



## Monthly Review N° 01/2012 January 2012

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*Erratum:* In the *Brief* in Monthly Review N°12/2011 on the signature of a Franco-Russian agreement on adoption procedures, it was mentioned that a similar agreement was expected to be signed between Germany and Russia. This information, which was published in the Russian newspaper *Rianovosti*, was denied by the German Federal Central Authority. According to the latter, the German Ministry of Family Affairs has confirmed that no intention, neither from the German side, nor the Russian one, exists in this direction. Furthermore, according to information provided to the German Embassy in Moscow by the Russian Children's Ombudsperson and the Russian Department of Education, there exists no legal process aimed at halting intercountry adoptions with countries, which have not signed any bilateral agreement with Russia.

### EDITORIAL

## New challenges in the search for origins...

*As a recurrent issue in adoption, and one that is continually changing in accordance with modern developments, the search for origins must today face new challenges, which the ISS/IRC is reflecting on, in particular, the growing role of social networks in this process.*

The ISS/IRC has looked into recent developments in the search for origins, both legally and practically. This research, which is now available on its website<sup>1</sup>, shows that this right is increasingly recognised and established nationally and internationally. However, its implementation does cause difficulties for all actors concerned (adoptees, biological and adoptive parents, States, professionals directly or indirectly in charge of this issue). The ISS/IRC offers to identify

these delicate situations and to examine possible ways to overcome them.

### The risks of searching directly through social networks

As shown in the account on page 6 of this Monthly Review, searching for one's origins through social networks, like Facebook, is not without risks given the total lack of professional guidance, prior preparation of those concerned, or even of

protection of privacy and confidentiality of personal information. When an adopted person makes direct contact with his biological parents through Facebook, he is at risk, in particular, of violating the law, going against the ways and customs of the country of origin and, sometimes, seriously compromising the safety and physical integrity of the biological mother. This may be the case when a child is born out of wedlock or to a single mother, in cases of incest or adultery, or when the adoption remains secret in the country of origin.

As it is impossible to exercise any control over the use of Facebook, States must urgently consider other solutions, such as raising awareness, training and prevention. To this effect, various initiatives are to be encouraged, like raising awareness as to the risks of using social networks among adoptive parents during their preparation, or even among adoptees during interviews prior to their search for origins. In addition, some countries have published recommendations on their websites in this respect. The fact remains that States have adopted neither regulations nor guidelines in this area thus far. Professionals and people involved are now trying to put together their own strategy to deal with this phenomenon, which is beyond them. To address this issue, the British professional training body British Association for Adoption and Fostering (BAAF) has published some tools aimed at educating and supporting them (see p. 6).

### **Adapting professional support in delicate situations**

Concerning more traditional searches for origins, in the majority of countries some form of support is offered to adoptees. That said, its quality and extent can vary greatly. Furthermore, it becomes more difficult and must be able to be adapted when adoptees find themselves confronted with delicate situations, such as a biological parent refusing to make contact, the discovery of fraudulent elements in the adoption, or even when their file has gone missing or been destroyed.

Faced with these situations, specific measures must be put in place by the States. Some are already offering adapted psychological support and family mediation services (see Monthly Review N°12/2011). In the total absence of any information on the family of origin, the qualified professional will be able— at least – to pass on to the adoptee information relating to the circumstances of his adoption and the most likely pieces of his

background, based on his knowledge of the specific characteristics of abandonment in the country of origin in question. If the adoptee does not have access to his origins, he will have to be creative and build them. If you believe the films directed by some adoptees, using your imagination can be of great help when building one's identity and piecing together the puzzle that is one's life.

### **The challenges related to new forms of assisted reproduction**

Beyond adoption, the search for origins also creates considerable challenges under other circumstances. For example, what right does a person conceived by in vitro fertilisation or artificial insemination of an anonymous donor have to his origins? While in some countries, legislation has ruled on the matter, like in Portugal (art.15 of Law N° 32/2006 of 26 July and Regulatory Decree N° 5/2008 of 11 February), Sweden or Austria, in some other States, such as Denmark, the matter remains in a legal limbo. These situations are the subject of debate and are already being studied, for example by the Evan B. Donaldson Adoption Institute<sup>2</sup>, according to which, 80% of children born by in vitro fertilisation or artificial insemination from an anonymous donor would like to know the identity of the donor and, to some extent, meet him.

These numerous questions call for countries and professionals to rethink the matter of identity and to adapt the responses to the needs of all concerned. The ongoing search for a balance between the right to know and the right to preserve anonymity is central to these debates that promise to still feature prominently throughout this new year.

(1) Summary/Analysis and appendices available in French and English at the following address: <http://iss-ssi.org/2009/assets/files/country-situation/synthesis%20and%20analysis%20access%20origins%20eng.pdf>.

(2) Survey *Offspring searching for their sperm donors: how family type shapes the process*, <http://bit.ly/mRHEUI>; see also *Old lessons for a new world: Applying adoption research and experience to assisted reproductive technology*, [http://www.adoptioninstitute.org/policy/2009\\_02\\_oldlessons.php](http://www.adoptioninstitute.org/policy/2009_02_oldlessons.php). See also stories on greater openness for donor assisted reproduction, National Public Radio, 17 September 2011: <http://n.pr/nljqYa> and <http://n.pr/qmypos>.

## ACTORS

Source: Hague Conference on Private International Law: [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=69](http://www.hcch.net/index_en.php?act=conventions.status&cid=69).

- **Germany:** This country has updated the contact details of its Central Authorities and accredited bodies.
- **Spain:** This country has updated the contact details of its Central Authority.
- **United Kingdom:** This country has updated the details on its contact persons at the Scottish Central Authority.

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## BRIEF

### Adoption by the UN General Assembly of an Optional Protocol on the creation of a complaint mechanism

On 19 December 2011, the UN General Assembly adopted a third Optional Protocol to the Convention on the Rights of the Child, which establishes a complaint procedure for violations of children's rights. Child victims of abuse and violations of their rights will now be able to submit a complaint to their committee of international experts – the Committee on the Rights of the Child – in those cases, in which they were not able to obtain legal redress for these violations in their own country (see Monthly Review N° 7/2011 for further details). The ISS/IRC welcomes this historical step forward in the field of child rights protection, and supports the campaign launched to promote the ratification of this Protocol by the highest possible number of States.

Source: CRINMAIL N° 1256, *UN General Assembly adopts complaints mechanism!*, 21 December 2011, [http://www.crin.org/email/crinmail\\_detail\\_popup.asp?crinmailID=4020](http://www.crin.org/email/crinmail_detail_popup.asp?crinmailID=4020).

### Romania: Entry into force of a new law on adoption

According to the President of the Romanian Office for Adoptions, Bogdan Panait, the law that has recently been approved will now allow Romanian citizens, who live abroad, to adopt Romanian children. Former provisions allowed the adoption of a child by his grandparent(s) living abroad, if their adoption request had been approved in Romania (art. 39 of Law 73/2004 on the legal status of adoption). This law also intends for children living in institutions to leave these sooner in order to be adopted domestically. Furthermore, the new Law states that a child born from unknown parents, or who has been abandoned, may become adoptable following a period of 30 days after the issuance of his birth certificate. Let us not forget that Romania prohibits intercountry adoption. The new Law has not amended the regulations applicable to foreign prospective adopters.

Sources: Romanian Office for Adoptions, <http://www.ora-gov.ro/communicates/press-release-19.html>; Press: <http://www.balkaninsight.com/en/article/new-law-to-speed-up-adoptions-in-romania>, and <http://actmedia.eu/top+story/new+adoption+law+makes+it+possible+for+romanians+abroad+to+adopt+children+from+romania+/36898>.

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## LEGISLATION

### Guidelines on the alternative care of children: two years on and going strong

*This short summary outlines some of the encouraging work undertaken in 2011 to protect children deprived of their family by promoting and applying the Guidelines.*

**T**wo years since their formal approval at the UN General Assembly (UNGA), the Guidelines for the Alternative Care of Children (Guidelines) continue to flourish, bringing solutions to actors in the field and thereby improving the rights of children. Translations into Dutch, Croatian, Bulgarian, Czech, Italian, Armenian and Georgian have fuelled this impact. Following is a non-exhaustive panoramic overview of 2011 highlights.

#### Awareness-raising activities

Numerous dissemination activities across the globe were undertaken. Starting in April was the

'Quality in Alternative Care Conference' in Prague hosted by SOS Children's Villages International and partners with over 400 participants. A workshop was also held in Tallin on 'The Role of National Human Rights Structures in the Protection and Promotion of the Rights of Children in Care' as well as a conference in the Netherlands, titled 'Child into a Family, which has a goal of finding 10,000 children families in ten years.

Without doubt, the crescendo for awareness-raising activities was the side event to the 3<sup>rd</sup> Committee of the UNGA. This event was organised by the Mission of Brazil, UNICEF, the

Better Care Network (BCN) and SOS Children's Villages International. It was the first of its kind at the UN to convene States Parties and civil society to discuss the challenges and successes in implementing the Guidelines. The panel presentations included the Special Representative to the Secretary General on Violence against Children, the Mission of Brazil, the Government of Maldives, UNICEF and international expert, Nigel Cantwell.

### Implementation tools

RELAF and UNICEF-TACRO have been busy developing implementation tools for grass-root practitioners, namely two friendly versions of the Guidelines, one for the personnel of public and private institutions and another for children (see p. 5).

Commissioned by UNICEF Damascus, ISS carried out an assessment mission in Syria in 2010-2011 against the background of the UNCRC and the Guidelines. To our knowledge, this is the first evaluation mission of its kind using the Guidelines framework and serves as an example of how other countries can similarly be assessed.

Additionally as part of its wider strategy, the NGO Working Group for children without parental care, based in Geneva, is developing an Implementation and Monitoring Handbook for the Guidelines. It targets policy makers (i.e.: those with direct responsibilities for alternative care measures), on-the-ground practitioners (i.e.: those dealing with children in care, but who also have some contact with policy makers), child protection specialists, advocates and civil society.

### Focus on specific issues

Following is a succinct summary of the work of some NGOs and their partners on particular subjects.

The BCN and EveryChild launched a paper on the alternative care of children with disabilities, urging their inclusion and the implementation of the Guidelines. EveryChild further used the Guidelines as a starting point for its positive care choices series, which looks at definitions, trends, cost-benefits and quality in different forms of alternative care. The first two papers launched in this series dealt with residential care and foster

care. Moreover, EveryChild, with other NGOs, is undertaking longitudinal research on the reintegration of children without parental care in four countries.

The Global Initiative to End All Corporal Punishment of Children, with Save the Children, is producing a new report on prohibiting corporal and other cruel and degrading punishment in alternative care and day-care for children.

As part of its activities, Terre des Hommes helped develop a foster care system in Haiti and produced a deinstitutionalisation guide in Nepal, *10 Steps Forward*.

SOS Children's Villages International and four National Associations are working with others to deliver an EU-funded peer-to-peer research project linked to issues around the preparation and support for leaving care.

RELAF, with several partners, prepared two reports on human rights violations of children deprived of parental care in Latin America: *Institutionalised childhood and adolescence: making serious Human Rights violations visible* and *Migrant children and adolescents: framework and situation for the fulfillment of their Human Rights*.

### Next steps

Whilst significant work has been done to promote and implement the Guidelines in 2011, further efforts are required, including ensuring sufficient budget allocations, the development of more options for children deprived of their family, as well as the establishment of more prevention programmes. The ISS/IRC is ready to take up the challenge and looks forward to working with likeminded organisations in the upcoming year.

*Note:* This information was taken directly from the memo sent to the NGO WG for children without parental care based in Geneva: <http://www.childrightsnet.org/NGOGroup/childrightsissues/WithoutParentalCare/>. See also: [http://www.everychild.org.uk/resources/policy\\_and\\_research/](http://www.everychild.org.uk/resources/policy_and_research/), [http://www.relaf.org/index\\_engl.html](http://www.relaf.org/index_engl.html), <http://www.endcorporalpunishment.org/>, <http://www.sos-childrensvillages.org/pages/default.aspx>.



## Workshops with children on the Alternative Care Guidelines in Latin America

*Several workshops have taken place throughout Latin America, based on user-friendly versions of the Guidelines, recently published by the Red Latinoamericana de Acogimiento Familiar (Latin American Foster Care Network, RELAF\*); a wonderful experience that RELAF now shares with the readers of the Monthly Review.*

**A**imed at contributing to the dissemination and implementation of the Guidelines for the Alternative Care of Children, RELAF – with UNICEF’s support – has produced two user-friendly versions: one for children and the other one for staff of public and private child-rights protection bodies. In the process of developing the publication *Tu Derecho a Vivir en Familia y a ser cuidado en todas las situaciones que te tocan vivir* [Your right to live in a family and to be cared for in all the situations of your life], they took into account the contributions from children, who are both, in or out of alternative care, in order for the final product to be easy to read and for the children’s own ideas on the matter to be incorporated. During the draft’s validation stage, 40 children were consulted from Argentina, Paraguay and Brazil during an activity that took place within the framework of RELAF’s 2010 Seminar. Furthermore, after the final text was completed, a consultation was undertaken with three children in different care situations and changes were made based on their contributions. In 2011, they have held workshops, using the material with both staff and children, and, based on these experiences, produced two booklets that provide training guidelines, which outline the methodology for holding the workshops.

### The workshops’ objective

The objective of the workshops is for the children to be able to learn and reflect on their right to live in a family and a community through the user-friendly version of *Your right to live in a family and to be cared for in all the situations of your life*; they also suggest that this version acts as a consultation and learning tool to deepen their knowledge of their rights, and consequently promote their active participation in achieving them. When planning the methodology, great importance was given to play, through which the children may freely express their thoughts and feelings about matters addressed in the user-friendly version: the responsibility of parents, the State and the care community, the features of

alternative care, the obligation to listen to the child when taking decisions that affect him, etc.

The workshops are divided into three parts, an initial part where they play games to socialise, where the aim is for the children to get to know each other and the workshop coordinators. In the next part, they engage in activities that aim for the children to reflect on the contents of the material, and to make it their own. Finally, the different groups are offered the opportunity to create a mural to show, through art, the issues they have dealt with. At the end, they are given the user-friendly version of the Guidelines and a certificate of participation.

### Giving all children a voice

Our aim – as with the booklets – is to be able to hold the workshops with all children, regardless of what type of care they are in (whether parental, institutional, foster care, etc.), by respecting the premise that rights, knowledge and access to them are equal for all. Thus, workshops were held with groups of children in different care situations throughout this year. From our experience, we noticed that the following matters were among those given most importance to by the children during play and discussion:

- the importance of children being informed of the reasons of what is happening in their family, or why certain decisions are taken;
- children are aware of the universality of rights and the responsibility of all adults (not only of the State) for fulfilling them;
- they considered it important that their wishes are taken into account when decisions are made, and that there is someone they can speak to when something bad happens at home;
- in most workshops, they asked for more participation in the preparation of documents concerning children and better access to information;
- in the event of separation, they requested:
  - a) for the place they go to live in to be near their family and friends;
  - b) a role model to turn to, even though they are not with their parents;

- c) for them to be able to choose which school to study at, the activities they want to do, etc;
- d) for contact with siblings to be guaranteed.

\* For further information on the RELAF/ISS project see: <http://www.relaf.org/>.

- (1) All RELAF resources are available free of charge in Spanish and English at: [www.relaf.org](http://www.relaf.org).
- (2) Videos of the workshops can be viewed at: <http://www.youtube.com/user/AcogimientoFamiliar?feature=mhee>.

## Facebook and post-adoption contacts: New issues

*Social networks are currently changing those post-adoption contacts, which are likely to occur between adopted children, adoptive parents and biological parents. Indeed, they provide these actors with the opportunity to directly get in touch with each other, without any professional involvement or preparation.*

**F**acebook currently has over 500 million users and has, for a few years now, changed the way people communicate among themselves. Thus, thousands of biological parents intend to get in touch with their biological children. Similarly, many adopted children and adolescents are searching for their biological parents through these networks. Adoptive parents may also feel tempted to gain information relating to their children's biological parents via these means. These situations are not without risks, and the need to have tools to confront these is increasingly felt.

parents may be tempted to get in touch or to simply go on Facebook to see who their children's biological parents are. Both cases mentioned in the attached box reflect the sensitive situations, which these new means of communication may lead to.

### What are the solutions to prepare and support the families at the hands of this new reality?

Faced with the distress of many parents and social workers, two guides <sup>1</sup> and <sup>2</sup> have been published by the British Association for Adoption and Fostering (BAAF). The first one is directed at adoptive parents, and is designed to prepare them and their children to the use of social networks. The second one is aimed at social workers, in order for the latter to be able to help the families in the appropriate use of these networks, and to warn them in relation to its potential consequences, in particular with regards to the initiation of contact with or by the biological parents.

### Disruptions in post-adoption contacts due to the emergence of social networks

Adoptions usually determine the way, in which post-adoption contacts may develop, should they happen. From one letter a year to periodic meetings, planning allows adoptive and biological families to prepare themselves. Planning these contacts makes it possible to consider the development of the families' situation, and to proceed to the necessary changes in accordance with the positive or negative consequences they may have entailed. However, social networks have totally changed these circumstances, given that the children or adolescents may get in touch directly with (or be contacted by) their biological parents, without being prepared for it and without their adoptive family knowing about it. Furthermore, adoptive

#### Practical cases

1. Katie was six months old when she was adopted. At age 14, she gets secretly in touch with her biological family. At the beginning, she was delighted, but then, contacts with her biological father and one of her sisters proved to be the opposite of what she had hoped for. She received threats and insults. Her adoptive parents found out what happened three months later. However, these contacts have proved to have had a positive consequence. They have enabled Katie to resume contact with one of her older sisters, who had run away from home, and whom she gets on well with now.
2. Parents, who had adopted a little boy, wished to see, out of curiosity, whether there were pictures of his biological parents on Facebook. They easily found pictures of their son's mother. However, they did not expect the latter's comments, expressing distress and regrets as to what had happened and about the fact that she would 'get her son back' when he would turn 18.

More particularly, these guides recommend adoptive parents to:

- tell their child his or her story, as openly and honestly as possible;
- tell their child that they will help him or her in contacting and/or meeting with his biological family, should he or she wish to do so;
- remember that information provided via the Internet is done so permanently and cannot be withdrawn;

- request, from their adoption body, an appointment for their child, with a social worker, who will explain him or her the implications and risks of a meeting, and the importance for the latter to take place in a safe and neutral environment;
- explain to their child that his or her siblings may not necessarily be prepared to know about this situation;
- remind their child that they will always be there for him or her.

The dissemination and increase of such tools appear to be essential nowadays, in order to be

able to efficiently face this new reality and to best protect the children and their families.

<sup>1</sup> *Facing up to Facebook – A survival guide for adoptive families*, Eileen Fursland, BAAF, 2010

<sup>2</sup> *Social networking and contact – How social workers can help adoptive families*, Eileen Fursland, BAAF, 2010

Sources:

<http://www.guardian.co.uk/lifeandstyle/2010/jun/19/facebook-adoption-tracing-birth-mother>;

<http://www.suite101.com/content/facebook-and-post-adoption-contact>.

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## READERS' FORUM

### Adoption takes to the stage: an artistic account from an adopted person in search of his origins

*Through his show, “Chemin de la belle étoile” (Path of the Beautiful Star), Sébastien Bertrand invites us to share his life story through music. Adopted when he was a few months old by a French couple, he decided 35 years later to return to Lebanon, his country of origin. The ISS/IRC is pleased to make its Monthly Review available to him...*

**Name, Surname:** Sébastien Bertrand

**Place of residence and work:** France, Lebanon

**Profession:** Artist

#### 1. How did you get the idea for your show? How did it come into existence?

The show *Chemin de la Belle Etoile* was born out of the need to talk and to share. At first, there was a show *Forêts* (Forests) by Wajdi Mouawad, and an actor friend, Yannick Jaulin, was in this play. The power of the text compels me to thank the invitation but it is a thank you that says more, a thank you that tells, that compels me to open the door, ask why, myself, my origins, my adoption, my undeclared search... but, above all, a thank you that is heard by actor and storyteller, collector... Yannick Jaulin, who did not let it drop, who questioned! “You! Adopted? I never thought!!!”.

Then, as if the doors could no longer be closed again, there was a meeting with Mouawad (he is also Lebanese – a coincidence?), then an invitation, at the same time, made to Yannick Jaulin to the Beirut storytelling festival! A coincidence again? I do not think so, and seize the opportunity he gives me to go with him! At that time, I still had no idea of the show... Upon returning from that first trip, facing questions from close relatives about the debate on national identity, my joys, fears and this recollection of the

*Forêts* show, like a trigger, I was, or rather we were, facing that need, the need to talk and to share...

#### 2. You have been playing the accordion since you were seven years old, what role does music play in your life? Does art allow you to overcome certain personal and social obstacles?

Indeed, since the age of seven, the accordion has been a fellow traveller! I use that term deliberately because I associate my practice as a musician with an encounter: an encounter with the instrument. In hindsight, I can well appreciate the power of this encounter. It allowed me to trust myself, to express myself, to talk, to share without fear of being judged. Art allows us, through this extension of ourselves, of our feelings... to speak a universal language, which, when we start to hear it, to experience it, actually allows us to overcome these barriers, codes... For many, I was – and still remain – the accordionist on the corner, supporter of a popular, well-rooted tradition, the torch-bearer of a daily culture... that is what I am! But behind this superficial dimension, art has allowed me to meet, to

express, to dare to speak, to express my words! A luxury!

**3. At what point in your life did you start to ask yourself about your origins? How did you become aware of this inner need?**

I have always wondered about my family origins! I.e. those of my adopted family! It took my experiencing love, lost love, confronting my doubts, my beliefs, my strength and inner resistance, in order to, at some point - at 35 years old - let go and dare to go and see, to look over to the other side! I do not think that, at that time in my life, I realised, but rather that I let go my consciousness, my made-up stories, my superficial answers, my means of moving forwards...

**4. Could you share with us your feelings before and after the trip? How does this journey continue today?**

Just a few words: appeasement, balance, peace, smile, strength... Today, I carry around in

my pocket this number: *two*! A unique opportunity, a 'two', which is now one! What a weight has been lifted!

**5. What message would you give to your adoptive parents today? And to your birth parents?**

To my parents: Thank you and well done! For having dared - dared to trust, dared to give!

**6. How would you describe your cultural connections today?**

In motion! They are originally based on my roots in the Vendée Breton Marshes, and at the same time, today they are slowly opening up and collecting sensitivities, new heritages with Lebanon! Like when a new graft takes...

**7. What would you like to say to adoptees, who, one day, decide to go in search of their origins?**

Do not hope to find any more than yourself from this search! Go there with your eyes open to what seems tiny, but is enough to get to the other side! The side of those who walk upright!

FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES 

- **France:** *The construction of the adoptive family*, COPES, Paris, 14-16/03/2012 y 11-13/04/2012. For further information: [www.copes.fr](http://www.copes.fr).
- **Senegal:** *Conference on Family Strengthening and Alternative Care in Sub-Saharan Francophone Africa*, Save the Children, UNICEF, BCN, March 2012. For further information, contact Claire Feinstein, [claref@waf.savethechildren.se](mailto:claref@waf.savethechildren.se).
- **United Kingdom:** a) Making good adoption assessments, BAAF, London, 15-16/03/2012. For further information: <http://www.baaf.org.uk/training/allevts/2012-03-15t000000>; b) Adoption. A case for radical reform?, BAAF, London, 27/03/2012. For further information: <http://www.baaf.org.uk/training/allevts/2012-03-27t000000>.



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