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EDITORIAL

POST-ADOPTION (III/2): The search for origins 

Second part: practical questions

Having presented the different points of view on the right to know one's origins, we address, in this last editorial on post-adoption, some practical aspects of the implementation of the search for origins.

The offer of services in the search for origins is one of the essential historical purposes of the International Social Service. This activity has indeed been offered for many years by several branches of the organisation. These, thanks to the international network of branches and correspondents worldwide, and to the support of professionals, can efficiently supervise this, often difficult, step. It is therefore with the input of ISS branches that we hereby present some

important points in the implementation of the search for origins.

**Two different situations: children or adults
searching for their origins**

Today, adopted children more easily have access to their origins than in the past, in particular thanks to a trend (in the doctrine and the case-law, to a certain extent) to recognise a real right to know one's origins (see Editorial 4/2006). In addition, an increasing number of

countries keep information on the children's origins. Despite this progress, it is worth noting that a high number of children have little or no information on their origins or on their life before having been adopted.

Regarding adult adoptees, the search for origins is often even more difficult as past practices were different and favoured anonymity. In many cases, information is limited or is no longer available. Adults are usually interested in health heredity issues or in the reasons that led their parents to give their child for adoption.

Implementation of the search for origins

Practices followed in numerous countries show that effectively granting the adoptee access to his/her origins and to his/her walk in life presupposes *a systematic and coherent policy which can ensure the collection and preservation of personal and family data*, from the first contacts of a protagonist with the mother in difficulty or with the child. The keeping of a « *life story diary* » reflecting the evolution of the child throughout his/her placements ; *the sharing of information* between the successive protagonists in charge of the child (including between different countries, in cases of intercountry adoption) and *access to information by the adoptee*, whether he/she be an adult, an adolescent or even a child if necessary, must equally be guaranteed. In cases of intercountry adoption, the adoptee's access to his/her origins can also occur through visits to the country of *origin*; such trips of discovery are already being organised by some adoption protagonists, as well as by some countries of origin.

Guidance in this search

Frequently, the adoptee's access to information, which he/she is looking for, goes hand in hand with *preparation, counselling and psychological support* provided by professionals, either on a compulsory basis or otherwise. If *contact with the family of origin* is wished, the *intervention of a third-party professional* – a psychosocial body or authority – is often very useful. It must enable the interests of all parties concerned to be taken into consideration, to contact the parents of origin in confidentiality and with the possible support of professionals, and to inform the adoptee in a suitable fashion in relation to their wish for, or refusal of, contact.

In certain countries , «*contact registers* » have also been set up officially. Adoptees and parents, as well as brothers and sisters and other members of the family of origin, can record

their wish for contact, so as to inform any other interested party who could consult it. Furthermore, the issue of future contact should be subject to discussion with professionals *as soon as the adoption is concluded*, and the record of the wishes expressed at that time should be registered in the files.

In practice, some adopted persons sometimes contact a specialised agency in the search for families of origin. However, ISS-Germany states that, according to their experience, it is very rare that the adoptee and his/her family of origin express the need to meet in person or to remain in touch on the long term. It seems that the need for information is the most common ground for initiating such proceedings. However, the latter must equally be the subject of adequate framing.

When the parents of origin search for the adoptee

The situation is even more complex when the *biological parents*, or even other members of the family of origin, wish to know the adoptee's new identity (if it has not been communicated to them during the adoption procedure), to receive news or to contact him/her.

A problem of balance between the rights and interests involved also occurs here. However, the interests of the child should prevail in order to preserve the stability which has been built in the adoptive family.

Most legal systems in Europe *do not recognise the right of parents of origin* to impose their wishes to see a child again. Through the psychosocial work of specialised bodies, however, a certain number of States provide support services for parents of origin and *services of professional mediation* or « *contact registers* » in order to ascertain, as far as possible, whether or not the wishes of the parents of origin meet the current interests of the adoptee, with the respect for the private and family life of the adoptive family.

Relative adoptions

In the case of *relative adoptions which imply that the child has frequently had contacts with the members of his/her family* – even if the adoption severs the original legal ties – the question to potentially continue to maintain contact with some members of the family of origin should preferably be decided upon at the time of the adoption decision.

Policies and services to guarantee the success of an adoption

At the close of this file in four chapters, the ISS/IRC underlines the need for authorities, psychosocial bodies and professionals to envisage and introduce *post-adoption policies and services which foster* respect for the rights of the child, of the adoptive family and the family of origin. Such provisions are particularly indispensable in responding to the explicit requests for support of adoptive families, adopted children and parents of origin. These


services also constitute essential tools in terms of prevention of adoption failures.

The ISS/IRC team.

Previous editorials are available at: www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_edi.html.

You can also consult documentation Bulletins n° 3, 5 and 11, which provide a bibliography on this subject.

IRC NEWS

- **Project on distance training and exchange of experiences : New fact sheets on the ISS/IRC website** 
Three new Thematic Fact Sheets (n° 9, 10 and 11) have been issued. They deal with the decision to separate a child from his/her family environment, the legal process, and the termination of parental rights and its consequences. You can access all files on the ISS/IRC website: http://www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_fic.html.

CONVENTIONS AND INTERNATIONAL DOCUMENTS ON THE RIGHTS OF THE CHILD DEPRIVED OF PARENTAL CARE

Optional Protocol to the Convention on the Rights of the Child on the sale of children

The Protocol has 114 signatory States and 106 States Parties.

On 19 April 2006, 114 countries had signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and 106 had ratified or had acceded to it (see also Reviews 54, 63, 2005/6, 2005/10, 2005/11-12 and 3/2006). Among the new States Parties in 2006 appear Cyprus (ratification on 6 April), Burkina Faso (ratification on 31 March), Belgium (ratification on 17 March) and Latvia (ratification on 22 February).

As a reminder (see Review 63), this instrument, which came into force on 18 January 2002, requires States, among others, to cover under their criminal or penal law the act of an intermediary to « improperly » induce consent to domestic or intercountry adoption, in violation of the applicable international instruments (art. 3), in particular the 1993 Hague Convention.

Source: United Nations High Commissioner for Human Rights, www.ohchr.org/english/countries/ratification/11_c.htm

PROTAGONISTS IN MATTERS OF ADOPTION

Source : Permanent Bureau of The Hague Conference : http://hcch.e-vision.nl/index_en.php?act=conventions.authorities&cid=69.

- **China:** China has named its accredited bodies for the Hong Kong Special Administrative Region. The list is available on The Hague Conference website.
- **United Kingdom:** The Central Authority of England has updated its particulars: The Department for Education and Skills, Area D, Mowden Hall, Staindrop Road, Darlington DL3 9BG ; Tel: +44 (1325) 392 704 ; Fax: +44 (1325) 391 396 ; E-mail: ica.darlington@dfes.gov.uk ; Website: www.dfes.gov.uk/adoption. Wales has also updated the particulars of its Central and Competent Authorities: The National Assembly for Wales, Child Protection and Placements Team, Children's Health and Social Services Directorate, Cathays Park, Cardiff CF10 3NQ; Tel: +44 (29) 2082 3676

CHILDREN'S RIGHTS

BRAZIL: Information System for Children and Adolescents

The country is in the process of implementing a national database system on children and adolescents, which includes a module on adoption.

The Information System for Children and Adolescents (Sistema de Informação para a Infância e Adolescência, SIPIA) offers a registration and information-processing system in relation to the safeguard of fundamental rights provided for in the Statute of the Child and Adolescent (Law 8.069/90). SIPIA aims at a more objective and comprehensive reading of a situation by the Tutelary Council (a permanent and autonomous body which watches over the rights of the child in the municipalities), at directing the application of the most suitable measures and at supporting other authorities in formulating and managing care policies. As such, it is a tool for the actions of Tutelary Councils and Councils of Rights at the municipal, state and federal levels. In addition, the Juvenile Courts and the adoption support groups will equally benefit from this system in their work.

The system consists of four modules:

- SIPIA I – Promotion and defence of the fundamental rights enshrined in the Statute of the Child and Adolescent and monitoring of the violations of these rights, from the 1,320 Tutelary Councils;
- SIPIA II – INFOINTRA: Monitoring of adolescents in conflict with the law and of the socio-educative measures applicable to them;
- SIPIA III – INFOADOTE: Family placement, in the form of adoption, by national or foreign prospective parents;
- SIPIA IV – Support to the implementation of the Network of Tutelary Councils, Councils of Rights and Funds for Children and Adolescence.

SIPIA III: INFOADOTE

In November 2003, at the meeting of the Council of Central Authorities of Brazil, the 27 magistrates present and members of the Council decided to accept the SIPIA as the national

database on adoption. In the case of States which already had their own system in operation, it was decided that the data from each state database would be transferred periodically to the SIPIA. The Special Secretariat for Human Rights (Secretaria Especial dos Direitos Humanos, SEDH) then committed itself to provide the technical support to the States. It was then that Resolution N°07/2003 of the 2nd Extraordinary Meeting of the Thematic Commissions of the Council of the Brazilian Central Authorities was adopted, establishing the INFOADOTE module of SIPIA (26 November 2003).

The main objectives of INFOADOTE are as follows: (1) to register and support all domestic and intercountry adoptions in Brazil; (2) to provide information about couples interested in adopting; (3) to keep a register of all adoptable boys and girls in Brazil (this information is of restricted access, as only members of the judiciary may access it); (4) to enable an exchange of information that allows judges to select the best couple for a particular boy or girl (these data are also limited to members of the judiciary); (5) to enable the issuance of reports and statistics on adoption which are available to the general public; (6) to incorporate data from existing state databases and to integrate them in the Consolidated National Programme under the control of SEDH; and (7) to constitute an important working tool for judges and their technical teams across the country, enabling a stronger fight against trafficking in children in the country.

Implementation of SIPIA III

With Resolution N°07/2003, SEDH started to provide technical support for the implementation of the system in all 27 law courts of the States. To date, SIPIA has already been implemented in 10 States (Amazonas, Ceará, Espírito Santo, Minas Gerais, Mato Grosso do Sul, Pará,

Pernambuco, Paraná, Rio Grande do Norte y Roraima).

An adequate implementation and use of this system would ease the work of the professionals who practice in Juvenile Courts and in adoption services, for example. With that aim in view, it is necessary to overcome the differences between States, due to the acceptance of, or resistance to, the system, the existence of another support system or the financial or infrastructural deficiencies. It is indispensable that the provision, exchange and updating of the

information contained in SIPIA be done systematically so that the system may be used to its full potential and produce positive results. Despite the operational difficulties, which the implementation of the system has encountered, and which have postponed its full-scale use so far, it is a powerful tool in a country the size of Brazil.

Sources: Secretaria Especial dos Direitos Humanos, Autoridade Central Administrativa Federal, www.presidencia.gov.br/sedh/; International experts.

INTERDISCIPLINARY APPROACH

A global perspective on international adoption

A new publication edited by the Swiss Branch of ISS presents international adoption through a historical and global scope. Based on statistics of the last 30 years, the study puts into perspective the number of international adoptions that occurred in different countries of origin, with the socio-political context that prevailed at the same time.

In the past few years, professionals and international institutions have been concerned by the side-effects of the important displacements of child population related to international adoptions. Actually, the fact that Western societies are so keen on adopting children coming from the third world has generated great pressure on the countries of origin. Many of them are no longer in a position to « set free » enough children for international adoptions. Today, it is common to analyse this situation with economical terms: “the demand” being greater than the “offer”, exchanges cannot be balanced; this leads to some dangerous behaviours.

International adoption significantly emerged in Western societies at the beginning of the 1970s and has, since, not stopped developing. Nowadays, one estimates that 15,000 to 20,000 children are adopted per year worldwide.

The situation in countries of origin at a certain period and the number of international adoptions taking place at the same time are related

In this research work, the author, Hervé Boéchat, first considered Swiss statistics on international adoptions, in order to observe from which countries children have been coming in the last thirty years. This analysis clearly shows some links between the situation prevailing in

countries of origin at a certain period and the number of international adoptions taking place at the same time. The most obvious (and famous) example was Romania after the fall of the communist regime in 1989. From one year to another, adoptions between Switzerland and Romania raised from 4 in 1989 to 154 the year after. More than 10,000 children were adopted by foreign parents during that same year, even though, at the same time, public services were almost inexistent. Other shifting contexts have also had significant influence on the possibilities to adopt in different countries. For instance, wars in Korea and Vietnam played an important role in sensitising Western opinion in relation to international adoptions and in initiating important displacements of children. Breakdowns of state institutions have sometimes led to real «baby markets», and economic crises, such as in Eastern Europe from the 1990s, have also shown an increase of the number of children adopted abroad.

Yet, there are also positive factors influencing the possibilities for adoption in countries of origin. When authorities decide to promote domestic adoption, like Chile and India for instance, international adoptions are naturally decreasing. In the last decade, many countries endorsed new laws and regulations, requesting more guarantees about intermediary agencies and prospective parents. Stricter procedures

and conditions are now applied and adoption processes are no longer as easy as they used to be, putting greater emphasis on children's rights.

However, at the same time, the "demand" for children remains high and has to direct itself towards where international adoptions are still possible, taking into account that all these events have a direct influence on the choice of the prospective adopted child's country of origin.

International standards have been set up to try to oppose the pressure of the "demand" for children on countries of origin

Nevertheless, international standards have been set up to try to oppose this evolution. Therefore, the research recalls the manner in which the principles enshrined in the UN Convention on the Rights of the Child, and in the 1993 Hague Convention, have to be applied in the context of international adoptions. The role

of the different actors involved (international organisations, administrative bodies, accredited bodies, media and parents) in this process is also stressed.

As a conclusion, the author presents some directions that international adoptions may take in the future, based on the positions expressed by countries of origin and the necessity to preserve the best interests of children. To know which children are in need of international adoption, considering their age, health and origin, and to identify them, is probably a major challenge for the coming years.

«Adoption internationale: une évolution entre éthique et marchés » (« International Adoption : zwischen Ethik und Marktwirtschaft »), 2006, Hervé Boéchat. Publication available in French and German at <http://www.ssiss.ch/>.

Alternative forms of care constitute a range of options among which the best solution has to be found for each child

A recent issue of Early Childhood Matters, a journal published by the Bernard van Leer Foundation, maintains that there is a lack of clear guidelines for providing adequate care to children deprived of a family. It is hoped that the UN Guidelines project, launched by ISS and UNICEF, will fill this gap.

Theory and reality sometimes meet with difficulties. The issue of children without parental care protection is an example of this statement. Indeed, although it is widely agreed that family-based, national and permanent solutions should be preferred to institutional placements, responses to natural or man-made disaster affecting children do not always respect this principle. "From the Vietnam Operation Baby-lift of the mid-1970s to the Rwandan genocide and the conflict in ex-Yugoslavia, from Hurricane Mitch to the Gujarat and Bam earthquakes, responses have betrayed persistent and serious misunderstanding of, or disregard for, children's rights and needs", underlines Nigel Cantwell, child protection consultant and guest editor of the last issue of Early Childhood Matters, a journal published twice per year by the Bernard van Leer Foundation.

Entitled "Children without parental care: Qualitative alternatives", the publication states that there is a lack of clear guidelines for providing adequate care and gives suggestions as to how to improve existing mechanisms. It outlines also concrete situations of children

deprived of a family in several regions of the world and it presents examples of efforts made to improve alternative care for children, notably in Thailand and Tunisia.

There is still a long way to go for de-institutionalisation

It is true that the 2004 Tsunami revealed unprecedented homogeneity and rapidity of reactions which prevented cross-border evacuations, "emotional adoptions" and slowed down inconsiderate "orphan house" building. But there is still a long way to go for de-institutionalisation.

However, de-institutionalisation is more complex than "just" closing institutions and looking upon adoption as the best alternative. The aim is to find the best option for the child, which is the one that responds to his/her situation and need at a given moment in the most appropriate way. This perspective means that the child's situation is re-assessed regularly. Furthermore, according to Nigel Cantwell, the simplistic hierarchical consideration according to which "family based" options are by definition

good and “residential facilities” are at best “the last resort” and at worst “bad”, is the wrong basis on which to approach the question of out-of-home care. Alternative forms of care rather constitute a range of options. They are not a top-down listing as such, but should be seen as more or less appropriate for meeting the needs of a given child at a specific moment, so the aim is to identify the “first resort” for each child.

Kinship care is the most prevalent type of alternative care in developing countries

In this context, residential care does not always mean institutionalisation. It may even be an option to take into consideration, as long as the institution is “suitable”, conceived as a small group home and works to ensure that the child remains there only as long as necessary. However, assessing the facility’s suitability is complicated because neither the 1989 United Nations Convention on the Rights of the Child (CRC) nor the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption (THC-1993) give detailed indication on requirements for suitability. Guidelines should make this clearer.

Guidelines also need to support kinship care solutions (formal and informal) as valid options. In both developing and industrialised countries, it remains an important type of alternative care. In developing countries, it is even more of a norm than an option and alternatives other than institutions are rare. Although the benefits of kinship care are clear, a number of risks specifically related to it exist, according to the situation. These can range from exploitative, abusive or neglectful behaviour by relatives, to

their negative portrayal of birth parents to the child. They need to be recognised and assessed. Kinship care taking the form of child-headed households (under the responsibility of an older sibling) should also be addressed as it is becoming more frequent, especially in Africa.

Foster care would also need to be further discussed in guidelines. It is often considered as a solution for de-institutionalisation. However, it should not be forgotten that it rarely provides the guarantee of stability that “permanency planning” requires. Furthermore, fostering is a highly skilled service and the importance of appropriate training and effective support services must be recognised.

The project of UN Guidelines for the protection of children without parental care

It is hoped that the project of UN Guidelines for the protection of children without parental care, launched by ISS and UNICEF, will respond to the existing needs related to alternative care. The NGO Working Group recently released the first draft proposal of these guidelines. The next steps must principally take place within governmental and intergovernmental forum. The UN Committee on the Rights of the Child, following its Discussion Day, recommended that States organise an ‘*intergovernmental expert meeting*’ to finalise this document, with a view to its submission to the UN General Assembly for final adoption (see Monthly Review 3/2006).

Source: Bernard van Leer Foundation, *Children without parental care: Qualitative alternatives*, Early Childhood Matters, December 2005, 59 pp.

FORTHCOMING CONFERENCES, SEMINARS, COLLOQUIA AND COURSES

- **France** : *Législation et procédures de l'adoption interne et Internationale en France* (Legislation and procedures of domestic and intercountry adoption in France), Paris, 23-25 October and 13-14 November (in French). Organised by Copes (in collaboration with the MAI and the DGAS), this 2nd-level course, limited to professionals having already benefited from training on adoption, addresses topics such as the adoptability of children in France and abroad, the child’s interests in domestic and intercountry intra-family adoption, the difference between simple and full adoption, international administrative and legal instruments and their implications... For further information, contact Copes (Centre d’ouverture psychologique et social), 20 Rue de Dantzig – 75015 Paris ; Tel : +33 (0)1 53 68 93 40 ; Fax : +33 (0)1 53 68 93 45 ; E-mail : copes-formation@wanadoo.fr; Website : www.lecopes.com.
- **France** : *Séparation, attachement, création de liens dans la famille adoptive* (Separation, attachment, creation of bonds in the adoptive family), Paris, 9 June 2006 (in French). This day of reflection organised by Enfance et Familles d’Adoption will give the floor to several specialists on this issue, particularly psychiatrists, pediatricians and lawyers and is designed for childhood professionals, social workers,

therapists and students. For further information, contact Enfance et Familles d'adoption, 221 rue La Fayette, 75010 Paris ; Tel : +33 (0)1 40 05 57 70 ; E-mail : secretariat.federation@adoptionefa.com; Website : www.adoptionefa.org.

- **Kenya** : *Strengthening Existing Community Structure on OVC Care and Support*, Kisumu, 20-22 July 2006. The conference subthemes are: 1. Best Practices in OVC Care and Support Programmes. 2. Enhancing Child Participation on OVC Care and Support. 3. Promoting Policy that provide Support Environment to OVC Care. The conference will focus on the strengthening of existing community structures for OVC care and support but papers on all the major areas of OVC care and support management and policy influence will be considered. Conference registration by 10 June 2006. For more information, contact: The OVC Secretariat; Christian Children's Fund – Kenya; PO Box 14083 00800; Nairobi, Kenya; Tel: +254 20 4444890/3, 4445369; Fax: +254 20 4444426; E-mail: ovcsecretariat@ccfkenya.org.
- **United States** : *Looking Forward : A Global Response for Homeless Children*, Eugene, Oregon, 18-21 October 2006. This conference is open to international leaders working on behalf of orphaned, abandoned and vulnerable children around the world. It will examine the issues and challenges facing homeless and vulnerable children in order to collaborate more effectively on behalf of children, to share best practices of models and to work together as a collective child welfare community. It will also explore how global forces, trends and disasters impact long range permanency programs for children and it will examine how children are affected by natural disasters, war, social unrest, disease, HIV/AIDS, poverty and politics. For more information, contact Holt International, 50th Conference Coordinator; Phone: +1 541 687 2202; E-mail: 50th@holtinternational.org.

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It is not aimed at being posted on an internet website without the authorisation of ISS/IRC.*

Table of contents of the Bulletins 1997 - 2006:

www.iss-ssi.org/Resource_Centre/Resource_Center_EN/About_ISS-IRC/about_iss-irc.html. See publications.

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