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**WE WISH YOU ALL A VERY JOYFUL AND PEACEFUL HOLIDAY, TRUSTING THAT, TOGETHER IN 2012,
WE WILL FURTHER CONTRIBUTE TO THE PROMOTION AND PROTECTION OF THE RIGHTS OF
CHILDREN DEPRIVED OF THEIR FAMILY!**

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EDITORIAL

Practical and ethical issues in relation to the prospective adoptive parents' (multiple) visits to the child's country of origin

An increasing number of countries of origin and receiving countries agree on the importance of prospective adoptive parents coming to the child's country of origin. The debate focuses today more on the requirements linked to these visits, and their impact on the child and the parents.

The international adoption landscape is leaning towards standard practice: the large majority of prospective adoptive parents are now encouraged to go to their child's country of origin during the adoption process. The ISS/IRC welcomes this step forward; the presence of adoptive parents in the child's country of origin is, indeed, an important landmark for him, and seems to be widely acknowledged at present.

Globally, the trend even seems for there to be an improvement of the requirements expected by countries of origin with regards to the applicants' visits: compulsory visit of both parents, extension of length of stay in the country, multiple trips, etc.

This type of requirements may constitute a roundabout way for the selection of those applicants, who are the most determined and/or well-off, and encourages us to reflect on their impact on the child's personal experiences, and their implications for the prospective adoptive parents.

Are the conditions set by countries of origin always considered in the interest of the child?

Despite the beneficial effects of the prospective adoptive parents' visits on the children, it, nevertheless, creates a paradox, when we observe, for example, the practice in countries such as Russia, Ukraine, Ethiopia or Bulgaria. The latter now require two trips from the prospective adopters: the first one is a brief stay aimed at meeting the child and spending a short period living together and, in some cases, at attending judicial proceedings, and then, another one to come and get the child at the end of the process. From the child's perspective, this is a delicate situation: in a very short amount of time, he becomes the centre of attention of these adults, who were, until then, unknown to him. The child may only just begin to accept this sudden tenderness when the parents have to take it away again, for what will inevitably be a very long time 'in the child's universal measure of time'.

If he is placed in an institution, the child will fall back into his routine and anonymity among the other children. This sudden meeting, followed by another separation, undoubtedly places the child in an uncomfortable situation, which may perhaps even further weaken his potential vulnerable emotional state.

When adoption becomes a privilege for some prospective adopters

Then, from the perspective of the prospective adopters, in addition to the important psycho-emotional factor during this waiting period, a more pragmatic issue relating to the global cost of adoption also comes into play: travelling to the child's country of origin twice require another budget. Very few parents choose to stay in the country until the end of the process, since the child might not even be able to be and stay with

them, and the logistical costs could be very high. As confirmed by applicants in some countries of origin (Madagascar, South Africa, Brazil, Colombia, Nigeria, Togo...), they must make arrangements to stay in the country for many weeks, or even many months, and this also carries a substantial increase in additional adoption expenses. Even though adoption is not a right, it should not become a privilege for the prospective adoptive parents, who have the financial means to meet such requirements. In order for adoption to remain possible for more humble applicants, receiving countries should be able to provide them with greater financial support, following the examples of Italy and the occasional French department, which offer, for instance, financial incentives (tax relief, zero rate loans, subsidies...).

Towards the necessary support for children during this waiting period

From the point of view of countries of origin, in those cases in which there are requirements as to multiple visits expected from prospective adoptive parents, it would seem fundamental to raise the awareness of professionals in relation to the child's personal experiences during the transition period, by encouraging channels of communication between the prospective adoptive parents and the child, and, of course, by including specific support to, at best, reassure the child and help him distinguish this separation from being abandoned again.

Even though the parents' travelling to the country of origin truly is a step forward, a thought should be given as to how best to combine the interests of the child with the practical conditions required of the adoption applicants.

The ISS/IRC team

ACTORS

Source: Hague Conference on Private International Law: http://www.hcch.net/index_en.php?act=conventions.status&cid=69.

- **Australia:** This country has updated the contact details of its Central and Competent Authorities.
- **The Netherlands:** This country has updated the contact details of its Accredited Bodies.

NEWS FROM THE INTERNATIONAL SOCIAL SERVICE – ISS

The ISS launches a call for funds aimed at the development of a Centre for International Family Mediation (IFM)

In the field of adoption (see Monthly Review N° 8/2011) or international parental conflicts, among other examples of our practice, family mediation holds an increasingly important position, as a tool of conflict resolution, and has attracted the interest of the international community. Indeed, the process of institutionalisation currently experienced by IFM relies on the strong political will of the Hague Conference and the European Union, which have constantly and actively been promoting it. An example is the place given to it in the Hague Conference's Special Commissions on the practical operation of the CLH-1980, of which the next one will take place in January 2012 (see http://www.hcch.net/index_en.php?act=progress.listing&cat=7), and the work already widely undertaken for the publication of a Guide to Good Practice, which will exclusively focus on this issue. Aimed at supporting this process

in concrete terms, the ISS has launched a project of creation of a Reference Centre for International Family Mediation (RC), with the mission of compiling the knowledge, skills and expertise of those human and institutional actors involved in the resolution of international family conflicts, and of facilitating, in a cross-cutting manner, communication and transnational cooperation in this field, in particular in cases of international parental abduction. This information, documentation and research centre has, as its priority goal, the promotion of IFM, through the support and development of good practices that are compliant with the child's best interests and cultural diversity. Furthermore, it aims to cover four main fields of activity at international and interdisciplinary level: information (review, documentation centre), training and awareness-raising (creation of courses, prevention campaigns), IFM expertise and counselling (establishment of a group of experts, replies to enquiries), as well as lobbying. In order to allow for the effective launch and the sustainability of such a project, which is essential to the concrete implementation of the process undertaken at international level, the ISS launches a call for funds to all the readers of the Monthly Review and their networks, which are directly or indirectly involved in mediation. As a vehicle of social peace and dialogue, the latter's development is the duty of all of us. We therefore rely upon your support. For further information, please contact Cilgia Caratsch, cilgia.caratsch@iss-ssi.org.

BRIEF

Taiwan: The Law on child and youth welfare has been strengthened

Whereas intercountry adoptions currently represent 13 to 15% of all adoptions undertaken in Taiwan (approximately 3,000 a year), strong suspicions of child trafficking with adoption purposes have led the Taiwanese government to amend the adoption procedure. So far, an adoption request could be confirmed by a local Tribunal in quite vague conditions with regards to the child's adoptability, the ethics of the organisations involved in the process... Now, only not-for-profit state bodies will be able to carry out adoptions (except for relative adoptions) and will be in charge, among other issues, of undertaking social reports. Furthermore, the new provisions of the Children and Youth Welfare Act will give priority to domestic adoptions, thus enshrining the principle of subsidiarity. The act of arranging a fraudulent adoption will now be punished with a fine of USD 9,788.60.

Sources: <http://www.jointcouncil.org/taiwan-governemnt-expected-to-pass-strict-laws-regarding-adoption-of-children>; <http://www.soschildrensvillages.ca/news/news/child-protection-news/child-trafficking-news/pages/taiwan-government-passes-strict-laws-for-adoption-088.aspx>.

Vietnam: Ratification of the 1993 Hague Convention

The ISS/IRC welcomes Vietnam's ratification of the 1993 Hague Convention on 1 November 2011. According to information provided by the Permanent Bureau of the Hague Conference, the Convention will come into force in Vietnam on 1 February 2012. The Ministry of Justice remains the Central Authority. It is worth recalling that Vietnam has initiated, since 2010, a process of legal reform aimed at strengthening the adoption procedure and at better protecting children's rights. This law of 17 June 2010 is in force since 1 January 2011.

Source: http://www.hcch.net/index_fr.php?act=conventions.status&cid=69.

A bilateral Franco-Russian agreement on cooperation in adoption matters has recently been signed

On 18 November 2011, a bilateral agreement, which establishes adoption procedures in accordance with international standards, was signed between the Federation of Russia and France. The latter will come into force upon its ratification by these countries' respective parliaments. As a reminder, two similar agreements were signed by Russia and Italy in 2008, and with the United States in July of this year. In particular, the Franco-Russian agreement establishes mandatory resort to an accredited body in every adoption, thus intending to ensure greater security in the process, and to simplify the procedure of recognition, in France, of the full adoption judgement issued in Russia. It is foreseen that such an agreement will soon also be signed between the Federation of Russia and the United Kingdom, the Netherlands, Spain and Germany. According to the Russian Children's Ombudsperson, his country will halt any adoption procedure with a country that has not signed any bilateral agreement.

Sources: Service d'Adoption internationale, France, http://www.diplomatie.gouv.fr/fr/enjeux-internationaux_830/adoption-internationale_2605/actualites_3230/2011_20577/traite-franco-russe-relatif-cooperation-dans-domaine-adoption-ete-signé-18-novembre-2011_96992.html; *Rianovosti*, 14 November 2011, <http://en.ria.ru/russia/20111114/168687502.html>.

India: Presentation of the new Guidelines for domestic and intercountry adoption

India's Central Adoption Resource Authority (CARA), has decided to extend the suspension of intercountry adoptions until 31 December 2011, due to the recent publication of new guidelines 'governing the adoption of children'.

Unlike the previous Guidelines, the new text jointly addresses domestic and intercountry adoption, and entails many changes for the actors involved and the adoption process¹. Moreover, it applies the same criteria and conditions to Indian and foreign prospective adoptive parents. In parallel, CARA has adopted a 2011-2012 action plan aimed at, among other things, organising trainings and post-adoption visits in receiving countries².

New developments concerning various actors

Aimed at greater clarity, the 2011 Guidelines have merged the intercountry adoption agencies (RIPAs) and the domestic adoption agencies (LAPAs) into a single entity: the *Specialised Adoption Agencies* (SAAs). These are responsible for, among other things, the matching process and preparing the post-adoption monitoring reports.

Regarding the foreign accredited adoption bodies (AABs), they are known as the *Authorised Foreign Adoption Agencies* (AFAAs). Here, a more centralised system is introduced; the AABs must now send the files of prospective adoptive parents to CARA – and no longer to the RIPAs (article 98-b). Moreover, it is expected that the AFAAs' licenses will be of unlimited duration, except in the case of suspension (articles 74 and 75). Beyond the move forward regarding the centralised control of the AFAAs, it is, nevertheless, weakened by the unlimited nature of their authorisation.

Another new actor: the *Adoption Recommendation Committee* (ARC), which has an important role in the framework of the intercountry adoption process. Once the match has been accepted by the applicants, it will have to ensure that the choice of applicants is suitable, and return – or not – a positive recommendation within a certain period. This is a new step prior to CARA's delivery of the no objection certificate (NOC).

Preventing abandonment and promoting domestic solutions

The new text significantly strengthens the State's obligation to prevent child abandonment and to promote family reunification, particularly in accordance with the United Nations Guidelines. This obligation previously fell to the LAPAs and was the subject of a very brief paragraph. Now, if parents express their intention to abandon their child before a SAA, the latter will have to undertake every possible effort to prevent this abandonment (articles 85 and following). If this has already taken place, every effort should be undertaken to find the biological parents.

Among the fundamental principles set out, these new Guidelines reiterate the principle of subsidiarity (articles 3-b, 8-1, 8-5), but provide for new arrangements for its application. In order for the child to be eligible for intercountry adoption, it is no longer necessary for the Adoption Coordinating Agency (ACA) to provide a *clearance certificate*, declaring that no suitable Indian parent was found within 30 days. However, a quota system has been set up: 80% of the annual total number of adoptions will indeed have to be domestic adoptions. It should, however, be stated that children with special needs are not included in this quota.

The ISS/IRC welcomes this policy of promoting domestic adoption, which has already borne fruit, as evidenced by the figures: in the first half of 2011, 259 intercountry adoptions were completed, whilst there were 3,621 domestic adoptions³.

However, with regards to the correct application of the principle of subsidiarity, the removal of the clearance certificate issued by the ACA raises concerns. Furthermore, the quota system is also an issue, given that nearly half of all intercountry adoptions involve children with special needs, and these are not included in the 20% intercountry adoption quota. It must indeed be remembered that the principle of subsidiarity also applies to children with special needs.

Children with special needs

According to these new Guidelines, children with special needs are those with a serious and/or visible disability, children over the age of five, groups of siblings and children, who had an extremely low weight at birth (article 44). The same article provides a non-exhaustive list of disabilities considered to be special needs. It is stated that older applicants and those, who are already parents, with either personal or professional experience with children with special needs, should be considered as the most suitable to care for them. As for the preparation of the child and the applicants, it is positive that it is specifically addressed. Thus, for example, the SAA must organise advice sessions for applicants.

Issues on pre-adoption placement

Despite being already in existence within the framework of domestic adoption, this placement is now possible for intercountry adoptions (articles 22 and 33). In other words, while waiting for the adoption to be declared, foreign prospective adoptive parents may take the child with them, following an authorisation from their diplomatic mission in India or from their Central Authority, and based on a judicial decision. However, this placement, which could be likened to a probationary period, offers limited guarantees. Indeed, some issues exist as to the monitoring of this placement; only reports are planned but nothing is said about the day-to-day support provided by professionals (article 37).

Furthermore, when the child does not adapt to his new environment, or when the adoption jeopardises the child's well-being, the AAB may decide to repatriate the child, or to entrust him to the receiving country's child protection services. These measures may be used at any time within two years of the court order authorising the pre-adoption placement, and as long as the adoption is not finalised (article 50). According to the ISS/IRC, this measure may put the child at emotional and legal risk.

Towards increased financial transparency

At national level, the Guidelines detail all the costs linked to an adoption (article 107 and Appendix XVI). Internationally, a lump sum of an increased amount is set out: USD 5,000 (adoption of a child) and USD 7,500 for two siblings. The Guidelines provide for this sum to go entirely to the Child Care Corpus, which is a fund managed by every SAA. The latter must use these funds to cover the child's care whilst in an institution, and for all the expenses needed to finalise the adoption. In addition, the SAA must create a separate bank account for these specific funds, which will be audited at the end of each year. The ISS/IRC welcomes CARA's effort aimed at offering maximum transparency in the financial transactions that occur during an adoption process.

Post-adoption reports and the search for origins

The AFAAs will now have to submit four reports to CARA during the first year (one every three months) and one report every six months in the second year. Furthermore, the AFAAs or, failing that, the receiving country's Central Authority, must organise annual meetings between adoptees and adoptive parents, and provide the latter with all the necessary advice once the adoption has taken place (article 48).

Regarding access to their background, one of these Guidelines' important steps forward is the recognition of the child's right to be provided with information about his origins. Exercising this right, however, is subject to the biological parents' right to anonymity, whenever they have explicitly expressed their wish to having it preserved. In such cases, only the reasons and the circumstances of the child's abandonment may be disclosed to him.

¹ Full text: http://adoptionindia.nic.in/guideline-family/new_guideline.html

²

http://adoptionindia.nic.in/others/training_calender.html

³

<http://www.hindustantimes.com/StoryPage/Print/669184.aspx> and

<http://www.deccanherald.com/content/206785/fewer-foreigners-adopting-india-indians.html>

Introduction to the potential psychological implications of illegal adoptions for the affected parties

As a result of the increasing visibility of potential cases of illegal adoptions, and as a follow-up to their legal implications as addressed in Monthly Review 10/2010, this article intends to introduce this issue from the psychological perspective and through an interview with an expert.

There are many potential psychological implications of illegal adoptions, and these undoubtedly affect all the parties involved in the adoption triangle. Every illegal situation has a particular background, and thus, might have very diverse consequences. Furthermore, the adoptive family's degree of involvement and awareness of the illegal – or unethical – situation is an additional factor in addressing this situation. In this context, this short article intends to highlight some of the potential psychological implications that may be observed, for example, in the subsequent interview.

The adoptees, uncertainty and identity

From the adoptees' point of view, a potential illegal adoption raises doubts as to the past and present of those affected. In relation to the first, the latter require information and knowledge about what happened, in particular in order to be able to initiate a search for their biological family, as well as for the process of full (re)construction of their damaged identity. This may be complex when the information or the doubts have not been ascertained yet, or when the illegal adoption did not come to light until the adoptee himself initiated the search process.

With regards to their present, the adoptees feel the need to seek justice, which they perceive as a contribution to the development of their identity and to the search for their family. In this process, building their identity – rather than replacing their adoptive family – remains the objective. In this process, as well as in the search for their origins and the potential meeting with their biological family, the support and preparation provided must be specific and adapted to these situations. They will require additional work, as much at administrative as at emotional level, given that the adoptees do not always know, who to direct their pain and anger at, and their imagination may be even wider than that of other adoptees. It is essential to help them control their emotions before they initiate an active search for their origins.

The biological families, their 'double grief' and guilt

In cases of potential illegal adoptions, the biological families, on the other hand, face the need to develop a new grieving process. At the time of the events, they had to face the grief of the loss of a child (death), sometimes even with a feeling of guilt, whilst they now have to confront a new grief, that of the lie, i.e. the development of a 'non-existent' grief. They also feel the need to seek justice with regards to what happened to them, which they sometimes also develop feelings of guilt about, for not having taken more measures, at the time, to remedy the deception and the lie. Of course, the preparation for the search for origins and for the potential meeting with the biological child requires even further support and preparation in these situations.

The adoptive families, their awareness of the situation and the future with the adoptee

In any case, but even more so when the degree of awareness or even involvement in the illegal situation is considerable, the adoptive families are faced with a significant feeling of guilt and accountability. In those cases, in which they were unaware of their child's background, they tend to feel deceived. Furthermore, when the potential illegal circumstances of an adoption come to light, the adoptive family is confronted with the fear that this will have a negative impact on their relationship with the adoptee; thus, they will require advice and psychological support in the (re)construction of the family identity.

Following this short introduction to the implications of illegal adoptions for those affected, we would like to suggest the reading of the interview that follows. It gives the floor to a professional working on these issues, who enlightens us as to the type of support that is adequate when faced with this situation.

Bibliography: J'ai été volée à mes parents [I have been stolen from my parents], Céline Giraud, 2009; Historias robadas [Stolen stories], Enrique J. Vila., Editorial Temas de Hoy (of the Grupo Editorial Planeta), Madrid, January 2011; Vidas Robadas [Stolen lives], Jesús Duva and Natalia Junquera, Ed. El País Aguilar, Madrid, 2011.

How to concretely help the parties affected by illegal adoptions?

In this interview, a professional with expertise in the search for origins shares with us his experience with all the humanity and professionalism that this issue requires.

Name, Surname: Jaime Ledesma del Busto

Place of residence/work: Madrid, Spain

Professional duty: Family mediator

1. Could you briefly describe the phenomenon of illegal adoptions reported by the Spanish media?

Basically, during the 1960s, 70s, 80s and, even in some cases, during the 90s, several irregularities occurred in adoption processes – not necessarily the ‘stealing of babies’, as usually comes to mind when we hear this term. The bureaucratic proceedings of the time were not required to be that transparent; this allowed some intermediaries to amend them as they thought fit, as has since been evidenced by many adoptees, who have initiated a search for origins. Some mothers were deceived, having been told that their baby had died, others were manipulated or coerced into relinquishing their baby for adoption... However, what appears to be obvious is that money was involved and benefitted a third party in all these cases.

2. What kind of support do the persons affected by this situation require?

Some require psychological support, when they feel overwhelmed by the situation and the uncertainty of not knowing how to build their own story with clarity.

In those cases, in which they do not have any medical information about themselves, they sometimes feel the need to submit themselves to a genetic study, in order to know the risks and what they may inherit to their descendants (even though this is not exclusive of illegal adoptions).

If they decide to initiate an active search about their origins, it is recommended that they do so via a family mediation process, which will support and help them (each of the parties) prepare themselves emotionally, adjusting the pace of timelines in relation to communication, measuring the dose of information submitted, and defining the points in common, prior to the potential meeting (see monthly review N°8/2011).

3. Do collective experiences (workshops, conferences, discussion groups, etc.) exist for the care of the victims?

There are collective experiences, which have been positive, and others that have been abandoned along the road. Some organisations, such as *La voz de los adoptados* and *Plataforma Afectados Clínica San Ramón*, have organised meetings, conferences and support workshops, since their creation in 2009.

The issue is that many of those affected remain without feeling prepared to face this publicly, and it is usually necessary for them to first go through individual therapy (and many others must rebuild a second grief of the grief they had undertaken for years on the basis of a lie).

On the other hand, we noticed that it was not convenient to create open ‘discussion groups’, because some victims could attend the event feeling impatient, with the hope of finding, then and there, their biological child/mother (or other potential relatives), without having first been counselled in relation to that moment. On the other hand, other victims did not wish to come, because they feared they could meet, by surprise, someone there, whom they were not yet prepared for.

4. As a mediator, what advice would you offer to someone, who finds out that his adoption resulted from an instance of fraud?

As much when the adoption has been illegal as when it is legal, the first basic thought that the adoptee must maintain, in order to initiate this process in a healthy manner, is that his ‘true family’ is the one that has been with him or her during all those years of his life, regardless of the circumstances that have led him to be part of this family system.

In any case, it is natural to feel anger, outrage and hurt, and spaces should be offered to them to express all this. Subsequently, they should channel it (with the help of psychotherapy) and,

finally, if they strongly feel the need to do so, they should solve it judicially.

I should add that, in addition and in general, at the beginning of a search for origins – including in a fully legal adoption – the imagination of many adoptees is to find out that, somehow, they have been the victims of an illegal adoption, because this would make it less difficult for them to confront the feeling of abandonment, by justifying the circumstances of their adoption and that of their biological mother.

5. What skills should those professionals, who support these persons, have?

Personally, I believe that those professionals, who support the adoptee in a process of search for origins, must be family mediators, who are trained on adoption. Any other person, even if he has very good intentions to help, will not be sufficiently qualified, because it is not merely about being an ‘intermediary’ between two – or more – persons, but about standing firm on the basic principles of mediation (neutrality, impartiality, confidentiality).

Nor is a family mediator sufficient, if he is not trained nor sensitive to the many important aspects relating to adoption, such as the feeling of abandonment, of gratitude, of conflict of loyalty... which are very common among adoptees. In general, the main skill to handle all these concepts and emotions is to be PATIENT throughout the process.

6. What are your views on the development of this situation, which unfortunately may recur? Are there means to prevent it?

The only way to prevent this from continuing to happen is for all the professionals working on adoption issues to have their eyes wide open in every step we take, and to report the smallest irregularity we may identify, as minor as it seems.

On the other hand, those parents, who now initiate a process of adoption play a very important role in helping reduce these irregularities. It is important that they always request all the information that may be gathered in relation to the child’s biological family (which, in addition, will be very useful in the future, if the adoptee decides to initiate a search) and, if they were to identify information that is not very transparent and that leads them to have suspicions, they should not look the other way, but intend to be honest with themselves, and report this adoption process, even though it may be difficult to give up this process and to have to open a new adoption file (furthermore, should they continue with this first process, this adoption would, on the long term, certainly become a hotbed of conflicts within the adoptive family with their child).

7. Do you have any message, which you would like to share with our readers?

Personally, I wish to say that those victims of illegal adoptions, who decide to investigate their process of potential illegal adoption/appropriation are as respectable as those, who do not yet feel the strength that is needed to confront the truth; they should not feel guilty for not having initiated this process of investigation. In addition, should they decide to initiate an active search for origins, they should always assess family mediation as a means to do so.

FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

- **France:** a) *Permanent training on foster care*, COPES, Paris, First session: 3 February 2012. For further information: www.copes.fr; b) *Origines, Dossiers, Lettres, Histoires, Accompagnements*, EFA, Paris, 23 January 2012. For further information: <http://www.adoptioneafa.org/>.
- **United Kingdom:** *Effective adoption support. Preventing adoption disruption*, BAAF, London, 20 February 2012. For further information: <http://www.baaf.org.uk/training/allevents/2012-02-20t000000>.
- **United States of America:** *Preventing Child Exploitation and Abuse – Working with children and families affected and displaced by disasters*, ISPCAN, San Diego, 22 January 2012. For further information: http://www.ispcan.org/events/event_details.asp?id=178340.

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.

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