

**Written Testimony of
National Council For Adoption**

**Hearing to Review
Asian Adoptions to the United States**

**East Asian and Pacific Affairs Subcommittee
Senate Foreign Relations Committee**

June 8, 2006

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Chairman Murkowski and Members of the Subcommittee:

My name is Thomas Atwood, president and chief executive officer of the National Council For Adoption. On behalf of the National Council For Adoption (NCFA), I thank you for the opportunity to testify on the subject of Asian adoptions to the United States. NCFA applauds the Subcommittee's interest in the compassionate practice of intercountry adoption, which has found loving, permanent families in America for some 108,000 Asian orphans since 1989.

The National Council For Adoption is an adoption research, education, and advocacy nonprofit whose mission is to promote the well-being of children, birthparents, and adoptive families by advocating for the positive option of adoption. Since its founding in 1980, NCFA has been a leader in serving the best interests of children through policies that promote a global culture of adoption and child welfare, increase intercountry adoptions with appropriate child protections, present adoption as a positive option for women with unplanned pregnancies, further adoption of children out of foster care, and make adoption more affordable through the adoption tax credit.

NCFA advocates the positive option of adoption, both domestic and intercountry, for children and families in the United States and around the world. NCFA has been involved in improving the intercountry adoption system since the early stages of drafting the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) and the Intercountry Adoption Act of 2000. Since last September, we have been to China, Vietnam, Russia and The Hague, serving as a global advocate and expert on adoption and child welfare. We are planning trips to countries of origin in Asia, eastern Europe, and Central and South America in the coming year.

Asian Adoptions and the Growth in Intercountry Adoptions

The number of intercountry adoptions continues to grow in the United States, having increased 13 out of the last 15 years. In 2005, the number of intercountry adoptions by Americans, 22,710, actually exceeded the number of infants adopted domestically by Americans, 22,291, in 2002, the most recent year for which statistics are available.¹ Increases in adoptions from Asian countries account for a large part of that

¹ *Adoption Factbook IV*, National Council For Adoption, publication pending.

growth, having increased in 10 out of the last 12 years, with China leading the way with 7,939 children adopted by Americans in 2005. At the time of the 2000 census, 12.6 percent of American adopted children under the age of 18 and living with their parents were adopted internationally; 6.2 percent of America's adopted children were born in Asian countries, nearly half of them from South Korea.

China and South Korea have been in the top four countries of origin for American adoptive parents since 1994. In the first half of the 1990s, South Korea was the leading country from which U.S. citizens adopted, representing 25 percent of American international adoptions during that period. With the increase in adoptions from China, Russia, and Guatemala since then, and with the decline in adoptions from South Korea from an average of 1,800 per year since 1990 to 1,604 in 2005, South Korean adoptions stood at 7 percent of the total international adoptions by Americans in 2005.

China has been the number one country of origin for each of the last six years and in either the number one or two position each year since 1995, with annual adoptions by Americans ranging from 4,843 to 7,939. Much of the overall increase in the numbers of intercountry adoptions in recent years has been due to increases in adoptions from China, with most other Asian countries either remaining steady or declining slightly, such as India and the Philippines, and others declining dramatically due to suspensions, such as Cambodia and Vietnam. In 1990 Asian-born children made up 42 percent of Americans' intercountry adoptions; in 2005 that proportion was 46 percent.

Benefits of Intercountry Adoption

The benefits of intercountry adoption to children are indisputable. The clinical record clearly confirms what common sense tells us, that outcomes for children who are adopted internationally are better than those for children raised in institutions or in foster care. A study, "Behavior Problems and Mental Health Referrals of International Adoptees," recently published in the *Journal of the American Medical Association* found that even though the studied internationally adopted youth were referred to mental health services more often than non-adopted youth, the effect size was small, and the large majority of them were "well-adjusted." The researchers considered the finding that the large majority of internationally adopted children and youth were well-adjusted to be particularly significant in light of the fact that prior to adoption many internationally adopted children "experience insufficient medical care, malnutrition, maternal separation, and neglect and abuse in orphanages." Clearly, internationally adopted children grow up healthier than they would have, if they remained in institutional or temporary care.²

Empirical studies are valuable, but in this case they only confirm what we already know from common sense and millennia of human society: All children need and deserve loving, permanent families of their own. We can also observe intercountry adoption's benefits to children with our own eyes in the international-adoptive families we know personally. Even good institutional or temporary care cannot take the place of a loving,

² "Behavior Problems and Mental Health Referrals of International Adoptees," *Journal of the American Medical Association*, vol. 293, no. 20, May 25, 2005

permanent family of one's own, whether obtained through domestic or intercountry adoption.

Holistic Approach to International Advocacy of Adoption and Child Welfare

The basic tenet of intercountry adoption is that national boundaries and national pride should not prevent children from having families. This truth seems self-evident. Does the child have a greater interest in remaining in his or her country of origin than in having a family? Given the choice between growing up with a loving, permanent family of one's own through international adoption versus growing up without a family in the country in which one happens to have been born, most people would choose a loving, permanent family through intercountry adoption. The love and security of belonging in one's own legally recognized and permanent family during childhood is fundamental to healthy human development.

Adoptive parents and intercountry adoption policy can address the concern about losing connection with national roots by providing opportunities for internationally adopted children to learn about their countries of origin, and even to visit them, if possible, and the children so desire. In fact, most adoptive parents pay close attention to teaching their internationally adopted children about their national roots.

Nationalists and opponents of international adoption sometimes virtually equate adoption with child trafficking. International adoption advocates should be careful always to make clear the distinction between adoption and child trafficking. Intercountry adoption is a professional social service, in the best interests of children to provide them loving, permanent families, conducted in accordance with child-protection regulations in a transparent process. Child trafficking is the illegal exploitation of children and their parents or guardians, through kidnapping or financial corruption, to serve the selfish interests of unscrupulous and predatory sellers and buyers.

To varying degrees, intercountry adoption advocates and practitioners encounter a streak of nationalism in every country of origin with which we work. To some extent, this nationalistic reaction is understandable: Any self-respecting nation would like to be able to take care of its children in need itself. NCFA agrees with the principle that domestic adoption is to be preferred over intercountry adoption. Whenever possible, it is preferable for children to grow up with loving, permanent parents and families in their countries of origin. However, when domestic adoption is not occurring for children within a certain timeframe, international child welfare principles suggest that they should become eligible for intercountry adoption in a timely manner and they should receive the best possible temporary care while waiting.

In communications with countries of origin, it can be counter-productive solely to advocate that Americans be allowed to adopt their orphaned children. This approach can feed into the negative, nationalistic caricature – that rich, presumptuous Americans are trying to take the mother-country's children – which cynical politicians in countries of origin exploit to suspend or discourage adoptions. This potential pitfall argues for the

current advocacy approach, which is working well, whereby the Assistant Secretary for Consular Affairs manages intercountry adoption as part of a broader portfolio, and it argues against the creation of a single-focused Ambassador at Large for Intercountry Adoption. It is difficult to see how political leaders in countries of origin would find it advantageous to associate favorably with the American representative whose sole purpose is to enable Americans to adopt the native country's children.

Instead, NCFA recommends a holistic approach to international adoption advocacy, which respects intercountry adoption as part of the country of origin's overall adoption and child welfare program. In its communications with countries of origin, NCFA presents intercountry adoption as a positive option for orphaned children, second in preference to timely domestic adoption, but to be preferred over domestic foster care and group or institutional care. NCFA also offers to share with these countries as much as they would like to receive of its expertise regarding America's experience with adoption, foster care, and other child welfare policies. This approach has helped NCFA to build strong relations with several Asian countries, including China, Korea, and Vietnam.

In response to their implementation of the Hague Convention on Intercountry Adoption, many countries are taking comprehensive looks at their adoption and child welfare programs. Because America has many decades more experience with governmental approaches to these policies than almost all the countries of the world, it has much to offer to countries of origin as they develop their own programs, if they are interested in learning from our experiences.

National boundaries should not prevent children from having families, indeed. But in the area of international adoption and child welfare policy, the United States' opportunities go beyond simply promoting its citizens' ability to adopt internationally. By sponsoring educational seminars and exchanges with other Hague Central Authorities, for example, the American government and adoption community can also promote and inform the global proliferation of adoption and child welfare policies, in the best interests of children around the world. The increased international cooperation and good will created in doing so would also likely increase international receptivity to Americans' adopting.

Making a Smooth Transition to the Hague Convention on Intercountry Adoption

Now that the Department of State has published in February 2006 the implementing regulations for the Intercountry Adoption Act (IAA), the top international-adoption priority for the American government and adoption community should be to make a smooth transition to U.S. ratification and implementation of the 1993 Hague Convention on Intercountry Adoption.

While these regulations are sound and will promote child protection and international adoption, they are also complex and demanding. It will be mid- to late-2007 before the regulations have been sufficiently implemented that the treaty can be formally ratified and entered into force. During that time period the entire international adoption

community in America will be relearning its ways of processing adoptions from the more than 60 Hague Convention Member States. Hague Convention Central Authorities from around the world will also be relearning how to work with America.

Among the new systems and challenges in the State Department's 100-page public notice of the final rule that will have to be learned and managed over the next 18 months, in order to process adoptions with Hague Convention Member States are: the establishment of the new Central Authority in the Department of State; the authorizing and contracting of new accrediting entities; the complete accreditation of adoption agencies and approval of persons, who may make adoption placements under the Hague Convention; the adaptation of all adoption service providers to the rule's new standards and requirements; a new six-part definition of adoption services and new rules regarding four newly defined categories that may provide them; the establishment of a case registry at State and the Department of Homeland Security for incoming and outgoing adoptions, both for Hague Convention and non-Convention intercountry adoptions; new data collection, record-keeping, and reporting requirements; and much more.

Other substantial reforms may be appropriate once the intercountry adoption system is further along in the transition to the Hague Convention. Indeed, as the IAA regulations are implemented, the need for additional reforms may become evident, and they could be considered along with other proposals at that time. But there is no compelling reason to implement other major reforms at this time, such as transferring to the State Department all of the Department of Homeland Security's intercountry-adoption work currently housed in Citizenship and Immigration Services (CIS). Forcing such a transition at this already demanding time would be disruptive to the intercountry-adoption system and confusing to our Central Authority partners around the world.

After many frustrations with CIS (formerly INS) and the State Department in previous years, NCFA is pleased to note that the intercountry adoption community in America reports significant improvements in the performance of both agencies. There has been greater cooperation between the two agencies, increased communications and more responsiveness to families and adoption service providers, increased standardization of processes across branch offices, and more proactive, international advocacy of adoption. Both agencies seem to have grasped and appreciate the preciousness of the mission they are responsible for in handling intercountry adoption – helping American citizens provide loving, permanent families for orphaned children around the world.

The pivotal moment of implementation of the Hague Convention on Intercountry Adoption of 1993 and the Intercountry Adoption Act of 2000 is here. The international adoption community believes that we should not jeopardize this long-awaited transition by introducing other major bureaucratic and organizational reforms at this time.

Country Reports

Following are brief reports highlighting intercountry adoption issues in various Asian countries.

China: Since China began expanding its practice of intercountry adoption in the early 1990s, the country has become a model of consistency and predictability. The China Center for Adoption Affairs (CCAA) is an example of what a central authority, as contemplated by the Hague Convention on Intercountry Adoption, can accomplish in terms of decision-making, and setting policy, procedures, and oversight. However, American adoption service providers express concerns that China's process can be unduly long, with adoptions routinely taking more than a year – perhaps, the consequence of increased demands on the CCAA to process a growing number of applications. When NCFA met with CCAA in November 2005 in Beijing, the CCAA reported that it had just received 2,000 dossiers in the month of October alone, a dramatic increase.

The American international adoption community applauds Beijing's emerging commitment to improved child welfare services, including CCAA's promotion of domestic adoption. However, the American adoption community is concerned about the impact this trend could have on international adoption. We recommend ongoing, proactive international-adoption advocacy by the American government, so China will continue to treat intercountry adoption as the preferred alternative to institutionalization, for children who are not likely to be adopted domestically.

South Korea: Formalized American intercountry adoption essentially began in association with the Korean War and the pioneering work of Harry and Bertha Holt of Holt International Services, and has continued since the 1950s. By far, the largest group of internationally adopted children in America, still, is children born in South Korea. However, in 2005 South Korea posted its lowest number of American adoptions since 1996, and nationalistic voices have begun to speak out more vocally against intercountry adoption in this pioneering country.

A South Korean trend toward reduced commitment to intercountry adoption would not be surprising, if that is indeed what we are experiencing, but it should be resisted, in the interests of children. Since the days of intercountry adoption's beginnings, South Korea has become a relatively prosperous country. The more prosperous the country of origin, the more prevalent may be the attitude that it can and should take care of its orphans domestically. The American government and adoption community should applaud South Korean efforts to promote domestic adoption and strengthen its domestic child welfare programs. But we should continue to advocate, in the best interests of children, for the policy of preferring intercountry adoption over non-family options when domestic adoption is not occurring for a child.

Vietnam: From 2002 to 2003, Vietnam adoptions decreased by half, from 766 to 382. Credible concerns that some children made eligible for adoption were being bought or stolen led the U.S. Immigration and Naturalization Service (INS) to review the Vietnamese adoption process. Subsequently, the government of Vietnam announced amendments to its adoption regulations, which took effect January 2, 2003. Changes included a requirement for countries to enter bilateral agreements with Vietnam and the creation of a central foreign adoption office to approve petitions.

The American adoption community is encouraged that, in 2005, the United States and Vietnam signed a bilateral agreement that laid the groundwork for intercountry adoptions between the two countries to recommence after a two-and-a-half-year hiatus. In the interests of Vietnam's orphaned children, the adoption community is hoping for and looking forward to a full resumption of adoptions to pre-moratorium levels and to eventual increases in the number of adoptions. However, given the still evolving system in Vietnam, close monitoring at the local level will continue to be necessary, in order to ensure a transparent process free from corruption, with legitimate consents from birthparents, and appropriate recordkeeping.

India: Technically, Indian law does not provide for foreigners to adopt Indian children. But under the Guardians and Wards Act of 1890, foreigners may petition an Indian District Court for legal custody of a child to be taken abroad for adoption. Considering the enormous orphan population in India, its annual average of 418 adoptions by Americans seems startlingly low. In fact, 2005 posted the lowest number of adoptions from India by Americans in the last 15 years, 324. However, the Indian Central Authority told NCFCA at the Special Commission Meeting on the practical operation of the Hague Convention on Intercountry Adoption in The Hague, in September 2005, that India would be interested in working more with the United States upon our country's implementation of the Hague Convention. With implementing regulations now in place, the American government and adoption community should begin to discuss moving forward with this plan with the Indian Central Authority.

Cambodia: Citing "baby selling and baby abduction," as well as "seriously flawed" adoption processes in Cambodia, the INS declared a suspension of U.S. adoptions from Cambodia in December, 2001. The adoption community shares the concerns about corruption and trafficking, and urges the U.S. government to ensure child and birthparent protections, as well as legal and ethical practices, while moving forward toward resuming international adoptions from Cambodia as soon as possible.

Philippines: The Philippines is a Hague Convention country and posts tenth on the list of countries of origin, with 259 American adoptions in 2005. The Philippines' geography presents a barrier to monitoring the adoption process due to its 7,100 islands. The intercountry adoption process in Philippine courts is tedious and the law requires a strong preference for domestic adoption, followed by a preference for placing children with Philippine families abroad. Unlike some other Asian countries, there is a disproportion of male children available for adoption. The Philippines' long history of cooperation with America and its status as the world's third largest English-speaking country suggest that increased American adoption advocacy may serve the interests of Philippine orphans through increased intercountry adoptions.

Tsunami Countries: On December 26, 2004, Southeast Asia suffered a horrific natural disaster, the tsunami, leaving thousands of people in these countries in a state of emergency. Of the four most affected countries – Indonesia, Sri Lanka, India, and Thailand – only India at the time had an established international adoption program.

Thailand had experience with international adoptions on a small scale, but the process took up to two years and the Thai government granted only 69 adoptions in 2004. The most affected country, Indonesia, only allowed adoptions by foreign couples who had been residents for two years. Sri Lanka allowed only 4 adoptions by U.S. parents in 2001.

Despite the outpouring of sympathy from Americans offering to adopt tsunami orphans, international adoption was not a habit of these countries. In the immediate aftermath of the disaster, affected countries' authorities and the international child welfare community appropriately focused their efforts to serve the children on shelter and nutrition, protection from trafficking, and reuniting them with parents or other relatives and community members. Furthermore, before intercountry adoption could be considered as an option for tsunami orphans, as with all adoptions, it needed to be determined that a child is truly orphaned, emotionally ready to be adopted and moved from familiar surroundings, and legally free to be adopted, through proper legal determinations and proceedings.

With the passage of time, it seems appropriate for the American government and adoption community to revisit the possibility of providing loving, permanent families through intercountry adoption for tsunami child victims who have been identified as orphans. Perhaps the tsunami-affected countries will be more open to this compassionate option at this time. Although international adoption cannot be the solution for all of these children, for those who are adopted it will likely be the best possible solution.

Chairman Murkowski, intercountry adoption can strengthen the bonds of friendship between countries. Approximately two-million Americans have beloved family members through international adoption from Asian countries. Adoption, whether domestic or intercountry, is a phenomenally successful social institution, which has met the needs of millions of children. It can continue to do so for millions more orphans around the world, if allowed the opportunity. We greatly appreciate the American government's and this Subcommittee's advocacy of intercountry adoption and offer our continued assistance in advancing this crucial mission.

Respectfully submitted,

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