works in special needs adoption and training for adoptive parents. There is now an extensive literature in the US and the UK on in-country adoption of children from the care system, many of which are older or have disabilities

In the USA, Ruth McRoy has noted that a major distinguishing factor in the success of special needs adoptions is the extent to which the adoptive parents had been given a realistic assessment of the child’s problems. This may be a particularly important finding in relation to children placed through intercountry adoption where the inadequacy of medical information has been found to be considerable and where doctors in the receiving state may be ill-informed about conditions in the country from which the child comes. It also reminds us of the importance of placing higher expectations on sending countries to keep accurate records of children placed and to make these available to accredited bodies in the destination country.

In the UK, the disruption rate for children adopted from the care system has been estimated at four per cent rising to six per cent for older children. Follow-up studies by Julie Selwyn et al. (2006, 2014) show the success of adoption, compared to foster-care and other forms of alternative care with a post-order failure rate estimated at two to nine per cent, but note the increase failure in older placements. A majority of disruptions were in children placed over the age of 4 years. An earlier study by Rushton and Dance (2004) found a disruption rate of 19 per cent in older children with special needs. Most follow-up studies of intercountry adoptions show a similar pattern (Misca, 2013; Rutter et al., 2007; van IJzendoorn and Juffer, 2006).

In the UK, there have also been detailed studies on the sibling groups (Saunders and Selwyn, 2011), children with disabilities, and children with specific conditions such as Downs Syndrome (Mason et al., 1999). The research on children with physical disabilities is particularly re-assuring, but these are only a minority of the special needs intercountry adoptions. While some of the lessons can clearly be applied to intercountry adoption, there remains an urgent need for research into what makes for a successful needs adoption of children from abroad.

## CONCLUSION AND SUGGESTIONS FOR CHANGE

### Orphan Care, Foreign Aid and Assistance to Birth Families

The first part of our final session was shared with Thematic Areas 1 and 2 and featured a presentation by Nigel Cantwell with responses by David Smolin and Mark Riley. This was followed by a presentation by Kim Gray.

Cantwell argued that there were dangers in reliance on best interests; more attention should be paid to children's *rights* and best interests should be seen as over a lifetime not just at placement — a point made earlier by Barbara Yngvesson and Hollee McGinnis. Cantwell's presentation was rooted in his recently published report to UNICEF (Cantwell, 2014).

Mark Riley made an important contribution based on his experience working with community groups in Uganda (see Table 6), where donations from the USA have been used to build orphanages from which a growing number of children are being adopted (AFP-Kampala, 2014). Most of the children entering these institutions are not orphans, but the orphanage directors need children to justify continued investment and the availability of some for adoption enhances their chance of getting such investment.

### How Can the Performance of Accredited Bodies be Improved?

In the third part of this final session all participants in Thematic Area 3 met together and each was invited to reflect on the previous discussions and highlight any lessons for the future. We returned again to the issue of the future of accredited bodies in intercountry adoption and especially the future of non-governmental agencies, whether full-service or mediating.

The decline in intercountry adoptions over the past 10 years (see Tables 1 and 7 in Appendix A) has meant that the income to such agencies from fees from prospective adopters has fallen while the increase in special needs placements has increased the cost of home studies, preparation and support. The reduction in the number of intercountry adoptions threatens has the potential to reinforce the aggressive strategies of some agencies that feel threatened by the reduction of income and may be tempted to fight against other agencies — and other receiving countries — for those children available for adoption. 'The question that rises is whether there are sufficient controls and enforcement instruments both at national and international level in order to keep this potential risk under control' (Palmerini, 2014).

A further consequence of falling numbers has been that in many receiving states number of approved prospective adoptive parents far exceeds the current number of children available for intercountry adoption, despite which applications are still being accepted, approved and dossiers sent to states of origin (San Roman and Marre, 2014).

Given all the publicity about wrongful adoption (Graff, 2008; Graff 2010), agencies could be forgiven for despairing. But as long as intercountry adoption continues, agencies and other accredited bodies will have a vital role, alongside Central Authorities, in making the Hague Convention effective and in building on its minimal requirements. This means that certain actions are urgently needed by both agencies and Central Authorities.

In this forum it was felt that in many receiving states there were too many agencies — and that this was true also of states of origin. In Italy there were more than 60 accredited agencies in 2013, eight of which had handled fewer than five adoptions in the year. In the United States there were many more. States of origin often fail to restrict the

number of overseas agencies allowed to operate in their country. In Ethiopia there were at one time more than 50 agencies — 17 from the USA alone. Only one agency – from Austria – has been removed from the approved list.

The potential for competition *between* agencies was clear. Since ratifying the HCIA, the USA has required all agencies working with other HCIA countries to be accredited by the State Department, but other private agencies are allowed to continue to operate in non-Hague countries. As only four of the top ten sending countries in 2013 had ratified the HCIA (see Table 3 in Appendix A) this was clearly unsatisfactory and participants called on the HCIA to reinforce the message that receiving states should apply the same standards to all states of origin.

Another major concern was the lack of financial transparency in too much intercountry adoption. Article 32 of the HCIA states that ‘no-one shall derive improper financial gain or other gain from an activity related to intercountry adoption’. What is *proper* gain? What are ‘reasonable professional fees’? What remuneration to directors or employees is ‘unreasonable’? How should agencies handle contributions and donations without these becoming a source of pressure on states of origin if seen as conditional on a supply of children? Participants picked up the powerful arguments of Mark Riley on the impact of US funding of orphanages in Uganda, which was leading to an increase in the number of orphanages and a rise in adoption of children (see Table 6), most of whom had one or more living and locatable parent (AFP-Kampala 2014; Cheney and Rotabi, forthcoming).

## Suggestions for Change

Throughout our discussions there was an awareness of the limited legal powers of the Hague Conference. The convention provides a secure framework but its effective implementation needs ‘a wide range of actors, from child care workers to health care practitioners to judges, who understand its philosophy and objectives and who are given the resources and training necessary to enable them to carry out their duties properly.’ (Duncan 2000: 52). The Convention provides a minimum standard based on compromise between many nations, which individual countries can build on. EurAdopt’s *Code of Ethics* (available at [www.euradopt.org](http://www.euradopt.org)) is an example of such a development applied to more than one country.

### *Central Authorities*

At present, most controls in the system are left to the Central Authorities (CAs) and it is therefore their capacity (or lack thereof) that will have a crucial role in reducing (or not) this risk. Central Authorities are responsible for accrediting mediating agencies and other bodies involved in the preparation and selection of prospective adopters. A central power is the role of accreditation, which was the subject of the second *Guide to Good Practice* from the HCIA (Hague Conference, 2012).

Central Authorities also have powers to decide from which countries their citizens may adopt. Having ratified the Hague Convention in 2010 the Irish Republic stated that they would only accept new applications for Hague countries or those with whom a bilateral agreement had been made.

States of origin can also in principle decide which countries and which agencies they allow to adopt children. As nearly all the major receiving countries have now ratified, this means choices within a significant number. Korea has always limited the countries to whom it sends children, with fewer than 10 countries receiving children in the last ten years and none sent to Spain or Italy. Likewise in 2006 China reported contacts with 16

countries (increased to 17 with the addition of Italy in 2009). For countries sending fewer children, the number of destination countries is often much fewer but the global decline in intercountry adoptions has seen major players like the USA moving into countries previously ignored

Many states of origin are now restricting the number of countries and agencies with which they have agreements and this seems an essential step, but one that is contested by many agencies in what is seen as a global market place.

Participants felt that all CAs should follow the HCIA expectation that the same standards should be applied if children are adopted from countries that have not ratified the HCIA and that action should ideally be taken against Central Authorities failing to do this.

### *Intercountry Adoption Agencies*

It was felt that rigorous accreditation of agencies was essential but that agencies themselves had direct responsibility for promoting good practice. Our earlier discussions endorsed the Hague Conference (2014) concerns about the selection and preparation of prospective adoptive parents, including the management of their expectations and the long waiting periods before the adoption takes place. The resources needed to offer adequate assessment, preparation and post-adoption support are considerable and it is anticipated that many smaller agencies will not be able to continue, as most are dependent on an income from prospective adopters. Agencies within a country needed to work together to tackle these issues and it was essential to avoid competition between agencies – and indeed between receiving states – for those children still in need of placement.

Some delegates pointed to the need for structures such as EurAdopt to encourage agencies in receiving countries to share experiences, and they pointed to the value of regular meetings of agencies in countries of origin.

### *Financial Considerations*

Under Article 8 of the Convention, Central Authorities are required to take ‘...directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention’.

We reviewed earlier the importance participant attached to removing financial pressures on states of origin to make children available for adoption. A central concern here was the use of contributions and donations with many participants feeling that there was a need to separate out any aid to states of origin from the funding of intercountry adoptions. Such contributions may be required by the state of origin and there continues to be concern that countries will see intercountry adoption as a source of revenue, as well as reducing the cost of in-country care. Many participants felt that cash donations for child protection must be kept separate from intercountry adoption to avoid pressure on states of origin – or individual orphanages – to release children for adoption in order to ensure future funding.

### *The Role of Agencies Post-adoption*

It is generally acknowledged that in many countries post-adoption support is inadequate for both domestic and intercountry adoption. We discussed above the importance of support for families adopting children with special needs, stressing that in fact support should be available for all families adopting from overseas.

It was felt that agencies should turn their attention to the post-adoption needs of children they had placed, but that this would need funding from government to support adoptive families. Agencies were in the best position to provide such support, as they knew the adopters. It was also pointed out that agencies should ensure that records of all intercountry adoptions were preserved and could be accessed by adoptees. Likewise the role of agencies in homeland tours and search and reunion was a matter of interest to many participants, although with the growth of new communication technologies adoptees and their families often undertake these themselves (Fursland, 2010; Fursland, 2010a; Jeannin and Dambach, 2013).

But the role of agencies post adoption is not just about adoptees and their families, it is also about their responsibility to the child's country of origin. Central Authorities are required to send reports on intercountry adoptions to the child's state of origin, the frequency of such reports being left to the state of origin. At the 2005 Special Commission this was a major concern of states of origin attending, some of whom pointed out that without such reports, rumours of children taken for body parts or being trafficked for sexual abuse would increase. Such reports cannot be written by adoptive parents and so require an on-going involvement by accredited bodies. It was also acknowledged that post-adoption support for first mothers was largely neglected and that many countries of origin lacked the resources to provide this.

It was felt that this was an area to be addressed further in the forthcoming Special Commission in June 2015. The gathering together of so many contracting states offered an opportunity to examine communication and exchange of information between sending and receiving countries to ensure that the latter had more accurate information to enable appropriate support to be offered to adoptive families while the former had a genuine reassurance that their children were adequately cared for.

## **Conclusion**

Overall the feeling was that accredited bodies have played a key role in ensuring that intercountry adoption is in the best interests of the child, but that there was need for careful monitoring by Central Authorities and greater discipline on the part of agencies, e.g. in determining how many prospective adopters could be approved in the light of falling numbers of adoptions and in restricting the number of files sent to states of origin struggling to find good matches for the smaller number of children available for adoption.

There was also acknowledgement that there were too many agencies that did not act in the responsible manner required by the HCIA and that independent adoptions continued. The HCIA needed to repeat their call for all accredited bodies to maintain the same standards when working with countries of origin that have not ratified or acceded to the convention. The assertion that agencies have too often acted primarily in the interest of adoptive parents, while the rights of children and their first families remained secondary, seemed apparent. It was vital that Central Authorities monitor agencies rigorously and withdraw accreditation if standards are not met, but it was felt that only agencies themselves could put this right. The HCCH needed to ensure that both messages were heard by contracting states.

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## **APPENDICES: STATISTICAL TABLES**

### **1. Intercountry Adoptions to 23 Receiving States 2003 - 2013**

The top five receiving countries have remained the same throughout this period, but the after the United States, the order has changed – with second place changing from France in 2003 to Spain (2004-7) and Italy (2008-13).

### **2. Top 15 States of Origin 2003-2013**

Changes are even more striking in states of origin. China has been the most important this century with Russia and Ethiopia in second place in most years, but Guatemala has fallen from 3rd place in 2003-7 and 2<sup>nd</sup> in 2008 to outside the top 20 from 2010 .

### **3. Top 10 States of Origin 2003- 2010**

Only 3 of the top 10 states of origin in 2003 (China, Russia and Colombia) were in the top 10 in 2013.

### **4. Intercountry Adoptions from African Countries**

In 2003 African nations accounted for less than 6 per cent of intercountry adoptions but by 2012/13 they made up more than 27 per cent of the global total.

### **5. Intercountry Adoptions from the Democratic Republic of Congo**

The number of adoptions rises from 15 in 2004 to 583 in 2013, with more than 50 per cent of adoptions in 2013 going to the USA

### **6. Intercountry Adoptions from Uganda 2003-2013**

Adoptions from Uganda rose from 12 to 248 between 2003 and 2013, with 95% going to the United States in the latter year.

### **7. Intercountry Adoption from China**

There have been the receiving countries for which data was obtained record nearly 140,000 intercountry adoptions and a small number of adoptions from Singapore recorded by CCAA. Totals for the UK are approved applications and the actual number of adoptions recorded by CCAA is lower.

### **8. Gender and Special Needs in Adoption from China 2005-9**

These data are from the CCAA submission to the 2010 Special Commission and show the move away from a predominance of young girls as the number of special needs adoptions increase.

**Updated versions of the above data can be accessed on the Hague Conference web-site at**

[http://www.hcch.net/index\\_en.php?act=publications.details&pid=5891&dtid=32](http://www.hcch.net/index_en.php?act=publications.details&pid=5891&dtid=32)

These tables update statistics published previously by the author (Selman 2012a, 2012b).

**TABLE 1**  
**23 Receiving States 2003-2013**

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2003-2013
USA	21,616	22,884	22,728	20,679	19,613	17,438	12,753	12,149	9,320	8,668	7,094	174,942
Andorra	2	0	1	4	6	5	7	9	2	1	4	41
Australia	278	370	434	421	405	270	269	222	215	149	129	3,162
Belgium	430	470	471	383	358	364	439	388	351	260	178	4,092
Canada	2,167	1,949	1,858	1,568	1,715	1,614	1,695	1,660	1,514	1,162	1,243	18,145
Cyprus	3	3	3	0	19	16	12	4	n/a	1	n/a	61
Denmark	523	528	586	450	426	395	496	419	338	219	174	4,556
Finland	238	289	308	218	176	157	187	160	163	175	141	2,212
France	3,995	4,079	4,136	3,977	3,162	3,271	3,017	3,504	1,995	1,569	1,343	34,048
Germany <sup>a</sup>	674	650	560	583	778	664	571	504	525	415	330	6,254
Iceland	25	29	41	19	18	13	17	18	19	17	8	224
Ireland	358	398	366	313	392	422	307	201	188	119	72	3,136
Israel	258	226	191	176	218	150	120	114	115	88	69	1,725
Italy	2,772	3,402	2,874	3,188	3,420	3,977	3,964	4,130	4,022	3,106	2,825	37,680
Luxembourg	51	56	41	45	23	28	36	40	24	14	11	369
Malta	23	46	39	60	64	53	34	42	50	57	n/a	468
New Zealand	273	339	30	20	49	30	16	19	17	22	n/a	815
Netherlands	1,154	1,307	1,185	816	782	767	682	705	528	488	401	8,815
Norway	714	706	582	448	426	304	344	343	304	239	144	4,554
Spain	3,951	5,541	5,423	4,472	3,648	3,156	3,006	2,891	2,573	1,669	1,188	37,518
Sweden	1,046	1,109	1,083	879	800	793	912	729	630	466	341	8,788
Switzerland	664	567	389	410	394	367	349	388	367	314	280	4,489
UK	301	333	369	363	356	225	200	175	153	120	124	2,719
<b>TOTAL (23)</b>	<b>41,516</b>	<b>45,281</b>	<b>43,698</b>	<b>39,492</b>	<b>37,248</b>	<b>34,479</b>	<b>29,433</b>	<b>28,814</b>	<b>23,412</b>	<b>19,338</b>	<b>16,101</b>	<b>358,815</b>

**TABLE 2**  
**Top 15 States of Origin 2003-2012; by number of ICA to 23/27 Receiving States over period**

	2003-13	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>China</b>	<b>86,863</b>	<b>11,231</b>	<b>13,415</b>	<b>14,483</b>	<b>10,765</b>	<b>8,748</b>	<b>5,875</b>	<b>5,012</b>	<b>5,429</b>	<b>4,367</b>	<b>4,135</b>	<b>3,403</b>
<b>Russia</b>	<b>55,404</b>	<b>7,737</b>	<b>9,384</b>	<b>7,492</b>	<b>6,770</b>	<b>4,881</b>	<b>4,132</b>	<b>4,003</b>	<b>3,360</b>	<b>3,292</b>	<b>2,586</b>	<b>1,767</b>
<b>Ethiopia</b>	<b>30,496</b>	<b>858</b>	<b>1,524</b>	<b>1,789</b>	<b>2,186</b>	<b>3,036</b>	<b>3,888</b>	<b>4,553</b>	<b>4,385</b>	<b>3,452</b>	<b>2,800</b>	<b>2,025</b>
<b>Guatemala</b>	<b>24,169</b>	<b>2,676</b>	<b>3,427</b>	<b>3,873</b>	<b>4,232</b>	<b>4,854</b>	<b>4,186</b>	<b>785</b>	<b>58</b>	<b>36</b>	<b>16</b>	<b>26</b>
<b>Colombia</b>	<b>16,067</b>	<b>1,749</b>	<b>1,714</b>	<b>1,472</b>	<b>1,640</b>	<b>1,634</b>	<b>1,608</b>	<b>1,407</b>	<b>1,785</b>	<b>1,573</b>	<b>917</b>	<b>566</b>
<b>South Korea</b>	<b>15,608</b>	<b>2,332</b>	<b>2,242</b>	<b>2,121</b>	<b>1,816</b>	<b>1,226</b>	<b>1,367</b>	<b>1,396</b>	<b>1,122</b>	<b>951</b>	<b>814</b>	<b>221</b>
<b>Ukraine</b>	<b>15,318</b>	<b>2,051</b>	<b>2,019</b>	<b>1,989</b>	<b>1,047</b>	<b>1,614</b>	<b>1,569</b>	<b>1,505</b>	<b>1,096</b>	<b>1,065</b>	<b>715</b>	<b>645</b>
<b>Viet Nam</b>	<b>11,385</b>	<b>931</b>	<b>486</b>	<b>1,198</b>	<b>1,368</b>	<b>1,698</b>	<b>1,721</b>	<b>1,504</b>	<b>1,266</b>	<b>706</b>	<b>214</b>	<b>293</b>
<b>Haiti</b>	<b>11,033</b>	<b>1,049</b>	<b>1,159</b>	<b>956</b>	<b>1,103</b>	<b>786</b>	<b>1,332</b>	<b>1,195</b>	<b>2,564<sup>a</sup></b>	<b>161</b>	<b>256</b>	<b>472</b>
<b>India</b>	<b>8,442</b>	<b>1,169</b>	<b>1,079</b>	<b>875</b>	<b>846</b>	<b>1,013</b>	<b>756</b>	<b>722</b>	<b>606</b>	<b>632</b>	<b>394</b>	<b>350</b>
<b>Kazakhstan</b>	<b>6,200</b>	<b>863</b>	<b>877</b>	<b>843</b>	<b>717</b>	<b>780</b>	<b>728</b>	<b>640</b>	<b>508</b>	<b>217</b>	<b>3</b>	<b>24</b>
<b>Philippines</b>	<b>5,448</b>	<b>416</b>	<b>408</b>	<b>508</b>	<b>483</b>	<b>568</b>	<b>590</b>	<b>555</b>	<b>497</b>	<b>489</b>	<b>407</b>	<b>530</b>
<b>Brazil</b>	<b>4,698</b>	<b>471</b>	<b>472</b>	<b>479</b>	<b>524</b>	<b>485</b>	<b>490</b>	<b>469</b>	<b>380</b>	<b>349</b>	<b>338</b>	<b>241</b>
<b>Thailand</b>	<b>4,201</b>	<b>489</b>	<b>511</b>	<b>467</b>	<b>419</b>	<b>442</b>	<b>382</b>	<b>335</b>	<b>306</b>	<b>270</b>	<b>282</b>	<b>298</b>
<b>Poland</b>	<b>3,948</b>	<b>347</b>	<b>420</b>	<b>409</b>	<b>395</b>	<b>383</b>	<b>408</b>	<b>403</b>	<b>325</b>	<b>299</b>	<b>249</b>	<b>310</b>
<b>23 states</b>	<b>358,815</b>	<b>41,516</b>	<b>45,281</b>	<b>43,698</b>	<b>39,492</b>	<b>37,248</b>	<b>34,479</b>	<b>29,433</b>	<b>28,814<sup>a</sup></b>	<b>23,412</b>	<b>19,338</b>	<b>16,101 [20 states]</b>
<b>(27 states)</b>				<b>43,768</b>	<b>39,562</b>	<b>37,292</b>	<b>34,544</b>	<b>29,503</b>				

Source: Statistics from 23-27 Receiving Countries (For 2005-9, includes Austria, Monaco, Portugal and Slovenia)

<sup>a</sup> Includes ISS estimate for Germany (62) and 1,090 humanitarian visas to US (also included in 2010 total)

**TABLE 3**  
**Top Ten States of origin: 2003-2013**

Rank	2003	2005	2007	2009	2011	2012	2013	2003-12
1	CHINA	CHINA	CHINA	CHINA	CHINA	CHINA	CHINA	CHINA
2	RUSSIA	RUSSIA	RUSSIA	ETHIOPIA	ETHIOPIA	ETHIOPIA	ETHIOPIA	RUSSIA
3	GUATEMALA	GUATEMALA	GUATEMALA	RUSSIA	RUSSIA	RUSSIA	RUSSIA	ETHIOPIA
4	S KOREA	S KOREA	ETHIOPIA	VIETNAM	COLOMBIA	COLOMBIA	UKRAINE	GUATEMALA
5	UKRAINE	UKRAINE	VIETNAM	UKRAINE	UKRAINE	S KOREA	CONGO DRC	COLOMBIA
6	COLOMBIA	ETHIOPIA	COLOMBIA	COLOMBIA	S KOREA	UKRAINE	COLOMBIA	S KOREA
7	INDIA	COLOMBIA	UKRAINE	S KOREA	VIETNAM	CONGO DRC	PHILIPPINES	UKRAINE
8	HAITI	VIETNAM	S KOREA	HAITI	INDIA	PHILIPPINES	HAITI	VIETNAM
9	VIETNAM	HAITI	INDIA	GUATEMALA	PHILIPPINES	INDIA	BULGARIA	HAITI
10	KAZAKHSTAN	INDIA	HAITI	INDIA	BRAZIL	BULGARIA	POLAND	INDIA

States which have ratified the HCIA in the relevant year are **highlighted**.

**TABLE 4**  
**Top 14 African States of origin, with 600+ adoptions 2003-2013**

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2003-13
<b>Ethiopia</b>	<b>858</b>	<b>1,524</b>	<b>1,789</b>	<b>2,186</b>	<b>3,036</b>	<b>3,888</b>	<b>4,553</b>	<b>4,385</b>	<b>3,452</b>	<b>2,800</b>	<b>2,025</b>	<b>30,496</b>
<b>South Africa</b>	<b>191</b>	<b>208</b>	<b>233</b>	<b>220</b>	<b>212</b>	<b>235</b>	<b>292</b>	<b>197</b>	<b>189</b>	<b>165</b>	<b>213</b>	<b>2,355</b>
<b>D.R.Congo</b>	<b>26</b>	<b>15</b>	<b>45</b>	<b>62</b>	<b>69</b>	<b>62</b>	<b>156</b>	<b>183</b>	<b>354</b>	<b>517</b>	<b>583</b>	<b>2,072</b>
<b>Nigeria</b>	<b>63</b>	<b>100</b>	<b>101</b>	<b>105</b>	<b>81</b>	<b>223</b>	<b>185</b>	<b>267</b>	<b>246</b>	<b>266</b>	<b>243</b>	<b>1,880</b>
<b>Madagascar</b>	<b>394</b>	<b>325</b>	<b>287</b>	<b>137</b>	<b>73</b>	<b>15</b>	<b>39</b>	<b>56</b>	<b>55</b>	<b>52</b>	<b>49</b>	<b>1,482</b>
<b>Liberia</b>	<b>34</b>	<b>90</b>	<b>194</b>	<b>371</b>	<b>334</b>	<b>256</b>	<b>38</b>	<b>50</b>	<b>30</b>	<b>34</b>	<b>15</b>	<b>1,446</b>
<b>Mali</b>	<b>136</b>	<b>85</b>	<b>93</b>	<b>126</b>	<b>158</b>	<b>108</b>	<b>196</b>	<b>132</b>	<b>163</b>	<b>145</b>	<b>11</b>	<b>1,353</b>
<b>Uganda</b>	<b>12</b>	<b>18</b>	<b>22</b>	<b>15</b>	<b>57</b>	<b>49</b>	<b>74</b>	<b>82</b>	<b>225</b>	<b>248</b>	<b>292</b>	<b>1,094</b>
<b>Ghana</b>	<b>21</b>	<b>34</b>	<b>39</b>	<b>34</b>	<b>58</b>	<b>117</b>	<b>121</b>	<b>127</b>	<b>114</b>	<b>181</b>	<b>189</b>	<b>1,035</b>
<b>Burkina Faso</b>	<b>72</b>	<b>95</b>	<b>82</b>	<b>107</b>	<b>99</b>	<b>85</b>	<b>58</b>	<b>79</b>	<b>68</b>	<b>90</b>	<b>67</b>	<b>902</b>
<b>Morocco</b>	<b>53</b>	<b>66</b>	<b>38</b>	<b>55</b>	<b>41</b>	<b>59</b>	<b>69</b>	<b>94</b>	<b>109</b>	<b>102</b>	<b>74</b>	<b>760</b>
<b>Kenya</b>	<b>46</b>	<b>48</b>	<b>47</b>	<b>26</b>	<b>35</b>	<b>54</b>	<b>64</b>	<b>71</b>	<b>80</b>	<b>83</b>	<b>95</b>	<b>649</b>
<b>Cote d'Ivoire</b>	<b>21</b>	<b>29</b>	<b>38</b>	<b>36</b>	<b>65</b>	<b>75</b>	<b>88</b>	<b>105</b>	<b>46</b>	<b>66</b>	<b>66</b>	<b>635</b>
<b>Cameroon</b>	<b>35</b>	<b>55</b>	<b>46</b>	<b>53</b>	<b>48</b>	<b>54</b>	<b>91</b>	<b>73</b>	<b>63</b>	<b>55</b>	<b>44</b>	<b>617</b>
<b>OTHER</b>	<b>349</b>	<b>308</b>	<b>391</b>	<b>372</b>	<b>374</b>	<b>413</b>	<b>441</b>	<b>452</b>	<b>454</b>	<b>464</b>	<b>458</b>	<b>4,476</b>
<b>TOTAL</b>	<b>2,311</b>	<b>3,000</b>	<b>3,445</b>	<b>3,905</b>	<b>4,740</b>	<b>5,693</b>	<b>6,465</b>	<b>6,353</b>	<b>5,648</b>	<b>5,268</b>	<b>4,424</b>	<b>51,252</b>
<b>Global ICA (to 23 states)</b>	<b>41,516</b>	<b>45,281</b>	<b>43,698</b>	<b>39,492</b>	<b>37,248</b>	<b>34,479</b>	<b>29,433</b>	<b>28,814</b>	<b>23,304</b>	<b>19,338</b>	<b>16,101</b>	<b>358,704</b>
<b>To 26 states</b>			<b>43,768</b>	<b>39,562</b>	<b>37,292</b>	<b>34,544</b>	<b>29,503</b>	<b>&lt; Austria, Portugal and Slovenia</b>				

**TABLE 5**  
**Intercountry Adoption from the Democratic Republic of Congo (Kinshasa)**

Receiving State	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2003-13
USA	7	1	11	5	10	9	21	42	133	240	313	792
Italy	2	2	5	10	17	24	67	75	123	138	159	622
France	6	1	5	7	5	14	42	41	40	84	62	307
Netherlands	0	0	0	0	0	2	10	20	24	28	26	112
Canada	2	10	10	5	3	5	4	4	26	20	20	109
Spain	8	0	12	31	29	5	1	0	0	0	0	86
Sweden	1	1	1	1	2	3	7	1	6	0	0	23
Switzerland	0	0	1	3	3	0	4	0	2	3	3	19
Belgium	0	0	0	0	0	0	0	0	0	3	3	6
Malta	0	0	0	0	0	0	0	0	0	1	0	1
<b>TOTAL</b>	<b>26</b>	<b>15</b>	<b>45</b>	<b>62</b>	<b>69</b>	<b>62</b>	<b>156</b>	<b>183</b>	<b>354</b>	<b>517</b>	<b>586</b>	<b>2,077</b>

**TABLE 6**  
**Intercountry Adoption from Uganda 2003-2013**

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2003-13
<b>USA</b>	<b>3</b>	<b>17</b>	<b>17</b>	<b>12</b>	<b>54</b>	<b>43</b>	<b>69</b>	<b>62</b>	<b>207</b>	<b>238</b>	<b>276</b>	<b>998</b>
<b>Canada</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>12</b>	<b>5</b>	<b>2</b>	<b>3</b>	<b>40</b>
<b>Netherlands</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>12</b>	<b>8</b>	<b>10</b>	<b>38</b>
<b>Switzerland</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>
<b>Sweden</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>11</b>
<b>Denmark</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Belgium</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>
<b>TOTAL</b>	<b>12</b>	<b>18</b>	<b>22</b>	<b>15</b>	<b>57</b>	<b>49</b>	<b>74</b>	<b>82</b>	<b>225</b>	<b>248</b>	<b>292</b>	<b>1,094</b>

**TABLE 7**  
**Adoptions from China: 1992 – 2013:**  
**Annual Totals for Top 10 Receiving States, based on data from those States**

	1992-9	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	1992-2013
USA	18,697	5,058	4,705	6,116	6,857	7,038	7,903	6,492	5,453	3,912	3,001	3,401	2,589	2,697	2,306	86,225
Spain	562	475	941	1,427	1,043	2,389	2,753	1,759	1,059	619	573	584	677	447	293	15,601
Canada	4,535	604	618	800	1,115	1,007	960	625	662	334	377	424	288	254	216	12,819
Netherlands	960	457	445	510	567	800	666	362	365	299	283	306	197	192	136	6,545
Sweden	585	165	220	316	373	497	462	314	280	206	248	190	111	89	59	4,115
Norway	644	126	216	310	298	308	299	176	156	85	106	88	66	52	31	2,961
France	87	105	130	210	360	491	458	314	176	144	102	100	97	63	99	2,936
UK	667	176	175	111	108	165	190	187	127	32	11	16	13	23	15	2,016
Denmark	344	129	134	145	177	164	207	160	139	69	89	65	40	18	11	1,891
Belgium	211	110	95	138	138	205	203	153	110	54	77	59	29	17	6	1,605
Other	93	63	97	174	192	340	380	217	217	119	137	193	254	280	228	2,984
<b>TOTAL (16)</b>	<b>27,388</b>	<b>7,468</b>	<b>7,776</b>	<b>10,257</b>	<b>11,228</b>	<b>13,404</b>	<b>14,481</b>	<b>10,759</b>	<b>8,744</b>	<b>5,873</b>	<b>5,004</b>	<b>5,426</b>	<b>4,361</b>	<b>4,132</b>	<b>3,400</b>	<b>139,701</b>
<b>% TO USA</b>	<b>68%</b>	<b>68%</b>	<b>61%</b>	<b>60%</b>	<b>61%</b>	<b>53%</b>	<b>55%</b>	<b>60%</b>	<b>62%</b>	<b>67%</b>	<b>60%</b>	<b>63%</b>	<b>59%</b>	<b>65%</b>	<b>68%</b>	<b>62%</b>

**TABLE 8**  
**a) Gender of Children Adopted From China**

<b>Year</b>	<b>Total</b>	<b>Girls</b>	<b>Boys</b>	<b>% Female</b>
<b>2005</b>	<b>14,221</b>	13,556	665	<b>95%</b>
<b>2007</b>	<b>7,858</b>	6,650	1,208	<b>85%</b>
<b>2009</b>	<b>5,294</b>	3,901	1,393	<b>74%</b>

**b) Children with Special Needs Adopted from China - by rank in 2009**

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Sweden</b>	6%	13%	25%	47%	<b>69%</b>
<b>Netherlands</b>	13%	26%	42%	53%	<b>66%</b>
<b>USA</b>	14%	30%	42%	61%	<b>61%</b>
<b>All Countries</b>	<b>9%</b>	<b>20%</b>	<b>30%</b>	<b>47%</b>	<b>49%</b>
<b>France</b>	6%	11%	13%	19%	<b>34%</b>
<b>Spain</b>	0.2%	1.3%	4%	6%	<b>9%</b>
<b>Australia</b>	0.7%	0	0	0.7%	<b>5%</b>

Source: Data provided by CCAA for 2010 HCIA Special Commission

## APPENDIX B: HCIA THEMATIC AREA AND PARTICIPANTS IN AREA 3

The Forum was organized into five thematic areas, each with an invited chair:

1. *HCLA Implementation and the Best Interests of the Child*, chaired by Sarah Richards, Senior Lecturer at University Campus Suffolk, UK
2. *Intercountry Adoption, Countries of Origin, and Biological Families*, chaired by Riitta Högbäck, Adjunct Professor (Docent) in Sociology, Researcher and Lecturer at the Department of Social Research in Helsinki University, Finland
3. *Intercountry Adoption Agencies and the HCIA*, chaired by Peter Selman, Visiting Fellow in the School of Geography, Politics & Sociology. Newcastle University, UK
4. *Force, Fraud, Coercion*, chaired by Karen Smith Rotabi, Associate Professor of Social Work at the United Arab Emirates University
5. *Global Surrogacy Practices*, chaired by Marcy Darnovsky, Executive Director of the Center for Genetics and Society, Berkeley, California

The participants listed below indicated that Thematic area 3 ***Intercountry Adoption Agencies and the HCIA*** was their primary interest and attended most if not all sessions of the thematic area.

1. Laura Briggs, University of Massachusetts, Amherst, USA
2. Carmen Buttigeig, Ministry of the Family & Social Solidarity, Malta
3. Gill Haworth, Intercountry Adoption Centre, UK
4. Mariana Karadjova, Bulgarian-Swiss Lawyer, Geneva
5. Margot Klute, Principal Programme Officer, Wereldkinderen, Netherlands
6. Celia Loftus, Principal Social Worker, Adoption Authority of Ireland
7. Diana Marre, Professor, Autonomous University of Barcelona, Spain
8. Hollee McGinnis, Washington University in St. Louis, USA
9. Gabriela Misca, Senior Lecturer in Psychology, University of Worcester, UK
10. Paolo Palmerini, Director, CIAI, Italy
11. Kim Park Nelson, Minnesota State University at Moorhead, USA
12. Irene Parsinnen-Hentula, Chief, Intercountry Adoption Service, *Save the Children*, Finland
13. Peter Selman, Visiting Fellow, Newcastle University, UK
14. Fiona Sweeney, Intercountry Adoption Team Manager, PACT (Parents & Children Together), UK
15. Irene van Ark, Programme Officer, Wereldkinderen, Netherlands
16. Jan Vroomans, Policy Officer, Ministry of Security and Justice, Netherlands

*In addition, Laura Martínez-Mora, Principal Legal Officer from the Hague Conference Permanent Bureau attended the Thematic Area 3 sessions as an observer.*