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SPECIAL EDITION ON INTERCOUNTRY ADOPTIONS AND EMERGENCY SITUATIONS

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EDITORIAL 

Emergency situations and adoption: when will things get back to normal?

At the moment of publishing their study on adoptions in the aftermath of the earthquake in Haiti, the ISS/IRC devotes this special edition to the question of adoption in the context of crises.

Once again, the media have rushed in and dreadful pictures have filled television screens. Once again promises of donations and humanitarian aid have flooded in from all over the place. Once again we needed to save a country, a people and its children.

Seven months after the earthquake that severely hit Haiti, but which today already seems so distant, the ISS/IRC counts the costs; but not huge sums have been spent (hardly 10% according to Jean-Max Bellerive and of Bill Clinton on 9 July (1)) but a number of intercountry adoptions.

If the tsunami of 2004 seemed to have marked a turning point concerning the banning of intercountry adoption after a natural disaster (see Review 5/2005), the case of Haiti has reopened Pandora's box leaving the field wide open for pro-adoption lobbies and for exceptional measures imposed by political powers, who are themselves submitted to the dictatorship of the media. As we write these lines, it is striking to note that the catastrophe that is ravaging Pakistan at the moment has not aroused the same reactions, even though we

speak of millions of children in distress. The crises are obviously not equal to each other.

As for adoption, the particular Haitian context had hundreds of pipeline cases and it was urgent to deal with them. The ISS/IRC report compiles and analyses these responses as presented on page 6. From this report, we see a very chaotic vision of operations carried out shortly after the catastrophe and a long list of violations of legal dispositions for the protection of children, despite the warnings issued by the international organisations (UNICEF and the Hague Conference) and NGOs (Terre des Hommes, Save the Children, ISS etc).

Which parents for which children?

Beyond the questions linked to respecting international norms in matters of adoption, the evacuation of children during a crisis context also gives rise to the question of traumatism that the child has undergone, and of the capability of the adoptive families to deal with them.

As the article of Dr Cohen Herlem on page 5 stresses, the emotional impact suffered by a child leaves traces that will have to be overcome. Welcoming a traumatised child is not the same task as adopting in a normal context: the preparation of the child and the adoptive parents is crucial in order to overcome the trauma. Equally professional and personalised follow up is essential, particularly in the initial stages of their life together. Unfortunately, it has to be admitted that these questions are too often ignored at the moment when mass evacuations are taking place (more than 2000 Haitian children left the island in such circumstances).

Competition or cooperation?

The total absence of acting together between receiving States is undoubtedly one of the main causes of abuse that can occur when adoption, despite it all, is authorised in an emergency situation. This competition

between States is the more harmful when it takes place in countries of origin that are still unable to set up reliable and effective protection systems for children. In this area, cooperation as central pillar of THC-93, remains largely ignored. It is furthermore still impossible today to come to an international consensus concerning the restart or not of intercountry adoption in Haiti. The initiatives towards a consensus during the last Special Commission in The Hague have, regrettably, not found sufficient support. The intervention of the French Central Authority of Belgium reproduced on page 7 has clearly reminded the concerned States of their obligations in the matter.

Finally, it is important to stress that the Haitian authorities themselves were disappointed that intercountry adoption was the main concern of the receiving countries, who were only slightly interested in other measures of child protection that could have been setup.

A lesson to learn

The fact that intercountry adoption is not an appropriate response in the context of a crisis is widely recognised both by the international texts and by the specialists of child protection (see UNICEF position on intercountry adoption on page 3). But if one wants the principle to be applied it is essential to explain to the public, the foundations for such reasoning, in other words everything must be done for a child and his/her biological parents so that they can live together and not be separated. Natural disasters and conflicts are only atrocities and suffering. To add to the suffering by action or by omission, is no longer acceptable today for even one sole family.

The ISS/IRC team
August 2010

(1) http://www.nytimes.com/2010/07/12/opinion/12clinton-1.html?_r=1&ref=haiti

ACTORS IN MATTERS OF ADOPTION

Source: Permanent Bureau of the Hague Conference: http://hcch.e-vision.nl/index_en.php?act=conventions.authorities&cid=69.

- **Netherlands:** This country has updated its list of accredited bodies
- **Portugal:** This country has updated contact details Central, competent Authority and accredited bodies

BRIEF

Eastern and Southern Africa: International Seminar addresses cross-frontier child protection

Earlier this year, the Hague Conference on Private International Law in co-operation with the South African Government and UNICEF organised a seminar dealing with child protection across borders, with an emphasis on intercountry adoption. Angola, Botswana, Ghana, Kenya, Madagascar, Malawi, Mauritius, Namibia, South Africa, Swaziland, Uganda, Zambia and Zimbabwe, as well as the African Committee on the Rights and Welfare of the Child were present at the seminar. The conclusions and recommendations should be important lobbying tools as they emphasised among other things, the importance of co-operation among States in the region, regulation of costs to eliminate abuses, the need for professional social workers as well as the promotion of the principle of subsidiarity through awareness campaigns and domestic adoptions.

Source: http://www.hcch.net/index_en.php?act=events.details&year=2010&varevent=184 and http://www.unicef.org/media/media_52823.html

UNICEF: New position paper on intercountry adoptions

UNICEF has released a new position paper recalling that intercountry adoptions undertaken in conformity with international standards may be the best permanent family solution, once the principle of subsidiarity has been respected. In line with this special edition, the paper specifically notes that 'the case of children separated from their families and communities during war or natural disasters merits special mention. Family tracing should be the first priority and inter-country adoption should only be envisaged for a child once these tracing efforts have proved fruitless, and stable in-country solutions are not available'.

Source: http://www.unicef.org/media/media_41918.html

PRACTICE

The traumas in children in natural disasters

Fanny Cohen Herlem, a child psychiatrist working with ISS/IRC, has drafted an article itemising the traumas that a natural disaster may give rise to in a child, the signs and symptoms that make it possible to identify them and the responses that we may bring to them.

Faced with such a distressing situation, the child reacts and will react again later, according to his age and the circumstances of what has happened. When there is a life-threatening risk, or a risk of an injury, the child is overcome by fear and terror, and goes through feelings of helplessness. The notion of death, in other words the awareness of an irreversible phenomenon, appears in children from about five years of age. In the event of a physical injury, the young child may think it is going to mend itself, as when someone repairs his broken toys. It may be traumatic to discover this is not the case for the human body.

Psycho-emotional, psycho-motor and intellectual development all have a role to play, particularly the maturity of the senses: touch, sight, sound, motor abilities, the

development of language, all of which enable the child to see, and to say what he sees, and to flee... For example: a baby can be very frightened by soft sounds and less so at the sight of dreadful scenes which he does not necessarily see (depending upon his age, the young child does not see long distances). The toddler who can walk can distance himself from the site of a trauma. The child who can talk can call for help, and say what has just happened to him. A very small child can only cry or weep.

Adults who are responsible

The absence of parents or of a responsible adult leaves the child without protection and isolated with a feeling of being abandoned. We note that the adults who are present transmit to the child their

experiences: the parental trauma may be the vehicle of the child's own trauma.

The grown-up who communicates well helps the child to externalise his feelings. It is his use of words that enables the child to extract himself from the traumatic chaos (spoken by the child or expressed by the parents who thus give him back his humanity).

Which signs should we be worried about?

Globally, after a natural disaster, the signs of suffering appear rapidly. They hinder the child's abilities to adapt, and sometimes even his development. One can observe reactions that are inappropriate in their intensity via a re-enactment of the incident clearly seen in repetitive games, drawings, nightmares and when listening to an account that resembles even slightly the incident they went through.

The child tries to avoid the thoughts and feelings linked to the trauma in "anxious agitation". We equally note:

- sleep disorders, irritability, tantrums and tempers, hyper vigilance, as well as excessive reactions to noise, and surprises; often with head or stomach-aches
- and above all, mental distress at separation from their responsible adults

These reactions are normal and do not mean that the children are going to develop a lasting post-trauma pathology. Moreover, the reactions of adults, family and social support, personal abilities of the child must also be taken into account. The "durability" of the symptoms will therefore depend on other risk factors such as the existence of traumas of the same type as their parents, a hyper-protective mother, the absence of a father and an argumentative family.

These disturbances last in general *more than a month* and can appear sometimes *later on*.

What is to be done?

- Talk to the child about what has happened to him, depending upon what one sees and what one feels...

- Avoid bringing up your own worries
- Offer him a calm environment that is stable and reliable with an ongoing continuity day by day
- Avoid plunging him all at once or too soon into a school environment
- Support what the child needs to say
- Answer his questions (about his friends in the nursery, the school, adults he is familiar with etc) by way of what one knows

And after a diagnosis has been prepared by a professional, it is important to get the help of a qualified, family or an individual psychotherapist, if the parents feel overwhelmed or too affected by the stories of the child's (guilt, over-protection from previous personal re-enactments by the present trauma).

What are the guidelines to find one's way and grasp what has happened?

Up to a year and a half: the child is in a complete state of helplessness. He is overcome by his bodily feelings and his emotions, not controlled by the adults (hunger, cold, noise, pain). Among the symptoms are: retreating, shedding tears, sleep disorders, eating problems, developmental delays and regression.

Young children: the trauma is the consequence of fear experienced by the child and what the present adult passes on to him, generally the traumatic impact in the face of the adult's helplessness when the adult was supposed to be a protector for the child. The symptoms are: loss of appetite or the opposite, sleep disorders, inability to play, bad tempers and occasionally feelings of shame, regression...

The older child: may develop abstract thinking: he is familiar with certain values such as kindness, justice, truth ... but he can see that these values can be destroyed. Even if he has abilities to elaborate feelings which flow from these he can display various symptoms such as: a depressive state, guilt, school difficulties, and tiredness.

ISS publishes report on Haiti: “Expediting” intercountry adoptions in the aftermath of a natural disaster ...”

ISS has prepared a report on Haiti after the earthquake noting intercountry adoption responses highlighting the lessons to be learned. The full report is available on the ISS website at <http://www.iss-ssi.org/2009/assets/files/Haiti%20ISS%20final-%20foreword.pdf> and below is the executive summary.

There is broad consensus that, in the aftermath of a catastrophe, intercountry adoption is not a valid response, at least until conditions permit full family tracing efforts to be completed regarding the children potentially concerned. In countries such as Haiti, where many – in this case several hundred – adoption procedures had been at some point in “the pipeline” when disaster struck, a special problem is posed. Agreement has to be reached as to how to deal with cases at very different stages, ranging from those where an adoption order had been granted to those where matching had taken place and even those where the “adoptability” of the child had been only informally determined. All actors in the field bore the responsibility of establishing a policy in these respects that was consistent with international obligations and principles, national law, and the best interests and other rights of the children, as well as the rights of birth-parents.

As of 30 May 2010, at least 2,107 pipeline cases were processed following the earthquake on 12 January 2010, almost doubling the total number of Haitian children adopted in 2009. The USA alone accounted for approximately 1,200 cases whereas France, Canada, Netherlands and Germany arranged the transfer of around 850 children. About 50 children were sent to Switzerland, Belgium and Luxembourg. During this period Spain and Italy received the final authorisation for 9 children to leave Haiti, the last remaining cases from 2007, when they suspended adoptions.

Adoptions with a judgment

Whilst in principle it may be in the best interests of the child to expedite pipeline cases with an adoption judgment, fast tracking measures regarding the transfer

should nevertheless be carried out within a framework of international standards. Prioritising intercountry adoptions should not be at the expense of emergency relief efforts. Nor should they be undertaken in such a manner that children do not have sufficient time to recover in a familiar environment. Moreover, given the heightened risk of exploitation of children in the aftermath of a catastrophe, adequate identification and registration measures should be in place to avoid children being erroneously and illegally moved across borders.

Adoptions without a judgment

For all other pipeline cases, that is those without an adoption judgment, hindsight would now teach us that the accumulation of heightened risks for children far outweighs the benefits of fast tracking the adoption process. Such cases should only be expedited when there are ‘compelling’ health, medical or safety conditions’ necessitating their urgent evacuation.

Adoptions processed in a chaotic context

Recalling that the intercountry adoption process in Haiti has long been renowned for its systemic failures - including corruption, lack of transparency and an inexistent monitoring system - the system only further deteriorated in its earthquake-affected state. The flurry of “expediting” activities resulted in what one can only describe as chaos for all parties involved:

1. A competent body did not exist to ensure that internal procedures were complied with, so that for example, adoptive parents who had biological children were permitted to adopt children and children older than 16 were adopted in contravention of national laws. Over-approval of cases to be expedited is another example of this lacuna.

A competent authority was not in place to monitor the large sums involved in adopting such a high number of children, given that on average in-country fees and charges can amount to at least 10,000 USD per child. The already fragile Haitian Central Adoption Authority (IBESR) was only further debilitated with the earthquake.

2. Neither Haiti nor the receiving countries were in a position to ensure that family reintegration measures and other domestic solutions were exhausted prior to implementing fast-tracking procedures, in other words, that the principle of subsidiarity was complied with. Genuine respect for this principle usually takes time and therefore it is concerning when babies as young as two months are adopted abroad. Such realities in Haiti are a clear warning that the principle has likely been breached.

3. Few efforts existed to confirm the adoptability of children, nor were children given an opportunity to be consulted or prepared before being transferred to other countries. Physically, children lacked appropriate clothing to confront the cold winter weather and on a psycho-social level, they were not prepared to meet their adoptive parents, many for the first time.

4. Prior to the movement of any child across borders, especially on a permanent basis, the consent of biological parents must be confirmed. This is all the more important in Haiti, where an estimated 80% of adoptable children have at least one biological parent. Moreover, while some biological parents had the fortunate opportunity to express their refusal to a proposed adoption, many others were deprived of giving or confirming their consent.

5. As States Parties to THC-93, all 'receiving countries' had obligations to ensure that this convention was applied in the emergency situation. Despite this responsibility, receiving countries failed to ensure that the adoptive parents were all

eligible and suitable to adopt a child who had lived through a trauma, nor did they adequately prepare them.

6. In retrospect, to minimise the possible stress and trauma during the transfer period, it would have been judicious to delay any movement of children at least until the resumption of commercial flights – which were operational within weeks of the earthquake. This would have given adoptive parents the possibility to personally accompany children to their new homes and learn 'first hand' about the child's country of origin.

7. The lack of co-ordination among receiving countries in their approach to intercountry adoptions in Haiti is of concern. By continuing intercountry adoptions on a large scale, certain countries have sent an implicit message that they continue to accept the well-known failures of the Haitian system, rather than working together to address the systemic flaws.

8. Few Governments were adequately prepared to welcome the large groups of children at airports in terms of having professionals skilled in dealing not only with emergency situations but also with adoption issues. Reception conditions were deficient in that many families lacked privacy for their first meeting with professionals and children. The quality of post-adoption follow-up services being offered to families is also questionable.

9. The influx of legislative initiatives to expedite intercountry adoptions initiated by various 'receiving countries' in response to the earthquake is disturbing. As opposed to having legislative reform processes that are consultative and well developed, hasty emotional responses are likely to be detrimental to children's rights. Many proposals have been based on misconceptions of which children are in need of adoption and reflect little understanding of the priority that must be given to domestic solutions.

Deep reflections of a Central Adoption Authority regarding adoptions from Haiti before and after the earthquake: food for thought and action ...

ISS/IRC is grateful to Mr Didier Dehou for allowing his statement on behalf of the Belgian francophone Central Authority at the Special Commission on the operation of the Intercountry Adoption Convention The Hague 17-25 June 2010 to be published.*

It would be too easy to broach the question of what was done or should have been done after the 12 January 2010 earthquake in Haiti while ignoring what we, the receiving countries, did or what we allowed to be done **before** that date.

Is it acceptable that, in recent years, a small Caribbean country with hardly more than 8 million inhabitants should have become one of the main countries of origin for intercountry adoptions? Its poverty cannot explain everything.

Is it acceptable that, for years on end, receiving countries that are all parties to the 1993 Hague Convention should have allowed their adopters, and sometimes even their accredited bodies, to act in ways that completely disregard the values and principles upheld in that very treaty? Wanting a child cannot justify everything.

When the earthquake struck on 12 January, hundreds – or even thousands – of adoption procedures were under way in Haiti. But in accordance with which rules, principles and values?

During the days following the earthquake, hundreds of children were hastily evacuated to receiving countries. But again, in accordance with which rules, principles and values?

Five months after the disaster, almost the entire “adoption world” is gathered here in The Hague, and we cannot simply pretend that nothing happened in Haiti, not just since but also before 12 January.

When, during our debates, the suggestion is made that accredited adoption bodies be first and foremost defined **as necessarily being**

child protection services – in other words, that they be professional, multidisciplinary entities directly answerable to the central authority – the proposal falls on deaf ears. Yet what could be more logical than to entrust a child protection measure to a child protection service? It is no longer enough to simply proclaim that adoption is a child protection measure.

When the suggestion is made that limitations be placed not only on the number of accredited bodies authorised to work with a country of origin **but also, and above all, on the number of files** that these bodies may submit to that country of origin, no one is there to take the proposal forward. Yet what could be more logical than to restrict the number of adoption applications sent to a country of origin if we are seeking to bring the number of adoptions into line with the needs? Unless, of course, we are talking at cross-purposes and, by the term “needs”, we are in fact referring to our own needs as receiving countries.

When the suggestion is made that a robust recommendation be developed for **adoptions to be carried out through accredited bodies**, again there is no take-up. Yet, 17 years after the 1993 Convention was drafted, can it really be so audacious to assert that an adoption should preferably be undertaken with the help and supervision of child protection professionals, and that these adoptions have a clear added value in comparison to those where such professional involvement is absent? This added value takes the form of ethical guarantees, regulation, and support to the adoptive parents both before and after the adoption takes place.

These are just some of the missed opportunities for setting more binding,

effective, ethical limits to intercountry adoption procedures.

If all adopters had been guided by accredited bodies working in the framework of child protection, with its specific professional ethics and approach, Haiti would have no doubt had a rather different experience in terms of intercountry adoption.

If the receiving countries had not swamped this small country with hundreds and thousands of adoption applications, a good number of Haiti's crèches would surely never have seen the light of day.

If the receiving countries had paid even minimal attention to the conditions in which their adopters were adopting in Haiti, would they really have accepted the ways in which most crèches have been operating: selecting children according to medical status before agreeing to take care of them, giving priority to children who still have their biological parents, to the detriment of abandoned children on the pretext that the procedures are longer and more complicated in their cases...?

In French-speaking Belgium, two accredited bodies have been working with Haiti – one for over 20 years – and more particularly with one children's home. This is not one of the

far-too-many crèches specialising in intercountry adoptions, but a home catering to some sixty children and adolescents aged from 0 to 18 years. They all have very challenging family and social backgrounds, but only a small minority are adoptable. Between 2001 and 2009, 53 of these children were adopted, giving an average of less than six adoptions per year.

On 12 January 2010, 11 children aged from one to eight years who had already been matched were among those being cared for at the home. All had been abandoned, their biological parents were unknown, and they had been placed there by the IBESR with a view to adoption. The Belgian francophone Central Authority had approved the matching for each of these children, having received adequate guarantees as to their adoptability. On 18 January, it was decided to evacuate these 11 children, together with three others whose adoption had been carried out through a body accredited by the Belgian Flemish Central Authority. The Belgian francophone Central Authority stands fully behind this decision and also fully approves the recommendations in this regard prepared by the Permanent Bureau of the Hague Conference and International Social Service.

* Didier Dehou works at the Belgian francophone Central Authority

FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

- **France:** Attachement, traumatisme et parentalité (Attachment, traumatism and parenting), COPES, 18-19 October and 29-30 November 2010, Attachment, Applications clinique (Clinical applications of attachment), COPES, 7-8 October and 24-26 November and L'adoption: Entre l'agrément et l'arrivée de l'enfant (Adoption: Between the agreement and the child's arrival), COPES, 6-8 October. For more information www.lecopes.org
- **United Kingdom:** Disability: breaking down the barriers to child placement, BAAF, London, 18 October 2010. For more information www.baaf.org

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www.iss-ssi.org/Resource_Centre/Resource_Center_EN/About_ISS-IRC/about_iss-irc.html. See Activities.

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