



Australian Government
Attorney-General's Department

**DONATIONS AND CONTACT WITH OVERSEAS ORGANISATIONS BY
INTERCOUNTRY ADOPTION SUPPORT ORGANISATIONS**

EXECUTIVE SUMMARY

This paper is to be read in conjunction with the 'Donations and Pre-placement Contact by Prospective Adoptive Parents' policy paper (available on the Attorney-General's Department website).

This paper is intended to provide advice and guidance to Intercountry Adoption Support Organisations (IASOs).

This document was prepared at the request of the National Intercountry Adoption Advisory Group (NICAAG) to serve as a resource for Australian IASOs.

DONATIONS

Support for orphanages, adoption agencies and other child protection programs in developing countries often comes from foreign aid and donations.

Many countries of origin do not have the resources to provide either a national child protection system or adequate adoption services. In such cases, foreign aid and donations, preferably directed at building a national child protection system, but indirectly linked to intercountry adoption services, may be both necessary and acceptable.¹

As stated in the Guide to Good Practice, 'the challenge is to find the appropriate balance between the provision of development aid, contribution fees, or donations which help to build and maintain an effective child protection system, and the avoidance of difficult ethical and legal problems which may arise where the source of funding is closely related to the intercountry adoption process.'²

Recognising malpractice as a major risk in intercountry adoption, Article 32 of the Hague Convention specifically prohibits the directors, administrators and employees of bodies involved in an adoption from receiving remuneration that is unreasonably high in relation to services rendered.³ This is in addition to the general prohibition on any person deriving improper financial or other gain from an activity related to the intercountry adoption.⁴

A number of IASOs in Australia currently provide financial and material donations to overseas orphanages or adoption authorities and support for individual children through child sponsorship programs. IASOs provide a significant range of fundraising and other support to overseas countries, leading to better outcomes for children.

¹ Guide to Good Practice, paragraph 227

² Guide to Good Practice, paragraph 227

³ *Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption*, Article 32(3)

⁴ *Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption*, Article 32(1)



Australian Government

Attorney-General's Department

While these types of donations are nearly always given with the best of intentions, there are some risks that organisations need to consider.

The primary risk is that donations may contribute to improper financial gain or corruption. For example, donations being given with the expectation that this will be reciprocated with referrals of children for adoption to Australia. The prospect of donations and continuing support can increase the incentive for abuse such as the sale, abduction or traffic of children or coercion or bribery of birth parents.

Donations and assistance can also create a situation of dependence where overseas orphanages or communities come to rely on the donations to sustain their work and may expect that IASOs, whose membership includes post-adoption families, will provide substantial financial contributions. This expectation can spiral into a belief that by making children available for intercountry adoption, a source of foreign income or profit can be created for the future. This is not in the best interests of the children and creates a risk of child trafficking.

IASOs should also be careful about linking specific adoptive parents to specific donations and creating conflict of interest situations. Donations from IASOs should be forwarded without reference to the names of the individual donors. IASOs may not be aware of whether donors are current adoption applicants or whether they become adoption applicants. Donations forwarded directly from the IASO without reference to the source of the donation prevents potential conflict of interest situations arising for adoption applicants. It is also important to ensure that current adoption applicants involved in IASO aid activities should not hold responsibility for forwarding on donations where their name is disclosed to the overseas country as the forwarding officer.

In most cases, donations of money, and other material goods, demonstrate the commendable effort of IASOs to improve the lives of children in countries relevant to its members. However, a number of precautionary measures are recommended:

- (a) Ensure overseas organisations account for foreign donations and outline how the money will be used.
- (b) Determine the foreign exchange rate between Australian currency and the receiving country's currency and the real value of your foreign donation in terms of local receiving country currency.
- (c) Guesstimate the realistic costs in maintaining a comparable institution (based on the number of placements, other donations and any internal funding) and determine whether the money is being spent in accordance with information provided to you by the organisation.
- (d) Consider providing donations in kind, such as books, quilts, bicycles etc, rather than money donations. Try to contribute to capacity building projects such as building a child care centre or school rather than large non-specific financial donations.



Australian Government

Attorney-General's Department

- (e) Be wary of providing donations in any way which may be seen as linked to an expectation of children being referred to Australia for adoption.
- (f) Respect that not all prospective adoptive parents will feel comfortable making donations on behalf of IASOs and that these parents have a right to refuse to take donations overseas with them.
- (g) Be mindful of, and adhere to, any donation guidelines or restrictions that may exist in relation to specific country programs.
- (h) If in doubt about whether a particular donation is appropriate or not, please consult your relevant State or Territory Central Authority.

Conclusion

IASOs are not discouraged from fundraising activities or providing aid or donations to orphanages overseas. These activities provide important services to children in many countries. However, it is fundamentally important that IASOs are not actually, or perceived to be, contributing to the practice of child trafficking, improper financial gain or corruption overseas.

Accordingly, the provision of aid or donations should always be appropriate, transparent, accountable and not for improper purposes. IASOs should always exercise careful judgement about donations, keeping in mind the risks associated with providing financial assistance. If in doubt, IASOs should consult their State or Territory Central Authority for discussion or clarification.

CONTACT WITH OVERSEAS ORGANISATIONS

Many IASOs in Australia have longstanding relationships with orphanages in the countries of origin of adoptees in Australia. IASO executive officers need to maintain regular contact (including direct visits) in order to ensure their fundraising and other support services are meeting the needs of the overseas organisations. However, IASOs that encourage, facilitate, or act on behalf of prospective adoptive parents in making pre-placement contact with a child, an orphanage or a social worker from an orphanage, may be in contravention of Article 29 of the Hague Convention.

As noted in the 'Donations and Pre-placement Contact by Prospective Adoptive Parents' policy paper, although Article 29 only prohibits contact prior to all consents being received, any contact can open the possibility of donations and contributions being sought and risks Australia's international standing if its citizens are seen to be applying inappropriate pressure on another country's government and agencies.

It is therefore strongly recommended that IASOs:

- (a) Consult their relevant State or Territory Central Authority if in doubt as to whether particular contact is appropriate.



Australian Government

Attorney-General's Department

- (b) Inform prospective adoptive parents who enquire about opportunities for pre-placement contact, or information about the progress of their application, that such activity may be inconsistent with Australia's obligations under the Hague Convention and that there are associated risks. Risks include the possibility that during the course of the contact, donations may be sought in return for expediting the application or the contact may be perceived as inappropriate. This contributes to the appearance of, and possibly the actual inadvertent involvement of, Australians in improper financial gain and corruption, which forms the basis for incentives for child trafficking.
- (c) Politely decline invitations from orphanages offering opportunities for pre-placement contact between prospective adoptive parents in Australia and children from their orphanage, citing Australia's obligations under the Hague Convention.
- (d) Remind prospective adoptive parents that Australia is committed to the Hague Convention's principles and all such contact in Australia should occur through the Central Authorities.
- (e) All requests for information on the progress of applications should be referred to State and Territory Central Authorities.

Conclusion

IASOs should be wary of facilitating opportunities for pre-placement contact for prospective adoptive parents or seeking information about the progress of their applications. Prior to the child's placement, all contact between prospective adoptive parents and overseas adoption authorities (and persons with care of children) should occur through State or Territory Central Authorities.