



**Monthly Review N° 5/2010  
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EDITORIAL 

**June 2010: valuable opportunity to share experiences from the ground up**

*The 3<sup>rd</sup> Special Commission to be hosted next month by the Hague Conference on Private International Law provides a unique forum to share information on the implementation of THC-93 and make recommendations to ensure a better respect of the Convention's requirements.*

**D**uring 9 days from 16 to 25 June 2010, the Permanent Bureau of Hague Conference on Private International Law will be holding its 3<sup>rd</sup> Special Commission on the practical operation of THC-93 as foreseen in its article 42. These Commissions present an opportunity for the State Parties to the Convention, other interested States, intergovernmental and non governmental organisations (the latter 3 being observers) to discuss the functioning of THC-93 in practice. Funds are generously made available by certain receiving countries for the attendance of State parties with fewer resources.

At first glance this occasion to exchange practices and ideas appears to be limited to an elect group, given that attendance at the Commission is by special invitation. Logically the list of invites is for the most part made up of the Central Adoption Authorities parties to the THC-93 excluding *de facto* professionals and other bodies independently working on the field with the children and families. Unless, the Central Adoption Authorities have consultative practices on adoption policies with a wider group of professionals (eg: NGOs, social workers, psycho-medical professionals, judges, lawyers etc), the weighty experiences of the latter may not be tapped.

Whilst fully realising the logistic unfeasibility of hosting a Commission that is “open” to all interested parties, not to mention the limited resources available to hold such an event, ISS/IRC believes that the 3<sup>rd</sup> Special Commission, nevertheless, is a valuable opportunity to share information from the ground up.

#### Information sharing opportunity

This Monthly Review will be sent to over 3 000 professionals in the 5 continents working directly or indirectly on the issue of intercountry adoption. Many of you as professionals have gained valuable experiences and views, based on your daily work, on issues including, inter alia, obtaining consent, preparation of children and parents, assessing the adoptability of children, recognition and effects of an intercountry adoption, post-adoption etc.

ISS/IRC believes that it is important for you to share your views (favourable and unfavourable) with your Central Authority ([www.hcch.net/index\\_en.php?act=conventions.authorities&cid=69](http://www.hcch.net/index_en.php?act=conventions.authorities&cid=69)) about how the THC-93 functions in your daily activities, what are its strong and weak points, where are the main obstacles to its full implementation, etc. When necessary and appropriate, your Central Authority will then be able to share these experiences during the Special Commission. A constructive way of sharing problematic scenarios is by also providing possible solutions to resolve such difficulties. Such practical information, may even find itself becoming a final recommendation.

#### Risks/abuses and Adoption Accredited Bodies

This year, the Australian Government has funded one day of the Special Commission to be dedicated to risks and abuses in intercountry adoptions. ISS/IRC welcomes this initiative and openness to deal with the reality that THC-93, in and of itself, can not eliminate flawed, corrupt and illegal practices. To this end, ISS/IRC is currently undertaking research to present a canvass of risks and abuses that have occurred on a world wide basis, which it will present at the Special Commission. The aim of the research is identify key warnings of risks of when abuses and other illegalities are most likely to occur, but falling out of the scope of THC-93.

Two other days will be devoted to the accreditation and authorisation of adoption accredited bodies, which is one of the key principles of THC-93. The Convention made it mandatory for firstly, the accreditation or licensing of agencies which undertake intercountry adoptions, and secondly their supervision by the Central Adoption Authorities. As a result of this Special Commission, a second Guide to Good Practice (GGP) will be officially launched.

#### Keeping in the loop

We trust that this editorial, a bit different in style, will provide you with ideas of how to effectively share important and relevant information from the bottom up. We encourage all interested professionals to keep a regular look out on the website of Hague Conference for the recommendations and second GGP. We will of course, do our best to keep you in the loop.

*ISS/IRC team  
May 2010*

#### ISS/IRC NEWS

- **The ISS/IRC team has grown:** Since 1 May 2010 Flavie Fuentes has joined our team as a children’s rights assistant. She is a lawyer who obtained her degree after a Master II specialising in human rights and humanitarian law as well as Masters in political science in Paris X. Her 2 years of experience working in a lawyer’s office were preceded by a long occupation associated with defending the rights of immigrants. With French as her mother tongue, she equally speaks English and Spanish.
- The ISS/IRC team has also integrated two “members at a distance”: Christina Baglietto and Fanny Cohen Herlem. Christina worked for many years at the ISS/IRC headquarters in Geneva as a Children’s Rights Specialist. She is now based in Mexico and works as a Child Protection Consultant in the region on issues relating to the protection of children separated from their families and adoption. From now on, she will be act as a regional advisor and can be contacted at [christina.baglietto@iss-ssi.org](mailto:christina.baglietto@iss-ssi.org). As for Fanny Cohen

Herlem, she will be working as a psychiatric advisor for ISS/IRC. As a French Paedopsychiatrist and psychoanalyst, author of many adoption works, she has a long experience in adoption matters. Fanny Cohen Herlem has also been engaged in the work of ISS for many years as the administrator of the ISS French branch. Her email address is [fanny.cohen-herlem@iss-ssi.org](mailto:fanny.cohen-herlem@iss-ssi.org)

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## BRIEF

### **Haiti: Central Adoption Authority announces that it will accept new applications**

In late April the Institut du Bien-être Social et de Recherches (IBESR) made an announcement that it would start accepting 'new' adoption applications. ISS/IRC is concerned that for the moment the processing of new cases is premature, given that the inherent weaknesses of the intercountry adoption processes in Haiti prior to the earthquake remain unaddressed and arguably even further degenerated with activities expediting procedures. It will take some time for country to recover from the devastating effects of the earthquake, ensure the adequate implementation of its new adoption law (yet to be adopted) and introduce adequate safeguards to fully protect the rights of children.

Source: [http://adoption.state.gov/news/haiti\\_notice.html](http://adoption.state.gov/news/haiti_notice.html)

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## PRACTICE

### **Implementation of the child's right to be consulted: the arrangement of a favourable climate for the child's expression (part 2)**

*After the brief legislative synopsis undertaken in the previous bulletin, the ISS/IRC now examines how ways of creating a favourable climate for the child to express himself/herself on the basis of the document circulated at the European Conference, "the challenges in adoption procedures in Europe: ensuring the best interests of the child".*

**G**oing about consulting the child is not an instinctive talent. It requires training and specific knowledge on the part of the actors involved in the process. The professional in charge of gathering what the child has to say finds himself in fact, face-to-face with a real challenge. He must understand, at the same time, the child's wishes and his real needs, while not burdening him with the weight of the ultimate decision which will be taken on his behalf. While there is no doubt that the child has the right to be heard and to see that his opinion is taken into account, several factors come into consideration to ensure his right is exercised. On the basis of various works, we plan to examine some factors below.

#### **Installing a relationship of listening and confidence with the child**

So the child can express himself, the professional must adopt towards him a full and complete listening posture. To achieve this, it is necessary, according to Gillian Schofield, an English professor of psychosocial sciences, to have sufficient

knowledge of the child's stages of development, so as to be able to identify his strengths and weaknesses, to make sense of what he has to say as well as his behaviour, and to give him a sense of empowerment and value. To reach that, Gillian Schofield has developed a tool entitled "A Developmental Model" available at the British Association for Adoption and Fostering BAAF(1).

Listening to the child requires the installation of a relationship of confidence. It is a matter of, on one hand, listening to his own performances, often marked by very heavy experiences, without judgement with regard to his reactions to certain events or situations. On the other hand, it is important to ensure the confidentiality of the conversation and allow him to feel free in refusing to answer certain questions.

Good communication with the child may finally be installed if the professional takes into account the child's competences and his various capacities, different, and not inferior to those of adults. To this end, a job of keeping one's distance from eventual prejudices in adult-child communication is

essential on the part of the professional. The use of the supervised sessions is excellent tool for obtaining such objectivity.

### **Ensuring a favourable climate for his expression.**

A second important element is the creation of a favourable atmosphere for the child to express himself. On this point, children have expressed, their need to choose the venue for the conversation, and to be informed, ahead of time of how it will be run, its duration, and its follow up in a study carried out by BAAF (2). The length of the conversation should be adapted to the child's rhythm, to his age, and his maturity. To the extent possible, it is often preferable to carry out several short conversations, so as to reduce the stress the child goes through.

The use of simple language, appropriate for the child's age, constitutes another key element in recording what the child has to say. Certain particular situations, like conversations with very young children, require specific tools like the "Mosaic Approach", developed by Alison Clark and June Statham (3). This methodology uses verbal and visual tools such as the recourse to cameras and participatory activities (joint construction of objects that symbolise the child's wishes about his home, his family, etc.) so as to fully benefit from the people, the places and the significant events for the child and to let him share his opinions with the adults. Another method that has widely proven its usefulness is the recourse to drawing which is a language for children, according to Janine Mantz-Le Coroller, school health practitioner(4). It is another way of getting to know children and of letting them tell their life-story and describe their family without going through an interrogation.

### **How should we react to delicate situations?**

It happens that some children have difficulties expressing themselves and leave the professional in confusion. In such a case it is possible to revert to methods of specific questioning such as the "Miracle Question"(5) which the family mediator Lorraine Filion has adapted for children under the name of "Magic Question". Her aim is to let children launch themselves into a future where all

their problems would be solved and to imagine what their life would be like in that world. A guide for conversations with children that proposes various questioning techniques has also been published by the American Eriksson Institute in order to sharpen the professionals' skills (6).

On the other hand, in the event of traumas that the child has lived through (a revelation of a situation of abuse or maltreatment), the professional can have recourse to other methods like games and stories all advocated by the same Institute (6) to help the child express his traumatic experiences. In case of need, it is right not to hesitate to call upon an expert (pedopsychiatrists, psychologists for children, paediatrician). Moreover, in situations where the child is suffering considerably, reference to significant people in his surroundings can also be considered. To this effect, it will be possible to ask him by means of a drawing or by designing his family tree to choose the people in whom he has full confidence, while ensuring later that these people do not influence his opinion.

In its next Review, the ISS/IRC will examine the formulation and consideration of the child's consent to adoption.

#### Sources:

- (1) Adoption & Fostering, volume 29, number 1, p. 29-44, BAAF (British Agencies for Adoption and Fostering, <http://www.baaf.co.uk/>) 2005. See also *Child Protection-The Voice of the Child in the Decision-Making*, SCHOFIELD Gillian and June Thoburn, Institute for Public Policy Research, 1996.
- (2), *Exchanging Visions: Papers on the best practice in Europe for children separated from their birth parents*, BAAF (British Agencies for Adoption and Fostering). Pps. 71-77, 1998.
- (3) Adoption & Fostering, Volume 29. Number 1, p.45-56, BAAF, 2005.
- (4) *When the six year old child draws his family*, J. Mantz-Le Coroller, Editions Mardage, 2003
- (5) *Services, based upon the family. An approach centred on the solution*, Insoo Kim Berg, Chapter 6, p. 92-97, Eres, 1998.
- (6) *What children can tell us. Eliciting, interpretation and evaluating critical information from children*, J. Garbarino, F. M. Scott and Faculty of the Ericsson Institute, Chapter 9, Jossey-Bass Publisher, 1992



## **Influx of tools for the alternative care of children developed by various NGOs**

*SOS Children's Villages International, EveryChild, Save the Children and World Vision have recently published various tools dedicated to a better protection of children in need of alternative care.*

**M**ultiple NGOs have recently launched various tools to promote the rights of children deprived of their families and help with the wider dissemination of the principles espoused in the Guidelines for Alternative Care of Children. This article seeks to provide a brief overview of some of the publications.

The novel booklet *Discover Your Rights* by Council of Europe and SOS Children's Villages International for Children and Young People in Care uses comics, stories and informative texts to inform and educate children about their rights, as espoused in the UNCRC as well as the Council of Europe Recommendation (2005)<sup>5</sup> on the '*rights of children living in residential institutions*' and Quality4Children Standards for Out-of-Home Child Care in Europe. The booklet covers issues such as inter alia, rights in the decision making phase, care taking phase, and leaving care context. By drawing on the publication children "can also learn how to exercise these rights and take on an active role in their own care process, including ways to improve it." This learning process is facilitated by three young people sharing their stories and those of others in care. The booklet provides numerous concrete examples of potential issues that may arise during the care process and identifies means of improving communication with carers and social workers. For example, during the period of identifying when the child's family needs help, a list of potential questions to ask the social worker is provided. It also addresses who decides whether the child needs alternative care and identifies ways in which the child can actively participate.

EveryChild's report on *Children without parental care in development* draws on its programmes in 17 countries, an extensive literature review and consultations with over 400 children. EveryChild suggest that there are at least 24 million children without parental care globally, or 1% of the child population, a significant group that is often left off the international development agenda.

To cater for the latter, EveryChild calls for the full implementation of the Guidelines and that those working in the Millennium Development Goal (MDG) framework ensure that MDGs include 'indicators reflecting the need to protect children from violence, abuse and exploitation, and the central importance of parental care in protecting children'. This report provides useful guidance on how to incorporate the issue of alternative care on the development agenda.

Save the Children has released a publication on *Keeping Children out of Harmful Institutions: Why we should be investing in family-based care*. This publication dispels the myth that most children in orphanages do not have parents by showing that in fact, 80% of children in institutions have at least one parent. The publication has a threefold objective of 'examining new evidence of the harm its long-term use can cause to children and the impact this has on their overall wellbeing, exploring why governments and donors continue to prioritise institutional care, despite the harm it can cause and looks at what action must be taken to address the harmful institutionalisation of children'. Concrete examples are provided to keep children out of harmful institutions such as targeted care interventions (eg: home-visiting services to provide parenting support, referrals for services, advice and information), broader family strengthening activities (eg: developing community-based child protection etc), social protection (eg: cash transfers), the development of family based alternatives (eg: selected and trained substitute families) and improving the standard of care in institutions.

World Vision has prepared a paper, *Because We Care: Programming Guidance for Children Deprived of Parental Care* to 'prompt discussion and discernment regarding best practices for models of care for children deprived of parental care.' The paper is based on several principles, including, inter alia, strengthening communities, engaging government as well

as supporting caregivers and provides several examples of how these principles can be implemented. For example, the paper encourages the use of trained volunteers to strengthen community capacity and the idea that complementary to formal education and vocational training, children should be assisted with developing decision making skills.

The ISS welcomes the above initiatives from the NGO community which highlight sound initiatives for a better protection of the rights of children deprived of their families and wider dissemination of the Guidelines for

the Alternative Care of Children. The ISS also notes that great number of publications on children and institutions illustrates that this measure is still being widely used and that further work is required to find alternatives.

Source: The SOS Children's Villages International publication [www.coe.int/children](http://www.coe.int/children), EveryChild publication [http://www.everychild.org.uk/docs/EvC\\_Missing\\_fi nal.pdf](http://www.everychild.org.uk/docs/EvC_Missing_fi nal.pdf), Save the Children publication [http://www.savethechildren.org.uk/en/54\\_9678.htm](http://www.savethechildren.org.uk/en/54_9678.htm) and World Vision [www.wvi.org](http://www.wvi.org)

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## READER'S FORUM

### **Interview with T Baubet, child psychiatrist responsible for the emergency reception of Haitian children adopted in France following the earthquake**

*In the aftermath of the earthquake of 12 January 2010 Thierry Baubet, supervisor of the emergency reception was also responsible for the accompaniment of the Haitian children's first encounter with their adoptive families: he has kindly granted this interview to the ISS/IRC.*

**Name:** Thierry Baubet

**Place of residence and work place:**

Psychopathological service for children, adolescents and general psychiatry, Avicenne Hospital, Paris University 13, France

**Professional post/ responsibilities:**

In-hospital child psychiatrist, departmental consultant in emergency medical psychology

Roissy

#### **Q2. How many children and adoptive families have you accompanied?**

Altogether, 372 children arrived through this system. Almost all of them were examined (we had very few refusals). Their adoptive parents, siblings, and those accompanying the children were also taken care of.

#### **Q1 Can you describe the emergency reception system set up at Roissy airport (and at Orly) for children arriving from Haiti?**

We already had experience caring for persons at airports involving adults and children like the survivors of the 2004 Tsunami and the Lebanese war... On this occasion we had to put together a specific system on the one hand of paediatricians, on the other, child psychiatrists, and psychologists (in order to have one person for each three children arriving). That meant mobilising huge teams several times a week, early in the morning during the period from 22 January to 11 February. We also needed to take into account the very specific nature of this kind of adoption undertaken in a painful traumatic context. I supervised this system at

#### **Q3. What was the profile of the received Haitian children?**

Their ages ranged from nine months to eight years, with most of them about two to three years old. Many of them presented growth and developmental charts inferior to what was expected for their age. A lot of them were suffering from minor health problems: mild malnutrition, dehydration, respiratory infections, and parasites. Some had to be briefly hospitalised once the paediatricians had given their diagnosis. Others had been injured during the earthquake. As for the siblings, we noticed all kinds of conditions: siblings adopted together or separately, sometimes separated on their journey, and sometimes arranged to be together with a view to adoption. These children had all

undergone very different experiences before they arrived: a number of nurseries had not been affected by the earthquake, while in others children had been killed or wounded. All of them had to face up to the extreme distress of the adults who were taking care of them, which was very disturbing for them.

**Q4. What were the conditions of the displacement of these children after leaving Haiti and up until A4 their arrival in mainland France?**

They were transferred to the French Antilles where they spent a few hours and were medically examined. The same accompanying person (a volunteer from the Antilles) took care of each of them during their journey until their arrival in mainland France.

**Q5. Did the displacement cause an additional trauma for the children?**

In my opinion it is not the displacement itself which provokes a trauma. It is rather everything around you. Important factors such as a minimum of preparation, words that explain the process, the quality of the child's reception, a respect for the rules and laws that envelop an adoption, support for adoptive families etc, can reduce the psychic impact in such a hurried departure. In certain other cases this kind of brutal transplantation has been known to have a traumatic effect or even can reactivate past traumas: like that of the earthquake, or even other situations that some children had experienced before.

**Q6. Were these children prepared beforehand for their adoption overseas?**

This point was extremely variable depending upon the child. Some of them seemed ready, they recognised their adoptive parents or their voices, for others it was clearly not at all the case.

**Q7. How many of them had already met their future adoptive parents in Haiti?**

Only a few, about 12% of families. 63% had had some form of contact by exchanging photos and telephone calls. 25% had not seen any photos before the child arrived.

**Q8. What language was used with the children?**

French was used most of the time. Some

days, we worked with a créole-speaking colleague. Even though Créole from Martinique is different from the Haitian version, her work made it possible to progress with numerous cases.

**Q9. How would you describe the attitude of adoptive families? Were they prepared for their first meeting with the child?**

We were able to observe the whole range of attitudes, possible! We should not forget that families had themselves been struck by an overwhelming anxiety after the announcement of the earthquake, and the uncertainty of their child's survival, as well as the waiting period. Even for families better prepared for the arrival of the child, the reality turned out to be something that did not resemble what they had imagined of this encounter. We read in the press that certain families had had distressing reactions. It did happen but it only involved a small minority. In a great number of cases, the encounters were wonderful and promising, which does not mean there will not be a need for attention and care.

**Q10. How was the accompaniment offered to families and children?**

An hour before the plane's arrival, adoptive parents were invited to meet and be accompanied by a child psychiatrist or psychologist. We evaluated their state of anxiousness and stress, their degree of knowledge of their child, as well as the state of the siblings if they were there. Afterwards, we would meet the children individually and we served as a bridge between the children and parents before they were officially allowed in by the authorities to meet, which might take several hours. We were trying to reduce the element of "surprise" in the encounter and we would accompany them for much longer if necessary. By doing this, we sought to reduce the impact of traumas on the children and adoptive parents as well as helping to instill family ties.

**Q11. What follow-up was offered to the families after their departure with the child?**

We offered everyone who was interested in follow up to keep a telephone link with the person who had seen them at the airport. Contact was maintained in most cases until

follow-up closer to the home could be set up.

### Q12. How are these families doing today?

The cases are all very different and we are in the process of studying our data before being able to make conclusions. In a number of cases that can not be neglected, invasive post traumatic symptoms persist in some children and lead the parents to feel helpless. Without doubt there are also cases where psychological difficulties existed before the earthquake.

### Q13. Following this experience, what is your opinion as to the efficiency of the emergency system that was set up?

In the context of an emergency, this system seems to us to have functioned well. I would quote as important parameters the training of participants in infant level traumas, psychopathology of the child and the problematic of adoption, as well as co-operation with a paediatric team. At the very least we should assess the level of satisfaction of the families who have

benefited from the system. It is the first time, I believe, that one has seen so many adoptions in large numbers in the aftermath of a major catastrophe. The impact of harsh traumas on the future of these children and their families remains to be assessed by rigorous scientific research. A project in the framework of Inserm will soon be recommended to the families.

#### Bibliographic References:

- Baubet T, Rezzoug D, Bon A, Ferradji T, Mehallel S, Romano H, Dupuy C, Cholin N, Jehel L, Adnet F, Moro MR. Airport reception for large numbers of survivors. Principles for intervention of the medical-psychological emergency cell (CUMP). *Stress and Trauma* 2006a; 6(3 ): 179-86.
- Baubet T, Lachal C, Ouss-Ryngaert , Moro MR, editors. *Babies and trauma*. Grenoble: La Pensée sauvage ; 2006b.
- Romano H, Baubet T, Chollet-Xémard C, Marty J, Moro MR. Medical and Psychological airport reception and care of children in Haiti adopted in France. *The Signal, World Association for infant Mental Health Newsletter* 2010(under publication)

#### FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

- **Brazil:** “*Celebración de las experiencias. Fortaleciendo los avances en la garantía del derecho a la familia*” (Celebrating experiences, strengthening the advances in guaranteeing the rights of the family) RELAF Regional Seminar, Foz do Iguazú, Brazil, 2-4 September 2010. For more information: <http://www.relaf.org/>.
- **Canada:** *Intercountry Adoption Summit: State of Intercountry Adoption*, University of Waterloo (Ontario), Stratford, Ontario, Canada, 22-26 September 2010. For more information: <http://adoptionsummit.uwaterloo.ca/index.html>
- **France:** *Adoption: Evaluer et Accompagner (Adoption: Evaluation and Accompaniment)*, COPES, Paris, 17-18 June 2010 and 23-24 September. For more information: [www.lecopes.org](http://www.lecopes.org).
- **United Kingdom:** a) *Stepping up to excellence: Developing good practice in meeting the needs of black, asian and mixed heritage children* and b) *Breaking down the barriers to child placement of children with disabilities*, BAAF, Central London, 8 July 2010. For more information: [www.baaf.org](http://www.baaf.org)

As a reminder, this Monthly Review is distributed to a selected network of Authorities and professionals. It is not aimed at being posted on an internet website without the authorisation of ISS/IRC.

Table of contents of the Bulletins 1997 - 2009:

[www.iss-ssi.org/Resource\\_Centre/Resource\\_Center\\_EN/About\\_ISS-IRC/about\\_iss-irc.html](http://www.iss-ssi.org/Resource_Centre/Resource_Center_EN/About_ISS-IRC/about_iss-irc.html). See Activities.

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