

AMERICAN UNIVERSITY OF ARMENIA

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CHILD ADOPTION

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This study is about adoption of a child by resident parents. Child adoption is among the most common situations of everyday life, that is why it is important to study the rules and regulations concerning this issue. Once the child is identified for adoption, the parents must inform the Ministry of Social Security. The Ministry of Social Security provided the following information on adoptions: from July to December 2000 a total number of 93 adoptions were approved. In 26 cases the adopting person was a foreigner. In 2001, the registered number of children subject to adoption was 166, from which 163 or approximately 98% was adopted. In 2002, the number of these children was 219, from which 178 or approximately 81% adopted. 215 or approximately 90% out of 240 were adopted in 2003 (43 children were adopted by U.S. citizens). In 2004, the number of children subject to adoption was 225, from which 66.7% or 150 adopted. It is evident that in 2004 the number of children subject to adoption compared to 2001 has increased, and the number of adoptee has decreased- 163 became 150. But in 2002 and 2003 there is an increase both in the number of children subject to adoption and in the number of adopted children.

The purpose of the adoption is to safeguard the pre-eminent right of the child to be raised in a family environment, to bring down the levels of abandonment of children, to help build the character of children and to promote their socialization and adaptation to community life. Thus, adoption is particularly significant for children. It is intended to provide the child with security by giving him/her a good upbringing and appropriate parenting, child care and protection.

Adoption is significant for childless couples. Though it is an artificial means of creation of parent-child relationship, it is one of the pathways to a permanent family.

Adoption is also significant for the government, the ministries and charitable organizations who take care for children lacking parental care. The law requires the State child-care authorities to ensure the care and upbringing of these children and children who do not have parents at all. This is done by placing the child in appropriate children's institutions (among which are children's homes and boarding schools) or through adoption. Placing children in such institutions requires lots of expenses

including medical care, education; therefore it is of government interest to take care for as few children as possible. So, the State child-care authorities must also be encouraged in adoption.

The aim of this study is to examine the Armenian rules and regulations governing adoption, to find out the problems occurring during the process of adoption, and finally to give solutions to these problems.

The procedure for adoption in Armenia is laid down the Marriage and Family Code and Civil Procedure Code. The key provisions of those laws are as follows:

RA Law No. 123 the Marriage and Family Code, dated 18.07.1969, as amended through 19.04.2005, (“Family Code”) introduced adoption in Chapter 18 “Children Adoption.” Article 112 states that according to adoption adopters and adopted obtain rights and for parents and children (see Article 112). Article 113 maintains the procedure of children adoption and the necessity of the conclusion given by the RA marz administrations (see Article 113). A child who has parents may not be adopted without their written consent. In case of adopting a child from minor parents, the consent of parents or guardians of minor parents is also necessary. In the absence of their consent there must be the consent of the department of custody and guardianship (see Article 118). Children aged 10 or more may only be adopted with their consent, the only exception being when the child lived with the adopters prior to the making of the adoption application and considers them its parents (see Article 121). If the child is being adopted by married couple, the written consent of the other spouse is also required (see Article 121). In the request of the adopters the birth date and the birth place of an adopted child can be altered (see Article 124). Theses articles are set forth below in Armenian and in English:

CHAPTER 18: CHILDREN ADOPTION

ԾԱՂԻՅԻ 112. Ձեռքի և ունի Կրթական Կրթական Կրթական Կրթական

1. Որդեգրումը իրավաբանական այն ակտն է, որի համաձայն որդեգրողները և որդեգրվածները ձեռք են բերում ծնողների և զավակների համար օրենքով նախատեսված իրավունքներ և պարտականություններ: Որդեգրումը համարվում է առանց ծնողական խնամքի մնացած երեխաների տեղավորման նախապատվելի ձևը:

ARTICLE 112. CHILDREN SUBJECT TO ADOPTION

1. Adoption is a legal act according to which adopters and adopted obtain rights and obligations stipulated by law for parents and children. Adoption is considered a most preferable way of placement of children deprived of parental care.

ՃՃՂԳԻ 113. Ծննդաբանության օրենսդրության մասին

1. Որդեգրումը կատարում է դատարանը՝ երեխային որդեգրել ցանկացող անձի (անձանց) դիմումով: Երեխայի որդեգրումը հաստատելու մասին գործի քննությունը դատարանը կատարում է հատուկ վարույթի՝ քաղաքացիական դատավարության օրենսդրությամբ սահմանված կարգով: Երեխաների որդեգրումը հաստատելու մասին գործերը դատարանը քննում է խնամակալության եւ հոգաբարձության մարմնի եւ որդեգրել ցանկացող անձի պարտադիր մասնակցությամբ:

2. Երեխայի որդեգրման համար անհրաժեշտ է Հայաստանի Հանրապետության կառավարության լիազորած մարմնի եզրակացությունը՝ որդեգրման հիմնավորվածության եւ այդ որդեգրումը որդեգրվող երեխայի շահերին համապատասխանելու մասին՝ նշելով որդեգրվող երեխայի եւ որդեգրողի (որդեգրողների) անձնական շփումների փաստի վերաբերյալ տեղեկություններ:

ARTICLE 113. PROCEDURE OF CHILDREN ADOPTION

1. Adoption is implemented by court on the basis of an application from a person wishing to adopt a child. The consideration of a case on approval of adoption is conducted by special course in accordance to the procedure established by the Civic Procedure Code. The court conducts the cases on approval of adoption with the obligatory presence of the department of custody and guardianship and a person wishing to adopt.

2. For child adoption the conclusion of the RA marz administrations (Yerevan municipality) on the grounds of adoption and correspondence of adoption to the interests of an adopted child, mentioning information on the facts of personal contacts between the adopted child and adopter/adopters, is necessary.

Հոդված 118. Երեխային որդեգրելու համար ծնողների համաձայնությունը

1. Երեխային որդեգրելու համար անհրաժեշտ է նրա ծնողների գրավոր համաձայնությունը: Անչափահաս ծնողների երեխային որդեգրելիս անհրաժեշտ է նաեւ նրանց ծնողների կամ խնամակալների (հոգաբարձուների) համաձայնությունը, իսկ ծնողների կամ խնամակալի (հոգաբարձուի) բացակայության դեպքում՝ խնամակալության եւ հոգաբարձության մարմնի համաձայնությունը: Երեխային որդեգրելու համար ծնողների համաձայնությունը պետք է արտահայտվի դիմումով՝ հաստատված նոտարական կարգով կամ այն կազմակերպության ղեկավարի կողմից, որտեղ գտնվում է առանց ծնողական խնամքի մնացած երեխան, կամ խնամակալության եւ հոգաբարձության մարմնի կողմից՝ ըստ երեխային որդեգրելու վայրի կամ ծնողների բնակության վայրի, ինչպես նաեւ համաձայնությունը կարող է արտահայտվել անմիջականորեն դատարանում որդեգրման վարույթի ժամանակ:

ARTICLE 118. PARENTS' CONSENT FOR CHILD ADOPTION

1. Written consent of parents is necessary for child adoption. The consent of parents or guardians of minor parents is also necessary for adoption of their child, and in case of the absence of parents or guardians, the consent of the department of custody and guardianship. The parents' consent for child adoption should be presented by an application verified by a notary procedure or by the head of organization, where a child deprived of parental care is accommodated, as well as the consent can be expressed directly during adoption case consideration in court.

Հոդված 121. Որդեգրման համար որդեգրվող երեխայի համաձայնությունը

1.Տասը տարին լրացած երեխայի որդեգրման համար անհրաժեշտ է նրա համաձայնությունը:

2. Եթե մինչև որդեգրման համար դիմում տալը երեխան ապրել է որդեգրողի ընտանիքում եւ նրան համարում է իր ծնողը, ապա որդեգրումը բացառության կարգով կարող է կատարվել առանց որդեգրվող երեխայի համաձայնությունն ստանալու:

ARTICLE 121. CONSENT OF AN ADOPTED CHILD FOR ADOPTION

1. Consent of a child above 10 is necessary for his/her adoption.

2. If before submission of an adoption application a child lived in the family of the adopter and considers him/her a parent, as an exception adoption can be realized without child's consent.

Հոդված 124. Որդեգրվող երեխայի ծննդյան ժամանակի եւ ծննդյան վայրի փոփոխումը

1. Որդեգրման գաղտնիքն ապահովելու համար որդեգրողի խնդրանքով կարող են փոփոխվել որդեգրվող երեխայի ծննդյան ժամանակը, բայց ոչ ավելի, քան երեք ամիս, ինչպես նաեւ նրա ծննդյան վայրը: Որդեգրված երեխայի ծննդյան ժամանակի փոփոխում թույլատրվում է միայն մինչև մեկ տարեկան երեխայի որդեգրելիս:

ARTICLE 124. ALTERNATION OF BIRTH PLACE AND BIRTH DATE OF AN ADOPTED CHILD

1. With the purpose of provision of adoption secret the birth date (not more than by 3 months) and the birth place of an adopted child can be altered upon the adopter's request. Alternation of birth date of an adopted child is allowed only in case of adoption of a child under 1 year old.

RA Law No. 247 Civil Procedure Code, dated 01.01.1999, as amended through 07.07.05, included the part for child adoption in Chapter 29.1. Article 173.1 provides that the application for child adoption must be submitted to the court where the child is located. In Article 173.2 the requirements with the application are stated. Article 173.3 holds the examination of the application, and Article 173.4-the decision of the court. These articles are the following:

Civil Procedure Code

Chapter 29.1 The procedure of child adoption

Article 173.1 Presenting application

The application of child adoption must be submitted to the of Civil actions discussing Court of the child's place residence.

Article 173.2 Requirements for the application

1. In the application there must be written

1) the place of residence, name, surname, and father's name of the person willing to adopt

2) the place of residence, date of birth, name, surname, and father's name of the child to be adopt.

3) if the child to be adopted is under the age of 1, if the person willing to adopt wishes his/her (their) mediation of changing the date of birth and place, name, surname, father's name,

2. With the application there must be attached

1) the copy of passport of the person willing to adopt

2) the copy of the marriage certificate, if the of the person willing to adopt is married

3) The consent of the child to be adopt if he/she is over 10 years.

4) The child's birth certificate

5) Letter about the child's health conditions

6) Letter about the registration of the child

7) The written consent of the child's parents or guardians

8) The conclusion about the possibility to adopt and information about the personal communication of the adoptive parents and adoptee.

Article 173.3 The examination of the application

Cases confirming children adoption are examined by the court in the compulsory participation of guardians, the people willing to adopt, and if the child is above 14, the child. The cases are held in closed procedure.

Article 173.4 The decision of the Court

1) The court rejects the adoption if the documentation is not complete or false.

2) In other cases established in RA Legislation.

RA Gov. Res. No.64, dated 01.09.2000, as amended through 24.12.03, speaks about the confirmation of the child adoption order. It states that in order to start the adoption process the married couple must apply for the marz administration of their placement in order to obtain the conclusion about the possibility of adoption. The next step is submission to the court. For this purpose all the courts and marzpetarans are listed below:

Court of First Instance of	Address	Phone/Fax	Name of Official
Ajapnyak and Davitashen	Nazarbekyan 40 Yerevan, Armenia	399596 399901	D. Balayan
Arabkir and Kanaker - Zeytun	Davit Anhaght 11	240831	A.Araqelyan
Avan and Nor - Nork	Nork, Gyulikepyan 20	649465 649447	N.Margaryan
Erebuni and Nubarashen	Khorenatsi 162 A	573444 573903	Y.Rashidyan
Kentron and Nork-Marash	Israelyan 41	535671	A. Davtyan
Malatia - Sebastia	Otyan 53/2	745950 742402	St. Mikayelyan
Shengavit	Arshakunyats 23	441430	G.Avagyan
Regions			
Aragatsotn	Ashtarak, Echmiatsin, 65	(232)33126	
Ararat	Artashat, Ogostos 23, 64	(235)22156	
Armavir	Armavir, Hanrapetutyun 41	(237)62265	
Gegharquniq	Gavar, Sayadyan 18	(264)21351	
Kotayk	Hrazdan	(223)23296	
Lori	Vanadzor, Zoravar Andranik 2	(322)24031	
Shirak	Gyumri, Abovyan 264	(312)23159	
Syunik	Kapan, Yerkatughayin 4	(285)67558	
Tavush	Ijevan, Yeritasardakan 2	(263)34203	
Vayots Dzor	Vayq, Jermuki 8	(282)23224	
Court of Appeal for Civil Cases	Arshakunyats 23	(10)447121	
Court of Cassation	Vazgen Sargsyan 5	(10)583734	
Yerevan City Municipality	Argishti 1	(10)514148	
Marzpetarans of RA			
Aragatsotn	Ashtarak, Hanrapetutyun 4	(232)32251	
Ararat	Artashat, Ogostosi 23, 60	(10)286023	
Armavir	Armavir, Abovyan 71/1	(237)63716	
Gegharqunik	Gavar, Grigor Lusavorich 63	(264)21045	
Kotayk	Hrazdan, Kentron district	(223)23663	
Lori	Vanadzor, Hayq Square	(322)23099	
Shirak	Gyumri, Garegin Njdeh 6	(312)32610	
Syunik	Kapan, Garegin Njdeh 1	(10)287822	
Tavush	Ijevan, Sahmanadrutyun 1	(263)32356	
Vayots Dzor	Yeghegnadzor	(10)287401	

The steps of the child adoption process are as follows:

- 1) Obtain positive conclusion for child adoption from the local Community Authorities.
- 2) Register as a candidate for adoption.
- 3) Select a child.
- 4) Apply the local Community for information about the selected child
- 5) Meet and communicate with the child.
- 6) Inform the Head of Community about their final decision about adopting the selected child.
- 7) Personally get the conclusion of the Head of Community.
- 8) Get the final decision of the Court.

The following are these steps which are presented in the RA Government Resolution of Child Adoption:

The adoption of a child in RA is regulated through the marriage and family code of RA, civil procedure code of RA, international conventions of RA, and due to other juridical standards.

The adoption process is arranged due to those lawful age persons willing to adopt, who correspond to the standards as adopting candidates.

If the two husbands are willing to adopt the same child, then they will both be registered as adopting candidates.

A person will be a candidate based on written approval of a positive conclusion about adoption possibility.

The conclusion about adoption will be given to the adopting candidate.

The conclusion about adoption possibility and the registration of persons willing to adopt is organized by adoption committees of Marz administrations and Yerevan municipality.

The constitution of the committees in RA is affirmed by Prime minister.

Registration of the children subject to adoption and adopted children, as well as candidates willing to adopt is realized through the Ministry of Social Security.

Those citizens willing to adopt a child in RA should apply to the committee of their place of residence presenting

- application
- passport
- official statement about housing conditions and family
- official statement about personal income and bank account
- medical analysis about health condition,
- marriage certificate

After getting all the necessary documentation, the committee studies the living conditions of that person during one month period and makes a consequent conclusion.

If the committee makes a negative decision about the possibility to adopt, it informs the applicant within 5 days in a written form. The applicant may appeal if the conclusion is negative.

If there is no application for adopting from another candidate, then a meeting of the child and the adopter is organized.

The adopting candidate has the right to get information about the adopted child and the child's relatives from the regional committee, to have the child examined in a medical organization in the presence of the legal representative of the child.

The adopting candidate is obliged to personally get acquainted and communicate with the child and the child's documentation before the final decision.

The candidates willing to adopt the child apply to either their or the child's residency

Head of Community for making decision. The candidates shall personally take the final decision from the Head of the Community.

Disputes arising out of adoption process are among the most common disputes in the everyday life. Some of them of course can be regulated without going to court. Some, however, do go to court due to their complexities and uncertainties. Based on discussion with judges and analysis of cases, the most common issues that very often arise during the process of child adoption are closely related to:

- 1) Registration as adopting candidates;
- 2) Conclusion given by Child Adoption Committee

Besides the laws that govern the act of adoption, there is a decree regulation about “The order of child adoption” adopted by RA Government according to which the couple must have been registered as adopters before starting the process of adoption and must have conclusion about adoption possibility given by Local Child Adoption Committees, whether positive or negative, that will allow them to continue the process.

Based on discussion with the judge of the First Instance Court of Yerevan Malatia-Sebastia Commune, Head of the Private Law Department at the French University of Armenia, most court cases connected with child adoption in his practice dealt with obtaining positive conclusions. As all the adoption cases are usually kept in secret, Mr. Michaelian refused to present any further details concerning his own cases.

Thanks to the Assistant of the Judge of Appeal Court of Civil cases of RA, Lecturer of “Civil Procedure” at the French University of Armenia G. Avagyan, I had the opportunity to study some court cases, which dealt with these two most common issues (the exact dates and names of the actors are omitted for confidentiality).

One RA couple wanted to adopt a child. They lost their preferred child because of being registered not the first for that child. They had chosen an eleven –year-old girl. The wife said that their relationship was already so deep that the “daughter” even called her “Mom”. The couple sued the director of the children’s home claiming that he had known about their relationship and that he could prohibit anyone not to communicate with and take especially that child. They were also persisting that

the girl had given her agreement forcibly. After studying the case the court found that there had not been any violation against the couple by anyone. According to the Government's regulation about "The order of child adoption", if there is more than one candidate for the adoption of the same child, the meeting with the child is organized based on the sequence of their registration and, the right to adopt goes to the first registered candidate. The court proved that it was not their turn to adopt. So, the court dismissed the case.

Another court case concerned a couple willing to adopt who, after a very long period of time, was finally given the positive conclusion. During the process of seeking and finding a child for adoption they came across with abuse of different public officials. In March 2003 they were promised to adopt a child with the help of the Head of the department of one of the maternity hospitals, and the director of one charitable private Children's Home. The child had to be born in June, and the mother had to leave him/her immediately. After the child was born, it turned out that someone else had already adopted him/her. It was obvious that a more "profitable" candidate had been found. In 2004 the couple presented all the documentation to the municipality, but the secretary of Adoption Committee deliberately delayed the giving of the conclusion of adopting right for about six months. They had already chosen a new child who, during the time of obtaining the same positive conclusion, was again adopted by others. So, possibility to adopt within one year expired. The couple brought an action against the Secretary of the Municipality because it was her fault that they again lost the opportunity to adopt the preferred child. The couple demanded from the Court to immediately be re-granted the right to adopt, so that they would continue the process from where it was terminated. The Court satisfied the request of the couple.

These cases show that Armenian laws and regulations are not strong enough not to have problems like this. Not all the candidates willing to adopt are treated equally. They can be easily cheated being informed that it is not their turn to adopt; or the giving of the positive conclusion may always be delayed thus making the adoptive parents loose the preferred child. Even if the conclusion is

given on time, no matter positive or negative, who knows whether it is accurately determined? The further research will show whether the candidates need this conclusion at all, or the adoption can be better organized even without it.

The amendments in The Family code of 1969 brought new way and requirements for adoption. The old version on adoption, Chapter 13, article 112 provided that the adoption be realized through regional Councils of executive bodies (Deputies) in regions, and through municipality in Yerevan. The new one, chapter 18, article 113 about the realization of adoption provides that it is implemented by court on the basis of the conclusion of the RA administrations for child adoption. The consideration of a case on approval of adoption is conducted by special course in accordance to the procedure established by the Civic Procedure Code.

The old version article 114 on the consent of parents does not have a clause for the minor parents. New version article 118 says that in case of adopting a minor's child, the consent of minors' parents is also necessary. This part is missing in the old version.

Article 112.3 Adoption of siblings by different persons is prohibited, except for the cases when such adoption proceeds from a child's interests- adoption of siblings by different people must be prohibited in any case. They must be brought up together, having the same parents, especially when they are already at those ages that understand this fact.

Article 113.1 states that the adoption process is implemented by court on the basis of an application from a person wishing to adopt a child. Before starting the process the court must also participate in checking all information and data about the adopters including each detail not to have any problem during the future procedure. Otherwise, in many cases the process of adoption is terminated because of false documentation or something that is important but is missing.

Article 113.2 For child adoption the conclusion of the RA marz administrations on the facts of personal communication between the adopted child and adopters is necessary-this clause must be necessary only for extreme cases, in case if very important thing is known that will not make the

adopted child happy. It is known from our example that even though the child called “Mum” the one wishing to adopt, she was adopted by another one. So, where was the opinion of administrations in this case? Information on adopters’ and adopted child’s personal contacts and feelings may never be true according to the opinion of administration. What if the parties, like the example, already manage to obtain mutual love and respect, but their opinion is negative?

Article 121.1 states that consent of a child above 10 is necessary for his/her adoption. Yes, it must be necessary. But even 3-year –old child may differentiate the good from the bad thus choosing a parent. So, above 10 must be changed into at least 5 or 6.

Article 124.1 says that the name and birth date or place of the adoptee is allowed to alter only if he/she is under 1 year old. Any child’s name and birth date or place must be allowed to change, as any adopter may wish to keep the fact of adoption in secret.

Article 125.1 claims that the court can make a decision on registration of the adopters as the child’s parents in the state birth register upon the request of the adopters. It would be better if the registration on becoming parents were compulsory as according the article 112.1 –the adopters and adopted become parents and children through adoption obtaining the same rights and obligations of real parent-child relationship.

In order to find out how the problems in Armenia concerning the adoption can be solved, it is important to know how the child adoption laws in the various states work, how the process of adoption is conducted in civil and common law jurisdictions. For this purpose, two states are chosen from the United States of America which is a common law country. In all states of the US except Louisiana, which is based on the French civil code, the common law of England was adopted as the general law of the state.

In common law jurisdictions such as in Texas the adoption of children is regulated as follows: chapter 162 of family code is the articles of child adoption. 162.002 states that if a petitioner is married, both spouses must join in the petition for adoption. According to § 162.003 before starting that process,

a pre-adoptive home screening and post-placement report must be conducted in a suit for adoption as provided in Chapter 107. In a suit affecting the parent-child relationship in which an adoption is sought, the court shall order each person seeking to adopt the child to obtain that person's own criminal history record information (see § 162.0085). If a petition requesting adoption is withdrawn or denied, the court may order the removal of the child from the proposed adoptive home if removal is in the child's best interest and may enter any order necessary for the welfare of the child (see § 162.020.) If the court finds that the requirements for adoption have been met and the adoption is in the best interest of the child, the court shall grant the adoption (see § 162.016.). If the joint petitioners are husband and wife and it would be unduly difficult for one of the petitioners to appear at the hearing, the court may waive the attendance of that petitioner if the other spouse is present. A child to be adopted who is 12 years of age or older shall attend the hearing (see 162.014).) The court may not grant an adoption until the child has resided with the petitioner for not less than six months (see § 162.009).

In civil law jurisdictions such as Louisiana, married couple can adopt children either by agency or by private adoption. The petition for an agency adoption shall be styled “Applying for Agency Adoption.” The petition or an attached exhibit shall state some required information (see article 1199). Like in all adoptions, consent to the adoption of a child of the biological parents is required and in case of agency adoption the consent of that agency which has placed the child for adoption is also required (see article 1193). Any parent may give consent to the adoption of his child in open court (see article 1195). After obtaining all the required documentation the Louisiana Department of Social Services shall investigate the proposed agency adoption and submit a confidential report of its findings to the court. See what the findings shall include in article 1207. After an interlocutory decree of adoption has been granted, the clerk of court shall forward a certified copy of the decree to the Department of Social Services (see article 1182).

For the private adoption the petition shall be styled in “Applying for Private Adoption.” The petition or an attached exhibit shall state the same as in the agency adoption (see article 1222). No child

who is the subject of a private adoption shall be placed in the home of the prospective adoptive parents prior to their either obtaining a current certification for adoption (see article 1171). Prospective adoptive parents must obtain a certification for adoption. For this purpose they may request a licensed agency, licensed clinical social worker, licensed professional counselor, psychologist, or psychiatrist to conduct a preplacement home study (see article 1172.). The Department of Social Services shall promulgate rules and regulations for preplacement home studies in private adoptions in accordance with the Administrative Procedure Act and after official review and approval of the Louisiana Advisory Committee on Licensing of Child Day Care Facilities and Child-Placing Agencies (Article1173.).The department shall investigate the proposed private adoption and submit a confidential report of its findings to the court (Article 1229, the same as in the agency adoption article 1207). If the preplacement home study is favorable, the professional, who conducted it, shall issue a preplacement certification for adoption to the prospective adoptive parents (see article 1174). The court shall sign the order setting the time and place for the hearing of the petition for agency/private adoption not less than thirty nor more than sixty days after the filing of the adoption petition (see articles 1208/1230).

The court, after hearing and after taking into consideration information from all sources concerning the adoption, may enter a final decree of agency adoption, or it may deny the adoption (see articles 1217/1239). It is the duty of the clerk of court to forward a certificate of the decree to the state registrar of vital records after the final decree of adoption has been granted (see article1182). The child shall have lived with the petitioner for at least one year and at least six months shall have elapsed after the granting of an interlocutory decree before the petitioner may file a petition for final decree of agency/private adoption (see articles 1216/1238).

Adoption policy must be good for all parties involved: the adopted children, the adoptive parents, and the Government.

The policy for children is good, as it gives them a possibility to integrate into a permanent family, which assumes secure life and well-being, providing with parental love and care. Through adoption children get more chances for becoming educated persons and having better future.

The policy for adopting parents is to strengthen and keep their families, in case of not having their own children. Not only, there are families who adopt children for charitable purposes, giving permanent shelter to parentless children. Such policy is mostly good. But there are cases, for example, when the adoptive parents are not psychologically educated and ready enough to become and act like a parent. More complicated cases are when adopted children are used as labor force or become victims of trafficking. One of the breakdowns of the RA adoption policy is that there is no surveillance of parent-child future relationship.

In order to avoid such cases, the Government must adopt such a policy which will ensure each adopted child's best interests not only during the adoption process, but also for a certain period of time after the adoption. The Government must watch every adopted child's family relationship and living conditions at least for a year, and if the family does not meet the requirements and if the conditions are unsatisfactory the child must be taken back. Another breakdown is that this kind of control policy does not exist in the RA. The RA Law of child adoption thus does not always coincide with the IBP, that is it is not always in the best interest of the child.

Another ineffective implementation of law is seen in obtaining conclusion for the possibility to adopt a child. Because of high corruption rate such conclusions can be easily gained in illegal ways in RA. Thus this cannot be a final testimony for starting the adoption process. The adoptive parents do not need to be involved in the paperwork, because any kind of obtained "paper" can be false. For this purpose there must be paid a greater attention to inspection side before and after the adoption process, like in IBP.

For the improvement of RA adoption law system there should be done some changes. Looking at International Best Practice there can be seen useful steps which will improve RA adoption law

system making it fair and beneficial for couples and children respectively. The clauses taken from IBP concern to post adoption process. In Armenia instead of obtaining one conclusion which expires very soon, there must be done pre-adoptive home screening. If the preplacement home study is favorable, the professional who conducted it shall issue a preplacement certification for adoption to the prospective adoptive parents. The preplacement certification for adoption shall be valid for a minimum of two years.

For this purpose there should be established a special Department in the Ministry of Social Security which will implement such actions.

In whatever court jurisdiction may be placed, provision for social investigation is essential that is why the Department should be vested with ample supervisory powers covering all aspects of the placement of children.

The first step for couples wishing to adopt a child should be the following:

- 1) To fill an application about the willingness of child adoption
- 2) To send this application to this Department
- 3) To sign a document which will ensure that the couple is ready to provide any kind of information and necessary means requested by the Department. According to this document the couple will not have the right to interfere with any action done by the Department.

The application must include:

- 1) The full name, address, age, occupation, and marital status of each petitioner
- 2) The copy of passports of the couple
- 3) Copy of marriage certificate
- 4) Information about monthly income; bank account
- 5) 3 kinds of reference letters characterizing the person from work place, neighbors, relatives
- 6) Document ensuring that they do not have any mental illness

7) Criminal history for criminal records, for all federal and state arrests and convictions and validated complaints of child abuse or neglect, respectively, in this or any other state of each prospective adoptive parent, a certificate indicating all information discovered or that no information has been found, all in accordance with the applicable rules and regulations promulgated by the department.

8) Information whether they have their own kids

9) Information whether they ever adopted a child

10) The purpose of adopting a child

Duties of the Department

The members of the Department shall investigate the house of the petitioner checking home conditions and family atmosphere at any time during the adoption procedure. The Department shall also check all the information provided and not provided by the petitioners. The members also have the right to contact the family members, neighbors, relatives, and friends for the purpose of obtaining any information connected with the petitioners. It is also their duty to find out whether the couple have ever visited psychologist, whether have ever suffered with alcoholism, drug addiction or other diseases like this. The members of the Department conducting such study shall be a social worker or a licensed professional counselor, psychologist, or psychiatrist. The couple must not do anything for 3 months until the Department finishes its work. The Department may obtain the necessary information sooner than is required or may ask for more time. But if after 3 months the Department does not inform anything connected with the approval, the couple may contact with it.

After checking all this information the Department may delegate the performance of this investigation to the court, giving or not giving an approval of starting the child adoption process. In case of positive approval, the court shall start its work. It must stress its attention on the purpose of adoption by that couple. If the purpose is satisfactory, the court shall give the couple an opportunity to select a child and communicate with him/her. The couple must be informed about the legal responsibilities in case of violating the child's rights and/or not fully fulfilling the given promises.

In RA law there is no any clause stating that the couple and the child may or shall live together before the final decree of adoption. In the International Best Practice the child shall have lived with the petitioners for at least one year and at least six months shall have elapsed after the granting of an interlocutory decree before the petitioner may file a petition for final decree of adoption. This is very important for both the adoptive parents and especially for the child to be adopted if he/she is twelve years of age or older, as the court shall solicit and consider his/her wishes in the matter. The court, after hearing and after taking into consideration information from all sources concerning the adoption, may enter a final decree of private adoption, or it may deny the adoption. The basic consideration shall be the best interests of the child.

For the realization of these amendments certain bodies have to form a Committee to study the efficiency of the new law. As there has been mentioned the importance of the criminal history, health conditions, financial status and the housing of the adoptive parents regulatory agencies, the police, the Ministry of Health, the Ministry of Social Security the Ministry of Education and the Defense Ministry have to be involved in the Committee for decision-making. After the Committee approves the amendments, the latter must be discussed in the Parliament. The decision can be influenced by the Parliament, the President of RA, individuals and groups (involved in the process of child adoption), NGOs and the media.

In drafting adoption acts the welfare of the child, the rights of the parents and the possibilities of their assuming the case of the child under proper conditions, and the rights of the adopting parents must be borne in mind.

The importance and complexity of the subject of child adoption legislation have been indicated in the foregoing pages. The standards which are being suggested here emphasize as the primary consideration the welfare of the child and also provide for safeguarding the rights of all the parties in interest.