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THE AGE LIMIT OF ADOPTABLE CHILDREN

In the framework of research proposed by the Central Adoption Authority of The Netherlands, the ISS/IRC has been called upon in relation to the experiences of countries in terms of age limits of children adoptable internationally.

We therefore hereby offer you a non-exhaustive overview of the legislation in 74 countries, which provide for this specific aspect in adoption that remains documented to a limited extent. Indeed, whereas a relatively important number of publications relating to older children – *i.e.* older children adopted internationally – is available, this is not true for the issue of the children's age limits.

Thus, it is worth focusing on the laws of each country. It must be noted that, whereas the respective laws of the countries do provide nearly systematically for the – minimum and/or maximum – age of the prospective adoptive parents¹ and/or the – minimum and/or maximum – age difference between the adopter(s) and the adoptee, they only rarely regulate the issue of the child's age.

In a high number of analysed countries, the adoptable children's age limit is linked to the definition of the child itself, which, apart from a few exceptions, follows the definition provided by Article 1 of the UNCRC, *i.e.* 'every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'.

Nonetheless, in other countries, the maximum age limit of adoptable children may be set below 18 years, in particular: up to 16 years in Haiti, Mongolia, Nepal and Vietnam; under 15 years in Burundi, the Ivory Coast (in cases of full adoption), in Guinea (in cases of full adoption) and in the Philippines; up to 15 years in Nicaragua; up to 14 years in Sri Lanka; under 12 years in Madagascar; up to 10 years in Bosnia-Herzegovina; under eight years in Cambodia; under six years in Japan and under five years in Cameroon (in cases of full adoption), Indonesia and Mali. Less frequently, the maximum age limit is set above 18 years. This is, however, the case in Papua New Guinea, Tanzania and Zambia, which raise this age to 21 years.

¹ See ISS/IRC's comparative study on the age of prospective adoptive parents, as updated in 2014.

Furthermore, it is interesting to note that some countries set a minimum age limit for adoptable children, a positive practice that may contribute to the fight against illegal practices through which children, who are too young, are placed for adoption, provided that this age limit is not set below six months. In order to be undertaken in due form, the stages prior to the child's declaration of adoptability require, indeed, a certain time (attempt to locate the child's biological family in the case of an abandoned child, a sufficient period granted to the biological parents to express their consent to the adoption and to enable them to withdraw it, search for alternative family solutions in the child's country of origin) that may not be shorter than six months. The six-week limit provided for in Jamaica and Kenya, or the three-month period set in the laws of Bosnia-Herzegovina, Lithuania, Macedonia, Montenegro and Serbia, therefore appear to be insufficient. In Russia, on the other hand, this limit is set at nine months – a period that may be considered reasonable.

Furthermore, a difference may be observed in some countries, depending on whether it is a simple or a full adoption. Thus, in Benin, the Ivory Coast, Guinea and Madagascar, for example, simple adoption is possible irrespective of the adoptee's age, whilst these same countries set requirements for full adoptions, such as Guinea and the Ivory Coast, which only allow full adoptions in relation to children under the age of 15 years. As for Madagascar, full adoption may only be undertaken for children under the age of 12 years. In Bosnia-Herzegovina, simple adoption is possible up to the child's 18th birthday whereas full adoption is only authorised up to the child's 10th birthday.

Finally, in three of the analysed countries (Burkina Faso, the Democratic Republic of Congo and Mauritius), an adoption may be undertaken in relation to anyone, irrespective of their age.

From the ISS/IRC's perspective, on the one hand, the setting of a minimum age limit for children placed for adoption should be considered as a means to protect the rights of the children concerned and to prevent potential abuses. On the other hand, we opt for a certain flexibility with regards to the children's maximum age limit. Older children also have a right to grow up in a fulfilling family environment, provided, however, that the receiving countries and the countries of origin develop systems that are adapted to these specific projects. Indeed, the adoption of older children requires a more refined task of preparation of the children and of the prospective parents². In this sense, the ISS/IRC published a study that focused on this issue in 2008, entitled *The adoption of older children*³, and has recently published two of its Monthly Reviews on this issue (N° 181 and 182 of May and June 2014).

²For instance, see the programme developed by Colombia on the introduction of the figure of an emotional reference person – monthly review n°8/2011

³ *The adoption of older children*, Stéphanie Romanens Pythoud, ISS/IRC, 2008 (Monthly Review N° 10/2008). On sale at: http://www.iss-ssi.org/venteonline/product.php?id_product=7&id_lang=1.

Countries	Children under 18 years old	Others
Angola	The child must be under 18 years old. <i>Source: Article 201 Family Code.</i>	
Albania	Only children who are minors can be adopted. According to legislation in force, a child is a person aged under 18. <i>Source: Poverty Reduction Strategy Paper – Annual Progress Report, January 2006</i> http://www.imf.org/external/pubs/ft/scr/2006/cr0623.pdf	
Andorra	L'adopté doit être mineur non émancipé (18 ans). <i>Source : <u>Loi qualifiée sur l'adoption et sur les autres formes de protection du mineur en danger</u></i>	
Azerbaijan	Adoption of minors is permitted only in their best interests. <i>Source: Family Code of 28 December 1999</i>	
Belarus	Only minors may be adopted. <i>Sources: Article 120, Chapter 13 Marriage and Family Code</i>	
Benin	Adoption plénière : L'adoption n'est permise qu'en faveur des mineurs non émancipés accueillis au foyer du ou des adoptants depuis au moins un an. Si l'enfant a plus de quinze (15) ans et a été accueilli avant d'avoir atteint cet âge par des personnes qui ne remplissaient pas les conditions légales pour adopter ou s'il a fait l'objet d'une adoption simple avant d'avoir atteint cet âge, l'adoption plénière pourra être demandée, si les conditions en sont remplies, pendant toute la minorité de l'enfant. <i>Source: Law N° 2002-07 on the Code of Persons and the Family, art. 341</i>	Adoption simple: L'adoption simple est permise sans condition d'âge en la personne de l'adopté. <i>Source: Law N° 2002-07 on the Code of Persons and the Family, art. 367</i>
Bolivia	Only minors under the age of 18 can be adopted by means of a court order which has terminated parental authority and recognised their condition as orphans without family ties. <i>Source: Código del Niño, Niña y Adolescente (CNNA) – Ley 2026 de 27 octubre 1999. Código de la Familia - Ley 996 de 4 de abril de 1988.</i>	
Bosnia and Herzegovina		The maximum age limit for full adoption is 10 years [art. 101 Family Law FBiH] and simple adoption is possible for children up to the age of 18 [art. 103 Family Law FBiH]. In accordance with art. 94 of the Family Law of the FBiH, a child younger than three months may not be adopted; a child of minor parents may not be adopted. <i>Source: Family Law 1979, amended 1989; U.S. State Department Intercountry adoption: Bosnia and Herzegovina, March 2006</i>
Brazil	According to the Civil Code and the Statute on the Child and Adolescent (ECA), the children who can be placed for adoption are the following one: -children under and 18; (...) The adoption of adults is also allowed. <i>Source: Art. 1621, 1625 of the Civil Code.</i>	

Bulgaria	A person shall only be adoptable if they are below the age of eighteen as of the date of the petition for adoption. <i>Sources: Art. 77, 84, 110 and 113 of the Family Code</i>	
Burkina Faso		An adoption is permitted, whatever the age of the adoptee. <i>Source: Article 474 of the CPF (Code des personnes et de la famille)</i>
Burundi		Those who may be adopted must be less than 15 years old . <i>Source: Art. 8 -10 of Law N° 1/004 of 30 April 1999 amending the provisions of the Code for the Person and the Family relating to adoptive filiation</i>
Cambodia		The child is below 8 years of age at the date of receipt of the application for adoption; except that in the case of children who need special care, adoption may be authorized at an age below 18 years old. <i>Source: Art. 10 and 11 of the New Law on Intercountry Adoption</i>
Cameroun		Full adoption is only possible for children under the age of five years , who have been abandoned by their parents, or whose parents are unknown or deceased <i>Source: art. 368 Civil Code</i>
Chile	Les enfants sont adoptables jusqu'à 18 ans. <i>Source : Art.8 et art.13-17 de la loi sur l'adoption</i>	
China		Les mineurs âgés de moins de 14 ans peuvent être adoptés, s'ils sont: (a) orphelins de père et mère, (b) des nouveaux-nés ou enfants abandonnés et pour lesquels il est impossible d'établir ou de trouver les parents, ou (c) des enfants pour lesquels les parents sont incapables de les élever dus à des difficultés inhabituelles. Il y a des exceptions pour les adoptions intrafamiliales <i>Source : art. 4 de la <u>Loi sur l'adoption</u></i>
Colombia	The following may be adopted: Children under the age of 18 years who have been declared to be in a state of adoptability; Children for whom the parent or Family Advocate has consented to the adoption. An adult may also be adopted, when the adopter has been in charge of his personal care and has lived in the same home as him, for at least two years before he has come of age; the proceedings will take place before a Family Judge. <i>Sources: Arts. 63, 69, 77, 98, 107-108 of <u>Law N° 1098 of 2006</u> and <u>Technical Guidelines of the Adoption Programme, 2010</u></i>	
Democratic Republic of the Congo		Any person can be adopted irrespective of age. <i>Source : Family Code (Code de la Famille) and Article 18 Child Protection Law 10 January</i>

		2009
Cyprus	The provisions on the placement and adoption only apply to children under the age of 18. <i>Sources: Adoption Law (L. 19(1)/1995)</i>	
Czech Republic	Only a minor child may be adopted and only if it leads to his or her benefit (art. 65 Family Code). An irrevocable adoption may concern only a minor older than one year (art. 75 Family Code).	
Dominican Republic	An adoption will proceed for children under the age of 18 years at the time of the request. <i>Source: Código para el Sistema de Protección y los Derechos Fundamentales de Niños, Niñas y Adolescentes [Code for the System of Protection and the Fundamental Rights of Children and Adolescents].</i>	
Ecuador	Only children (under the age of 18 years) may be adopted. <i>Source: Arts. 153, 157, 158 CNA.</i>	
Ethiopia	A child (defined as under 18) is eligible for adoption. <i>Source: article 187 Revised Family Code and section D(7) Guidelines 2009</i>	
Georgia	Persons subject to adoption in Georgia are the persons aged under 18. <i>Sources: art. 6; art. 19.4 and art.16-7 of the LAFC</i>	
Guinea		A full adoption is only allowed for children under the age of 15 years . A simple adoption is allowed whatever the child's age. <i>Source: Arts. 96, 98, 107, 119 and 120 Guinean Children's Code</i>
Haiti		Adoption is authorized in respect of persons under 16 years of age . <i>Source: Décret du 4 avril 1974 sur l'adoption renforçant les droits de l'adopté dans sa nouvelle famille, abrogeant la Loi du 25 février 1966 sur l'adoption. Loi réformant l'adoption [Law reforming adoption], published in Le Moniteur N° 213 of 15 November 2013</i>
Honduras	Le Code de la famille permet le placement en adoption pour les catégories suivantes d'enfants de moins de 18 ans. <i>Source : Code de la famille, partiellement révisé en 1992</i>	
India		To adopt a child in the age group of 0-3 years, the maximum composite age of the prospective adopters should be 90 years, wherein the individual age of the prospective adopters should not be less than 25 years and more than 50 years. To adopt children above three years of age, the maximum composite age of the PAPs should be 105 years wherein the individual age of the prospective adopters should not be less than 25 years and more than 55 years. In

		<p>cases of single prospective adopters, he or she should not be less than 30 years of age and shall not be above the age of 50 years. The maximum age shall be 45 years to adopt children in the age group of 0-3 years and 50 years for adopting children above 3 years.</p> <p><i>Source: Guidelines, arts. 14-16 and 21</i></p>
Indonesia		<p>Children can be adopted if they are under five years old.</p> <p><i>Sources: Article 39(1) Law on Child Protection N° 23/2002; Decision of the Minister of Social Affairs N° 13/1993; Guidelines for the Provision of Non-Institutional Social Services to Neglected/Abandoned Children of the Directorate General of Social Rehabilitation Services, Department of Social Welfare, Jakarta 2004</i></p>
Ivory Coast		<p>Simple adoption is permitted regardless of the age of the adoptee.</p> <p>Full adoption is only permitted for children under the age of 15, and in the care of the adopter(s) for at least six months. However, if the child is over the age of 15 and was in the care of individuals, who did not meet the legal requirements for adoption or if he has been subjected to a simple adoption before reaching that age, full adoption may be requested, if the conditions have been met throughout the entire child's minority.</p> <p><i>Source: Arts. 3, 16 and 27 of Law N° 64-378 of 7 October 1964 on adoption, amended by Law N° 83-802 of 2 August 1983.</i></p>
Jamaica		<p>Only children may be adopted and from the age of six weeks.</p> <p><i>Sources: Section 13(3), The Children (Adoption of) Act</i></p>
Japan		<p><u>Special adoption</u> (A special adoption order may only be made if both the child's parents have expressed their consent, except if the parents are unable to express their intention or if the parents have abused the child, have abandoned him without a reason or if the child's interest has been seriously affected.): The child must be under the age of six years at the time of the adoption request or be under the age of eight years and have been continuously cared for by the adoption applicants since before his sixth birthday.</p> <p><i>Sources: Arts. 793, 817 of the 1896 Civil Code, as amended by Law N°78 of 2006; Japan Children's Rights Network; Japan's Initial Report to the Committee on the Rights of the Child (1998).</i></p>

Kazakhstan	Minors can be adopted. <i>Source: articles 84 and 93 Family and Marriage Code</i>	
Kenya		No arrangement for adoption shall be commenced before the child is of at least six weeks of age and has been declared free for adoption by a registered adoption society. <i>Source: art. 156 Children Act.</i>
Laos	Adopted children must be minors <i>Source: art. 38 Family Law</i>	
Liberia	Children (defined as those who are under 18 years of age) may be adopted. An adult may be adopted with his/her own written consent, and with the consent of his spouse if any. <i>Source: Liberian Codes Revised (Volume III, Title 9 Domestic Relations Law) – hereafter LCR (III). See LCR (III) sub § 4.61 and 4.81; Children's Act of 2011 and US Department of State</i>	
Lithuania	Children between the ages of three months and 18 years (in cases of domestic adoption); children between the ages of nine months and 18 years (in cases of intercountry adoption). <i>Source: Order of the Minister of Social Security and Labour No. A1-8 of January 10, 2012, Art. 3.209 of the Civil Code; Lithuanian Central Authority.</i>	
Macedonia	The adoptee must be a minor older than three months and less than 18 years of age when the majority is obtained. <i>Source: Family Law, Official Gazette N. 83 on 24.11.2004 (entry into force on 24 November 2004)</i>	
Madagascar		For a simple adoption, any child or adult may be the subject of a simple adoption [art. 20 AL]. Only children under the age of 12 years may be adopted under full adoption [art. 36 AL]: <i>Source: Adoption Law (AL)</i>
Malawi	Child must be less than 18 years old. <i>Source: US Dept of State, http://adoption.state.gov/country/malawi.html</i>	
Mali		A filiation adoption may only pertain to abandoned children, or children whose parents are unknown. This type of adoption is only allowed for children under the age of five . <i>Sources: Arts.526,537,539 of the Law n°2011-087</i>
Mauritius		Any person can be adopted irrespective of their age. <i>Source: National Adoption Council Act 1987 (Act N° 21 of 1987)</i>
Moldova	The following children are adoptable: Children under the age of 18; By exemption, a person over 18 years old, who has gained legal	

	<p>capacity before that age, may be adopted by a member of his family or a relative, if the latter has cared for him and if they justify life together for at least the last three years prior to the adoption request.</p> <p><i>Source: Law on domestic and intercountry adoption, 28 May 2010</i></p>	
Mongolia		<p>Children under the age of 16 can be adopted, except a breast-fed child under one year old.</p> <p><i>Source: Family Law of Mongolia, entered into force on 08.01.1999</i></p>
Montenegro	<p>A child cannot be adopted before three months from his/her birth expire. A child born to minor parents cannot be adopted either. As an exception, this child can be adopted after expiry of one year from its birth, if there are no prospects of it being raised in the family of parents or other close relatives. A child whose parents are not known may be adopted only after three months expire from his abandonment.</p> <p><i>Source : Articles 123 and 124 Family Law</i></p>	
Mozambique		<p>The following may be adopted: underage children of the adopter's spouse, or of the person whom the adopter has lived within a de facto union or cohabitation for over three years, if the biological parent has consented.</p> <p>0-14 years old children who are orphaned, in a situation of abandonment or of total neglect; 0 -14 years old children of unknown parents; 0-18 years old children who, from at least the age of 12, have been under the guardianship or care of the adopter.</p> <p><i>Source: Law N° 10/2004 of 25 August (art.395)</i></p>
Namibia		<p>The art. 70 of the Children Act of 1960 states conditions about the person who shall adopt a child of the age of 16 years or more and about the person who shall adopt a child who is under the age of 16 years and less than 25 years younger than the said person.</p> <p>However according to the information posted on the Website of the US State Department, the prospective adoptive child must be younger than age 18, http://adoption.state.gov/country_information/country_specific_info.php?country-select=namibia</p>
Nepal		<p>According to the US State Department, children under the age of 16 may be adopted.</p> <p><i>Source: US State Department, http://adoption.state.gov/country_information/country_specific_info.php?country-select=nepal</i></p>
New Zealand		<p>According to the definitions provided by the Adoption Act 1955, a child is defined as a person under 20 years.</p> <p>The section 6 of this Act states that:</p>

		<p>Restrictions on placing or keeping a child in a home for adoption:</p> <p>(1) It shall not be lawful for any person to place or receive or keep any child under the age of 15 years in the home of any person for the purpose of adoption, unless—</p> <p>(a) Prior approval has been given by a Social Worker, and that approval is for the time being in force; or</p> <p>(b) An interim order in respect of the proposed adoption is for the time being in force.</p>
Nicaragua		<p>Pueden ser adoptados los menores que no han cumplido los quince años de edad.</p> <p><i>Source: Artículo 8, Ley de adopción de 1981</i></p>
Papua New Guinea		<p>Subject to the Adoption of Children Act, the Court may, on application, make an order for the adoption of a person who—(a) had not attained the age of 21 years before the date on which the application was filed in the Court.</p> <p><i>Source: Adoption of Children Act 1968, section 6</i></p>
Paraguay	<p>Podrán ser adoptados los niños hasta la mayoría de edad, salvo aquellos casos donde se haya iniciado el proceso de declaración de estado de adopción antes de la misma.</p> <p><i>Source: Ley de adopción 1997, artículo 9.</i></p>	
Peru		<p>Los niños declarados en abandono judicial y que se encuentran aptos para ser promovido en adopción son niños y adolescentes entre 1 y 17 años de edad.</p> <p><i>Source: Country profile, The Hague Permanent Bureau, http://www.hcch.net/index_en.php?act=publications.details&pid=5244&dtid=42</i></p>
Philippines	<p>Domestic adoption: Only minors (below 18 years of age) may be adopted, except in the cases when the adoption of a person of majority age is allowed. Exceptions: a) adoption of a child born out of wedlock by a qualified adopter; b) adoption of a child born in wedlock of one spouse (or a step-child); c) adoption of a person who has been consistently considered and treated by the adopter(s) as his/her own child since minority.</p> <p><i>Source: Section, 8, sub-paras. b, c and d of the Domestic Adoption Act.</i></p>	<p>Intercountry adoption: A child for purposes of intercountry adoption process is one who is below 15 years of age. Source: Art. I, Section 3 (b), Intercountry Adoption Law.</p>
Poland	<p>L'adoption n'est possible que pour un mineur et ne peut intervenir que dans son intérêt. La condition de minorité est exigée au jour de dépôt de la requête d'adoption.</p> <p><i>Source: art. 114, Family and Guardianship Code, 1964</i></p>	
Puerto Rico		<p>Pueden ser adoptados :</p> <ul style="list-style-type: none"> - los menores de edad no emancipados y los menores de edad emancipados por decreto judicial o por concesión de padre, madre o

		<p>padres con patria potestad;</p> <ul style="list-style-type: none"> - un menor emancipado que nunca hubiere contraído matrimonio; - una persona mayor de edad cuando el adoptante hubiere residido en el hogar de los adoptantes desde antes de haber cumplido la edad de 18 años, y dicha situación hubiere continuado existiendo a la fecha de la presentación de la petición de adopción. <p><i>Sources: artículos 132 y 133 del Código Civil</i></p>
Russia	<p>The child must be aged 9 months to 18 years old.</p> <p><i>Source: Family Code of the Russian Federation, art 122§3, 124§2 and § 4</i></p>	
Rwanda	<p>The parents' consent is required if the child is under the age of 18.</p> <p><i>Source: arts. 335 & 340 Civil Code</i></p>	
Senegal	<p>Children can be adopted if their father and mother or family counsel have validly consented to the adoption; children declared abandoned can also be adopted (art 229 of the Family Code). A child over 15 years of age must personally consent to his/her adoption (art 232). According to article 276, a minor is a person who has not already reached the age of 18.</p>	
Serbia	<p>A child is adoptable domestically if: [...]</p> <p>The child is under 18 years of age but older than three months.</p> <p><i>Sources: Arts. 90, 91, 103, (1), (2), (3), Family Act.</i></p>	
Sierra Leone	<p>As a preliminary comment, it is important to highlight that since the approval of the Child Rights Act in 2007, a child is defined as any minor under the age of 18 years.</p> <p>The conditions relating to adoptees are quasi non-existent in the Adoption Act of 1989:</p> <ul style="list-style-type: none"> - the adoptable child must reside in Sierra Leone; -he or she must have been under the guardianship or in the care of the adoption applicant for at least six consecutive months prior to the adoption request. 	
Slovak Republic	<p>Only minors may be adopted, if adoption is in their best interests. Children adoptable internationally must be at least 18 months old.</p> <p><i>Sources: Agence Française de l'adoption and US State Department.</i></p>	
Sri Lanka		<p>Child up to age of 14 can be allocated for foreign adoption, sex depend on the prospective adoptive parent's preferences, the Department submits health records of the child to be adopted.</p> <p><i>Source: Country profile, The Hague Permanent Bureau, http://www.hcch.net/index_en.php?act=publishations.details&pid=5142&dtid=42</i></p>
Tajikistan	<p>The adoption is admitted as regards to underage children and only in their interests.</p> <p><i>Source: Chapter 19, art. 128, Family Code 1998.</i></p>	
Tanzania		<p>The adoption order shall be made respect of an infant that the Tanzanian Ordinance on adoption defines as a person under 21 years</p>

		of age but does not include a person who is or has been married. <i>Source: Ordinance of 1955 to make further provision to the adoption of infants or matters related with, chapter 35</i>
Togo	L'adoption d'un enfant au Togo renvoie à la définition fournie par le Code de l'enfant, à savoir "on entend par enfant tout être humain âgé de moins de dix-huit (18) ans". <i>Source: art.2, Code de l'enfant 1997</i>	
Uganda	A child is a person below the age of eighteen years. The legal dispositions on adoption do not foresee other specific provisions concerning the age of the child. <i>Source: Child Act 2000, chapter 59, section 2</i>	
Uruguay	El Código de la Niñez y de la Adolescencia, Ley N°17.823 que rige las adopciones precisa en su artículo 1 que es de aplicación a todos los seres humanos menores de dieciocho años de edad.	
USA		The child is under the age of 16 at the time Form I-800 is filed on his or her behalf (taking into account special rules on filing dates for children aged 15-16), or the child is under the age of 18 and is a sibling of a child (under the age of 16) who has been or will be adopted by the same adoptive parents. Source: http://adoption.state.gov/adoption_process/how_to_adopt/childeligibility.php
Uzbekistan	The adoption concerns minor children who are children under the age of eighteen according the Family Code, 1999.	
Venezuela	Only children who, at the time of the application for adoption, are under the age of 18 years, may be adopted, unless there exist kinship relations or the child to be adopted has integrated the home of the prospective adopters before reaching this age, or in cases in which the adoption relates to the child of the other spouse. <i>Source: art. 408, Law for the Protection of the Child and the Adolescent 1998.</i>	
Vietnam		Children under 16 years of age are eligible for adoption. However, children from 16 to 18 years of age are eligible for adoption if the adopters are: step-parents; maternal or paternal uncles/aunts. <i>Sources: article 8 of the Law on adoption n°52/2010 and article 2 of the Implementation Decree.</i>
Zambia		According to the preamble of the Adoption Act of 1956, Chapter 54, the adoption concern infant who means person who has not attained the age of 21 years old but does not include a person who is or has been

		married.
Zimbabwe		Adoption concerns a child as defined by the Children's Act: "child" means a person under the age of sixteen years and includes an infant. <i>Source: Children's Act as amended in 2002, Part I.</i>
