

A Government perspective: An overview of developments, trends and challenges in adoptions in SA since 2010

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Purpose

To provide a government perspective: An overview of developments, trends and challenges in adoptions in SA since 2010

Children's Act 38 of 2005

- Considerable progress has been made since 1994 in advancing child care and protection, particularly in the development of law and policy reform.
- The progress culminated to the piece of legislation which was implemented in 2010.
- The Children's Act 38 of 2005 was developed in response to the international and national obligations to reform and reconstruct legislation to ensure the holistic care and protection of children.
- The introduction and the preamble to the Children's Act embodies the international and national obligations to protect the rights of children and the body of the Act reflects a holistic and developmental approach to the needs of children, inclusive of prioritising opportunities for the optimal development, and the comprehensive care and protection of children.

Policy context which were considered in the drafting to the Children's Act

Legislation

- **Constitution of the Republic of South Africa (1996)**
- **The Children's Act 38 of 2005**
- **White Paper for Social Welfare, 1997**
- **National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect & Exploitation**

Global and Regional commitments

- **United Nations Convention on the Rights of the Child, 1989**
- **African Common Position on Children: Africa Fit for Children, 2001**
- **The Hague Convention on the Protection of Children and Cooperation in Respect of inter-country Adoption, 1993**
- **The African Charter on the Rights and Welfare of the Child, 1990**

Strategies and Practice Guidelines Developed Since 2010

- Adoption Policy Framework and Strategy
- Practice Guidelines on national adoptions
- Guidelines on Register on Adoptable Children and Prospective Adoptive Parents (RACAP).
- Practice Guidelines on inter-country adoptions
- Accreditation Guidelines for adoption services providers
- Inter-country adoption working agreement framework

PROSPECTIVE ADOPTIVE PARENTS (RACAP)

Section 232 of the Children's Act (38 of 2005) (hereafter referred to as the Children's Act) requires the Director-General to keep and maintain a register called the register on Adoptable Children and Prospective Adoptive Parents (RACAP) for the purpose of keeping a record of adoptable children and a record of fit and proper adoptive parents. The register will assist to facilitate the matching of available prospective adoptive parents and adoptable children in South Africa. These guidelines are intended to provide guidance to adoption service providers regarding the implementation of the RACAP.

REGISTER ON ADOPTABLE CHILDREN AND PROSPECTIVE ADOPTIVE PARENTS (RACAP) (Cont...)

- The RACAP came into effect in April 2010 as a tool to be used to facilitate the adherence to the subsidiarity principle. Currently the national Department of Social Development uses a manual system to register adoptable children and prospective adoptive parents. The manual system was developed to be used as a temporary measure while waiting for an electronic web based system to be operationalized. The Directorate: Information Technology has developed the electronic RACAP system and the Gauteng based adoption service providers have been trained on how to use the system. The system will be piloted with the Gauteng adoption service providers once the Directorate: information Technology finalise to install security features on the system. The average number of 500 adoptable children and 200 prospective adoptive parents are registered on the RACAP per annum.

STATISTICS

Period	National adoptions	Inter-country adoptions	Total number of children adopted
1 April 2010 31 March 2011	2236	200	2436
1 April 2011 – 31 March 2012	1619	198	1817
1 April 2012 – 31 March 2013	1522	177	1699
1 April 2013 – 31 March 2014	1240	212	1452
1 April 2014 – 31 March 2015	1405	249	1651
1 April 2015 – 31 March 2016	978	187	1165

ACCREDITATION

- The accreditation of the adoption service providers has been in implementation since 2010, as stipulated in the Children's Act. The first duration period lasted from April 2010 to March 2015. The renewal of accreditation as well new applications started in April 2015.
- The first accreditation process was marred by confusion in terms of what was expected to be submitted and what the accreditation panel required in order to ensure that accreditation was given to credible applicants. Gaps were identified in the initial Accreditation Guidelines and that led to its review.
- A total number of Social Workers in Private Practice accredited = 53 and of Child protection organisations = 58

ACCREDITATION (CONT...

➤ Social workers in private practice = 45

Outstanding = 36

- Continual receipt of applications
- An updated list of the accredited adoption service providers is sent to the respective DSD Provincial offices as well as the National Adoption Coalition and Child Welfare South Africa National office.
- The list of the adoption units, which respective social workers in private practice belong to, was sent to all the respective DSD Provincial offices.

INTER-COUNTRY ADOPTION

- Inter-country adoption is a practice governed by The Hague Convention on Protection of Children & Cooperation in Respect of Inter-country Adoption (29 May 1993).
- The Convention emphasizes the principle of cooperation between contracting states to the Convention to work together to ensure the protection of children.
- Children's Act 38/2005 sec. 260 provides that a CPO accredited to provide I/C adoption services may enter into an adoption working agreement with an accredited adoption agency in another country & the agreement must be approved by the C/A.
- RSA also maintains I/C adoption cooperation with Non Hague countries to ensure care & protection of children



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BACKGROUND ON INTERCOUNTRY ADOPTION

- I/C adoptions became a reality in RSA in the year 2000.
- Sect 18(4)(f) of the Child Care Act, 74/1983 was found to be unconstitutional, as it didn't allow non RSA citizens not resident in the country to adopt RSA born children
- RSA Law Commission recommended that RSA become a member of THC & it acceded to THC on 1 Dec 2003
- DSD became CA to monitor & control all I/C adoptions
- Some CPO's & Social Workers in Private Practice (SWPP) entered into WA with foreign adoption agencies
- I/C adoption legislation was compiled & regulated in terms of Chapter 16 of the Children's Act
- After implementation of the Act in April 2010, it didn't make provision for SWPP to facilitate I/C adoption.

COUNTRIES COOPERATING WITH RSA

COUNTRY	CHILD PROTECTION ORG.	FOREIGN ADOPTION AGENCY
1. Netherlands	<ul style="list-style-type: none"> • ABBA Adoptions • Wandisa Adoption Agency 	<ul style="list-style-type: none"> • Wereld Kinderen • Nederlanse Adoptie Stichting (NAS)
2. Norway	<ul style="list-style-type: none"> • ABBA Adoptions 	<ul style="list-style-type: none"> • Verden's Barn (Children of the World-Norway)
3. Sweden	<ul style="list-style-type: none"> • ABBA Adoptions 	<ul style="list-style-type: none"> • Adoptionscentrum
4. Germany	<ul style="list-style-type: none"> • ABBA Adoptions 	<ul style="list-style-type: none"> • Evangelischer Verein Fur Adoptions ... (EVAP)
5. Finland	<ul style="list-style-type: none"> • ABBA Adoptions • Jo'burg Child Welfare 	<ul style="list-style-type: none"> • Interpedia • City of Helsinki Social Services Department
6. United States of America	<ul style="list-style-type: none"> • Wandisa Adoption Agency • Jo'burg Child Welfare 	<ul style="list-style-type: none"> • Bethany Christian Services • Spence Chapin
7. Australia	Cape Town Child Welfare	<ul style="list-style-type: none"> • Australian Central Authority



COUNTRIES COOPERATING WITH RSA

COUNTRY	CHILD PROTECTION ORG.	FOREIGN ADOPTION AGENCY
8. Belgium	<ul style="list-style-type: none"> • Jo' burg Child Welfare • Catholic Women's League • NG Social Services (ENGO) 	<ul style="list-style-type: none"> • Amarna • Amarna • FIAC
9. France	<ul style="list-style-type: none"> • Wandisa 	<ul style="list-style-type: none"> • Chemin Vers L'Enfant
10. Canada	<ul style="list-style-type: none"> • KZN Christian Social Services 	<ul style="list-style-type: none"> • Mission of Tears
11. Luxembourg	<ul style="list-style-type: none"> • Impilo 	<ul style="list-style-type: none"> • Naledi a.s.b.l
12. Austria	<ul style="list-style-type: none"> • Impilo 	<ul style="list-style-type: none"> • Eltern Für Kinder Osterreich
13. Denmark	<ul style="list-style-type: none"> • Impilo 	<ul style="list-style-type: none"> • Ac International Support
14. India	<ul style="list-style-type: none"> • Catholic Women's League 	<ul style="list-style-type: none"> • Central Adoption Resource Authority (CARA)
15. United Kingdom & Isle of Man	<ul style="list-style-type: none"> • Child Welfare Durban & District 	<ul style="list-style-type: none"> • UK Central Authority

DEVELOPMENTS REGARDING THE AMENDMENT OF THE ACT

- The Department reviewed the Act from 2011 by consulting various stakeholders, with the view of amending it. This culminated in the drafting of the Children's Amendment Bill, as well as the Children's Second Amendment.
- The submissions have been made and deliberated in the Parliament by the National Assembly.
- Currently there are Public Hearings conducted by the National Council of Provinces

DEVELOPMENTS REGARDING THE AMENDMENT OF THE ACT

- Currently the Children's Act, 38 of 2005 does not make provision for the departmental social workers to provide adoption services.
- The Second Amendment Bill includes DSD social workers in the definition of an adoption social worker.
- The aim is to close the gap or omissions between what the Act provides for and what is required in practice to make adoption services more accessible to all the communities.
- The implications of this proposed amendment are:
 - DSD dedicated staff located at service office level who will be providing adoption services,
 - The identified social workers will be trained and capacitated on adoption,
 - Provinces have developed & submitted Implementation Plans on the readiness of DSD social workers to provide adoption services and they are currently being trained.



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Policy on child protection

- There is a need for a comprehensive policy to underpin the Children's Act no 38 of 2005. This policy reflects a holistic view of childhood, that is both developmental and preventive, including the regulation of relationships between children and their parents and caregivers.
- It is also envisaged that some children and families have special needs that require preventive, responsive and enabling care and protection services. All children living in South Africa should have equal access to the services that will optimize their development and care.
- The Child Care Protection Policy therefore underpins the Children's Act and gives expression to South Africa's commitment to children as embodied in signed and ratified international conventions and treaties, the Constitution of South Africa, and the principles of the White Paper on Social Welfare.



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Review of child protection system

- Pact, in partnership with South African organizations, is implementing the Government Capacity Building and Support (GCBS) programme in collaboration with the Department of Social Development (DSD) with funding from USAID.

- The Department of Social Development (DSD) and Child Protection Organizations (CPO's) are mandated to provide alternative care as stipulated in the Children's Act 38 of 2005.
- However, there are challenges in delivering on this mandate and this assignment seeks to build on existing efforts by providing training to strengthen services to children and their families, thereby enhancing the quality of alternative care services in South Africa including adoptions.

Improvement plans developed

- The primary purpose of the Improvement Plan is to support and strengthen South Africa's child protection response framework. It follows that the Improvement Plan will:
 - Ensure the findings from the desktop scan and series of workshops are utilised and translated into actionable recommendations;
 - Provide a framework for monitoring the implementation of the identified actions;
 - Provide a framework for reporting on progress in implementing the Improvement Plan;
 - Keep relevant stakeholders updated on actions for which they are responsible.
 - Provide a basis on which DSD can advocate for the assigned actions being incorporated into the Annual Performance Plans (APPs) of the other identified departments;
 - Inform the policy and budget making process;

Conclusion

- Much has been done since the implementation of the Children's Act but there room for improvements that need to be made to strengthen adoption services in the country

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- Thank You



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