



**Monthly Review N° 11-12/2010  
November- December 2010**

***We wish you all a very joyful and peaceful holiday,  
trusting that together in 2011 we will further contribute  
to the promotion and protection of the rights of the child deprived of their family!***

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**EDITORIAL** 

**Exploring adoption as a suitable option for children with disabilities**

*This new series aims to tackle the multifaceted issues that must be addressed when considering adoption as a permanent family option for children with disabilities in need of care.*

Indisputably children with disabilities are confronted with extra barriers due to their impairments, but these are even more acute for those deprived of their families. Community options are often limited resulting in thousands being destined to institutions. Faced with this reality, what can be done?

For now, statistics show that children with disabilities represent only a minute proportion of all those adopted. This new series seeks to examine whether adoption as one of many solutions should be promoted and if so, under what circumstances. With this overall objective, this introductory editorial raises some questions as food for thought.

## Identifying exactly who are children with disabilities

As a first step, professionals need to determine which children are covered by the term 'children with disabilities', which is often used interchangeably with expressions such as 'children with special needs', 'physically or mentally challenged' etc without necessarily having the same meaning.

Based on its missions, ISS/IRC has found that even if international law (see page 8) provides some guidance, its application in practice is more equivocal. What impairments are to be covered? For example, which standard for developmental milestones should be used given different contexts (e.g.: measuring speech impediments) and are behavioural difficulties to be included (e.g.: attention deficit disorders). As an illustration, the ISS/IRC has observed that in one country children who wet their bed at the age of 4 are labelled disabled, without any option for reconsideration once the issue is resolved.

Further, at what point is an impairment "long term"? Access to medical care may be so limited in some countries that the child will inevitably have the impairment for all their lives, whereas the condition may be reversible (e.g.: hare lip) or operable (e.g.: dysfunctional heart) in another context.

Whatever definition is used, it is important that 'children with disabilities' are given equal opportunities and not discriminated against.

## Contemplating whether adoption is suitable

Deciding on whether adoption is in the best interests of any child, let alone one with a disability is complex and requires a multi-disciplinary approach. It could be argued that adoption is a 'win win' situation if all children with disabilities deprived of their families could be adopted and therefore have some permanency, given the long waiting lists of prospective adoptive parents (PAP). Yet is every child 'adoptable' after an evaluation of

legal, psycho-social and medical aspects? For example, should a 12 year old with a disability, who has lived in an institution all his life automatically, be classified as adoptable?

Even if each child with a disability was adoptable, the question would then need to be asked about whether each PAP has the capacity for such a task. Would there need to be a specific matching process? What would the preparation of the child and the PAP cover? What about follow up support?

Such questions among many lead us to more fundamental reflections, such as where are the boundaries for promoting adoption as an ethical solution for children with disabilities? What safeguards should be in place to ensure a full protection of rights?

## Other barriers to adoption

To add another layer of complexity once declared adoptable, barriers may exist to preclude adoption. The culture, traditions and politics etc of a country may play an important role. In certain countries adoption is under the portfolio of one Ministry, such as the Family whereas another Ministry, such as Health is in charge of children with disabilities, resulting in adoption never being considered for this group. Whilst such a barrier may be easily overcome, others may require more effort. For example, in some contexts, it may be culturally shameful to even discuss adoption.

## Call for input for upcoming series

Whilst this editorial has raised more questions than answers, it is hoped that the upcoming series will give some clearer directions. We look forward to working with you in the upcoming year to find better ways of protecting this special group. We invite professionals who have experience in the adoption of children with disabilities and are willing to provide input to contact us at [irc-cir@iss-ssi.org](mailto:irc-cir@iss-ssi.org).

ISS/IRC team

## 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](http://hcch.e-vision.nl/index_en.php?act=conventions.authorities&cid=69).

- **Ecuador:** This country has updated the contact details of its foreign accredited adoption bodies
- **Spain:** This country has updated the contact details of its central authority and competent authorities

## Individual adoption versus independent and private adoption: the experience of the Flemish Central Authority

*Belgium only allows adoptions through an AAB and individual adoptions. For the latter, the Flemish Central Authority has established extra control mechanisms to ensure as many guarantees as possible.*

**T**he Flemish Decree on intercountry adoption allows prospective adoptive parents (PAPs) to choose between an adoption through an accredited adoption body (AAB) and an individual adoption. In the latter case, the Flemish Central Authority for Intercountry Adoption (Belgium) is responsible for processing individual adoption applications. We have however noticed that the terms 'individual adoption', 'independent adoption' and 'private adoption' are being used in varying ways by different countries, which causes confusion in States of origin as well as receiving States.

### Definitions

According to the Guide to Good Practice N°1 for the implementation and operation of the THC-93:

- Individual adoptions are adoptions where the Central Authority performs practically all the actions of an AAB.
- Independent adoptions are those where PAPs are being prepared and declared suitable to adopt before being permitted to go directly to the State of origin to find a child themselves and adopt it without any assistance of the Central Authority or AAB.
- Private adoptions are arranged directly between adoptive and biological parents.

The Guide to Good Practice clearly states that private and independent adoptions are not consistent with the Hague Convention procedures (as well as the recommendations from the 3<sup>rd</sup> Special Commission). Individual adoptions are acceptable if the Central Authority has the powers and resources to perform all necessary functions.

### Independent and private adoptions forbidden

The Belgian Adoption Law guarantees that every adoption is either supervised by the Central Authority or by an AAB. No one can apply for an adoption directly in a country of origin. In all cases (Hague and non Hague countries), the Central Authority of the competent Community must receive the

official child's file from the competent authority in the State of origin in order to approve the child proposal before the adoption can be pronounced.

Since the implementation of the Adoption Law in 2005, the 4 Flemish AABs (working in 10 countries) have been overwhelmed with applications. As a consequence, the Central Authority is now dealing with a growing number of individual adopters. Therefore, we established additional control mechanisms to ensure as many guarantees as possible.

- Individual adopters must fill in an extensive questionnaire containing all the necessary information about their adoption 'channel' through which they want to adopt (e.g.: information about country legislation, contact persons, orphanage, costs, procedure, motivation, etc.).
- Once they have an eligibility order from the Juvenile Judge, the Central Authority starts investigating this 'channel' in cooperation with other relevant actors. We assess whether the adoption channel is lawful as well as verify there are sufficient guarantees that the adoption, is in the best interest of the child and compliant with fundamental rights embedded in international law. We examine the general country information, Hague membership, the adoption law of the country (if any), NGO reports. We also rely upon information from other Central Authorities concerning their experiences with recognitions from this country. We equally try to make contact and communicate with the competent authorities in the State of origin, which is not always easy or even possible. Finally we obtain advice from our Ministry of Foreign Affairs which is mostly based on a local inquiry by the Embassy. We provide them a standard questionnaire concerning personal contacts and/or orphanages or institutions, how the law is applied in practice, reliability of documents, etc. This investigation may take 4 to 6 months.

- If the investigation has a positive result, we give a once-only approval of the individual adoption channel. The approval is only valid for that particular case.
- Subsequently, PAPs must prepare their file by themselves with all the necessary documents required by the country of origin. After checking the file, we send it to the competent authority of the country of origin. Clearly PAPs are not allowed to go to the country themselves with their file.
- Once the country of origin accepts the file and completed the matching, we must receive an official child report from the competent authority in which the adoptability is declared. We must be notified of the match before the PAPs are informed. If we approve the matching, the PAPs will receive the child report and must give their approval for the proposed child.
- Only afterwards, can PAPs travel to the country of origin and the adoption procedure may proceed abroad.
- The final step is the recognition by the Federal Central Authority in order to obtain a passport or visa for the child.

We provide individual guidance and supervision throughout the whole process.

#### **When the investigation is negative...**

If there is a negative result of the investigation of the adoption channel, we disapprove the application. The individual adoption project stops and the PAPs can start a new individual application or choose to adopt through an AAB.

However, PAPs can appeal against a negative decision to the Council of State. If our decision is not well founded, there is a risk that our decision will be overruled. 'Sensing' that a contact is not reliable is not enough to disapprove an application – which for us is a stance sometimes difficult to cope with from an ethical point of view.

#### **Difficulties throughout the process**

We have experienced several difficulties:

- 1) For non-Convention States, structures may not be in place that would make it possible to work according to the Hague procedures. In certain countries it can be difficult to establish some form of cooperation or communication with the competent authorities.
- 2) For in-family adoption we have the same procedural obligations. For children who are

actually in need of adoption but who are not residing in an institution, it is not always possible to receive an official child report. In many cases there is already an adoption decision in the country of origin while the procedure in Belgium has not started yet. This can cause a lot of legal problems especially for the recognition of the foreign adoption decision. Clearly, it often causes emotional disasters and is frequently contrary to the best interests of the child.

3) It is almost impossible to have complete control over the PAPs contacts with the local authorities or institutions they want to adopt from. Referring to the Guide to Good Practice, we require that the PAPs are not notified of the matching before we have approved the matching. This is not always controllable and therefore PAPs can be in a position to choose a child. As the Central Authority, we often have to invest a lot of energy in these cases and we often ask whether we should be investing so many resources for people who deliberately have opted not to use an AAB.

4) The change of profile and motivation of individual PAPs was already mentioned. We find that more and more people are looking for countries where they can easily adopt. We experience a lot of public pressure to approve more individual adoption channels. Moreover, people rarely accept our reasoning in cases where we disapprove their adoption channel and it is not always easy to have solid grounds for our decision. Sometimes we only have a feeling that a certain adoption channel can not offer all the safeguards we deem necessary, or we may have received confidential information which can not be made public.

5) Another difficulty is that most countries of origin demand follow-up reports and the Central Authority cannot do this. Therefore we oblige the PAPs to sign a follow-up agreement for that specific country with an AAB. Without this, we do not send the file to the county of origin.

As a conclusion we can say that, even if we still experience several difficulties, we are pleased that our legislation prohibits private and independent adoptions as defined above and that there are a number of safeguards installed in individual adoption procedures, including in-family adoptions.



## Australia: consultative approach to developing intercountry adoption policies

*This article examines how the Australian Central Adoption Authority has established consultative groups to reinforce its adoption policies, an approach that is sure to bring concrete benefits.*

**D**ifferences in laws, policies and practices as well as diverse motivations among actors within a country often present obstacles for having a unified approach to intercountry adoption internally. Whilst uniformity should not necessarily be an overriding goal, certain constancy is constructive especially for promoting best practices and open communication.

Driven by the recognition of the importance of consultation with key stakeholders, the Australian Central Adoption Authority (ACAA) has established 4 consultative groups. ACAA states that 'the Department works with a number of consultative groups to ensure that both whole of government views and public opinion and experience are considered in our decision making process and reflected in the development of Australian Government policy on intercountry adoption.' This article briefly examines these groups, shedding light on areas of potential benefit for other countries.

### **Consultation with States and Territories**

The ACAA established this group in order to learn from the experiences and profit from the expertise of each of its adoption authorities within its 5 states and 2 territories. Meetings are held at least bi-annually and communiqués summarising these meetings are published on the ACAA website. During these meetings, each authority provides a report, updates on current country programs are made available and strategic assessment reports on potential new programs are discussed etc. By systematically meeting with actors from each authority, this provides an important forum for ensuring that everyone is on the same page as well as a constructive opportunity for troubleshooting in a comprehensive manner.

### **National Intercountry Adoption Advisory Group**

This group was established in 2008 working to 'ensure that the *intercountry adoption community* in Australia is well represented' in providing advice to the ACAA. Members include multiple professionals such

as an adoptee community representative, a professional community representative and a post-adoption counsellor etc. This group provides advice directly to ACAA, different to government bureaucracies. The advice has included that when there are suspensions of programs, notice should be given to families as well as identifying the need for consistency and access to post adoption services.

### **Intercountry Adoption Harmonisation Group**

This group aims 'to progress the greater harmonisation of intercountry adoption legislation, fees and administrative procedures, to achieve best practice and not to achieve uniformity as an end in itself'. Two recent projects involve the development of a cost matrix as well as one for eligibility, suitability and placement criteria comparing each state and territory. These matrixes are a practical tool for prospective adoptive parents to contrast different practices across the country. Such matrixes would be helpful for not only federative states but also countries with multiple adoption accredited bodies.

### **Intercountry Adoption Alternative Models Group**

At the moment accredited adoption bodies do not exist in Australia. The aim of this group is identify/review the advantages and disadvantages of various alternative accreditation and service delivery models.

### **Innovative approach**

This open approach to policy making (ie: use of consultative groups) has clear benefits, such as the creation of open communication lines among various actors as well as the establishment of a constructive forum for practitioners on the ground to influence national level policy making. ISS/IRC further suggests that for consultation groups to be truly representative, they should in principle include participants from various ages, cultures and backgrounds which is important given the sensitive nature of intercountry adoptions. If appropriate, the participation of children may also be helpful.

Source:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Intercountry\\_AdoptionConsultative\\_Groups](http://www.ag.gov.au/www/agd/agd.nsf/Page/Intercountry_AdoptionConsultative_Groups)

## How the Guidelines for the Alternative Care of Children marked 2010

*This brief article showcases examples of how the Guidelines for the Alternative Care of Children impacted the child protection field in 2010 at the international, regional and national levels.*

**O**ne year after being formally recognised by the UNGA, the Guidelines for the Alternative Care of Children (Guidelines) have continued to shape laws, policies and practices across the globe, as illustrated below.

### International arena

In 2010, the UN Committee on the Rights of the Child (UN Committee) examined at least 24 countries with regards to their child rights obligations according to international standards. As part of their concluding observations and recommendations, the UN Committee has systematically requested each country to ensure that it implements all aspects of the Guidelines. As one of many illustrations, the Committee called upon Sri Lanka 'to urgently formulate a coherent national policy on de-institutionalisation.' Such a recommendation is an invaluable lobbying tool for grass root actors.

Parallel, the Human Rights Council in Geneva has started referencing the Guidelines as part of the Universal Periodic Review process for some countries including, Albania and Bulgaria. For example, Bulgaria was challenged to ensure that all children under the age of three years are cared for in family-based settings.

A number of international NGOs have also published various helpful policy documents based directly on principles in the Guidelines (Monthly Review 5/2010). Moreover, SOS Children's Villages International and International Social Services have added French, Spanish and Russian translations to its introductory document directed at national policies (originally in English) with other translations in the pipeline.

### Regional movements

The Latin American region has been quite active in developing implementation tools for the Guidelines. As one of the lead actors in the region, RELAF in collaboration with UNICEF has been co-ordinating the development of child friendly and non

professional adult friendly versions of the Guidelines. In addition, RELAF has been working with other organisations to produce a training document for professionals working in institutions based on key principles of the Guidelines.

### National initiatives

On an individual country basis, countries such as Namibia and Liberia (Monthly Review 10/2010) have introduced regulations, which to a great extent mirror the Guidelines. Additionally the Guidelines are currently being promoted in the Moldovan Parliament and are expected to be adopted as a law by the Parliament early next year.

As a result of the earthquake and in response to the many requests by the public to move Haitian children into the country, the German government formally responded "...The authorities doubt whether providing shelter to Haitian children outside Haiti would truly be of a temporary nature or in the best interest of the children. ...According to these Guidelines the primary goal is to trace and reunify children with their families to the maximum extent possible prior to any other permanent solution being pursued..."

Guidelines' training has also occurred in a number of countries such as Brazil, Madagascar and Nepal to promote territorial diffusion for professionals, including judges, lawyers and child protection specialists.

### Future challenges

Whilst the Guidelines are clearly starting to make its mark, much work remains for the protection of thousands of children deprived of their family. Still many countries and professionals are not aware of the Guidelines, let alone have the necessary resources to ensure its effective implementation.

To help with raising awareness, work with other UN treaty bodies such as the Committee on Persons with Disabilities, emphasising cross cutting issues will be invaluable. Collaborative efforts in other

regions and countries are also essential to ensure the rights of children in the Guidelines are systematically mainstreamed.

The gauntlet has been thrown, leaving the challenge for us as professionals, to work

together in finding innovative means for better implementing the Guidelines.

Sources: RELAF, Better Care Network, SOS Children's Villages, ISS and Working Group for children without parental care (Geneva)

## Chile: New handbook for adoptive parents addresses post-adoption depression among other issues

*In addition to providing adoptive parents with concrete advice to understand and respond to the needs of their children, the handbook published by SENAME\* focuses on an issue, being post-adoption depression, which is only addressed to a limited extent in written materials.*

In order to support the process of preparation of families residing abroad, and to facilitate

the creation of an emotional bond with the adopted child, SENAME has recently published the handbook *Adoptar en Chile: un largo camino para convertirnos en familia* [Adopting in Chile: a long path towards becoming a family, see enclosed box]. This tool considers the reactions that the children and their parents may demonstrate during the mutual adaptation period. Among the topics addressed, one will find post-adoption depression, a phenomenon often faced by adoptive parents. This particular issue attracted the attention of the ISS/IRC, given that this issue is only considered to a limited extent within the adoption arena.

### Post-adoption depression is as normal as post-natal depression

The handbook states that 'post-adoption depression is as normal as post-natal depression'.

According to studies carried out in this field, 80% of women who adopt suffer, to a greater

or lesser extent, from post-adoption depression. However, this situation is often

not understood by those persons, who surround the adoptive parents. For their circle of relatives and friends, it is unacceptable for adoptive parents not to be extremely happy when that so-awaited child arrives. If we put ourselves in the adoptive parents' position, we realise that they have just experienced moments of strong emotional strain, such as travelling to an unknown country, facing the anxiety of suddenly becoming a mother and father as well as meeting that child for the first time, with one's own expectations becoming more specific in relation to a real child, who has suffered from the pain of institutionalisation and abandonment. These intense experiences may cause, in the parents, feelings of sadness, lack of will and/or frustration during the initial weeks of life together. On this issue, García Hortelano (1) states that 'the weight

of anxiety, which the parents bear when they

*"Adoptar en Chile: un largo camino para convertirnos en familia"*

[Adopting in Chile: a long path towards becoming a family]

This handbook, which was elaborated by Marisol Venegas Monares, a Social Worker, based on her experience gained in the Adoption Unit of SENAME, has the following objective: facilitate the adoptive parents' understanding of the children's behaviours and causes, with a view to, on the basis of this understanding, have management strategies to act in a timely and efficient manner in the complex and rewarding task of being adoptive parents.

This tool simply presents illustrative examples drawn from daily practice, the various behaviours that children may generally show (regressive attitude, voracious appetite, etc), as well as the fears and concerns that the children as much as the parents may face (assume adoptive parenthood, trust new parents). Thanks to its concrete responses, it represents an excellent means of prevention of crises and irreversible situations in adoptive families.

Furthermore, this handbook includes a cultural guide aimed at foreign adoptive parents, which offers essential information on Chile, its population, its traditional festivities, tourist attractions, as well as key words and phrases in its language, in order to help the parents become familiar with the culture of origin of their new child. Both handbooks are available in Spanish and English at: <http://www.sename.cl/wsename/estructuras.php?name=Content&pa=showpage&pid=269>.

come back from a country in which, for 15 or 20 days, they have faced highly emotional situations, adds to the happiness of having their child, thus creating a sort of time bomb. The help of nurses and assistants in the relief of these emotions is very important' (2). One may, for a second, imagine how difficult such a period may be and the feeling of guilt that it may generate in the adoptive parents after all the efforts devoted to becoming a father or a mother. When faced with this situation and isolated from their support network, what can they do?

### **Some advice to confront post-adoption depression**

The advice offered in the handbook in this field is similar to that aimed at confronting post-natal depression. To mention a few, the parents are recommended to:

- be aware that this depression exists, that it is quite common and that it should be understood as normal, which will help to diminish the feelings of guilt that may arise;
- focus on the child and strengthening the relationship with him or her, by avoiding the expectation of the need to comply to perfection, with a considerable amount of tasks at the same time;
- take care of their health, given that exhaustion is anxiety's best ally;

- take care of the couple's relationship, by making time for intimate moments and, should there be other children, for trying to provide them each with exclusive attention;
- express feelings freely, honestly and timely to professionals in charge of post-adoption follow-up; these, better than anyone else, may understand what they are experiencing;
- participate in support groups, through which they may meet other people, who face a similar reality, and talk with them about their experiences and ways to confront them.

These are some of the tips that will enable the parents to accept what is happening without judging themselves and allowing the opinions of people around them to affect them too much. Adoption is still the merger of two destinies marked by suffering, and only with time, love and the support of specialised professionals, will they finally adopt each other in order to walk forward together on the path of life.

\* Servicio Nacional de Menores [National Service of Minors] (Chile)

(1) García Hortelano is a Pediatrician specialised in tropical diseases at the Intercountry Adoption Unit of the Carlos III Hospital in Madrid.

(2) Source: Review *Adoptantis* N°86, October 2010.

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SPECIAL SERIES: CHILDREN WITH DISABILITIES AND ADOPTION 

## **International legal framework for children with disabilities in need of care**

*The international legal framework concerning children with disabilities deprived of their family emphasises their right to non-discrimination, enjoyment of a full and decent life as well as the importance of being given an opportunity to live in a family environment.*

International laws are clear that if children, including those with disabilities, can not live with their own families, then they should be ideally living in the local community and environments that most closely resemble a family. Whilst established International Conventions have made references to the needs of persons with disabilities, it was only in May 2008 that a specific Convention (i.e.: Convention on the Rights of Persons with Disabilities (CRPD)) came into force. Article 1

defines persons with disabilities as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” Article 19 CRPD is the clearest text on the rights of all people with disabilities to accommodation within the community and equal access to a range of alternatives.

### **Child specific international legal framework**



The main provisions of the UN Convention on the Rights of the Child (UNCRC) addressing children with disabilities are article 2 (right to non discrimination) and article 23 (enjoyment of a full and decent life in conditions that ensure dignity, promote self reliance and facilitate active participation). The Guidelines for the Alternative of Children (Guidelines) elaborates these articles and others, for example, when determining the most appropriate form of care (para 58), carer's responsibilities (paras 86-87) and support after care (para 132) etc as being equally applicable to children with disabilities.

### **De-institutionalisation need given harsh reality**

Despite the clear emphasis of international standards that children with disabilities should be given an opportunity to grow up in a family environment, this is far from reality given over-representations in institutions (see Editorial page 1). The Committee on the Rights of the Child (UN Committee) has noted that within institutions the "quality of care provided, whether educational, medical or rehabilitative, is often much inferior to the standards necessary for the care of children with disabilities either because of lack of identified standards or lack of implementation and monitoring of these standards."

To counter this reality, the UN Committee's General Comment 9 on Children with Disabilities recommends that "States parties are therefore urged to set up programmes for de-institutionalization of children with disabilities, re-placing them with their families, extended families or foster care system. Parents and other extended family members should be provided with the necessary and systematic support/training for including their child back into their home environment."

Progress was made in 2010, when the Council of Europe adopted the 'Recommendation CM/Rec (2010) 2 of the Committee of Ministers to Member States on Deinstitutionalisation and Community Living of Children with Disabilities'. The omnibus resolution A/C.3/65/L.21/Rev.1 dedicated to children with disabilities adopted at the UNGA at the end of the year will further ensure that

2011 is a year that gives the spotlight to this often forgotten group of children.

### **Family based care and community living as priorities after de-institutionalisation**

Once de-institutionalisation is achieved, international standards stress the necessity of providing family based or residential care for the child (paragraph 23 Guidelines). Coupled with the right of the child to grow up knowing his biological parents and be cared for by them (article 7 UNCRC), it is clear that there should be a priority for the child to be re-integrated back into his/her original family as well as appropriate support be provided to the family (paragraph 2a Guidelines).

### **Adoption as an option after de-institutionalisation**

There may be cases where re-integration into the family may not be possible or it may not be the child's best interests. In such cases, adoption may be one of many options to be considered (article 20(3) UNCRC).

Whilst THC-93 does not specifically refer to children with disabilities, they are covered by the generic term 'children with special needs' as per the definition used in Guide to Good Practice 1 (GGP1). Article 16 THC-93 requires that background reports address the specific needs of children with special needs. Chapter 7.3 GGP1 further provides principles addressing children with special needs in relation to prospective adoptive parents, co-operation as well as some factors to be considered in the pre-adoption and post-adoption stages.

An obvious international legal framework exists that is dedicated to ensuring that the rights of children with disabilities are protected. The challenge remains the full implementation of these rights and laws in policy and practice.

Notes: General Comment 9

[http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/\\$FILE/G0740702.doc](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/$FILE/G0740702.doc). See CRPD <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx> and Guide to Good Practice 1 [http://www.hcch.net/index\\_en.php?act=publications.details&pid=4388](http://www.hcch.net/index_en.php?act=publications.details&pid=4388)

## The particulars of Malagasy children adopted in France

*This data from the Dijon CAO, CHU collected by Dr Jean Vital de Monléon, a paediatrician and anthropologist member of the Senior Council for French Adoption and presented at the training seminar organised by the French Embassy in Antananarivo in November 2009.*

**T**he Consultation on Overseas Adoption (CAO) of the University Hospital (CHU) in Dijon is the leading reception and follow-up centre for adopted children in France. Since its creation in June 1999, up until the month of October 2009, it has provided follow-up for more than 1,600 children from 65 different countries.

Despite the adoptions almost coming to a halt in Madagascar for a number of years, the children adopted in Madagascar still account for a significant number in this consultation, since 87 of them have been followed up, which puts this country in sixth place (after Haiti, Colombia, Ethiopia, Vietnam and Russia). Information stemming from this group is presented here.

### **General data:**

The 87 children were born from 74 biological families noting that several sibling groups were adopted. Some homes have also adopted several children, therefore for these 87 children there are 63 adoptive families (for example one has adopted four children from three different sibling groups).

- **Sex-ratio:** this consists of 30 boys and 57 girls (34% are boys). The feminine predominance is explained by a masculine preference in many societies where discrimination against girls exists, who will thus become the first to be abandoned by their parents. In the wider child population followed up by the CAO, it has been that the sex-ratio is 736 boys from a total of 1,624 children (making it 45% boys). This difference is even more apparent in Madagascar, even if all the causes are not clearly identified.

- **Age at the time of adoption:** Malagasy children were aged from one month to seven years and ten months at the time of their adoption. Only one was adopted before the age of three months but nearly three quarters (62/87) were less than two years old at the time of their adoption. None were adopted beyond the age of 8. By comparison, in the

wider population of the CAO, 4% were adopted before they were three months old, 50% before they were two years of age and 3% after eight years of age.

- **Reasons for separation:** Among the many causes that drive families to relinquish or abandon their children, two are especially represented in Madagascar. Social and economic causes are the principle reasons, accounting for 54% of the cases (47 children). For 46 of these children the specific reason is that the single mother had no income and the father left during the pregnancy. The second cause for separation (22%) is cultural (19 children). For a child born in the Malagasy capital of Antananarivo, the case was due to a suspicion of a curse (numerous children having died at a young age in this family). For the 18 other children who belong to the ethnic group of the Antambahoaka, on the East coast, there is a regional peculiarity. That is there is a ban or a *fady* in respect to twins. Thus among the children of this group, 20 were born from twin pregnancies among whom 18 (from 11 biological sibling groups) come from the town of Mananjary, capital of the ethnic group in question. This curse bans them from remaining near their biological family.

Other reasons, turn up in a more confidential manner: five cases with social causes (a child born out of wedlock or refused by the new partner of the mother), four are orphans, eight cases for purely economic reasons, one administrative decision from the authorities to withdraw the child on account of parental shortcomings, one case where a child had a serious health problem where his adoption was justified to allow him to receive appropriate care, and finally two children who were found.

### - **Regional origins:**

The majority of children (53/87, that is 61%) are from the capital Antananarivo or from its close suburbs, with 22 from the small village of Mananjari (25%) without doubt due to the

peculiarity of adopting twins in this region, six come from the Island of St. Marie (Nosy Boraha), and 4 from the important town of Antsirabe, two hours drive from Antananarivo. Only seven children were not adopted from an orphanage, since they were in foster care, or in one case, the child was adopted as soon as he left the hospital.

### Health problems identified in France, compared with those announced in Madagascar:

36 children were seen during the initial assessment on their arrival, that is to say, during a consultation shortly after their arrival in France, whereas the other 51 children some time after their adoption. An analysis of health problems will be carried out on all the files kept.

The following list presents the number of cases diagnosed in France. In brackets, is number of times that this pathology was announced in Madagascar. Cases include malnutrition: 39 (15); intestinal parasites: 29 (12); early puberty: 17; dermatological cases: 10 (11); asthma, allergy: 9; precocious puberty: 7; moderate behaviour problems: 7; mistakes or doubts of children's ages: 6; hepatitis viral B (2 of which were cured): 5 (1); sickle-cell anaemia: 5; Rickets: 4; mental retardation: 3; epilepsy: 2; cysticercosis: 2; hearing problems: 2; malaria: 2 (14) ; late onset tuberculosis: 1.

The discrepancies are easy to explain. Malaria is more common in Madagascar than in France. In fact once treated effectively there are few risks of this disease reappearing in a non-malarial zone, and the two cases recorded in France were in the weeks immediately following their arrival in Europe. Malnutrition and the presence of intestinal parasites are more often detectable in France than in Madagascar. The difference is due to the fact that children's nutritional state is better in a well to-do-country. Therefore the criteria will not be the same and there other worries in a poorer country. Still on the nutritional front, the four cases of Rickets are to be noted because they could have been avoided with the regular exposure to sunshine of these young children, often kept inside orphanages, without sufficient outings. The precocious and advanced puberty cases are largely due to nutritional changes as a result of adoption and they do

not appear until after adoption, as are doubts about age.

Other pathologies like mental retardation (3 cases), or behavioural problems (7 cases) did not become obvious for a number of years. It is the same in the two cases of cysticercosis, but also for the single cases of tuberculosis, where it is probable that the contamination took place in France not in Madagascar. One or two of the cases of mental retardation could, nevertheless have been suspected as soon as the adoption took place.

The cases of asthma and epilepsy, as well as hearing troubles (responding to the use of hearing aids) are common pathologies, highly frequent, of which the occurrence has nothing to do with adoption or the origin of the children. The five cases of sickle-cell-anaemia were totally clinically asymptomatic and would have no consequences for the health of children, and were only discovered by systematic examinations of the five cases of hepatitis B, only one case was diagnosed. Two others

### Reading suggestion

#### El camino a casa- Los derechos del niño en la adopción internacional ("The way home: the rights of children in intercountry adoption")

*María Elena García Gómez, GRUPO 5, Spain, 2010, 320 pp.*

This collection, which is a result of the work of various experts in the field of adoption, offers an analysis of the 2007 Spanish law on intercountry adoption, in light of children's rights. Each chapter of the book develops a specific topic – such as the training of prospective adoptive parents within the assessment process of their suitability, registration of adoptions on the civil registry, international cooperation – and, for each of these, examines to what extent the new law has achieved, or not, a better consideration of the rights of children. This work also offers an outlook of the current intercountry adoption system in Spain, with its strengths and weaknesses, and offers solutions to improve it. Among these, it insists on the need for better internal coordination and cooperation as well as for some harmonisation of the very diverse practices carried out in each autonomous community.

have shown traces of immunity from the past of this illness where the children having been cured spontaneously. For the two remaining cases, these are active forms. The discovery of this during the assessment upon arrival shocked the parents due to the potential gravity of this pathology. It is particularly so as this is a frequently found illness in the population of adopted children (4, 5).

Nonetheless, it is to be noted that most of the Malagasy children adopted in France are doing well, particularly once certain pathologies (parasites, malnutrition, etc.) are corrected.

They adapt themselves particularly well in their families, probably because of how adoptions

are carried out in this country and also due to the attachment of adoptive parents towards the Great Island. One does not come back untouched from Madagascar. Fond links are created which is all the better when the country of origin is liked and respected.

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FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES 

- **France:** **a)** *Sensibilisation a la question de l'adoption*, (Raising awareness about adoption questions) COPEs, Paris, 10-11 February 2011. **b)** *Projet pour l'enfant en accueil familial : enjeux de l'évolution de la professionnalisation des familles d'accueil* (Foster family project for the child: Evolution of challenges dealing with the professionalisation of foster families), COPEs, Paris, 23-25 March and 19-20 May 2011. **c)** *L'accueil familial des enfants à temps complet : rôle et dynamique du placement familial* (Full time foster families : role and dynamics of family placements), COPEs, Paris, 14-16 March and 16-18 May 2011. For more information: [www.copes.org](http://www.copes.org)
- **United Kingdom:** *Facing up to Facebook: The impact of social networking on adoption and fostering*, BAAF, North Wales, 9 February 2011. For more information: [www.baaf.org.uk](http://www.baaf.org.uk).

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