



Monthly Review N° 06/2011 June 2011

EDITORIAL

Fraud with respect to civil status: a reality in intercountry adoption

On the occasion of the publication by the ISS/IRC of a guide on the risks relating to intercountry adoption developed for professionals and prospective adopters, the ISS/IRC wishes to address the tricky issue of fraudulent civil certificates, which are sometimes issued with a view to intercountry adoption.

The forging of birth certificates by unscrupulous civil registry officials in some countries of origin, and the lack of subsequent adequate control by immigration services in the receiving country, is having an impact on intercountry adoption since several years. In its study on 'The grey areas of intercountry adoption', which is currently underway, the ISS/IRC addresses, among others, the 'manufacturing' of adoptable children, once their birth certificates have been forged. Child protection experts increasingly rally on this issue (see, for example, [David Smolin's numerous articles](#)), and the Committee on the Rights of the Child has constantly been reminding States Parties of their obligations on civil status issues (including birth registration – a still unrecognised obligation in many countries¹).

The background of fraud

The requirements linked to civil certificates remain quite abstract in some countries, in which the means to maintain civil registries and ensure the authenticity of official documents are often non-existent. A lack of resources, insufficient administrative structures, or the absence of political will are all factors, which prevent the implementation of an efficient system of birth registration. In the Democratic Republic of Congo, for example, the rate of registration is of 34%; it falls to 9% in Chad, and is lower than 20% in Ethiopia².

Faced with these gaps, fraud becomes easy, is diverse and sometimes difficult to identify: the document is issued by an authority, which does not hold the original certificate or has no access to it, the civil registry official has received a bribe in order to issue a forged document, the person issuing the certificate is not competent, etc.

The responsibility of the actors involved

In these circumstances, it is essential to remember the responsibility incumbent on each actor involved in an intercountry adoption procedure, whether the Embassies or Consulates, the accredited adoption bodies (AABs) or the prospective adopters themselves. It is indeed incumbent upon countries of origin to control, even punish, civil registry officials. Some countries of origin – including Vietnam³ – have already taken to court corrupt civil registry officials, who were found guilty of forgery – an example to be followed and disseminated. On the other hand, it is incumbent upon receiving countries to inquire on the procedure for obtaining civil certificates, in order to ascertain their transparency and legality. In relation to the latter, the AABs' knowledge of the field is very useful and must be used in the fight against fraud.

Some thoughts...

In 2005, the International Commission on Civil Status (ICCS) adopted a recommendation relating to the fight against fraud in

documentation relating to civil status⁴. In relation to inter-state cooperation, the ICCS recommended, for example, the systematic exchange of information on cases of documentary fraud, the collaboration among consular services, or else, the resort, by several countries, to a same specialist or trustworthy lawyer, in order to research in a foreign country. In particular, in 2007, the ICCS focused on the importance of issuing civil status certificates in cases of perinatal deaths⁵.

Some regional initiatives are also worth highlighting, such as the Inter-American programme for universal civil status registration and the 'right to identity', which was adopted in 2007⁶. The Organisation of American States is to strengthen the institutions in charge of civil status registration. This technical assistance projects included, among others, campaigns of mobile registration units, registration campaigns in hospitals and schools, etc. Significant progress may already be observed. In Haiti, for example, over 4.2 million Haitian citizens have been registered on the civil status registry thanks to the local project. Similarly, in Honduras, 400,000 certificates of the National Registry of Persons have been recorded digitally, and in Guatemala, significant registration efforts have been undertaken with indigenous populations. Similarly, an increasing number of conferences are being held on this issue, in order to raise awareness and disseminate the main principles and the pitfalls to avoid.

Finally, the ISS/IRC's recent guide on *Intercountry adoption and its risks* also develops a series of questions relating to each stage of the adoption, including the 'official documents to be obtained in the country of origin' (see the article on p. 5).

Even though this issue exceeds the intercountry adoption actors' competences and scope of activity, it obviously is an essential component of any procedure. As often, receiving countries may prove to be quite vulnerable when faced with these realities. However, it is essential that the latter adopt a critical approach in view of the documents that are submitted to them, and that they question their counterparts in countries of origin when doubts arise.

Birth registration represents the starting point for the recognition and the protection of every child's fundamental right to identity, and therefore a legal existence. To ignore this right is to ignore the child.

The ISS/IRC team
June 2011

Sources:

¹ See article in [Monthly Review 06/2005](#).

² http://www.unicef.org/wcaro/wcaro_stats_BirthRegistration.pdf.

³ See <http://www.saigon-gpdaily.com.vn/Law/2009/9/74671/>.

⁴ <http://www.ciec1.org/>.

⁵ <http://www.ciec1.org/CadrEtudeDeces.htm>.

⁶ See

http://scm.oas.org/doc_public/ENGLISH/HIST_10/CP_24158E07.doc.