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EDITORIAL

POST-ADOPTION (II): Follow-up reports required by countries of origin

During the post-adoption period, the child and the adoptive family may need professional support, as explained in our previous editorial. Concurrently, another step of a different nature aims at monitoring the welfare of the internationally adopted child for the information of the State of origin.

Most countries of origin require the submission of follow-up reports to monitor how an adopted child develops and adjusts to the new family and social environment. This requirement should be balanced with the need to respect the intrinsic nature of adoption, and the private and family life of the adoptee and his/her adoptive parents, as well as his/her need of security and attachment. Questions are also raised regarding the extent to which the workload entailed in securing reports is justified by the real use made of the reports in practice by the country of origin. This need for balance was specifically recognised at the Special Commission in 2000[1] examining the practical operation of the 1993 Hague Convention (1993 HC).

Current situation

At the Special Commission in 2005[2] on the 1993 HC, it was noted that individual reports are often requested and supplied in practice, and that they are regarded in many countries of origin as an important safeguard.

Many countries of origin understandably want to follow the development of their adopted children. They feel continuing responsibility towards them, and also look for indications of any need to review the appropriateness of their adoption systems. Some countries even send a copy of the report to the institution where the child was living before the adoption. This may be very useful in order to promote confidence on adoption, as a child protection measure, to persons working in such institutions.

Reporting is also seen as an effective means of keeping track of adopted children, thereby putting a stop to allegations or rumours that the children concerned have been harmed or exploited (see Editorial 2005/11-12).

International instruments

Systematic post-adoption reporting with respect to individual adoptions is not mentioned as such in the United Nations Convention on the Rights of the Child (CRC) or in the 1993 HC. The latter only places a responsibility on Central Authorities to take all appropriate measures to provide each other with general evaluation reports about experience with intercountry adoption (art. 9.d) and to reply to justified requests from other authorities for information about a particular adoption situation (art. 9.e).

Considerations for determining reporting requirements

[1] Report and Conclusions of the Special Commission on the Practical Operation of THC-1993 (28 November – 1 December 2000), http://hcch.e-vision.nl/upload/scrpt33e2000.pdf.

[2] Conclusions and Recommendations of the Second Meeting of the Special Commission on the Practical Operation of THC-1993 (17-23 September 2005), www.hcch.net/upload/wop/concl33sc05_e.pdf.

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It may not be surprising that appropriate formulae could not be found to cover post-adoption reporting in the context of international treaties, as there are several considerations under discussion between countries of origin and receiving countries:

- *Incorporating reporting obligations into the legislation of the child's country of origin clearly has no direct effect,* given that its jurisdiction is confined to the national territory. No penalty whatsoever can be imposed on defaulters. It may however have the indirect effect of instigating a "collective sanction" in the form of a unilateral restriction or ban on subsequent adoptions to those receiving State(s) failing to respect this requirement.
- *Thus, unless it is integrated into the law of each receiving country – which very few receiving countries would be prepared to accept – systematic reporting becomes in essence a moral obligation. There are also psychological and ethical arguments running counter to such an obligation, especially if it involves long-term reporting.* In the receiving country, an adopted child has exactly the same status, in the family and vis-à-vis the authorities, as a biological child. The need to report on the progress of an adopted child, but not on that of a biological child, may be seen as not fully consistent with that principle. Overall, adoptive parents nonetheless seem very willing to provide information on an adopted child, at reasonable intervals and for a given period following adoption. At the same time, others see obligatory reporting as an unjustified imposition stemming from implicit mistrust. More generally, after a pre-adoptive placement during which some mandatory follow-up can be imposed (see Editorial 2006/2), an over-demanding post-adoption reporting obligation can be considered as an intrusion into the private and family life of the adoptive family, as well as a risk for the development of the child's sense of security and attachment (for example, visits of social workers can be perceived as stressful both for the child and his/her adoptive parents).
- *Extensive reporting obligations may also be seen as reflecting mistrust of the efficacy of relevant services in the receiving country with responsibility for child protection.* Under the CRC, States Parties are to ensure that these services act without discrimination in regard to "each child within their jurisdiction" (art. 2.1), which clearly includes children adopted from abroad. As far as we are aware, there is no evidence to suggest that children adopted internationally are at greater risk from abuse or neglect than any others, especially when the adoption process was handled professionally, or that domestic services are less effective in their regard.

Agreement on follow-up reports…but for a limited period

This said, receiving countries generally look on the wishes of countries of origin to keep some track of adopted children in the period following adoption as being legitimate and as demonstrating responsible concern. In this respect, the Hague Special Commission in 2005 indeed recommended that receiving States *"encourage compliance with post-adoption reporting requirements of States of origin."*

The majority of countries of origin set a maximum compulsory period of three to five years following the adoption and between two and six reports, which could be acceptable. However, concerns were expressed during the Special Commissions in 2000 and 2005 on longer periods (for example, until the child reaches the age of majority). Specific cases like special need children may need sometimes closer reporting. In the end, in 2005 *it was recommended to limit this period in recognition of the mutual confidence which provides the framework for co-operation under the 1993 HC.*

Who should draft such reports and how?

Bearing in mind all these considerations, ISS/IRC would suggest that reporting be an integral part of the "post-adoption services" that AAB (Accredited Adoption Bodies) or child welfare authorities would be expected to provide. It could be both an explicit aspect of the contract drawn up with prospective adopters or a legal obligation in the receiving country and a requirement imposed by the country of origin when considering the authorisation for AAB to operate within its jurisdiction or for adopters to proceed without AAB. Furthermore, the Permanent Bureau of The Hague Conference suggested that during the pre-adoption training and preparation, prospective adoptive parents should be informed about the need for post adoption reports and agree to cooperate in providing them. This should be also a function of AABs or the child welfare authorities who do the training. However, non-compliance with this requirement should not be used as a basis for suppositions or rumours that the children concerned are likely to have been harmed or exploited (see Editorial 2005/11-12).

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Social workers from the AAB or the child welfare authority should interview the adoptive families and prepare the reports with photographs that the accredited body or the Central or competent Authority sends to the State of origin. It is not appropriate for these reports – as it is sometimes the case - to be drafted directly by the adoptive parents or on the basis of telephone conversations without arranging at least one visit to the adoptive home by a professional in childhood matters.

Reports can be concise, but have to be personalised. Standard texts are useless and may break respect and confidence among countries of origin and receiving countries.

Receiving countries should make sure that there is an AAB or a competent authority which would be able to guarantee such reports and proper post-adoption support (see Editorial 2006/2). States are moreover encouraged to check systematically if the placements for adoption effectively lead to a legal adoption, and to take the necessary measures to protect the child if it is not the case. When it is relevant, the question of the nationality of the adopted child has also to be checked properly.

A balance between the requirement of the country of origin and the needs of the adoptive family

Through such regulations and practice, a balance should be struck between protecting the needs of the child and of the adoptive family and answering the legitimate requirements of countries of origin. Furthermore, the authorities and organisations of the receiving countries should actively participate in all post-adoption steps, including post-adoption support (Editorial 2006/2), post-adoption reports and support to the child in the search for origins (which will be analysed in the next editorial).

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The earlier Editorials are available on the website: www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_edi.html.

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