

Ethical Considerations and Child-Buying in Intercountry Adoptions

Outline

§96.38 Training requirements for social service personnel.

(a)(5) Ethical considerations in intercountry adoption and prohibitions on child-buying;

§96.46 Using providers in foreign countries.

(2) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children

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Child trafficking – Exploitation of children

- How do children become available for adoption under the Hague Treaty?
  1. To be eligible for international adoption to the US, the child must be classified as an orphan under US law, not the law of the country of origin. Under U.S. immigration law, an orphan is a foreign-born child who has no parents, or a sole or surviving parent who is unable to care for the child and has, in writing, irrevocably released the child for emigration and adoption.
  2. The child's birth parent or other legal custodian have given freely their written, irrevocable consent for the termination of their legal relationship with the child and to the child's emigration and adoption.
  3. The child must be under the age of 16 at the time an I-600 petition is filed on his or her behalf with USCIS or a consular officer on his or her behalf. A child adopted at age 16 or 17 will also qualify, provided he or she is a birth sibling of a child adopted, or who will be adopted, under the age of 16 by the same adopting parents.
- What does the Hague Treaty on Intercountry Adoption say about “child-buying”?
- Adoptive parents must understand that not all children in orphanages or child welfare institutions are available for adoption.

Definitions are much more than technical requirements – a method to rule out fraud

Abandonment – child is in the custody of a bona fide government child welfare program

Desertion – foundling – uncertainty of identity, uncertainty of parentage (1 or 2 parents)

Uncertainty of motivation for leaving a child

Disappearance - a missing person's report filed with the police? Did police do a search

Close look at all three – no contact between the birth family and the adopted family – why?

ASPs, FSPs and PAPs 1) tricked birth family, 2) bribed or induced the birth family, 3) birth family selected adoptive parents

Great suspicion about Birth Families selecting PAPs – approach – tell the truth – more credibility

Purpose of knowing this information is to prevent and to dispel concerns about Child Buying, Child Trafficking and Fraud –begin by having information about the Child's Identity

- a. Whose child is it? Who does the child belong to?      If we know, they will be interviewed
- b. From where is the child? Goes to motivation of Birth Family – mixed race, drought
- c. Who are the relatives of the child?
- d. Surrounding circumstances why child was placed in orphanage or deserted
- e. By knowing information about the child's genuine identity, USCIS can rule out child trafficking, fictitious identity, and child buying

Late registration of birth – why did they wait so long?

- a. Country practices – remote village – nobody registers birth or deaths
- b. Country practices -- explain and have some additional documentation that establishes the child's identity
- c. Typos – male not female, date of birth – accuracy is not on radar screen
- d. Dates of Birth – easy not to have specific dates
- e. Who registered the child's birth?
- f. Where was the child before going into custody of orphanage?

How to prove a child's identity – corroborating evidence

- a. Baptismal records
- b. Elementary school records
- c. Relatives of the child – grandparents, aunts and uncles, older siblings, neighbors
- d. Vaccination records
- e. Police reports of finding an abandoned child – deserted
- f. Orphanage Registration Records
- g. Medical Records from orphanage

Gift to a birth mother – Is it Child Buying or an Inducement

For many, the presumption will be that the child is available for adoption because money given to birth parents.

Inducement is not defined in the INA or in the regulations regarding adopted children

Timing and reason for the gift may be relevant. Why was the gift given – cultural or religious customs – specific times of year.

- a. When did bio parents decide to place child for adoption
- b. When was the gift?
- c. Paying medical fees for BP's other child
- d. Transportation to and from court proceedings
- e. Payments to FSP

How to determine if the birth parents understand the concept of adoption and signed the consent with full understanding and whose responsibility.

Consent of Children to the Adoption – counseling needed before they are asked to sign  
Consent

Is this the duty of the Primary Provider? Probably not and may be overreaching

Do you want your case to be approved?

**Always, always tell the truth.**

Unauthorized Custody Transfer of children UCT – Dissolved Adoptions