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EDITORIAL

Towards an evolution of the position of the child's family and culture of origin in intercountry adoption?

Recent legislative and practical developments have shown that a more important position is now granted to the family and culture of origin of the child. Are we witnessing a new perspective of intercountry adoption – one that is closer to its intercultural dimension?

The child's pre-adoptive personal experiences hold an increasingly important place, in accordance with the 'desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background' (art. 20.3 CRC). The legislative and practical developments in this area are a proof of this. The needs expressed by adoptees and reflections on the different cultural concepts of adoption have led to the development of new forms of adoption, which grant more space to the family of origin or facilitate the adoptee's access to information relating to his culture of origin. Can we see a better awareness of the cultural diversity of adoption, which is often limited to a very Western concept? Whatever it is, a deep reflection of the country of origin's traditional and family values and possible forms of filiation should be an essential consideration with a view to a successful adoption.

Adoption and identity

Even though not every adoptee feels the need to initiate contact with his biological parents, when it does occur, it often becomes a real search for identity and culture. The accounts of adoptees at the time when they initiate this search are heart-breaking: the need to know their story, to understand where they come from, the sense of not 'feeling complete', and the difficulty to 'assume' their

adoption. Their life may suddenly focus on these questions, and sometimes generate crises which are difficult to overcome, as evidenced by the professionals (family mediators, speech therapists, psychologists). Even though in the recent past adoption was still kept secret (at least, in the West, the belief dominated that the child's life started when he arrived in the adoptive family), contemporary legislative reforms now recognise the right of adoptees to have access to their origins, in more or less limited conditions. Thus, greater attention is drawn to the collection of information on the child's pre-adoptive personal experiences, as well as to the modalities relating to their disclosure and the respect of the rights of those involved.

Countries of origin are also developing programs for visits to the country, the institution and even the family who cared for the child before his adoption. In some cases, a meeting with the biological family may be organised, depending on adequate psychosocial support. The latter is essential given how important the emotional implications are, and these may sometimes even have disastrous consequences (see Monthly Review N° 3/08). For example, Chile, Colombia, Thailand and Taiwan offer this type of services within the framework of their Central Authorities' post-adoption follow-up.

On the receiving countries' part, and as advocated for by the professionals, it is now a standard practice to inform the child from a young age about his or her adoption. Catalonia, a Spanish autonomous community, even foresees making this information by adoptive parents compulsory in its law reform project to amend the adoption law. Even though the Western concept of adoption still prevails— in particular by promoting the substitution of the biological filiation by the adoptive one— these developments demonstrate a reconsideration of the space to be given to the family of origin.

Adoption and culture

As for the culture of origin of the child, it is a more complex issue, which still requires important reflection in order for all the cultural variants of adoption to be taken into account.

The increase in the number of countries amongst the African continent in the receiving countries' statistics renews the debate relating to a unique concept of adoption. Whilst full adoption constitutes a type of legal fiction, which terminates the filiation ties between the child and his biological parents, it may remain incomprehensible to many societies, for which the fact of entrusting a child to other adult members of the extended family or the community is a common cultural practice. In these cases, the final severance of the child's ties with his biological parents is not envisaged, as the child remains a part of his parents' life, to whom he may return at any time. It is a matter of two divergent concepts of adoption, which must be taken into account and expressed when carrying out an intercountry adoption. Even though, in legal terms, the contracting countries to the THC-93 may proceed to the automatic conversion of a simple adoption into a full adoption, this practice may however remain inconceivable in the eyes of the parents of origin (see Monthly Review N° 1/2006). These different cultural concepts meet again at other levels such as granting the authorisation to adopt to homosexual couples, to single persons, to unmarried couples, etc. This multiple reality for intercountry adoption entails, that all the countries involved should consider the cultural values of each other and their effects on adoption. From this perspective, it would be important to establish adoption mechanisms,

which are respectful of everyone's cultural concepts.

The need to foresee new forms of adoption

The Anglo-Saxon countries (United States, Great Britain, Australia, Canada, New Zealand) have the concept of 'open adoption', which allows informal relations with the child and his biological parents.

Open adoption relies on precise modalities, in particular the establishment of an agreement between the biological parents and the adoptive parents, in relation to the organisation of contacts between the child and his biological parents, supported by competent social professionals (see Monthly Review N° 1/06).

In Quebec, the new child protection law offers alternatives to full adoption, through the establishment of new mechanisms aimed at carrying out adoptions commensurate with each child, his needs, characteristics and cultural origins (the ISS/IRC will present this new law in an upcoming Review).

On the European side, two recent decisions of the European Court of Human Rights have been pronounced in favour of maintaining some of the adopted child's ties with his parent of origin (see Monthly Review N° 10/2008). With regards to countries of origin, South Africa has introduced a 'post-adoption contract', to be submitted to the judge's approval, and which foresees, among others, the modalities of communication and visits between the biological parents and the child, subject to the latter's consent.

Whereas each situation is a particular case which calls for a specific response to the affected child's needs, it is important that the countries involved in intercountry adoption open themselves up to a genuine intercultural, respectful and fair dialogue, by showing imagination and creativity whilst placing the children, the adoptive parents and the biological parents at the heart of their reflections. To envisage new forms of adoption, which guarantee the child's legal security and his full personal development, is essential to prevent the imposition of a dominant culture of adoption.

The ISS/IRC team
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