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2013: THE 20TH ANNIVERSARY OF THE 1993 HAGUE CONVENTION ON INTERCOUNTRY ADOPTION

We wish you Happy Holidays and look forward to pursuing, in 2014, our cooperation for the rights of children deprived of a family and for the implementation of this fundamental instrument that has brought us together for years!

EDITORIAL

1993–2013: Twenty years of the Hague Convention

Adopted 20 years ago, the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption has experienced a true success in terms of ratifications, but its effective implementation still raises issues. Here, a brief overview on the occasion of its anniversary.

Even though this event went unnoticed, we could not end this year 2013 without mentioning the 20 years of THE Convention, which most of our readers dedicate their daily practice to. Mostly considered like a must, but sometimes still criticised, this instrument brought about a revolution in the practice of contemporary intercountry adoption and has undoubtedly affected its understanding. However, despite indisputable progress, numerous issues remain open as to how intercountry adoption operates nowadays.

The hard reality of numbers

As we highlighted in our previous Monthly Review in relation to the 2012 statistics, and despite the fact that the number of States that have ratified the Convention has persistenly been increasing (see p. 4) to reach, to date, a very respectable number of 90, the proportion of children adopted within the framework of the Convention still does not manage to globally exceed 50%. Even though it is obvious that this situation is essentially explained by the absence of political willingness in some important countries of origin as to the importance of entering the circle of Contracting countries, this number also evidences the drawing power that these countries still exercise for prospective adoptive parents, agencies … and receiving States. The 'offer and demand' game also continues to have a predominant influence on the practice, by neglecting sometimes disastrous environments that prevail in some countries of origin. Is it worth remembering that *'[t]he Special Commission [of 2010] reiterated the recommendation that Contracting States, in their relations with non-Contracting States, should apply as far as practicable the standards and safeguards of the Convention*'?

A complex tool, aggressive criticisms

The professionals will agree: the implementation of the Convention is a complex, long and costly exercise, at least in terms of human resources. The ISS/IRC has

had, several times, the honour of supporting countries of origin in this process, and has, each time, noticed how difficult it is to complete it successfully if the basic conditions that have to provide the framework for the social protection of families and children are insufficient. The risk of then seeing the establishment of a 'super' Central Authority, well-equipped with resources, is high, but then confronted with the realities in the field, which sometimes make the efforts granted in the very special field of adoption useless.

However, this contradiction may, in turn, have detrimental consequences. In the country of origin, the Convention may be perceived as an element imposed from abroad, serving, first, the interests of receiving countries. For the latter, the fact that a country of origin has ratified the Convention may be, as such, a sufficient safeguard as to how intercountry adoptions are undertaken, which is not always the case, as evidenced in our study entitled *Investigating the grey zones of intercountry adoption*.

For a few years now, it has been noticeable that sometimes very strong criticisms have been aimed at the Convention, blaming it for being a tool that legitimates abuses in adoption. These are based, exactly, on those cases in which, clearly, adoptions were very badly managed, despite the fact that they were undertaken in accordance with the Convention's formal criteria. Furthermore, some interest groups do not hesitate to blame the Convention for filling orphanages, which would increase the number of children in institutions.

A factual analysis could demonstrate, without too much difficulty, that these attacks are mistaken in their target, but they nonetheless have the merit of pushing the reflection beyond the conventional framework and to question us on the direct and indirect influence that it may have on the societies at stake. In other words, the Convention is good, but it is not sufficient.

Progress… despite it all?

Certainly progress! Remembering how intercountry adoption was practiced prior to the Convention is sufficient to consider the latter as an essential factor of progress. By establishing the chid's best interests as the starting point for every procedure, it allowed for a fundamental change of paradigm, in a field in which emotional aspects had long been a driving engine that was so powerful as to justify everything.

It has meant progress for receiving countries (see p. 5), but also for many countries of origin, which have seized the opportunity of the ratification of the Convention to undertake major reforms in terms of child protection, and in particular by successfully promoting the development of domestic adoption (see pp. 7 and 8).

Finally, progress from the perspective of the significant decrease in the number of adoption 'black holes', where, in some countries and at some times, the dirtiest abuses were enabling all sorts of profiteers to prosper.

Thus, Happy Birthday to our Convention! Wishing that the age of reason that it has now reached will enable it to better establish its strengths and fight its weaknesses. The forthcoming Special Commission will therefore be an opportunity to debate these various issues, and to blow the candles on the cake.

Finally, a few words directed at our colleagues at the Permanent Bureau, who are the guardians, tutors and defenders of this instrument (see p. 4), and whose work remains essential in its day-to-day implementation, and at Hans van Loon, the 'father of the Convention', who will have accompanied it up to adulthood.

The ISS/IRC team
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