



Monthly Review N° 04/2012 April 2012

TABLE OF CONTENTS

Editorial

p. 1 [Haiti, two years on: A time of waiting](#)

IRC news

p. 2 [The guide on Intercountry Adoption and its Risks available in Dutch](#)

Actors

p. 2 [Montenegro, Rwanda](#)

Brief news

p. 3 [Guide to Good Practice N° 2, Bhutan, Cambodia, Lithuania, Montenegro and Rwanda](#)

Practice

p. 4 [Enfants en Recherche de Famille: A programme to promote the adoption of children with so-called 'special characteristics'](#)

p. 5 [Adoptability from a psychological perspective](#)

Readers' forum

p. 6 [Haiti, two years on: An a posteriori analytical account of a professional in charge of the emergency care of children adopted from Haiti](#)

p. 7 [Moratoriums protect children](#)

Forthcoming conferences, seminars, and courses

p. 8 [South Korea, United Kingdom, The Netherlands](#)

EDITORIAL

Haiti, two years on: A time of waiting

Two years after the earthquake, the issue of whether to resume intercountry adoptions with Haiti is insistently being raised, but for the ISS, it remains too early.

Last February, at a press conference in Haiti, the joint mission of the Committee on the Rights of the Child and the Inter-American Commission on Human Rights presented its initial findings in clear terms¹: 'Intercountry adoption in Haiti is an issue of growing concern'. The absence of a child protection system, inadequate and insufficient resources from the Institut du Bien-Être Social et de Recherches (Institute of Social Welfare and Research, IBESR – Haiti's adoption authority) and illegal adoptions carried out by some nurseries, are all factors that have been highlighted by the delegation.

For adoption professionals, these elements are nothing new. The ISS report on adoptions undertaken after the earthquake had already

noted that the general adoption conditions did not meet legal requirements and international standards, and that the 2010 catastrophe had even further weakened the already failing system. Regarding the 'aftermath', the testimony of an expert offers insight into the psycho-traumatic consequences for Haitian children adopted following the earthquake (see p. 6).

Ratification is not a panacea

The receiving countries involved with Haiti, as well as the joint delegation mentioned above, argue, quite rightly, for Haiti to ratify the 1993 Hague Convention, which it signed in March 2011. However, this crucial step cannot be completed successfully without meeting the conditions necessary for the Convention's implementation.

Amongst these, the adoption of a new adoption law replacing the – now obsolete – text of 1974 is vital. Yet, several versions of the new law have been submitted for consultation in recent years, but because of a lack of coordination, a version accepted by the Parliament has now been put before the Senate, while a new version still in development should be submitted to the Parliament soon. Moreover, according to Haiti's monist legal system, when the Hague Convention comes into force, it would entail the repeal of existing legal standards that do not comply with it, which is the case – at least in part – with the 1974 law. Consequently, there is a risk of creating a legal gap, should there be a rushed ratification, without any appropriate prior legislative review.

Temporary suspension

The practice of intercountry adoption has often demonstrated the need and usefulness of temporarily suspending adoptions when a country of origin has had to deal with comprehensive reforms of its adoption system as well as with bad practices inherent to that system's weaknesses (see p. 7). In addition, the transitional phase that must allow for the move towards applying the Hague Convention and its implementing legislation must, on the one hand, allow for pending cases to be completed, and, on the other, prepare for new procedures to be undertaken. To effectively carry out these essential steps, it is necessary for the country of origin to have time, and for it to clearly define the steps of this transitional phase. A

temporary suspension of procedures remains the most effective way to achieve these goals.

This position is in line with the manifesto recently published by UNICEF France, which also calls for a moratorium by the French Government at times of natural disasters in the country of origin with a view to freezing hasty and hurried adoptions².

Necessary support

The international community is now mobilising to support Haiti in its efforts. UNICEF, the Permanent Bureau of the Hague Conference and receiving countries members of the Group of Montreal are developing a strategy to strengthen the IBESR and improve the adoption system. ISS and Terre des Hommes are working on an additional project promoting the protection of children.

While there is hardly any doubt that adoption, whether domestic or intercountry, continues to be a useful measure to protect Haitian children deprived of their family, we must now allow Haiti to take the time required to ensure it is applied while respecting their rights.

The ISS/IRC Team
April 2012

¹ *Le Nouvelliste*, 22 February 2012:

<http://www.lenouvelliste.com/article.php?PubID=1&ArticleID=102940>.

² UNICEF France,

<http://www.unicef.fr/contenu/actualite-humanitaire-unicef/pour-une-adoption-internationale-respectueuse-et-protectrice-des-enfants-2012-02-10>.

IRC NEWS

The guide on *Intercountry Adoption and its Risks* available in Dutch

The ISS Guide for prospective adoptive parents is now available in Dutch. This new version of the document has been published thanks to the support of, and in close cooperation with, the Flemish Central Authority. Similarly to the French, English and Spanish versions, it calls upon the applicants' attention to the pitfalls and risks that may arise in the various stages of the adoption procedure, and offers questions that should be asked in order to avoid these pitfalls. In an A6 format, this Guide is designed to be very easy to handle and to be based on practice. It is sold in batches of five, at a price of CHF 5.- and may be ordered in all its version via e-mail (irc-cir@iss-ssi.org).

ACTORS

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

- **Montenegro:** This country has named its Central and Competent Authorities (see below).
- **Rwanda:** This country has named its Central and Competent Authorities (see below).

Permanent Bureau of the Hague Conference: Publication of the Guide to Good Practice N° 2

In February, the Permanent Bureau of the Hague Conference announced the publication of the final draft of the Guide to Good Practice N° 2 entitled *Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice*. This Guide, approved at the 2010 Special Commission, is the result of collaboration between the Permanent Bureau and an Expert Working Group, which the ISS was a member of. The Guide is, to date, available in English and French.

Sources: HCCH, <http://www.hcch.net/upload/adoguide2e.pdf>.

Bhutan: Suspension of intercountry adoptions

According to the U.S. Department of State, the Government of Bhutan decided to suspend intercountry adoptions as from 1 January 2012, pending the approval of a new law on adoption. The National Commission for Women and Children – the governmental agency, which carries out intercountry adoptions – is not able to state until when this suspension may remain in force.

Source: U.S. Department of State,

http://adoption.state.gov/country_information/country_specific_alerts_notices.php?alert_notice_type=alerts&alert_notice_file=bhutan_1.

Cambodia: Extension of the suspension of intercountry adoptions

According to the U.S. Department of State and to the French Central Authority – the SAI, the Cambodian Ministry of Foreign Affairs and International Cooperation recently announced that the moratorium on intercountry adoptions was extended until January 2013, in order to pursue the implementation of the new law on intercountry adoption in Cambodia, which was enacted on 3 December 2009, and therefore ensure an institutional and procedural framework in compliance with the HC-1993, which Cambodia acceded to in 2007 (see Monthly Review 05/2011). This information was confirmed to the ISS by the Cambodian Central Authority.

Sources: U.S. Department of State,

http://adoption.state.gov/country_information/country_specific_alerts_notices.php?alert_notice_type=notices&alert_notice_file=cambodia_3, *Service de l'Adoption Internationale* (France), <http://www.diplomatie.gouv.fr/fr/enjeux-internationaux/adoption-internationale-2605/pays-d-origine/fiches-pays-adoption/article/cambodge>.

Lithuania: New regulations relating to prospective adoptive parents

In accordance with an Order of the Ministry of Social Security and Labour of 10 January 2012, which came into force on 1 April 2012, as from now, only married Lithuanian citizens, who permanently reside in a foreign State, and married couples with one Lithuanian spouse, are authorised to submit a request for the adoption of a Lithuanian child. With regards to foreign adoption applicants, only married couples, who wish to adopt a child with special needs, will be able to submit a request. The applications of single persons will be rejected. This information was provided to the ISS/IRC by the Lithuanian Central Authority.

Source: Order of the Ministry of Social Security and Labour of 10 January 2012 N° A1-8.

Montenegro and Rwanda: Accession to the HC-1993

According to information provided by the Hague Conference, Montenegro acceded to the HC-1993 on 9 March 2012, and appointed the Ministry of Labour and Social Welfare as its Central Authority. As for Rwanda, it acceded to the HC-1993 on 28 March and appointed the National Commission for Children as its Central and Competent Authority. The HC-1993 will come into force in both countries on 1 July 2012.

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

Enfants en Recherche de Famille: A programme to promote the adoption of children with so-called 'special characteristics'

Created in 1981, Enfants en Recherche de Famille (Children in search of a family, ERF) is a service of the French association Enfance et Famille d'Adoption (EFA), which makes it possible to connect children awaiting an adoption and couples wishing and able to adopt a so-called child with 'special characteristics'.

Nowadays, in France, approximately 1,500 adoptable children are awaiting a family. The professionals of the ASE (Social Assistance for Children) call upon ERF to assess the possibilities of successfully completing an adoption project for a child with so-called 'special characteristics', to confirm the adoptability assessment, and to search for a potential family. Every year, the ERF service receives about 60 files of children and does everything possible to propose at least one family for each of them to the requesting social services. A strong partnership has therefore developed with the ASE teams that call upon the ERF service.

The profile of children of interest to ERF

Currently, the ASE submits requests to ERF for children with quite complex characteristics, from a physical point of view (considerable prematurity, Fetal Alcohol Syndrome, genetic diseases, malformations, etc) as well as a psychological perspective (relationship, behavioural disorders, learning disabilities, etc); some children suffer from an accumulation of characteristics at both levels. For younger children, the medical picture sometimes becomes more complex given the uncertainty of the development and extent of the syndrome. As for older children, in relation to whom ERF is called upon, they are older than seven years and have an often disrupted placement history. Even though they wish to be adopted, these children may have behavioural difficulties, which make the search for prospective adoptive parents more difficult. When ERF is called upon for a group of siblings, it is usually for older children (over the age of 6-7 years), often from abroad or very different from the 'European type'.

The 'ERF families'

ERF has an updated register of potential families, which the service supports in their project

and after the child's arrival. To date, ERF is in touch with about 60 families. Among these, 40% decide to adopt a child older than six, and 30% may consider a simple adoption or, for some, a sponsorship with a view to adoption. Half of the families already have one or several children. The applicants must submit a sound project that has been developed and reflected upon, and must have psychological flexibility in order to take on responsibility for adoptions that are known to be difficult:

- confirmed families that already have children;
- applicants for a first adoption, who have developed and matured their project.

The operation of ERF

ERF relies on approximately 50 local voluntary correspondents; the latter are often parents involved in the adoption of children with special needs. A national coordination is led by a clinical psychologist. The role of ERF is to disseminate information on the profiles of children in search of a family, to support the prospective adoptive parents in their project with a special focus on their limitations, to advise them in their procedures, in the search for additional information on specific needs, and the sharing of their experiences. Furthermore, the prospective adoptive parents benefit from support in their path towards the child (strengthening of their parental abilities, opportunities and limitations) and during the phase of matching and care of the child. The local correspondents are available to families in order to pursue the support well after the child's arrival. Indeed, the latter may perceive a time of hesitation after a year of care.

Since 1981, and to date, over 500 children have found a family thanks to ERF's actions.

Contacts: erf@adoptionefa.org and www.adoptionefa.org

Adoptability from a psychological perspective

Ana Berástegui, who is a Researcher at the Universidad Pontificia Comillas (Madrid), shares below her thoughts about adoptability, by emphasising the risks related to it, and offering some suggestions in order for it to be declared when it truly responds to the child's needs.

Adoptability, from a psychological perspective, entails the guarantee that, for the child, his integration into an adoptive family will be a better experience of growth and development than other feasible alternatives. This assumption is based on the child's possibility to create a full parent-child relationship, on his ability to build a sufficiently-safe attachment bond with his prospective parents and siblings, and to adapt to his new environment. Thus, a child's adoptability may be compared to the prospective parents' suitability.

Adoptability and its risks

Most children, who are adopted, break away from the context of risk, in which they used to be, thereby initiating a journey of recovery, and resuming their halted development. However, disruption studies highlight the circumstances, in which the adoption does not achieve its function; this questions the appropriateness of this measure for the child and the family.

From our point of view, in order for the child to be adoptable, he must *know*, he must *wish*, and he must *be able to*:

- First, the child must be informed of what is going to happen and must have been prepared for the adoption. He must understand, in accordance with his age and abilities, what the implications of his adoption are, and he must be guided in a process, as progressive and safe as possible, that brings him closer to his new life.

- Secondly, the child must wish; he must have been consulted or his views must have been explored, understood and taken into account prior to the adoption.

- Finally, the child must be able to become involved in a parent-child relationship. The adoption entails a legal, identity and emotional relationship. From a psychological perspective, it is primarily a *process of separation and rebonding* with new attachment figures. This reality is a considerable bet given that, in most cases, we are faced with a disrupted process of bonding. Together with the child's temperamental variables and the parents' sensitiveness, which interact in the creation of the bond when the adoption is a very early one, in most cases, we come upon:

- An interruption in the normal time sequence for the creation of an attachment. Neurology is starting to identify how sub-optimal attachment

experiences (nonexistent or harmful) in certain developmental stages may generate harm to some brain structures, such as the amygdala, and to the endocrine response to stress (reduction in oxytocin and vasopressin, and increase in cortisol levels), all these being linked to the control of emotional experiences and to the possibility of creating bonds in the future. These biological or neurological after-effects are not irreversible, but they must be taken into account.

- A certain level of experience of insecurity during childhood.

- A complexity in the development of internal work models. The attachment experience allows for the narrative reading of the emotional world and the latter's control, which therefore helps to give meaning to the internal state. On the other hand, sub-optimal emotional experiences make the development of subjectivity difficult, and the awareness of abandonment may even entail a narrative injury, which is difficult to handle, even when no trauma has been experienced.

When faced with these data, the following question arises: how to assess whether a harmed child is able to establish emotional bonds and ties of belonging, i.e. how to know whether he is adoptable?

Assessment of the adoptability

The assessment of the possibilities for success of an adoption is hindered by multiple and complex criteria that come into play, and by the fact that very little is usually known about the child's family background, his genetic heredity, his prenatal risks and his postnatal history; in addition, knowledge of his post-adoption history is sometimes very limited.

This assessment is not a linear addition of existing factors, but the consideration of existing elements, such as the harm's chronology (its precociousness and duration), the strength of the trauma (frequency and intensity of the traumatic factor) and the co-variation and interaction among various sources of risk.

In the research on risks and development, the success of an adoption may be perceived very differently, depending on the different concepts, which are sometimes mixed up:

- Protection: New harm is prevented in a risk situation.

- **Recovery:** The course of development is resumed without any signs of the existence of the trauma or the harm, and it catches up with levels or normalised functioning. According to recovery data, the later the recovery begins, the longer it will take; thus, it is very difficult to diagnose the degree of recovery capacity until a period of time has gone by of at least the length of time, which the child has spent in conditions of privation.

- **Executive functioning:** The development comes to a standstill and atrophies, and therefore we would, at the most, reach a level of daily functioning that is hardly adaptive; the child's treatment as a person with a permanent disability is necessary.

- **Resilience:** The organism manages to resume a development in expansion, which keeps the mark of the harmed period. The complication that arises from the study of resilience is that one of its feasibility conditions is the existence of an emotional relationship, on which the subject rebuilds his history and his development. Thus, we are sometimes faced with a circle, in which the attachment allows for the resilience, which in turn

is the one that enables the rebuilding of an attachment.

Conclusions

In conclusion, it is possible that not every child is adoptable from a psychological perspective. However, with the tools, which we currently hold, we do not know how to assess exactly the risk, which we assume in every adoption, and we therefore also cannot rule out, for any child, an adoption as an alternative. To promote that every child is adoptable regardless of his nationality, his characteristics, the risk resulting from his background history or his special needs also entails the promotion of the resources necessary for the parents to be able to confront successfully the stress involved in some children's family adaptation and in that of the family itself. Thus, adoption processes should place the parents in an active and well-informed position, in order to facilitate the efficient fulfilment of their functions.

The references of this article are available upon request at: irc-cir@iss-ssi.org.

READERS' FORUM

Haiti, two years on: An *a posteriori* analytical account of a professional in charge of the emergency care of children adopted from Haiti

Hélène Romano, a reference person at the Medical and Psychological Emergency Unit (Cellule d'Urgence Médico-Psychologique) and in charge of coordinating the emergency care at Orly (Paris) of children adopted from Haiti, gives us her account and invites us to think about the future of these children and their families.

It has already been two years since an earthquake devastated Haiti and the French government decided to urgently evacuate those Haitian children, whom an adoption order had been proposed for. Their reception was organised at Paris's Orly and Roissy airports.

Over 80% of them were under three years of age and the majority had never met their adoptive parents. Their care, so close to the event, confirmed to us the significance of psycho-traumatic consequences in very young children; it also made us face delicate ethical questions at the hands of political and media pressures, which left no room for the rights of the child.

The traumatic debt of children adopted from Haiti

Trauma, break-ups and the loss of attachment figures were unfortunately experiences already suffered by these very young children. For the

majority, these children still had their biological parents and were entrusted to nurseries with a view to adoption in cases of material poverty. What they experienced following the earthquake (confronting the disaster and for some death, the disruption of their references and living conditions, violent separation from those around them and their way of life), was added to previous trauma.

The adoption will not cancel out these children's traumatic debt. The trauma cannot be forgotten, it is part of the memories and the lives of those subjected to it, including very young babies. It is not so much the disaster of this earthquake itself, but the way in which its consequences have been dealt with that risk leaving a lasting traumatic mark on the lives of these children. In other words, the traumatic consequences following such a situation (traumatic past, earthquake, consequences of the earthquake, hasty adoption) will depend on what will be said, what will be implemented in order to

reassure these children and their parents as soon as possible. However, in order to be able to care for them appropriately, it is necessary to recognise them in the reality of what they experienced. Yet, the psychological suffering and the impact of the trauma on the children, in particular among the youngest, is too often trivialised or even denied and this happens all the more easily with the younger ones as they do not have the ability to complain, like the older ones would (Baubet & Moro, 2003, 2004).

Although essential, adoptive parents reject support

The majority of adopted parents showed us their enthusiasm to 'move on', with the delusion that forgetting it would be possible. We saw their reluctance to request help for fear of being judged given their difficulties, their lack of awareness of signs of the child's distress; their lack of references when faced with this new situation and a young child that they were just starting to know; so many sources of concern for the futures of these children and the adoptive relationships.

Supporting adoptive parents and professionals seems essential to us here, so that the reality of the possible consequences of this traumatic event (earthquake and hasty arrival in France) may be recognised. To deny the trauma's psychological scars is to cancel out these children's entire histories; deluding ourselves of the fact that they would only be able to be part of a life story from the moment their traumatic past is forgotten; failing to understand the child, exposing him to indifference, or even rejection. The issue of

appropriate care is therefore essential for the future of these children, as it is for that of the parents.

The future of Haitian adopted children

That is why, two years on from the earthquake, academic research has been initiated. This is being coordinated by Prof. Baubet and H el ene Romano, both in charge of the medical and psychological reception at the Paris airports. It aims, in particular, to better understand the psychological processes at work in establishing adoptive relationships in the context of humanitarian disasters.

Traumatic events are often at the root of compassionate reactions towards those involved. Once the emergency is over, the cameras leave, interests change and promises of help get lost. But for the victims, of any age, the psychological suffering remains very much a reality. To consider research on the future of these children adopted from Haiti means reestablishing the traumatic process in a temporality, which far from shocking the psychological dynamics, will allow us to develop these facts and bring out creative strength.

H el ene Romano
Doctor in Psychology,
helene.romano@hmn.aphp.fr

The references of this article are available upon request at: irc-cir@iss-ssi.org.

Moratoriums protect children

Patricia Paul-Carson, an adoption Consultant and former Manager of Intercountry Adoption Services at Human Resources and Skills Development Canada, gives her point of view on moratoriums on adoptions from countries where unethical practices occur.

Some people question the need to block intercountry adoptions from countries such as Cambodia, Guatemala and Nepal when there is such an apparent need for families for children from these countries. In such countries, the stealing, buying and selling of children for the purpose of adoption is endemic. The best way to protect these children and their parents is to prohibit all adoptions from these countries.

Strong doubts on the child's adoptability

It is difficult to determine whether a child is genuinely available for adoption because local adoption facilitators fashion fraudulent death certificates of biological parents, and consent to adoption forms. Finding a child in an orphanage is no guarantee the child is legally available for adoption. Many parents place their children in orphanages for short periods to ensure they have food and shelter, not with the intent of having them adopted. Immigration officials representing receiving countries have tried to validate these adoption documents by searching for birth parent gravesites, by examining DNA tests of people who

pose as parents to ensure their DNA matches that of the child, and by interviewing birth parents to determine that their consent to the adoption was freely given.

The need for moratoriums

However, there is no foolproof way of ensuring a child is legally available for adoption in countries where stealing children is a regular occurrence and the preparation of fraudulent documents is an art. As a result many receiving countries, such as Canada, Germany, the United Kingdom and the United States have, at different times, prohibited adoptions from questionable countries. One might also ask whether taxpayers' money should be used for validating documents when there are countries where ethical adoptions are more likely to occur and when there are often thousands of

children legally available for adoption in the receiving countries themselves.

The task of validating documents cannot be delegated to adoption agencies, as it would create a conflict of interest. No matter how well-intentioned agencies are (some undertake charitable work in countries where they process adoptions), they are paid by prospective adoptive parents to find a child for them, not to protect the interests of the biological parents.

Placing moratoriums on adoptions from countries where unethical adoptions occur is a first step to protecting children. Receiving countries need to collaborate more. Together, they can limit adoptions, except for those by relatives, to those countries where ethical practices occur and work carefully with them.

Patricia Paul-Carson

FORTHCOMING CONFERENCES, SEMINARS AND COURSES

- **South Korea:** *The 2nd Single Moms' Day Conference: Abandoning Discrimination, Adopting Mothers' and Children's Rights*, TRACK, KoRoot, KUMFA, Korean Single Parents Association, Seoul, 11 May 2012. For further information: <http://justicespeaking.wordpress.com/2012/04/08/fundraiser-for-single-moms-day/>
- **United Kingdom:** *Maltreatment and neglect – impact and interventions for looked after and adopted children*, BAAF, London, 25 June 2012. For further information: <http://www.baaf.org.uk/training/allevents/2012-06-25t000000>.
- **The Netherlands:** *Training workshop on European and International complaints mechanisms for violations of children's rights*, ENOC, The Hague, 4-6 June 2012. For further information: <http://www.ombudsnet.org>.

Erratum: A mistake appeared in our article entitled 'Sweden: A model of specific assessment and preparation of prospective adoptive parents wishing to adopt a child with a disability and/or disease', published in our most recent Monthly Review. It mentioned a compulsory training organised by the Central Authority, MIA, which is in fact not the case. For further information: <http://www.mia.eu/english/first.htm>.



The ISS/IRC would like to express its gratitude to the governments (including certain Federal States) of the following countries for their financial support in the realisation of this Monthly Review: Andorra, Australia, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Luxembourg, Monaco, New Zealand, the Netherlands, Norway, South Africa, Spain, Sweden and Switzerland.

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.