

**Monthly Review N° 11-12/2008  
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***We wish you all a very Happy Holidays  
and hope that 2009 will enable us to further contribute  
to the promotion and protection of the rights of the child deprived of a family!***

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## **Is immediate de-institutionalization always in the best interest of the child?**

*No doubt de-institutionalization is one of the main challenges in the field of child protection today. This editorial canvasses Brazil's process of de-institutionalization based on the Masters Thesis\* by Roberta Salle Levy which amongst others shows that de-institutionalization is not always optimal especially where alternatives are inadequate.* 

**D**e-institutionalization: even if it is one of the most complicated words to pronounce for non English, is present everywhere and every time when one speaks about alternative care measures. For the great majority of countries, it is now agreed that the systematic use of large institutions for children without parental care should be avoided. Alternative family measures have to be created and gatekeeping mechanisms (another great word) should be put in place. However, this evolution can not take place without considering the whole child protection system of a country, especially the existing alternatives that could supplement the closure of institutions. Brazil is a country illustrating this sharp debate, as it has a long history of institutionalization and has been in the process of de-institutionalization for a over decade.

### **A culture of institutionalization**

In Brazil, the placement of children inside institutions started strongly in the 19<sup>th</sup> century and was heavily relied upon during the dictatorship of Getúlio Vargas in 1937, when children and adolescents were considered as an object of national defence. The Code of Minors in 1979 also encouraged the use of institutions, authorizing the placement of children in educational, psychiatric or other environments, which was considered appropriate for their protection. The culture of placing children inside institutions is still prevalent as demonstrated by the current number of children in institutions. According to the survey by Instituto de Pesquisa Econômica Aplicada (IPEA) in 2004, there are approximately 19 370 of children living inside institutions, but it is estimated that this number is much higher in reality. Importantly 87% of children inside residential care have families and 57% of them maintain contact with the family of origin. Only 4.6% are

orphans, 6.7% are abandoned and 10.7% are considered adoptable.

Despite the common practice of placing children inside institutions, as early as 1869 the National Children's Home Foundation in the United Kingdom started to implement residential care with small units based on a family style system trying to offer a childcare system different from the habitual large institutions avoiding the negatives effects of institutionalization and providing an individualized service. Worldwide calls for de-institutionalization also surfaced in countries from the Central and Eastern Europe and the former Soviet Union after the end of the block. These global trends started to influence Brazil in the 1980's, when it started to implement initiatives to change the practice of placing children inside institutions.

### **Brazil's efforts to de-institutionalise are valiant yet premature**

Since the adoption in 1990 of the Statute of Child and Adolescents (ECA), in collaboration with Antonio Gomes da Costa, a former member of the UN Committee on the Rights of the Child (UNCRC), de-institutionalization provisions started to be implemented ensuring Brazil's compliance with international standards and trends. In 2004 the UNCRC also recommended that Brazil develop programs to prevent the placement of children in institutions. As one of its responses, the 2006 National Plan for the promotion, protection and defence of the rights of children and adolescents to live in a family and community was introduced and put the issue of institutionalization again on the Brazilian political agenda. The will towards de-institutionalization has also recently been shown at the international level through the Draft UN Guidelines for the Appropriate Use and Conditions of Alternative Care for children project, where Brazil is the leader of the Group of friends, working to raise support for the guidelines and to encourage its

adoption by the United Nations General Assembly. Unfortunately, despite the country's efforts to follow international trends a total de-institutionalisation of children appears to be premature due to the inappropriate alternative measures available.

### **Risks associated with the immediate closure of residential institutions are not adequately catered for**

In countries with high numbers of children in institutions as Brazil, alternative childcare measures need to be developed to absorb this upcoming contingent of people. The risks are linked with the absence of a comprehensive national survey showing the current number of children inside residential homes and therefore tailored responses to their needs not being able to be developed. Regarding foster families the country is still in an initial phase with important progress required such as the need to address disparities of number of foster families amongst states, lack of harmonised practices as well as no appropriate monitoring and training of foster parents. Concerning adoption, the profile of children that have been adopted in Brazil is less than one year, with white roots and without disabilities, contributing to the maintenance of children inside residential care because they are not fulfilling the profile searched by future adopters. Clearly better alternative measures must be implemented before there is complete de-institutionalisation.

### **Pre-requisite steps necessary before de-institutionalization**

There are pre-requisites necessary to allow the transformation of the system of institutionalization. The development of prevention services in order to support the biological family is one step to combat the main reason of placement: poverty. The recommended prevention services consist of material support to families, provision of day care centres, use of the extended family, raising awareness of the father's role and support in the workplace which are just some actions that should be undertaken. There should also be an acceleration of the judiciary procedures for the loss or suspension of parental rights allowing in this manner the adoption or the foster placement of children

which can be facilitated by a quicker declaration of the status of the child inside residential care. Another recommendation is the development of programmes to prepare the young adult that is leaving care for an autonomous life. Until these basics are addressed, the total abolishment of residential care is not still recommended.

### **Is immediate de-institutionalization in the best interest of the child?**

Institutional placement is not the ideal environment and the negatives effects caused to the development of the child cannot be denied. However immediate de-institutionalization cannot be considered in the best interest of the child when there is no appropriate protective measure able to grant the rights of these individuals and when the majority of these children can not be reintegrated into their families or placed in other types of out-of home care facilities.

Therefore, it can be prudent to maintain some of the residential institutions ensuring the quality of the care services until adequate alternatives are available. Countries such as Brazil need time for a complete transformation and the effective adaptation of its policy on childhood.

The steps forward for de-institutionalization recommended to Brazil are also useful for other countries that have inherited a child welfare system based on children's institutions and that are lacking a strategy to create sufficient and appropriate alternative measures.

\*This editorial is based on the research developed by Roberta Salle Levy during her Master Advanced Studies in Child Rights at IUKB/University of Fribourg and developed with the support of the ISS/IRC titled "End of residential institutions in Brazil: an appropriate measure for the Protection of Children and Adolescents or just a response to an increasing call for de-institutionalization?"

## ACTORS IN MATTERS OF ADOPTION

Source: Permanent Bureau of the Hague Conference: [http://hcch.e-vision.nl/index\\_en.php?act=conventions.authorities&cid=69](http://hcch.e-vision.nl/index_en.php?act=conventions.authorities&cid=69).

- **Colombia:** This country has updated the contact details of its Central Authority and list of foreign accredited bodies.
- **Germany:** This country has updated the contact details of its Central authority and list of accredited bodies.

## IN BRIEF

### **ECHR: European Convention on the Adoption of Children (revised) opened for signature since November 2008**

On 7 May 2008, the Council of Europe adopted a new Convention on Adoption updating the provisions contained in the Convention on the Adoption of Children of 1967. ISS/IRC has already provided a complete analysis of this new instrument in its Monthly Review 6/2008 focusing on the main changes introduced by it, inter alia, the consultation of the child regarding his own adoption and consideration of his opinion in accordance with his level of maturity, the obligation to set a minimum age difference between the adopter and the adoptee, the possibility to extend adoption for heterosexual or homosexual couples who live in the framework of a stable relationship and for single persons as well as the need for the consent of the child's father to his adoption when the filial ties are established. Although intercountry adoption is only mentioned on two occasions in the new Convention, it is to be envisioned that the latter will have an influence on the subject. This new Convention has been opened for signature since 27 November 2008.

Source: Council of Europe, New Treaties: [www.conventions.coe.int/Treaty/EN/projets/v3Projets.asp](http://www.conventions.coe.int/Treaty/EN/projets/v3Projets.asp)

### **United States: List published of agencies that have been authorised to provide adoption services which importantly includes those lacking authorisation**

On 21 October 2008, the U.S. Department of State published a list of agencies that were not approved to provide adoption services for Hague adoption cases. A list of adoption service providers currently accredited by the American Central Adoption Authority is also now available. The American Central Adoption Authority launched a new Internet on 17 November 2008 '[www.adoption.state.gov](http://www.adoption.state.gov)'.

Sources:

List of organisations not authorized: [www.travel.state.gov/family/adoption/convention/convention\\_4240.html](http://www.travel.state.gov/family/adoption/convention/convention_4240.html)

List of organizations authorized: [www.travel.state.gov/family/adoption/convention/convention\\_4169.html](http://www.travel.state.gov/family/adoption/convention/convention_4169.html)

## LEGISLATION

### **Slow but sure progress - 2008 report on the Draft UN Guidelines for the appropriate use and conditions for alternative care for children**

*Despite not yet being approved by the General Assembly (GA) in New York, there was nevertheless substantial foundational work undertaken in Geneva in 2008 ensuring that the goal is now closer.*

**A**ctivities promoting the Draft UN Guidelines started in March 2008 at the 7th Human Rights Council (HRC) session in Geneva with resolution A/HRC/7/L.34.Rev.1 encouraging its advancement. At the 8th HRC session in June 2008, there was more awareness raising for the Guidelines with a Special Event including an expert panel discussion, interactive dialogue with States, and oral

statements from ISS and SOS-Kinderdorf International. Ms Khattab a Member of the Committee on the Rights of the Child participated as part of the panel and encouraged 'the HRC to approve and present the Guidelines to the GA for adoption during its coming session as a matter of priority.' Further progress was made at the 9th HRC session in September 2008, where another resolution, A/HRC/9/L.26 was adopted aiming

to encourage States to consider the instrument and send their comments to the Brazilian mission before the 20 January.

The objective for 2009 is to galvanise support for the Draft UN Guidelines from the different countries represented in Geneva, fine tune the text without compromising its substance, have it approved by the HRC and later adopted by the GA in New York in the near future. The ISS/IRC as the co-coordinator of the NGO working group for

children without parental care and co-drafter of the text is committed to supporting the final stages of the adoption process, which will include bilateral discussions with Governments and public meetings to be held in February 2009. The ISS/IRC encourages its readers to promote the Draft UN Guidelines with their relevant Government Ministries so that they can transmit their support to the Permanent Missions in Geneva fostering a more speedy adoption process.

## PRACTICE

### **A commentary on Articles 20 and 21 of the United Nations Convention on the Rights of the Child (CRC)**

*In 2005 The University of Gand (Belgium), launched a series of books that provide an article by article analysis of the Convention on the Rights of the Child. The commentaries on articles 20 (children deprived of their family environment) and 21 (adoption) were recently published.*

**E**ach commentary in this series which is currently composed of 21 publications\* focuses on three principal axes: the background to the article based on its preparatory work, a comparison with other legal instruments for the protection of human rights, and an in-depth analysis of the meaning and scope of the article under review. Each commentary is drafted by a specialist in the field in question, which makes it possible to give the analysis a practical aspect, complementing the legal side. The series is only published in English.

#### **Article 20 of the CRC**

Article 20 of the CRC is devoted to the status of children who do not live with their family, either because they have lost their parents or are separated from them for various reasons, or as a result of a decision taken by a competent authority, which considers that separation responds better to the children's interests. From the outset the authors of this commentary (Nigel Cantwell and Anna Holzcheiter) stress that the definition of this article and its scope were not achieved without raising numerous questions. First of all, how do we interpret the notion "of a child deprived of his family environment"? Are we only talking about the biological family, or are the forms of placement within the extended family also covered by article

20? Do cases of "child-headed households" qualify as cases of children deprived of their family environment? The same question arises for street children and children whose mother is in prison, children displaced in their own country "internally displaced children" and unaccompanied minors. The obligations stemming from this article are thus quite large for States signatories to the CRC, since they imply that the latter will take all necessary steps to ensure the child has a form of care that corresponds best to his interests. The manner in which this formal obligation is met in practice often remains a cause for concern for the Committee on the Rights of the Child in its concluding observations.

The quality of the services, their availability, the procedure that leads to a placement decision, the alternative forms of care available are some of the many crucial questions addressed by article 20 CRC.

#### **Article 21 CRC**

Sylvain Vité, the former deputy co-ordinator of the ISS/IRC and Hervé Boéchat, the current director of the programme, have drafted the commentary on Article 21 of CRC devoted to adoption. The professionals who have followed the ISS/IRC publications for a long time will not, therefore, be surprised to rediscover in this publication themes that are dear to the ISS/IRC and the principles that it has been defending for nearly 10 years.



Whether it is a question of the best interests of the child in the specific area of adoption, the conditions for declaring adoptability, the role and place of domestic and inter-country adoption as a means of providing alternative care, abuses or even the principle of non-discrimination, the study addresses the essential questions that surround adoption by continually making reference to ethical principles and good practices. Furthermore, the analysis of preparatory work related to this Article helps shed more light to understanding its content. Lastly, as for the other commentaries in the series, Article 21 CRC is also seen in perspective to the other

legal instruments for the protection of human rights, which may concern people who are touched by adoption, particularly the European Convention on Human Rights and the jurisprudence of the European Court.

Sources: N.Cantwell and A Holzcheiter, "Article 20: Children deprived of their family environment", and S. Vité and H. Boéchat, "Article 21: Adoption", both part of the series *A commentary on the United Nations Convention on the Rights of the Child* (Martinus Nijhoff Publishers, Leiden 2008).  
\* List of publications available at:  
<http://www.brill.nl/default.aspx?partid=210&pid=22373>

## HUNGARIAN CENTRAL AUTHORITY: new measures for the prospective adoptive parents in 2009

*There are a growing number of countries of origin reacting to the pressure placed on their Central Adoption Authorities. Their response to the increasing influx of demands for intercountry adoptions are multiple and varied according to the needs of their children and their national context. Some countries opt for a radical solution such as the pure and simple suspension of all inter-country adoptions. Others choose more tailored options such as the introduction of quotas, the inverse flow of files or the restriction of criteria for adoptive applicants. As already developed in this Bulletin on numerous occasions, these solutions permit the countries of origin to conserve their resources, their time and energy to respond as a priority to the needs of the children deprived of their family as previewed in THC-93, as opposed to passing the majority of their time treating the dossiers from applicants that they receive. Therefore the SSI/IRC welcomes the communication from Hungary which is reproduced below as an example of a phenomenon that continues to spread.*

**T**he Hungarian Parliament ratified the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption in 2005. The Hungarian Central Authority has been dealing with intercountry adoptions since October 2005. According to the three years long experience and given the number of the children, their age and health status as well as the high number of the applicants being registered in the international registry the Central Authority determines how many applications they will accept in 2009.

The Central Authority is responsible for the applicants. We informed the accredited bodies several times the last months that there is almost no chance of adopting healthy children younger than 6 years old and in spite of this fact, we received applications wishing a healthy child under 6 even in the last days. There are more than 100 prospective

adoptive parents in our registry who want to adopt a healthy child or a child with small, correctable problem under six. So far in 2008 we could only help three international adoptions of children with these characteristics (there were some other young children, but they had older siblings). There are plenty of applicants waiting in Hungary and the children under 6 can be adopted in Hungary as well.

According to the abovementioned facts we

- do not accept applications in 2009 that are for the adoption of healthy children under 8 years old
- accept 10 applications from every accredited body (competent authority) that are for the adoption of a child (or siblings) above 8.
- accept 5 applications from every accredited body (competent authority) that are for the adoption of a mentally disabled or ill child who is under 8.

- accept 5 applications from every accredited body (competent authority) that are for the adoption of minimum three siblings.

Regarding the fact that there are a lot of couples waiting in our registry, and according to the Hungarian rules the couples are privileged, therefore we do not accept applications from singles as we do not see any chance that they could adopt from Hungary. Besides these we do not wish to

start cooperation with any new country or accredited body in 2009 regarding the high number of the applications and the low number of the adoptable children in our registry.

We will look through our registry every year and we will inform you at the end of every year about the applications we can accept in the future”.

Dr Zsuzsanna Ágoston, Senior counselor  
Hungarian Central Adoption Authority

## Nepal: Resumption of inter-country adoptions is still premature

*In spite of its wishes and efforts to recommence inter-country adoptions as soon as possible the country still does not offer adequate guarantees that protect the rights of children in need of adoption*

**N**epal is multiplying its measures to rapidly resume inter-country adoptions that have been suspended since May 2007 after various irregularities and cases of abuse were noted. The country has notably adopted new Conditions and Procedures for inter-country adoption and is working on a draft Adoption Law. It has also created two new entities (an Office for Research, Recommendation and Monitoring and Family Selection Boards), and has accredited 58(!) foreign adoption agencies. According to the American State Department, Nepal could therefore resume inter-country adoptions as early as January 2009.

In the opinion of numerous specialists, including ISS/IRC, such a recommencement would be very premature. In fact, despite the country's efforts to improve its system of child protection, the framework and transparency of adoption remains a cause of great concern. The alarming report published recently by UNICEF and Terre des Hommes bears witness to this.

### **The system of alternative care for children and adoption gives rise to numerous failures and irregularities**

The report of the two organisations describes a state of adoption and system that provides care for children deprived of their family scarred by irregularities and problems. The following areas are particularly affected:

- *The adoption procedure:* This suffers breakdowns at all levels. As described in the monthly Bulletin 3/2007, the report recalls that several children were adopted

unbeknownst to their parents or without their consent or without adequate information given to their parents. A number of them were also wrongly declared orphans before any search for their families had been carried out. Furthermore very often the steps to check the child's adoptability were only carried out after the matching. With regards to this stage, adoption applicants can also generally choose their child in the institution by themselves and sometimes even change their mind during the procedure. Moreover the post adoption follow-up is virtually nonexistent and the search for origins is extremely difficult because numerous adoptions are not subject to controls and registration.

- *The institutions:* There are too many of them and often offer a most inadequate quality of care and protection for children, particularly when it comes to equipment, psychosocial support and a follow-up with the family of origin. However it is difficult to have a very precise idea of the situation since numerous establishments are not registered, and thus escape any form of control and leave the door open to abuse.
- *Supervision:* The criteria and the necessary resources for supervision institutions are insufficient. Thus, only a third of the centres taken into account by the study have been visited and the number of surprise visits is extremely limited. These shortcomings facilitate the cover up of doubtful practices.
- *Alternatives to adoption and institutionalisation:* the majority of children who live in centres have a family. A lot of them have been entrusted temporarily by

their parents to ease their economic difficulties and to ensure a good education for them. These families would essentially need support to be able to care for their children themselves. Unfortunately that kind of assistance is almost nonexistent in Nepal. Moreover extra efforts should be employed to allow children who are really orphaned or abandoned to be taken into care by a family at the national level. Domestic adoption as conceived by the Western countries doesn't exist in Nepal making it necessary for alternative kinds of traditional care provision to be developed in a well supported way.

#### **Encouraging changes but still insufficient:**

The provisions made by Nepal since inter-country adoptions were suspended in May 2007 demonstrate a number of encouraging improvements, particularly at the level of registration of institutions. In fact institutions now need to be accredited and will have to provide the Central Bureau for Child Welfare with a charter of up-to-date documents. Furthermore a mechanism for supervising these institutions will be set up. Another positive step is the fact that the procedure for adoption will be centralised at the Ministerial level, with particular attention to matching. However, these changes are still largely inadequate and the following problems persist.

#### *- Number of intermediaries and their role:*

The accreditation criteria for agencies authorised for adoption (AAA) are poorly defined by the Conditions and Procedures 2008 and the number of intermediaries is still too high (58 agencies have already been accredited, of which 32 are for the USA which carried out on average between 60 and 70 adoption per year with this country before the suspension). This situation contributes to increasing the pressure on the country to earmark a sufficient number of children for inter-country adoption. This pressure will become all the more difficult to manage since the role of the agencies is not described thoroughly by the new regulations and since private adoptions are not formally banned and applicants can undertake their own adoptions through their embassy. In this context, there is still a risk that the institutions continue to play a central role in the process of adoption. But as mentioned above, the practices of a number of them

show serious dysfunctions that encourage abuse and trafficking of children.

- *Transparency of costs:* The Conditions and Procedures 2008 unfortunately offer little clarification of the costs of adoption. Under these conditions the risks of abusive financial gains, widespread before the suspension of adoptions still lingers.

- *Placements of sibling groups:* The Conditions and Procedures 2008 still limit the chance of adopting sibling groups, even when it involves twins. Such a restriction goes against all the international principles promoting siblings to be kept together. Moreover, it is disturbing that up till now prospective adoptive parents have not always been informed that the child they were adopting had a brother or sister according to the report of Terre des Hommes and UNICEF.

- *Status of Orphans:* The Conditions and Procedures 2008 provide a broad definition of orphaned children. This runs the risk of a considerable number of children being declared adoptable without sufficient guarantees that no other form of care is available.

In these conditions the ISS/IRC believes that the resumption of inter-country adoption would be particularly inappropriate. Before envisaging it, the country should wait until its new law on adoption -currently under preparation- is adopted, and that all the necessary procedures to protect the rights and the interests of children concerned be implemented including the ratification of The Hague Convention on the Inter country adoption. Improvements in the global policy of child protection must also be made. Furthermore, it would be desirable to wait until the political situation in the country has stabilised. Thus the country would be able to provide the necessary conditions to offer children an adequate provision of care and make intercountry adoptions safe.

*Sources: Adopting the rights of the child - a study on inter-country adoption and its influence on child protection in Nepal, Foundation of Terre des Hommes and UNICEF 2008. Available in English: [www.terredeshommes.org/index.php?page=res.tdh&lang=fr:Nepal](http://www.terredeshommes.org/index.php?page=res.tdh&lang=fr:Nepal) file of the French Adoption Agency: [www.adoption.fr/home/spip.php?article=197](http://www.adoption.fr/home/spip.php?article=197), Nepal File of the American State department: <http://adoption.state.gov/news/Nepal.html>*



## VIETNAM: Will my child come home? Shedding light on the grey-zones of international adoption

*Peter Bille Larsen is an anthropologist. During a mission in Vietnam last year, he met mothers from the Ruc ethnic minority who told him the story of their children adopted abroad without their consent. These testimonies are reproduced in the text below.*

Imagine, for a moment, that you were struck by poverty caused by the on-going financial crisis or harvest failure and took up an offer from local officials to have your child supported temporarily in a child care centre till your economic situation had improved. Now imagine going to visit your children, only to be informed that they had been sent abroad for international adoption and the official explaining that your house was too far away to inform you and let alone ask your opinion.

### A case study in itself

This was the story told to me by a Ruc mother in the remote part Quang Binh province of Central Vietnam. Ruc communities, a sedentarized hunter-gatherer people, only total a few hundred people. Within the last few years, several families had accepted to temporarily place their children in a provincial nurturing centre, only to later discover their children had been sent abroad. One mother explained how she had become worried and gone to town to see her children, only to be informed that they were gone. Officials had apparently told her that the distance had been too far to tell her about the children being adopted. She had received a photo picturing what seemed like a ceremony of her children being handed over to foreigners and was now seriously worried about the fate of her children. It seems likely that a legal loophole was used involving illiterate ethnic minority parents signing over all rights to their children thus allowing centre officials to have the children adopted without the consent of the parents. This occurred despite official letters from social authorities specifying the return of the children upon the improvement of living conditions back home.

Field investigations by the US embassy quickly confirmed the gravity of the matter and Italian authorities are currently investigating at least 4 cases of Ruc children reported to be in Italy. Vietnamese authorities have also undertaken a series of efforts to address irregularities in both Quang Binh and

elsewhere. In June, police arrested the heads of communal healthcare centres in another province (Nam Dinh) for illegally putting up some 300 children for adoption reportedly involving both Italian and French adoption agencies.

In response, Vietnam is also making a series of policy moves to strengthen legislation, centralize adoption activities and the management of funds. Interviewed about the specific case in Nam Dinh, the head of Ministry of Justice's International Adoption Agency, Mr. Vu Duc Long informed a journalist that "There will be no change for the children who were adopted. The violators in Vietnam will be penalised, the adopted children will not be brought back to Vietnam."

### Two questions thus remain

First, a part from the children whose cases are being investigated in the United States and Italy, Ruc parents mentioned up to 13 children from their 3 hamlets alone. It is also known that other ethnic minority children have gone through the centre in mention. The total number and the status of these cases is yet verified and assessed. It is now critical that the respective countries, not only Vietnam, but also Italy and the US, facilitate independent investigations into these cases giving the children a true chance to reunite with their families.

The second question now remains whether the Ruc children, and other victims of questionable adoption circumstances whose cases are documented, will see their families again. The question is not unique to Ruc parents, but is commonly experienced in many other cases of questionable international adoption practices. In the case of the Ruc children, it is particularly important to take their special situation and conditions into account when considering follow-up action. The older Ruc children (born between 1997 and 2001) will surely remember where they came from, still speak their language and may even be suffering considerably due to the separation. Don't they have a right to see their parents again?

Many actors in the adoption community today acknowledge the problem of questionable adoption practices, yet the return of children afterwards remains a grey-zone. Whereas the return and support for reintegration of children being trafficked for sexual exploitation, child labour and child soldiers are now part and parcel of international action, the question whether children having been trafficked for child adoption is somehow left behind. Why so? Besides the logistical difficulties of identifying birth parents, one argument seems to be the risks of putting children through another process of separation, travel and change. Furthermore, it may be suggested that a poor child from the South in the end would be better off in Western families. The argument, however seductive from a material perspective, is fundamentally flawed and discriminatory.

#### **What are some of the challenges at stake?**

For one, there is no doubt that the legal rights of birth families, who have not given their informed consent to adoption, to be reunited with their children should be upheld. I would certainly be happy to see my children again even if they had been sent to other end of the world and even if they had managed to adapt themselves to new living conditions. The fact that the parents are poor and largely illiterate should not influence how this basic human right is recognized and put into practice.

Secondly, there is easily a discriminatory bias in assuming that a child is better off in the West. Furthermore, all evidence from other indigenous peoples and ethnic minorities points to the traumatic experiences and stress children have experienced being placed in foreign cultural environments. While global experience has shown how indigenous children have generally adapted themselves to new adoption circumstances, it is also evident how many of these exact children continuously suffer from invisible wounds inflicted caused by separation. The emotions and relief expressed by indigenous representatives upon the recent official apologies in Canada and Australia are a case in point. The suffering from this period continues to be felt to this day, but at least serves as a global lesson in terms of the consequences at stake when separating indigenous children from their families,

communities and cultures however well-meant intentions may have been.

Thirdly, the argument about better material conditions in the West is fundamentally simplistic. Not only does it disregard the emotional and personal stress involved, the international community also has all the means and the responsibility to facilitate appropriate material conditions for the reintegration of poor children, who have been separated from their birth families. There is no lack well-intended child support programs in development cooperation. Such support could very well form part of a reparation package ensuring that the Ruc and other children not only return to their birth families, but indeed receive the support necessary (and available) for their reintegration, schooling and improvement. Such collaboration beyond boundaries is now urgently needed to bring back hope to Ruc parents and others, who have been separated from their children. This will require concerted action by both Vietnamese authorities and the international community. A number of steps have been taken in recent months to crack-down on questionable adoption practices revealing not just irregularities in relation to US adoption agencies, but equally European Union agencies as the Ruc and the Nam Dinh cases reveal. Vietnam is centralizing adoption practices. The US is after having been unusually vocal and critical of adoption practice, in the process of renegotiating a bilateral agreement after heavy lobbying by the US adoption community. Similar efforts are likely underway among European Union countries.

Yet, the question remains in the end what this really matters for children, who have already been pushed through the adoption process. For the moment, after several months of documentation and further investigations in a context of unusual public discussion both within and outside Vietnam, a solution has yet to be found. Wouldn't efforts to reunite children being separated from their birth families be a clear sign to both the Vietnamese public and prospective adoption parents that the system was indeed seeking to work in the best interest of the child?

Wouldn't it be considered a minimum that the rights of birth parents and children are taken into account when questionable and illegal trafficking of children for adoption has taken place? Wouldn't it also be a sign of respect

and support, not only for the specific families concerned but the wider Vietnamese population, if receiving countries of trafficked children committed themselves to provide the economic, moral and social support to facilitate rapid investigation, reunification and contact?

Had it been my children, I would certainly appreciate such respect and support. Wouldn't you?

Peter Bille Larsen, Anthropologist,  
Independent consultant

Source:

<http://vietnamnews.vnagency.com.vn/showarticle.php?num=01CAS150708>,

<http://vietnamnews.vnagency.com.vn/showarticle.php?num=02COM160708>, accessed 14/10/08 and

<http://english.vietnamnet.vn/politics/2008/08/800516/>, accessed 14/10/08

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## LETTER TO THE EDITOR

### Exposing myths about the number of adoptable children and the need for more precision when defining who is adoptable

*I read with interest the editorial of October 2008. I will argue that naming adoption applicants and non-government adoption agencies as the main driving forces for the demand for young adoptable children ignores the critical role played by Central Adoption Authorities (CAA) and adoption policies and laws in receiving countries.*

*I agree with the general tenure that intercountry adoptions (ICA) should only occur for children who are formally declared 'adoptable' and for whom no suitable alternative domestic care are available. However, exposure of myths usually creates new myths and the editorial was no exception. For instance, I doubt that all*

*people interested in adoption truly believe that all orphans and all unaccompanied and separated children are all adoptable. That there are millions of institutionalised children is not a myth as evidenced by UNICEF Innocenti Research Centre. Considering the well-documented and widely known detrimental effects of institutional care, people can be forgiven for thinking that all children who can not return to the care of their family, nor be placed in family-type care in their country, should be given the opportunity to join a family outside their country. The last myth concerns the perception that adoption applicants believe there are millions of babies waiting to be adopted. Over my 30 years of experience in the field of adoption\*, I have never gained the impression that this belief prevails in the adoption community. What I have heard from many in Australia, however, is the perception that there are many special needs children around the world waiting for families and their interest in adopting these children.*

#### **The Australian reality**

*In Australia, all ICA application and placement processes are the responsibility of State CAA*

*and provided by state government departments on a fee for service basis. I often hear people's sadness and frustration with restrictive state governments' policies and laws used to prevent applicants from adopting these waiting children. Low age limits on adoptable children is one such restriction. The proportion of children aged five years and over that was allowed to be adopted by Australian applicants has more than halved in the last decade.*

*The primary reason given by State CAA for the restrictions on older child and sibling adoptions is the perceived higher risk of disruption and becoming a socio-economic burden on Australian society. This belief prevails despite empirical evidence to the contrary.*

*From my experience I am well aware that not all adoption applicants are suitable to adopt children who need special considerations. However, of the families in Australia who were allowed to adopt older children in the past, the large majority bear testimony that these ICAs can be successful. With the assistance of appropriate and accessible post placement services there is no reason to believe that the high success rate can not be*

#### **HOW TO SUBMIT YOUR REACTIONS TO ISS/IRC**

- Texts need to be sent either in English, French or Spanish at [irc-cir@iss-ssi.org](mailto:irc-cir@iss-ssi.org)
- The text should not exceed 3500 characters
- The SSI/IRC reserves the right to selection which texts it will publish in this rubric

*maintained in the ICA of waiting children.*

*I conclude by urging any future discussions about the number of adoptable children and the perceived preference for young healthy children to include the CAA in receiving countries as key stakeholders who significantly contribute to*

*any 'demand and supply' dynamics in ICA by virtue of their power to decide which intercountry adoptable children are accepted driven, at least in part, by an erroneous economic rationalism of minimising or even avoiding the financial costs of providing*

*appropriate post placement resources and services.*

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#### FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

**United Kingdom:** *"Where Angels Fear to Tread"* Planning for disruption and working with families post disruption, Family Futures, 21 January 2009, London. Workshops will be held addressing the following key issues: the need to resolve whether a faltering placement should end, how to manage the move of a child whose placement has been disrupted; the work to be undertaken with children and families post disruption phase and how to handle the contact arrangement. The workshop will include a study of cases, existing practices and a training handbook for the participants. *Sibling Placements*, Family Futures, 4 February 2009, London. This presentation will address the complex problematic of placing siblings, their recommended separation in certain cases and the need for a detailed assessment of sibling attachments in order to provide an appropriate solution. *Matching – Assessments of Children & Perspective Parents*, Family Futures, 18 February 2009, London. This lecture will cover the framework for matching, showing the strengths and vulnerabilities of various prospective adoptive parents. For more information about the three seminars, contact Joanne Collet [joanne@familyfutures.co.uk](mailto:joanne@familyfutures.co.uk) F: + 44 020 73544161.

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*Table of contents of the Bulletins 1997 - 2008:*

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