

Thinking family



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THINKING FAMILY

with Emalene Gemmell



Inter-country adoption essentially began in Australia during the Vietnam War, when 292 Vietnamese Orphans were airlifted to Australia as part of 'Operation Baby-lift'. Now some 36 years later, inter-country adoption has become a growing alternative to the way in which families are formed in Australia today.

In February 2010, the Australian Institute of Health and Welfare reported that in 2008 – 2009 inter-country adoptions represented 61 percent of all adoptions in Australia for that year. At 61 percent, inter-country adoptions are currently the dominant form of adoption in Australia, with 'local' adoptions representing only 15 percent, and adoptions where the child is 'known' to the adoptive parent/s accounting for 24 percent.

Hague Convention

Inter-country adoptions in Australia are strictly governed by International, Federal and State Legislation. Australia is signatory to the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption and also recognises its obligations under the United Nations Convention on the Rights of the Child. One of the aims of the Hague Convention is to establish safeguards to ensure that inter-country adoptions take place in the best interests of the child and also to provide a system where Contracting States can co-operate in a manner that prevents the abduction, sale or the trafficking of children.

Australian Law

Under the Family Law Act 1975, families can adopt from countries that are signatory to the Hague Convention and also from countries that Australia has a bi-lateral agreement with. Currently, aside from countries that are signatory to the Hague Convention, Australia has agreements with

Ethiopia, Fiji, South Korea and Taiwan.

Procedures in NSW

In NSW, prospective Adoptive Parents are required to lodge an expression of interest with the Adoption and Permanent Care Services of the Department of Community Services. The parents are then required to attend an education seminar, following which the parents can proceed to making a formal application. The State authority will then forward the prospective application on to the Australian Government Attorney General's Department, where the selected country will then be contacted.

In NSW, prospective Adoptive Parents are required to lodge an expression of interest with the Adoption and Permanent Care Services of the Department of Community Services.

Should the selected country determine that the prospective parents are suitable to adopt a child from their country, the prospective parents are then invited to travel to the selected country to meet with authorities and to meet the child. Immigration requirements for the child's entry into Australia may vary depending on the country that the child is coming from.

Steps after Approval

If approval is granted and migration requirements are satisfied, the child may travel to Australia with the adoptive parents. Once the legislative requirements have been met and the adoption is finalised, the adopted child becomes legally recognised as the child of the adoptive parent/s, and the adoptive parent/s become the parent/s of the child for all intents and purposes at law.

Should you be considering adopting a child, domestically or from overseas, or if you would like to learn more about the process involved or the countries Australian families can adopt from, talk to us at Legal Minds. You'll be inspired!

Emalene T. Gemmell,
Solicitor.