

St. Mary's University College
Faculty of Law

Inter country Adoption
The Law and practice

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Inter Country Adoption
The Law and practice in Ethiopia

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Abayneh shiferaw
July 2008

I here by declare that this paper is my original work and I take full responsibility for any failure to observe the conventional rules of citation.

Name

Signed.....

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INTRODUCTION

As its title may suggest, the paper tries to address certain Issues concerning inter country Adoption in general and Ethiopia in particular.

The concept of adoption may goes some dated back to 200BC.the institution was also known by Hebrews and Egyptians which fact may be inferred from the biblical account of the episode between Moses and the Pharaoh's daughter "and she adopted him for a son, and called him Moses, saying: Because I took hum out of water" Adoption is an act by which the legal relation of parent and child is created.

In our country, although there was no mention of the concept of adoption in the Fetha Negast, it existed and widely practiced among the society, specially among the oromos. Adoption in the oromo society was well developed and widely practiced with almost a similar effect to the legal sense of the term. There existed also in the Amhara-Tigre culture practices which resembled to adoption but which did not in some respects accord with the concept, purpose and effect of adoption.

The main purpose of this study is to locate the law and practice of inter country adoption in relation with different countries practice of adoption. This study attempt to answer the following basic questions:

1. What are the existing pieces of legislations regulation and Directive pertaining to Adoption in our country?
2. What mechanisms are put in place to know the condition of children given for adopters?

3. What measures can be taken to protect child trafficking & child abuse seen from the objective condition of Ethiopian?
4. Mechanisms to let the adopted child know his rights and obligations.

Though it is not the principal objective of my paper the author still make frequent reference to the rules and regulation of inter country Adoption of different counties for purpose of comparison and find out the contrast existing with that of ours.

With regard to materials for this study the author uses basically conventions, regulations of other countries related to inter country adoption and also experiences of our laws. Interviews are also conducted with concerned bodies and personalities whom he thinks are resourceful analyses of facts and commentary would be forwarded at last chapter.

And the arrangement of paper would be as follows:-

CHAPTER ONE

1. ADOPTION

There looks to be a general agreement concerning the definition of Adoption. When we refer to the various definitions given by different legal scholars we come to recognize that adoption is generally understood as fictitious creation of blood relation ship between persons who are not so

related".(1) Another similar definition is that which portrays adoption as "Is an act by which the legal relation of parent and child is created".(2) under our civil code adoption is understood as "an agreement by which person and a child create artificial filiation and it is an agreement which confers legal status of parent & child on a person and child who are not so related.(3) So my view based on this definition there must be an agreement between the adoptive parent and the guardian of the child the agreement produces the legal effect as a result of this adoptive filiations shall be created as far as filiations is concerned the Adopted child seems to be A natural children of the Adopter so he has A right when it is Approved By the court.

The Prime effect of Adoption is that it brings about the substitution of parents and not of family so an Adopted child shall, there fore for all purposes, be deemed to the child of the adopter as the date of the court Approves the Agreement .In relation to this, there are two methods of Adoption these are complete Adoption (Adoption Plena) and In complete Adoption, (Adoption minus Plena).

In complete Adoption, the adopted child shall be fully assimilated to the Adopted families and acquires the status of the child with out any reservation. The Adoption so complete that it severs all relation ship the adopted child has to wards his natural parents. The child loses his right of Inheritance and Support from his natural parents and relatives.

On the other hand, incomplete adoption although The Adopted child Acquires the Status of the child in the Adoptive family, the bond between the Adopted child and his/her natural family remains intact.

The child retains his right of Inheritance from his/her natural parents and kins and vice versa.

Our Law of Adoption recognise the incomplete adoption. The adopted child shall, for all purposes, deemed to be the child of the adopter. Except with respect to ascendants and collaterals of the Adopter who have expressly opposed the adoption the adopted child shall be legally related to all members of the Adopters related family.

INTER COUNTRY ADOPTION

Definition. IS a type of adoption in which an individual or Couple become the legal and permanent parents of a child born in another country. (4)

Inter country adoption also defined by others as the adoption of a child who is a citizen of one country by Adoptive parents who are citizens of a different country. (5)

2. BACK GROUND OF THE INSTITUTION OF ADOPTION AND INTER COUNTRY ADOPTION.

Adoption is a procedure by which people legally assume the role of parents for a person who is not their biological child. Adopted children become full members of their adopted family and have the same legal status as biological children. (6) Adoption is not new in modern times. It is a common practice through out a world and through out the history of man kind. There is evidence that in earliest man's codes of law the institution of Adoptions was developed. The code of Hammurabi for instance stated that"

if a man take a child in his home, adopt and help to grow as a son, this grown up son, not be demanded back .If a man adopt a child as his son, and after he has taken him, he break a command against his foster father, that Adopted son shall return to the house of his own father". (7)

Historian stated that similar mention may be found in the Hindu laws of Manu which dated back to 200 B.C (8) Adoption was recognized by Roman Law but not by Common law (9) Statues first introduced adoption in the U.S law in the mid 18th century and to day it is allowed in all statues of the United and Great Britain. (10) In our country.

Adoption is widely known and practiced among the Oromos who call it "Gudifecha"among the Amharas Known as Yemar LiJ "or "Yetut LiJ" it may have a different legal effect than Gudifeeha.

For the Oromo a Gudifecha child is considered for all social & legal purposes to be a child of the adopter, where as for Yemar LiJ to be legally Consider as a natural child an explicit and unequivocal formal procedure must be followed. (11)

BACK GROUND OF INTERCOUNTRY ADOPTION

International adoptions first become popular after world war ii and escalated after the Korean conflict because of the efforts of humanitarian programmes working to find homes for children left orphaned by the wars.

3. PURPOSE OF ADOPTION /INTER COUNTRY ADOPTION

The institution of adoption has served many purposes depending up on the socio economic status of a society. In earlier times adoption was employed to secure cure to the adopter support in his old age or to provide him with an heir, or to prevent the extinction of his race, or to perpetuate the performance of the family cults. (11)

- 1) It also served to give sons to households, which have daughters only.
- 2) In some societies the purpose was to fill up vacancies caused by death so that the person Adopted shall take the deceased person's place.

The purpose of adoption is to change the status of child in relation to its adoptive parents, and to create a new status a new relationship of parent & child, and to make the adopter as genuinely as the parent of the child.

Different families choose adoption for different reasons some families may not have biological child other parents decide to add another child after they are finished having biological children. Children have been available for adoption for various reasons! Such as abandonment, poverty, illness or death of the parent or breakdown of family child abuse or neglect.

FORMS OF ADOPTION

AGENCY ADOPTIONS: an adoption in which parental rights are terminated and legal custody is relinquished to an agency that finds and approves the adoptive parents.

An adoption involves the placement of the child with adoption parents by a public agency, or by a private non-profit agency licensed or regulated by the state. The agency acts as intermediary between potential adoptive parents and the child's natural parent or parents.

In all states, adoption agencies must be licensed, and in most they are non-profit entities. Parents who voluntarily place a child for adoption most commonly use a private agency.

In regard to adoption there are two types of adoption: public adoption Agency and private adoption agency.

Public Adoption Agency: generally place children who have become wards of the state as a result of abuse or because they have been abandoned.

Private adoption Agencies: Are usually non-profit organizations and children placed by them are often obtained when a single mother is expecting a child and wants to give the child up for adoption.

SUBSIDIZED ADOPTION.

Children with special needs waiting for adoptive families find it difficult to get adopted easily because of the costs associated with caring for them; however, most states provide financial help to parents who adopt these types of children.

DOMESTIC PARTNER ADOPTION

Most jurisdictions do not have laws that provide for adoption of minor children by domestic partners. Courts in many of these jurisdictions nevertheless allow adoptions by domestic partners to proceed.

Example. Gay male couple living together in a committed relationship could adopt together the adopted child of one of them.

INDEPENDENT ADOPTIONS /DIRECT ADOPTION

usually involves new born infants These are infants often Between 12-17 years of age though the arrangements vary, there could exist a direct arrangement made between the birth parents and the adoptive parents. On the other hand, the arrangement could be made through the use of an intermediary such as attorneys.

Are used because the adoption can be accomplished faster than working with an adoption agency. They are also viewed as advantageous to the natural parents of the child because they may participate in choosing the adoptive parent.

STEPPARENT ADOPTION

A divorcedparent is often reluctant to relinquish his or her parental rights and with out grounds for terminating those rights ,the consent can not be over come. Stepparent adoption less complicated than agency or independent adoption procedures when the child's other parent consents to the adoption.

Requires the consent of the spouse of the adopting stepparent and consent of the divorced parent.

NEAR RELATIVE ADOPTION

In most jurisdictions, the absence, inability, or incapacity of the natural parents to provide and care for their children has promoted other relatives to step forward to assume the benefits and responsibilities of that role.

For example, grand parents may seek to adopt their grand children if the children's parents die while the children are minors.

OPEN ADOPTION

The concept of open adoption is a variation on the principle that upon the entry of an order of adoption, a child is the legal child of the persons adopting him and they become his/her legal parents with all the rights and duties of natural parents.

PROCEDURES OF ADOPTION

FILLING A PETITION:- In general a petition for adoption is filed once the consent is obtained from the child's natural parent or parents or Adoption Agency handling the matter.

If the background checks, home study, and probationary period are satisfactory, a hearing is held in which the judge reviews the potential

Adoptive parents qualification Once the adoption is approved, a permanent decree of adoption is filed.

WAITING PERIOD

A period that must expire before some legal right or remedy can be enjoyed or enforced. Most states mandate a waiting period following the birth of a child during which the natural mother may revoke her consent to the adoption arrangement. Legislation that required that a biological mother must wait 48 hours after the birth of the child before signing an affidavit of relinquishment is constitutional.

INVESTIGATING PROSPECTIVE PARENT

In most cases, there is home study conducted to determine the suitability of the potential adoptive parent's home. There is also background investigation of the adoptive parents, including a criminal background check. This is to safeguard the well being of the foster and adoptive children by ensuring that persons seeking to care for or adopt a foster child have not been arrested for or convicted of criminal charges that would place the child at risk.

CHAPTER TWO

THE LAW AND PRACTICE OF DIFFERENT COUNTRIES REGARDING INTER COUNTRY ADOPTION.

Besides conventions and regulation of the various countries I saw international conventions like that of HAGUE And UNICEF regarding to Inter- country Adoption The requirements, procedures and rules can vary form country to country based on the policy of the countries adoption criteria For the purpose of this study I selected three countries to compare and contrast with that of our laws and regulations, the selected countries are Japan, USA and China.

1. JAPAN

ADOPTION AUTHORITIES IN JAPAN: The Family Court and the Child Guidance Center are the governmental offices responsible for adoption In Japan. These are the governmental bodies currently exercising jurisdiction over the placement of children, home studies and Adoptions in Japan. (12)

ADOPTION PROCEDURE IN JAPAN:-Prospective adoptive parents may find children available for Adoption either through the

Child Guidance Center or private parties such as missionaries, social welfare organizations, adoption agencies. It is important to remember that the Child Guidance Center will only issue a certificate identifying a child who requires protection if the adoption is arranged through them. (13)

CHILD REQUIREMENTS: Japanese law does not define an orphan rather a child who requires protection is defined as:-

- A child born out of wedlock.
- An abandoned infant
- A child whose parent (s) has /have died or disappeared
- A child whose parents are incapable of providing support, or
- An abused child.

Japanese law allows two types of adoptions special and regular (ordinary) adoption.

Special adoption, Here, one of the adoption parents must be over age of 25 and the other must be at least 20 years old. (14)

Ordinary adoption procedure, a legal parental relation is created between the Adoptive parent and the child who acquires the status of a legitimate child. If the child to be adopted is a minor, permission of family court is needed. (15)

Special adoption, is effected not by the agreement between the adoption parents and adoptive child, but by family courts determination upon the request from the adoptive parents when the adoptive child is in

principle under six years of the time of request. In special Adoption, the existing family relationship of the adopted child with his/her maternal parents and his/her blood relative is terminated by law.

2. CHINA

The China Center of Adoption Affairs (CCAA) was established by the Chinese's government as an Agency to cater for adoption within the Chinese Ministry of Civil Affairs, (CCAA). The CCAA is responsible for welfare of children in the care of child welfare institutes (orphanages), domestic adoption and international adoption. (16)

Domestic Adoption, the CCAA has four - missions regard the handling of domestic adoptions.

1. To conduct studies aimed at furthering the development of its domestic adoption program.
2. To develop and implement regulation
3. To develop a consulting service for the programme
4. To coordinate and develop an inter - province domestic adoption service.

INTERCOUNTRY ADOPTION; China ratified the Convention on Protection of Children and Cooperation in respect of inter country adoptions on September 16, 2005. Pursuant to Article 6 of the Convention, the CCAA is the central authority responsible for all inter - country adoptions in china. The CCAA has the overall responsibility for the inter country adoption of Chinese children. (17)

Chinese law governs the adoptability of Chinese children, regardless of the country where potential adopters reside and some of its activities include the following. (18)

1. CCAA receives and reviews applications and certifying documentation from foreign persons wishing to adopt.
2. CCAA Also receives certifying documentation from persons placing children out for adoption.
3. CCAA locates and assign children who are available for adoption under the adoption law.
4. CCAA is follow up with the life and growth of adopted children in foreign country.
5. CCAA assists other departments of the Chinese government that are involved in the adoption of Chinese children.
6. CCAA archives all documentation for each party involved in a child's adoptions including the application for adoption, certifying documents, and materials concerning the like of the child in his or her new home.
7. CCAA is to conduct any liaison counseling, or co – ordination work involved with In the country of adoptions,
8. The CCAA is to handle any other matters regarding the inter- country adoption process that has not been delegated to another office or authority.

China's Revised Inter -country Adoption Requirements.

The CCAA has promulgated the following new inter country adoption requirements, to take effect on May 1, 2007.

- Prospective adopters must be married for at least two years prior to the adoption, with marriage defined as being a union between a man and a woman. If either the husband or wife has been divorced in the past, the prospective adopters must be married for at least five years prior to the adoption. If either the husband or the wife has been divorced more than twice, the couple is precluded from adopting a Chinese child.(19)
- Single persons will no longer be eligible to adopt Chinese children, although they were previously allowed to by the CCAA. In fact, approximately one-third of all children adopted from China in the past were adopted by single parents. This restriction is due, in part, to the belief that the child will be without a parent if the single adopter dies. Chinese law has always precluded homosexual individuals or couples from adopting children.
- Both the husband and wife must be at least 30 years of age, and both must be under the age of 50. If a couple is adopting a special needs child, neither spouse be older than 55 years of age.
- Both the husband and wife must be physically and mentally fit, and must not have any of the following conditions:
 1. AIDS;
 2. Mental handicap;
 3. Infectious disease that is actively contagious;
 4. Blindness in one or both eyes or wearing ocular Prosthetic;

5. Hearing impairment in both ears and the loss of language function: those adopting children with hearing or language function loss are exempt if they have the same conditions;
 6. Non- function or dysfunction of limbs or trunk caused by impairment, incomplete limb, paralysis or deformation;
 7. Severe facial deformation;
 8. Severe diseases that require long-term treatment and that affect life expectancy, including malignant tumors, lupus erythematosus, nephritis, epilepsy, etc;
- Neither spouse may have a criminal record, as well as any of the following histories:
 1. domestic violence, sex abuse, child abandonment or child abuse (even absent and arrest or conviction for such behavior);
 2. Use of narcotics, like opium, morphine, marijuana, cocaine, heroin, methamphetamines, etc., or any medication for mental illness that has addictive qualities;
 3. Alcohol abuse. If prospective adopters do have histories of alcohol abuse, they must show that they have been sober for at least ten years.

CCCA claims that the rationale for the new requirements is to protect the best interests of children as well as to shorten the waiting time for the most qualified applicants.

3 .U.S.A

United States citizens cannot adopt children from other countries unless they follow the requirements of the U.S. Immigration and

Naturalization Service (INS). Although it is not a child welfare agency, the INS strives to determine if the prospective adoptive parents are suitable and if the child to be adopted is "adoptable." The INS sets requirements that are not always imposed on parents who adopt children from within the U.S.(20)

The primary stage of the adoption process is selecting an agency or facilitator to work with each agency or facilitator who works with a different set of countries although some only focus on a single country while some other countries do allow independent adoption (i.e. an international adoption not done in co-ordination with an agency.)

THE INTERNATIONAL ADOPTION PROCESS IN USA

A family (or single person) in the United States can adopt a child from another country in two different ways: by adopting through a licensed U.S. adoption agency or through a form of [Independent Adoption](#) called [Parent-Initiated Adoption](#) (if the state in which they live allows Independent [Adoption](#)).(22) Parents who choose this second form of adoption usually do so because they may adopt a child younger than usually available through an agency, or they may wish to adopt a child from a country with which U.S. agencies do not work. Some adopting parents find themselves forming their own adoption agencies to facilitate further adoptions in the country they have penetrated. Even when the family identifies an attorney or intermediary from another country, they must still undergo a home study, based on requirements of the U.S. Immigration and Naturalization Service.

Subsequent to approval of the family the agency or the family's intermediary attempts to identify a child for the family. Most of the children in other countries who need adoptive families live in orphanages; however, in some cases, a birthmother may relinquish her child directly to an attorney shortly after the child's birth. After the agency or intermediary notifies the family of an available child, they must decide then whether or not to adopt the child. If the child is living in an institution, the agency will attempt to obtain a photograph of the child along with social and medical information. Often families report that they feel the "bond" to these photographs, which is a problem, if for some reason, the adoption does not occur.

THE HAGUE CONVENTION; The Convention of 1993 which is declared in HAGUE focuses on the protecting of child right such as child abuse and trafficking the child and also the process which every country must be standardize the adoption requirements which brings an international system of co-operation. This conventions has been signed by 65 countries in order to protect the best interest of the child but Ethiopia have not signed this Convention. The Convention's Pivotal point stresses on maintaining the interest of the child in the following terms.

" Inter country adoptions shall be made in the best interests of the child and with respect for his or her fundamental rights. to be prevent the abduction ,the sale of , or traffic in children each state should take, as a matter of priority appropriate measures to enable the child to remain in the care of his or her family of origin."(23)

This quotation thought us each state must to establish to safe guards or ensure that intercountry adoptions take place in the best interest of the child

with recognise his/her fundamental right and also to establish a cooperation among the contracting states in order to prevent child abduction and child trafficking and furtherly to secure the recognition of contracting state.

The UNICEF's Positions on Inter Country Adoption.

The convention on the Rights of the child, which guides UNICEF's work clearly states that every child has the right to know and cared for by his or her own parents, when ever possible.(24)

UNICEF is committed to the idea that all decisions relating to adoption should be made with the best interest of the child. More over UNICEF strongly supports that ensuring the adoption is only authorized by state so this leads to the child has not been the subject of illegal & detrimental practices like to protect the abuses include the sale & abduction of children, coercion of parents & bribery, as well as trafficking to individuals whose intentions are to exploit rather than care for children. many countries around the world have recognised this risk, and have ratified the HAGUE convention on inter country adoption. For this therefore UNICEF strongly supports this international legislation, which is formed to put into atone the principles regarding inter country adoption, which are contained in the convention on the rights of the child.

CHAPTER THREE

THE LAW AND PRACTICE IN ETHIOPIA

GENERAL PROVISION

Adoption {domestic and inter country} is an option that ought to be implemented because the children are in need of permanent family, those adopted children become full members of their adoption family and have the same legal status as biological children {ART 181 RFC and ART 183 RevisedFamilyCode}.(25)

The Way in which adoption may be formed differs from place to place but it is a common practice through out the world. Adoption is a well-known practice in Ethiopia. This is evidenced by the term Gudifecha among the Oromos and also Yemar lij or Yetut lij by the Amharas.

According to Art 180 RFC, adoptive filiations may be created by an agreement between the persons and child as shown by Art 190 RFC.(26) The agreement of adoption shall be made between the adopter and the guardian of the adopted child. These adoption of filiation shall be created between the adoptive parent and the child as a result of agreement of adoption.

Regarding inter country adoption, our law in light of Art 193 sub article(1) RFC (27)says where the adopter is a foreigner, the court may not approve the adoption unless an authority empowered to, the well being of children, after collecting and analyzing relevant information about the adopter and gives its opinion that the agreement made is beneficial to the child. Regarding Art 194 Sub article (1) RevisedFamilyCode an agreement of adoption shall be of no effect unless it is approved by court. This shows that the court is also required to take special care in investigating the availability of the adopter will handle the adopted child and will not abuse him article 194(e) RevisedFamilyCode.(28)

The articles require that a competent authority should provide important information before the court approves the adoption.

Now a days a ministry of women's Affairs has authority regarding to foreign adoption and the requirement is set for foreign adopters with respect of international adoption regulation.

2. WHO MAY BE ADOPTED?

Women as well as men are capable of being adopted, but for the adoption thereto be, the adoptive child must be;

- 1] Less than 18 years of age and
- 2] Under guardianship

Adoption does not take place if any of these cumulative conditions is not satisfied. It may so happen that a child of 16 years of age may be emancipated as per art 310 sub art (b) Revised Family Code and 314 sub art (b) Revised Family Code. Such a child, though under eighteen, can not be adopted as he/she is not under guardianship.(29) This is so because if the child is not under guardianship, the child him/her self is capable of taking care of himself or herself. There will be no guardian, and in the absence of a guardian of the adopted, or institution of assistance having care of the child, the adoption not takes place as stated under Art 190 cum 192 Revised Family Code.

3. CONSENT OF THE PARTIES

Adoption is an agreement wherein the adopter and the guardian of the adopted child must express their consent sustainable at law (Art 190 Revised Family Code).(30) The guardians of the child are the father and the mother of the child during their marriage AND life time (Art 219 Revised Family Code)(31) and as joint guardians both must give their consent to the adoption where they are alive and known arts 191 (1) Revised Family Code,(32) where one of the parent is dead, absent, un known or incapable to manifest his will, the other parent shall give his consent. Art 191(2) Revised Family Code(32) In case of the child who is in government or public or private orphanages the institutions may give children under their custody to

adopters upon approval of the court 192 (1) Revised Family Code(33) based on the interest of the child (Art 191 (4) Revised Family Code but there may be an instance where one of the parents could refuse to give his consent. In such a case, the agreement of adoption shall be accepted if the child is Above 10 years of age and he favors the Adoption Agreement and the other parent consents to the Agreement. The court may even approve the Agreement of Adoption even without the consent of a parent by taking in to account the interest of the child Revised Family Code Art 191.

5. SINGULARITY OF ADOPTION

A person cannot have more than one natural, paternal, and material filiations and more than one adoptive filiations at a time.

Several persons may adopt no child unless these are two married couples (Art 189(1) Revised Family Code.(34) In the case of death of the adopter, a new adoption is possible as stated under Art 189 (2) Revised Family Code. In Addition In the case of Adoption of a child by two spouses and one spouse dies, the child may be adopted by the new spouse of the survivor when the latter remarries.

6. JUDICIAL APPROVAL OF ADOPTION

In Adoption Agreements, since the public as well as those immediately concerned,namely the adoptive parents, the family of origin and above all, the child have vital interest, it is not within the exclusive power of an individual to create the relationship of parents and child by adoption Art 194 Revised Family Code sub Article (1) says(35) that an

agreement of adoption shall be no effect unless It is approved by the court and the court shall decisively verify the adoption is in the best interest of the child Revised Family Code 194 sub (2). Similarly, where the Adopter has children, he takes, into consideration the effects of the existence of children of the adopter on the well-being and interest of the adopted child Art. 188 (2).(36)

7. REVOCATION OF ADOPTION

If revocation was allowed ,either the child or the adoptor would cancel the adoption agreement at any time. that may seriously affect the other party .for instance the adoptor brought the child from his early childhood .and also the adoptor is an old man,the child may revoke the adoption agreement,the old man may seek supply of maintainance from the adopted child,the converse could also be true.

ETHIOPIAN REVISED FAMILY LAW BASED ON INTER COUNTRY ADOPTION.

Definition. Inter country adoption or international adoption is the adoption of a child who is a citizen of one country by adoption parents who are citizens of a different country. With regard to the nationality of the adopter regarding to a foreigner may according to Art 193 RFC adopt in Ethiopian child.(37) In line with the 1989 convention of united nation that protects the right of the child, the best

interest of the child shall be the primary consideration. Ethiopia but has not ratified their convention as yet.

In order for the Adoption to take place in the best interest of the child and the child's fundamental rights be recognized in international law, Our law states three things to be fulfilled namely.

1. The foreigner (Adopter) has the capability to raise and take care of the child, and should present evidences given from the competent authorities of his country that he is eligible and suited to adopt children like personal, social and economic position.
2. It should be made clear that the child will be authorized and permitted to enter and reside permanently in the country where the adopter is a national or resident.
3. We should make sure that adoption approved by our courts shall be recognized and given effect by the adopter's state.

The precautions adopted by the RFC shall be examined in light of Art 193 (1) (Revised Family Code) and Art 194 Revised Family Code. Art 193 (1) (Revised Family Code) says that where the Adopter is a foreigner, the court may not approve the Adoption unless the authority empowered to follow the well being of children (after collecting and relevant information about the personal, social and economic positions of the Adopter) gives its opinion that the agreement is beneficial to the child. Where the information submitted is "insufficient" it may order other individuals or organizations to provide any relevant information regarding The adopters.

In like manner Art 194 (1) Revised Family Code also state an agreement of adoption shall be of no effect unless it is approved by court. This shows that the court may require taking special care in investigating the availability of the asdopter will handle the Adopted child and will not Abuse his Revised Family Code 194 (E)

The Articles require that a competent authority should provide with important information before the court approves the Adoption.

Presently,the Ministry of Women's Affairs has the Authority to regulate inter country Adoption for foreign Adopters taking in to consideration the well being of the child to take precedence over every thing else.

From my interview with requirements regarding for Ethiopian inter country adoption the responsible organization for inter country adoption is the Ministry of Women's Affairs. The Ministiry of labour andsocial affairs is empowered by proclamation 741/98 to delegate its power to Ministry of Women's Affairs. Previously inter country adoption was regulated by the Ministry of Labour and Social A ffairstakes place. But now the concerned governmental organization Is the ministry of women's affair.The latter has established the necessary requirements that need to be fulfilled by adopters who are foreigners and Ethiopians resident adopters.

Requirements for Adoption by Ethiopians adoptive parent .

1. Economic status from a recognized source

2. Police clearance of applicants
3. Medical certificate from recognized hospitals, clinics etc.
4. Birth and marriage certificates.
5. Two passport-size photographs of the prospective adoptive parent(s)
6. All the aforementioned documents should be authenticated by the nearby Ethiopian embassy or consulate and submitted or forwarded directly by the concerned person (s) or agency to the Ministry of Women's Affairs (WOWA)

The requirement to be fulfilled by Foreign Adopters include.

1. Economic status from a recognized source.
2. Police clearance of applicant/s
3. Medical certificate from recognized hospital, clinics etc.
4. Home study report prepared by authorized institution.
5. Birth and marriage certificates
6. The agency who does the psycho- social study and recommendation on applicants must be accepted by the concerned government body of the respected countries.
7. A short statement as to why an Ethiopian child is preferred
8. Two passport-size photographs of the prospective adoptive parent (s)
9. "Obligation of adoption or social welfare agency" form must be forwarded together with the psychosocial study
10. Verification by the adoption agency of qualification for naturalization under the national law of the applicant
11. All the aforementioned documents should be authenticated by the nearby Ethiopian embassy or consulate.
12. All the above-mentioned documents should be authenticated

by the Ministry of Foreign Affairs in Ethiopia.

13. After being authenticated by the Ministry of Foreign Affairs in Ethiopia the documents should be submitted or forwarded by the concerned person-(s) or agency to the Ministry Women's Affairs.

CHAPTER FOUR

CONCLUSION AND RECOMMENDATION

Inter country adoption is a type of adoption in which an individual or couple become the legal and permanent parents of a child born in another country. In general perspective, adoptive parents must meet the legal

adoption requirements of their country of residence and those of a country in which the child was born.

Different families choose adoption for different reasons, some families may not have biological children, and other parents decide to add other child after they have finished or not finished having biological children. Children may become available for adoption for various reasons such as abandonment, poverty, illness or death of the parent or breakdown of family, child abuse or neglect as stated earlier.

with regard to inter country adoption the study is based on comparative analyses of the different countries rules and regulation and also that of UNICEF and the HAGUE convention it is intended to create awareness of knowledge of the legislationsso that they would know/assess the non governmental organization and/or also the Individuals who is taking the child from Ethiopia to their country about italso helps to make follow -up to ensure the well being of the child is well taken care of in this connection,i held a short discussion with Mr x came to ethiopia two times to adopt and take children to his country.

I ask him about knowledge of our laws and procedure about the requirements and also about the follow up mechanisms.

He told me that he had already come to Ethiopia to take the child he had already identified by him self privately. Then I go to court for agreement. If the Agreement is concluded then I go to ministry of women's Affairs, then the ministry of women's Affairs sends me to Immigration and

municipal, for reporting to take the child. After taking the child to my country no body follows me to know the condition of the child .Even if I abuse the child If there is no follow up mechanisms. In the previous Adoption I come to Ethiopia with the reports of the child but no one has approached me to take the assessment of the child and also there is no data base to follow up the child's condition as he said. But In the USA, 1st home study is made to know about the adopter, then I go to Immigration for application form for adoption, then go to state government for approval.

Finally, he said ones the child is out of the country there must be mechanisms to know the condition of the child .in similar manner ,there should be a mechanism put in place to know whether or not the adopted child is suffering a trauma about him/herself especially where the adoption is made. by 'white' person , There must be supervision about the child's Wellbeing and also to tackle the cultural problem likely to manifest it self by presenting some mechanisms like exercising foster parent in the adopter country.

As I mentioned previously Intercountry adoption is exercised in Ethiopia and the responsible governmental organization is the Ministry of Women's Affairs for this there fore ,I held about an interview with Mr Y He is an expert in the Ministry of Women's Affair's As he said a requirement is already prepared and each adoptor must fulfill the criteria before the children go to abroad .the adoptor is expected to come with the necessary documents from his country or representatives for adopting children. Then after The Ministry Of Women's Affair's Made screening if the adoptor is able to adopt children or not.if he is eligibile to adopt the children the Ministiry of W omen Affair's send him to the court for approval.the court approves the

children goes abroad with adoptors, then after we follow the condition of children by asking the adoptor or agency to bring follow up records or if the ministry suspects there is a problem of the adoptor or adoptee assign the concerned individuals from different organization to follow the children in 3 months, 6 months, 18 months and in a year by going abroad.

In Ethiopia both agency adoption and private adoption are exercised. In agency adoption Ethiopia almost gives permission to adopt a child more than 17 agencies have got licence from the ministry of justice to adopt children abroad as an intermediary between adoptive parent and the children's natural parent. The Ministry of Women's Affairs has also operational agreement with this agency to bring home study report before or after the adoption. **In private adoption the Adoptors himself come to our ministry and with necessary documents which is important for adopt the children, then the ministry of women's Affairs tries to confirm if he is eligible or not to adopt if he is fulfilled all criteria which is proposed by Ministry of Women's Affairs we send them to the court for approval. If the court approves the adoption the adoptor is responsible to send follow up documents. In regard to time the ministry must properly investigate the documents by cross checking and also by assessing if really the children needs adoption because adoption the last choice So for this and others like If there is child trafficking and money laundering the ministry properly investigate for this therefore the adoption takes time from 6 month up to 1 year. Ethiopia couldn't sign HAGUE convention but now in the process to be signed but Ethiopia ratified UNITED NATION convention on based on the rights of the child in 1989 to protect the right of children.**

CONCLUSION

My conclusion & recommendation regarding inter-country adoption law and practices in Ethiopia are: -

1. The Ethiopian law does not clearly state or elaborate on Inter country adoption compared to the laws& regulation of other countries, like the maximum age of the Adoptor.
2. There is no efficient means to know the post placement or methods to follow ones the child is out from the country.
3. There is no data base to follow up the cases of the adopted children, and the background of the adopter.

RECOMMENDATION

1. The law of Inter-country adoption must clearly state about requirements, such as the age limit of the adopters, behaviors of the adopters.
2. The government may use organized Ethiopian Community/Diaspora, volunteers for information leading to know effectively the adopted child's condition.
3. Once the child is out of the country and if there is a problem like abuses, foster home (family) must be exercised.
4. Data base must be properly organized and utilized in order to follow and know the conditions of the adopted child and adopters.

5. Encourage domestic adoption more than inter country adoption.

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FOOT NOTE

- See Directgov-parents.com
- (1) See [adoption-Encyclopedia.com](#)
 - (2) See Art 180 of Eth R.F.C
 - (3) See International adoption- [Wikipedia, the free encyclopedia](#)
 - (4) See International Adoption-[Adoption Encyclopedia.com](#)
 - (5) See Compiled materials on issue of family cases
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 - (12) See [Inter country adoption Japan.com](#)
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 - (21) See International Adoption-[Adoption Encyclopedia.com](#)
 - (22) See International Adoption: Learn about the Hague Convention
 - (23) See UNICEF-Press centre-UNICEF's position on Inter-country adoption
 - (24) See. Art 181 and Art 183 of Eth RFC
 - (25) See. Art 190 of Eth RFC
 - (26) See. Art 193 of Eth RFC
 - (27) See. Art 194 of Eth RFC
 - (28) See. Art 31o and 314 of Eth RFC
 - (29) See. Art 219 of Eth RFC
 - (31) See. Art 191 of Eth RFC
 - (32)

- (33) See. Art 192 of Eth RFC**
- (34) See. Art 189 of Eth RFC**
- (35) See. Art 194 of Eth RFC**
- (36) See. Art 188 of Eth RFC**

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Inter country Adoption
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By:- Abayneh Shiferaw

July 2008
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Abayneh shiferaw
July 2008

I here by declare that this paper is my original work and I take full responsibility for any failure to observe the conventional rules of citation.

Name

Signed.....

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