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EDITORIAL

From respite care abroad... to adoption? 

Another facet of adoption on holiday presented in the previous editorial, which is becoming quite common, concerns groups of children from economically disadvantaged and/or disaster-struck countries being hosted temporarily by families in industrialised countries, not infrequently leading to the host family applying to adopt the child in question.

Thousands of children in State care, or living in families with difficulties, are invited for "holidays" abroad each year. They usually stay with host families for periods ranging from 10 days to several weeks. Canada, Germany, Ireland, Italy, Spain and the USA are among the main destination countries cited. These schemes, run by local NGOs, developed in particular in response to the Chernobyl disaster in 1986, then extending to other countries in the region as they embarked on "transition". The main countries now involved are Belarus, Bosnia-

Herzegovina, Kazakhstan, Romania, Russia and Ukraine. Most children concerned are aged between 7 and 16 years.

These holidays are, for the most part, conceived as "respite care" enabling the children to experience an improved living environment during the break, and in some cases have medical treatment during their stay abroad. At the same time, certain programmes are more or less explicitly designed to promote the adoption of the hosted children.

Un-researched and un-regulated area

Very little research has been carried out on the practice and ramifications of this activity. A rare exception is the 2003 study¹ financed by the European Commission's DAPHNE Programme which attempted above all to map the practice. It found, for example, that most EU countries have associations running such schemes: in 2002, Italian families hosted almost 31,000 children and Germany has taken in an annual average of 20,000 children since 1989.

There are no explicit international standards or principles governing this "respite care" abroad² and there appears generally to be little management and country regulation³ of these holiday schemes. This becomes particularly worrying when they might not only offer a loophole for by-passing adoption procedures but potentially could be placing children at risk of significant harm.

The best intentions... but no professionalism

Respite care abroad involves problematic issues. In many cases it is organised by people with good intentions but not always the necessary professional experience. Associations are in the best cases approved by the Authorities, but then they would seem to have considerable – and sometimes virtually complete – freedom of operation.

Selection and preparation of children and host families

The selection of the children is usually done by or with the director of the facility concerned or a local official, with the approval of the competent authority, on the basis of broad criteria. The children invariably travel in groups. On the other side, the associations are free to select the families. As there are generally no specific regulations in this respect, in practice the selection is not done by professionals and may often resemble "self-selection".

As far as we know, there are no criteria or professional standards to select which child should be placed in which family, and to manage the relations between children and families.

There is no real preparation of the children and families. Both need to be informed - preferably by a professional - about the aims and conditions of respite care and the possible outcomes and implications of the placement in question.

The return and follow-up

Another concern relates to the quality of follow-up and support for these children on return. For those in residential care, the fact that

they are suddenly placed into family life and then returned to their original facility has been shown in other contexts (e.g. Romania, Poland) to bring with it the risk of disturbing psycho-emotional consequences.

Similarly, children who normally live with their birth family may form emotional attachments with the hosting family: not only can they be distressed when these attachments are broken, but this may cause conflict in their own families on their return home.

When hosting leads to adoption

An even more difficult question arises when some of the children in the group are subsequently adopted. According to an Italian magistrate⁴ there are around 300 cases of this type in Italian Courts. The magistrate says that while this number would represent only 1% of the children who came in respite care annually, it could represent about 10% of the intercountry adoptions by Italians each year.

As far as we know, no research has been devoted to the results for children when "respite care" leads to adoption, and this constitutes a serious knowledge gap.

The preparation of the prospective adoptive parents, which has to be done once the child is already with the family, is another problem. The experience of the Adoption team of the Padova Unit, Italy⁵, shows that these candidates often refuse introspection. They are often idealising their future child and refuse to admit the potential difficulties. Specific preparation is then very difficult and it is also problematic to invite them to take part in the usual information/preparation groups. As these couples have already in mind the image of the hosted child, they are not very open to discuss their suitability to adopt. Indeed there is even a risk that other prospective parents decide to imitate them and try to facilitate their adoption process by adopting through respite care.

In addition to the problems already mentioned, the recognised adoptability of children going abroad for respite care is anything but given. This can lead prospective adopters to go to great lengths to secure their hosted child's adoptability after the placement, sometimes enlisting the help of the child him- or herself. The absence of professional "matching" from the start may also prove very problematic.

A chance for older children to be adopted?

Defenders of this system claim that it is very often the only chance for older children to be adopted. They maintain that active efforts are

very rarely made to identify adoptive families for these “hard-to-place” children. They also say that older children are unlikely to find adoptive homes if their selection depends only on their dossier, and that the kind of “probationary period” offered by a hosting programme is therefore vital.

Objectively, these arguments contain some truth. Nonetheless, it can never be forgotten that international standards are designed to protect children in the adoption process: they clearly apply in these instances but, as noted, are by no means necessarily being respected by hosting programmes.

An additional cause for concern is the stated aim of hosting programmes. In some cases, notably those involving trips to North America, facilitating adoption of these “hard-to-place” children is at least a declared objective of the programme. But such “transparency” is not necessarily the norm. The adoption-related potential of all too many hosting programmes is unspoken, implicit or deliberately disguised. There is every reason to question the motivation behind such secrecy. Might it not be, for example, a way of putting children “on show” away from the eyes of the competent authorities?

Finally, and more especially regarding hosted children who were abandoned or relinquished into residential care, the impact of “double rejection” experienced by those whose host family chooses not to proceed with adoption, and who see their peers being adopted in this manner, cannot be underestimated.

Some recommendations

Summing up, although this measure can be envisaged as a care option, at this point there is a significant risk of bad practice and violation of children’s rights. In order to avoid this, ISS/IRC would recommend that:

▶ All aspects of good practice (selection and preparation of the child; selection and preparation of the family; matching; follow-up) should apply in the framework of these programmes.

▶ There should be a monitoring of this type of activities⁶.

▶ In line with the recognition of its importance for regulating international placements (including “respite care”) falling outside the scope of the 1993 Hague Convention⁷, all countries which allow this type of placement – be they the hosting country or the child’s country of origin – should urgently consider the ratification of the 1996 Hague

Convention for the Protection of Children which would provide protection guarantees for children hosted in other Contracting States.

The ISS/IRC would be pleased to gather experiences and good practices on this difficult matter.

The ISS/IRC Team

¹ REMATCH Project (Risk Evaluation of Models of Assistance through Temporary Children’s Holidays): *Indagine sulle forme di accoglienza temporanea di minori e in particolare sul c.d. soggiorno a scopo terapeutico. Documento di sintesi*. CENSIS, Camino, EPE, Altea España. Rome, 10 November 2003.

² See the initiatives of UNICEF & SSI: **DRAFT** Guidelines for the protection and alternative care of children without parental care, www.iss-ssi.org/Resource_Centre/Tronc_DI/documents/DraftGuidelinesMay06.pdf.

³ **Denmark:** The Local Authorities have to approve the host families. The Ministry of Emigration supervises indirectly this activity as it has to give the visas to the children (Source: Ministry of Social Affairs, 2007).

Germany: There are no particular standards concerning respite care, but the general laws on intercountry adoption apply when the child is subsequently adopted. It seems that there is no formalized monitoring (Sources: ISS-Germany and Adoption Central Authority, 2007).

Italy: the “Committee for Foreign Minors” under the Ministry of Welfare monitors this type of activity (Source: REMATCH Project, 2003).

Netherlands: A policy is being developed regarding the certification of foundations involved in respite care. The idea is to regulate their supervision through a system of regular audits (Source: Dutch Ministry of Justice, 2007).

Spain: The Regulations of the Law for Foreigners (Decreto 2393/2004, art. 93) establishes that the regional Authorities have to give their approval for hosting a child. The Spanish Ministries of Foreign Affairs and Cooperation, Labour and Social Affairs and Interior coordinate the journey, stay and return of the child. The families who host the children have to sign a document stating that they are not going to adopt the child and that they are going to favour his return to his country (Source: Ministry of Labour & Social Affairs, 2007).

Sweden: The local social welfare board is responsible for all the children staying in the municipality. The National Board of Health and Welfare has drawn up national guidelines for respite care. The families that take care of the children do not need a permit or a consent from the local social welfare board although a social worker at the local social welfare board should make a judgement of the family’s suitability to take care of a child according to the guidelines (Source: Swedish Intercountry Adoptions Authority (MIA), 2007).

UK: Certain supervisory functions are carried out by public bodies (Source: REMATCH Project, 2003).



⁴ FADIGA, L., “Dall’ accoglienza all’ adozione”, *Rivista Diritto di Famiglia e Minorile*, 03/10/2006, www.dirittominorile.it

⁵ MORO, A., “Le adozioni in Bielorussia: riflessioni cliniche e ricerca di nuovi percorsi operativi”, paper presented in the National congress “Apprendere dall’esperienza” (Learn from experience) organised by the Piemonte Region in Torino, Italy, 22-24/11/2006.

⁶ See footnote n° 3.

⁷ Conclusions and Recommendations of the Second Meeting of the Special Commission on the Practical Operation of the 1993 HC (September 2005), para. 21.

IRC NEWS

- **Project on distance training and exchange of experiences – New Fact Sheets on the ISS/IRC website** : Two new training Fact Sheets (N° 31 and 32) have been issued. They address the follow up and post-adoption services and the search of origins. They are available from the ISS/IRC website: www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_fic.html.
- **A strengthened team** : Roberta Levy joined the IRC team at mid-January for a long term internship. Roberta makes this internship half-time and in parallel, she does a Master degree in Child Rights at the Institut Universitaire Kurt Bötsch in Sion and the University of Fribourg, Switzerland. As a Brazilian lawyer, Roberta is specialized in child guardianship, adoption and protection (sexual abuse cases) and family mediation on divorce. Among others, she worked as a mediator and then as a judge for the Small Claims Civil Court in Porto Alegre, Brazil.

PROTAGONISTS IN MATTER OF ADOPTION

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

- **Australia, Hungary and Switzerland:** These countries updated the contact details of their central authorities.
- **Denmark:** This country updated the contact details of its competent authority.
- **Germany:** The länders of Thüringer and Saarland updated the contact details of their central authority and the country also updated the list of its adoption accredited bodies.
- **Republic of Moldova:** The Government of this country recently announced a reorganization of its ministries: the former Ministry for Health and Social Protection is divided into two new ministries, namely the Ministry of Health and the Ministry of Social Protection, Family and Child. The latter will be responsible for all child protection issues, including adoption. The former Committee for Adoption is also dissolved. The composition of the new Ministry will be submitted to the Government in two months for approval.

INTERNATIONAL DOCUMENTS ON THE RIGHTS OF CHILDREN DEPRIVED OF THEIR FAMILY

United Nations Convention on the Rights of the Child of 1989 (CRC)

To date, there are 193 State parties to this Convention.

Montenegro has become the 193rd State Party to the CRC. Formerly part of the State Union of Serbia and Montenegro, the Republic of Montenegro held a referendum on full independence from the union on 21 May 2006. It was granted admission to the UN as the 192nd Member State by a vote of the General Assembly on 28 June 2006. The seat formerly

occupied by Serbia and Montenegro passed to the Republic of Serbia.

Today, the CRC is the UN convention the more widely ratified in the world. Only two states did not ratify it: the United States and Somalia.

Source: Office of the United Nations High Commissioner for Human Rights:

www.ohchr.org/english/countries/ratification/11.htm

PROCEDURE

Cambodia: Is the country ready to resume inter-country adoptions?

The question of resuming inter-country adoptions continues to be a very sensitive one: on the one hand, countries like France, envisage shortly a resumption in adoptions, while, on the other hand, several interlocutors are expressing serious concerns about this rush to resume.

The situation of inter-country adoption in Cambodia remains a sensitive one. In the past, several countries, such as France, the United

States, the United Kingdom and Switzerland, have halted inter-country adoption procedures with this country. Since then, France and the United States have collaborated with the

Cambodian Government to enable a possible resumption of adoption (see Bulletin 1/2005). On 8 June 2006, the French authorities signed a protocol of co-operation with Cambodia defining the modalities for a new adoption procedure, but agreement to resume adoptions has not yet been finalised.

Legislative changes

The National Assembly of Cambodia has for its part approved the Law of accession to the Hague Convention of 1993 on Intercountry Adoption (THC -1993) last November. This law should be at the present time in the Senate and be signed by the King shortly thereafter.

Moreover, the draft Law on Inter-Country Adoption has been reviewed by an inter-ministerial committee to ensure its concordance with the Civil Code and that of the Code of Civil Procedure. It should be sent back to the Council of Ministers for approval. Unfortunately, there was limited civil society input in the development and review of this law, due to non-disclosure of the draft and no avenues for discussion and comments.

Finally, it would seem that in view of its agreement with France, the Government should be in the process of elaborating regulations for the accreditation of adoption bodies. French adopters will have to go through and adoption accredited body or the Agence Française d'Adoption (French Adoption Agency) in order to adopt in Cambodia.

Need for changes of practice

Despite the legislative improvements in the area of inter-country adoption, nothing indicates that a global policy for child protection would have been yet elaborated.

Furthermore, it seems that numerous inadequacies will remain in the implementation of these legislative changes, and that practices lack a professional setting. On this subject, the Cambodian League for the Promotion and Defence of Human Rights (LICADHO) notes with concern that to date nothing has improved in terms of protection and procedures leading to the adoption of Cambodian children. What is more, a resumption of adoption, even with a law in place, without genuine political will nor major reforms by the authorities, runs the risk of encouraging illegal and unethical practices that already occurred in the past to persist. The inter-country adoption system will continue to be plagued by issues of non-enforcement and non-regulation.

Very few adoptable children and priority for the older ones

In this context, the Federation of French Adoptive Families (EFA) visited Cambodia last December to assess the situation of adoptable children at the time of a possible resumption of adoption with France.

EFA claims to have noted that very few children are adoptable: traditionally abandonment is rare and normally the extended family takes care of such children. Adoptable children are more likely to be older and male. It should be noted, therefore, that according to the EFA everything seems to suggest that a resumption of inter-country adoptions would bring about a corresponding increase in the number of babies arriving at the orphanages.

Adoptability of healthy baby is questionable

With regard to the declaration of adoptability, the EFA stresses that few children have a clear legal status because of the lack of information about the origin of adoptable babies. Prospective adoptive parents must, therefore, be very careful with regard to orphanages that offer healthy babies with an unknown past and are declared adoptable.

Minimal changes

As underlined by LICADHO, it would be necessary, before resuming inter-country adoptions, to have a proper regulation of orphanages; to create a central database for children taken into care by the orphanages, which should have considerations about confidentiality and access; to set up a mechanism responsible for examining the files of children put up for adoption, including their antecedents; to create as well a good system of matching that meets the needs of adoptable children; to respect the double principle of subsidiarity (subsidiarity of domestic adoption to keeping or returning the child to his/her family of origin, and subsidiarity of intercountry adoption to domestic adoption); to have specified and transparent fees and proper penalties for abuse of law; and to strengthen the fight against child trafficking in general.

Sources : UNICEF-Cambodia ; EFA, Report on mission to Cambodia (in French), December 2006, www.adoptionefa.org/pdf/cambodge0612.pdf ; LICADHO, www.licadho.org; French Adoption Central Authority (www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/conseils-aux-familles_3104/adoption-internationale_2605/actualites_3230/cambodge-16-06-2006_14426.html) and USA Department of State (www.travel.state.gov/family/adoption/country/country_361.html).

A Rapid Assessment of Children's Homes in post-Tsunami Aceh

A recent publication of the Ministry of Social Affairs and Save the Children UK showed that more than 85% of child victims of the Tsunami in Children's Homes still have at least one parent alive.

The waves of the Tsunami still have an impact today. Recent research by the Indonesian Ministry of Social Affairs and Save the Children UK, supported by UNICEF, showed that 2,589 children victims of the Tsunami are living in the 207 active Children's Homes of Aceh. Despite the fact that not all child victims of the Tsunami are being cared for in institutions in Aceh, this is a much lower figure than initially announced just after the disaster. However, the situation remains worrying.

A great number of placements are the result of the impact of the disaster on carers and families' ability to care for a child

The mentioned research – entitled *A rapid Assessment of Children's Homes in post-Tsunami Aceh* – showed that the reliance on institutional care is still very strong in Aceh. Many families are facing important challenges related to the Tsunami and, as a result, many parents and relatives feel compelled to place their child in an institution. According to the publication, more than 85% of the child victims of the Tsunami have at least one parent alive. Over 42% of the children still have both parents and 43% have only one parent alive. Half of the children were placed in homes immediately after the disaster, but almost the same number were placed some time after the disaster.

These different features confirm that a great number of placements are the result of the impact of the disaster on carers and families' ability to care for a child due to loss of earnings, employment or housing.

Once there are placed in a home, the children seem to remain there for a long time. Over 75% of children had already been in the institution for over ten months at the time of the research, and only 2.43% have returned to their family. Furthermore, there is a widespread expectation that children should remain there until completion of secondary education (over 98% of children in the homes are attending school). However, part of the child victims of the Tsunami

at least seems to keep contact with their parents: 46% have had more than one meeting with them.

Intervention directly targeting families who are facing challenges in the care of their children should be prioritised

In the aftermath of the disaster, the government of Indonesia took an essential step to prevent separation from family and community by promulgating a new *Policy on Separated Children, Unaccompanied Children and Single-parent Children affected by Emergency Situations (2005)*. This policy clearly states that *children receive the best care when they are in a family environment and remain in their community, culture and religion* and that *every effort must be undertaken so as to ensure that children are able to stay with their families and communities*.

Among its recommendations, the report underlines that *this policy should be disseminated more widely and intervention directly targeting families who are facing challenges in the care of their children should be prioritised*. Furthermore, *funding by the government and private donors should be shifted away from supporting institutional solutions and instead support family and community based interventions that are sustainable*. In this context, *no new Children's Home should be built in Aceh without prior assessment of clear needs for such an institution that cannot be met otherwise*. These measures should help Indonesia to better sustain families, encourage family reunification and take a new step towards deinstitutionalisation.

Source: *A rapid Assessment of Children's Homes in post-Tsunami Aceh*, Indonesian Ministry of Social Affairs and Save the Children UK, with support from UNICEF, 2006. Available at the following address: www.crin.org/docs/save_uk_aceh.pdf and www.crin.org/docs/save_uk_aceh_appendix.pdf (Appendix).

Foster Care in Paraguay

Foster care is an alternative to the institutionalization of children. It makes it possible to keep the children in a family environment while efforts are made to resolve a particular problem in their family and to prepare for their reintegration in this family or, if reintegration is not possible, to look for an appropriate adoptive family in Paraguay.

Paraguay ratified the United Nations Convention on the Rights of the Child in 1990. This situation made it mandatory for the State of Paraguay, to review a number of its customary practices and to amend them in the light of the new doctrine.

Within this framework, and guided by the civil society sector, work began on a new Code for Children and Adolescents that would replace the former Code for Minors in force since 1981.

Although the new code was approved in 2001, inter-country adoptions were halted in 1995 by Law no.678/95 due to the alarming state of child trafficking in the country, and in 1997 Adoption Law no.1.136 was passed. Domestic adoption is established as a subsidiary measure, that is to say only carried through when it was not possible for the boy or girl to be reintegrated in his/her family of origin. Inter-country adoption is, in its turn, subsidiary to domestic adoption, although it has not functioned since 1995.

Programme of foster families

The Centre for Adoption began to function in March 1999 and since then this governmental organisation has given rise to the first Programme of Foster Families in the country, supported by UNICEF, with the aim of keeping children in a family environment, while attempts are made to reintegrate them in their family, and in case this does not prove possible, to look for an adoptive family in Paraguay.

This first working experiment served its purpose and gave rise to two others programmes of foster care that today are under way in the country, initiated by civil society.

These three programmes seek, first and foremost, to make it possible to provide this kind of response for the protection of children (focused mainly on early childhood) who, besides being deprived of the parental care of their family, find themselves placed in institutions that do not provide an integral response to their needs. However, the institutionalisation of children in Paraguay continues to be the most frequent response, a

situation that offers proof that the doctrine of “Situación Irregular” (doctrine which considers the child as an object of rights instead of subject of rights) turns out to be too deeply ingrained.

Nonetheless, these three above-mentioned programmes include in their practice the job of preserving the ties with the family of origin and the foster care. Maintaining the family ties is done with both the close and the extended family, initiating a process of professional support, evaluation and help in seeking to make the most of the child's ties with his family of origin.

Foster care takes place in foster families within the community, who as an act of solidarity, collaborate both with the child and with his biological family.

Work on the theme of the NGO Enfoqueninez

Enfoqueninez (ChildFocus) is a civil society, non profit-making organisation, whose mission is to give a concrete response to the protection of children separated from their families, respecting

Connaître ses origines, quels droits pour l'enfant en Communauté française ? (Getting to know one's origins, what are the rights for the child in the French Community?)
Coordination des ONG pour les droits de l'enfant, Bruxelles, 2006, 97 pp.

This study analyses how the right to know one's personal origins is applied today in the Belgium French Community. It adopts in priority the children rights perspective, but it considers also the human rights point of view. The psychological implications are studied. The CODE proposes also a list of recommendations and reaffirms, notably, the right to know one's personal origins. The study is available in French from CODE website www.lacode.be, section « dossiers ».

Orphans and vulnerable children due to Aids in Africa, DESGREES DU LOÛ Annabel (directed by), Paris, Centre Population et Développement, 2006.

This CD-ROM offers both a synthesis based on available data on children who have at least one parent infected with HIV/AIDS or who died from the disease, and an interactive bibliographical database. It aims to make the literature on these themes accessible to the reader. It is available in English and French from the CEPED website <http://ceped.cirad.fr>, chapter “publications”, section “les numériques du CEPED”.

their best interests to live in a family environment that promotes their overall development.

Its Programme of Foster care is working with the Courts for Minors in Asuncion (the country's capital), receiving children who are separated from their families, seeking ways for these children to go back and live with their families. Meanwhile, the work of maintaining them continues, and counts on the social resources of the foster families. The placement process lasts on average six months, and during this time the families count on the technical support of the NGO by means of a technical team consisting of psychologists, social workers and lawyers. Material support is also provided with the provision of diapers, milk, medicine and medical treatment, which is managed by the NGO by raising funds from the business sector and the local community.

The future: creation of a network and the regulations and procedures proposal

At this moment, the three organisations that carry out the work in this area are directing their efforts towards enabling the establishment of a network of foster care at the national level.

The working experience of these last three years with the Courts for Minors on matters of foster care provides an opportunity to count today on a sufficient basis for implementing a proposal for regulations and proceedings that would allow for the incorporation of foster families in public childcare policies.

Source: Enfoqueniñez(ChildFocus). With the collaboration of The Coordinator for the Rights of the Child and Adolescents, www.cdia.org.py; UNICEF-Paraguay, www.unicef.org/paraguay; Rosa María Ortiz, Member of the United Nations Committee for the Rights of the Child; Cécile Maurin, outside consultant of ISS.

FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

- **Uganda:** 5th African Conference on Child Abuse and Neglect entitled “*HIV/AIDS and Children: The Challenges of the Care for and Protection of Children in Africa*”, organised by the ANPPCAN (African Network for Prevention and Protection from Child Abuse and Neglect) – Uganda Chapter, Kampala, 27-29 March 2007. The conference will explore strategies for developing and scaling up effective and sustainable solutions for the care and protection of children infected and affected by HIV/Aids. Over 50 papers on medical, socioeconomic, religious, ethical, legal and cultural aspects of the issue will be presented; various workshops and a parallel children’s conference with 50 children from across Africa living with the effects of HIV/Aids will be organised. Contact: conference@anppcanug.org, www.anppcanug.org. Tel: +256-414-254550 or +256-392-754550/2
- **United Kingdom:** *Creating sustainable futures for all – Engaging with black minority ethnic children and young people in care*, organised by the British Association for Adoption and Fostering (BAAF), London, 11 May 2007. Contact: Conference Team, tel: 020 7421 2637; fax: 020 7421 2601; conferenceteam@baaf.org.uk, www.baaf.org.uk

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

See Activities.

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