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EDITORIAL

What are the alternatives to full adoption?

If full adoption continues to be the most widely followed approach when it comes to placing a child in a new family on a permanent basis, one wonders if this choice is always the one that best safeguards the rights of the various persons involved, and particularly those of the biological parents. Through the few examples presented below, we have intended to open a debate on the place of full adoption in the future.

The evolution of societies worldwide and the reality of new family models raise increasingly pressing questions about the role and place of full adoption as a response to children deprived of a family or at risk of so being. These considerations are based upon two fundamental findings: on one hand, in societies of industrialised countries as much as in those of the so-called developing countries, a great number of families experience difficulties in ensuring the welfare and education of their children, most often for reasons of an economic nature. On the other hand, the number of families willing to welcome a child, who is not theirs biologically, is also significant. However, the only possibility usually offered to the latter is family placement, which is in principle a short-term solution, or full adoption, which completely severs ties with the family of origin. Several studies thus underscore the need to set up more flexible solutions, which may, at the same time, relieve the biological family from providing care for its children, while preserving the basic family rights of its members. Without being exhaustive, the following examples amply illustrate this difficult equation.

An innovative Quebec study

The results of the Quebec study presented in this Bulletin (see p. 9), underline, among other things, that in several cases, and particularly in relative adoption, the act of offering child care models other than merely full adoption, would make it possible to respond better to the specificities of the families involved. Indeed, if the situation of a child placed in another country with a member of his/her family requires a legal framework which safeguards his/her protection, full adoption cannot fulfil this function, since it would involve an upheaval of family relations. The study also recalls that in numerous societies, parental functions may be shared by people other than the biological parents, and this for more or less long periods of time. The authors argue, therefore, in favour of "adjustments of the

law to the new realities of intercountry adoption."

An Anglo-Saxon experience: Open adoption

Some countries of the Anglo-Saxon legal tradition, like the United Kingdom and New Zealand for example, have introduced in their legislation the so-called open adoption. In brief, it refers to a full adoption which allows for an informal relationship between the child, the adoptive family and the family of origin. The biological parents and the child thus maintain an emotional relationship before and after adoption, within a framework formally defined by a contract between the parties and supported by the competent social services. The experiences gained in the two aforementioned countries are, to date, encouraging[1]. Obviously, this model is not applicable to any situation. It implies, not only a will and a capacity for collaboration between the biological and the adoptive families, but also a political and social acceptance of this model. It is, in fact, intimately linked to the in-depth debate about the secrecy of adoption and the knowledge of origins. It is no less interesting to follow the development of this practice and to be inspired by it when conditions so allow.

When full adoption does not exist

The careful study of national laws sometimes raises legal and ethical questions to which there is currently no answer. Indeed, certain countries of origin do not recognise, in their legislation, full adoption as it exists in receiving countries (for example, in Vietnam). If the care of a child by persons other than the biological parents exists, this kind of placement, be it legal or customary, does not totally sever the original legal ties (in the case of known biological parents, of course). This does not, however, prevent the "conversion" to full adoption when the child is adopted at intercountry level. Even though it is not a matter here of doubting the validity of these adoptions (the rules of international law make it possible to resolve these questions satisfactorily), this case also illustrates the need to envisage solutions for the future, which would take into account the sensitivity of all involved.

In search of new paths?

The current general situation – full adoption, too often, without a real alternative - could be summed up as an unsatisfactory "all or nothing." The study by ATD Fourth World, carried out in 2004[2], also emphasises the fact that a total breakdown between the child and his/her family does not have to be the only option that can be considered.

Yet, there exist possible models, whether open adoption as mentioned above, simple adoption perhaps too often brushed aside, or, depending upon the circumstances, kafala under Islamic law. As always, a case-by-case approach should make it possible to envisage all possible options and to identify the one that would best safeguard the interests of the child and his/her family.

The IRC team

[1] For New Zealand, see the article published in Monthly Review 1/2006 (January 2006). For the United Kingdom, please consult our online database: http://www.iss-ssi.org/library.

[2] ATD Fourth World *How poverty separates parents and children: A challenge to human rights*; www.atd-quartmonde.org.