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'As for the future, your task is not to foresee it, but to enable it.'

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EDITORIAL

Adoptable children in intercountry adoption and the assessment of potential adoptive parents: Developments at various speeds?

Whereas the trends are becoming clearer in terms of the – declining – number and the profile of children adoptable internationally – most of them with specific characteristics (specific needs), what about the potential adoptive parents? Are these trends reflected in the number and profile of those declared eligible and suitable, as enshrined in Article 5a of the 1993 Hague Convention?

The assessment of potential adoptive parents (PAPs) and its corollary, their preparation, are key elements of the permanent search for the child's wellbeing and the respect for his or her fundamental rights. Thus, thorough, comprehensive assessments, undertaken by competent professionals and authorities, based on objective (set in law) and individual criteria (of a psychosocial nature) are in the child's best interests. Contemporary intercountry adoption, however, places receiving countries before important challenges when trying to accommodate their interests, in particular political and economic interests, which sometimes interfere with those of the child, even though these should be a priority, as stated by international treaties. As for countries of origin, they must ensure the existence of sufficient safeguards in those receiving countries, with which they choose to undertake intercountry adoptions, taking into account the needs of adoptable children and the submission of adequate applications.

Numbers with similar progression?

For over 10 years, the number of children declared adoptable for intercountry adoption has been declining, as reflected in the statistics presented each year in the *Monthly Review* of the ISS/IRC. Is this decline reflected in equal terms in the number of waiting PAP files? Thus, in the absence of limits set by political or legal measures, situations arise, in which the number of files of PAPs unreasonably exceeds the number of files of adoptable children. Does such a difference not raise concerns at various levels? Is the pressure that it generates on countries not conducive to the development of irregular practices? Furthermore, does this approach to adoption not put forward the wish to become a parent rather than the need of a child to find a family environment, in which to grow up and develop?

The ISS/IRC can only encourage those countries, which have established limits on the number of files of PAPs by adjusting the latter to the needs of adoptable children expressed by countries of origin (see Spain's provisions in *Monthly Review* No. 194 of September 2015) or by describing the profiles of children in relation to whom an

application may be submitted (*e.g.* Denmark¹). Furthermore, some countries of origin, such as Thailand, have established quotas, whereas others, such as Haiti, intend to limit the number of accredited adoption bodies in line with the needs of their children. Should such provisions not be promoted more widely, in order to avoid the development of long waiting lists of PAPs – whose suitability certificates are sometimes also disconnected from the needs of children – and give back all its meaning to adoption?

Social developments at similar speeds?

The developments relating to the diversity of forms of parenthood in receiving countries are resulting in higher numbers of single-parent, step-parent and same-sex families and of those resorting to medically assisted reproductive technologies. These developments reflect a change in family structures within receiving countries, even though these are less common, or even unknown, in countries of origin. Furthermore, what are the implications of some of these new family dynamics for the child? Whilst objective research must be pursued in this field (see p. 6), international standards call for the child to know his or her parents and to have access to his or her identity (Arts. 7 and 8 of the UNCRC). They also require compliance with the laws of the countries of origin – and thereby with the child's origins, which have become, to some extent, more open to adoptions by single applicants, but remain mostly closed to applications by homosexual persons. This phenomenon has sometimes resulted in the resort to other forms of parenthood, such as surrogacy, which may also raise some risks for the child².

In practice, the refusal to grant the suitability certificate is often a sensitive issue and sometimes considered to be discretionary and discriminatory. The responsibility of the competent professionals is considerable, as the latter must, in their assessments, find a fair balance between ensuring rigorous compliance with the criteria set in the countries at stake, and assessing the psychosocial abilities of the applicant(s), whilst also maintaining their impartiality. Thus, to ensure objective assessments, is it not fundamental to supervise and equip these professionals adequately (see p. 4)? In parallel, do receiving countries not have a duty to adequately inform PAPs of the realities of

intercountry adoption and of the situation in countries of origin? Thus, the PAPs' mandatory participation in trainings, as imposed by a growing number of countries, often within the framework of the assessment process, must be welcomed.

Cooperation at a similar pace?

Whereas international treaties, such as the UNCRC or the 1993 Hague Convention, have set a robust basis for the building of children's rights, cooperation is the cement that provides strength and reach to this building. This cooperation must, as we have just seen, accommodate developments with various speeds in terms of numbers and social transformations, and materialise in political approaches that give priority to the implementation of children's rights and needs and to those of families. Is it not incumbent on each receiving country involved in intercountry adoption to adjust the number and profile of PAP applications to the needs of children and to ensure that its preparation and support services meet these needs? As for countries of origin, should they not express, with as much accuracy as possible, the needs of their children, as some of them already do? Furthermore, should the cooperation mechanism known as 'reversal of flows' not become the general rule (see Monthly Review No. 6 of 2005) rather than the exception? The opportunities for dialogue and collaborative approaches promoted by the Hague Conference on Private International Law are essential in this regard, and contribute to the undertaking of ethical adoptions with higher chances of success.

Finally, for the permanent sake of pragmatism, cooperation amongst countries, professionals, and between professionals and PAPs/children, becomes a reality thanks to the ongoing development of tools. Are the latter not the prerequisite of a solid assessment system in the countries involved? In other words, this should be a system based on criteria agreed between the countries involved³, on the intervention of competent and supervised multidisciplinary teams, as well as on the countries' development of instruments that ensure that PAPs gain knowledge of the countries of origin, understanding of the children's experiences and their impact, as well as progress from the ideal child to the real child (see, for example, Monthly Review No. 210 of March 2017).

Is the ultimate objective of all intercountry adoption actors not the success of this new opportunity granted to the child to grow up in a protective and caring family that respects his or her origins and story? Even though each child's resilience includes a part of mystery, it is our role to find and support the potential 'guardians of resilience', who will be able to respond to his or her unique needs⁴. The assessment and preparation of PAPs therefore represent a favour rendered by receiving countries to adoptable children, whether they come from other countries or are in the same country, as these also require a family – another aspect, which the ISS/IRC intends to address in its next issue of the Monthly Review.

The ISS/IRC team,
May 2019

References:

¹ Since 2016, the requests for a suitability certificate relate to 'children between the ages of 0 and four years, with a common physical and mental development potential, possibly with limited resort to support' (for example, children with HIV but having received a treatment in their country of origin, premature children, etc.).

² See Monthly Review No. 212 of May-June 2017, No. 218 of January-February 2018, No. 227 of December 2018 and No. 228 of January 2019.

³ 'States of origin may assist receiving States in establishing their criteria for the selection of prospective adoptive parents by providing information about the characteristics and needs of adoptable children.' (Conclusions and Recommendations of the Special Commission on the practical operation of the 1993 Hague Convention of 2010, Para. 8).

⁴ 'A traumatised child may cope if he or she finds around him or her guardians of resilience, or, to use another picture, if someone blows onto a resilience fire, which will warm him or her up and revive him or her.' (Interview with Boris Cyrulnik, http://www.paraboles.net/site/itw_17.php). In other words, the 'guardians of resilience' are persons, who will make it possible to resume a child's development after the latter has suffered a trauma.

