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At the start of this new decade, the ISS/IRC wishes to reiterate its wish to pursue, together, the daily work of ensuring that the voices of children without parental care are heard worldwide,

making sure that they are listened to and taken into account at small, medium and large scale. Let us unite our efforts to build, for and with them, a better world that safeguards their rights, their well-being and their full development.

The ISS/IRC team

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EDITORIAL

Diplomatic and Consular representations: Ambassadors of children's rights?

Nearly ten years after having addressed the role of diplomatic missions in intercountry adoption procedures¹, the ISS/IRC now examines their impact on the promotion and protection of children's rights: are these inevitable, listened to and trained actors that safeguard children's rights?

Many States view children's rights as a priority of their foreign policy. Beyond a voluntarist policy, this is an international obligation stated in Article 4 of the Convention on the Rights of the Child (UNCRC) and reiterated in 2003 by the Committee on the Rights of the Child in its [General Comment No. 5](#): 'When States ratify the Convention, they take upon themselves obligations not only to implement it within their jurisdiction, but also to contribute, through international cooperation, to global implementation'. Thus, is this obligation translated into concrete child-right-centred advocacy actions as well as development aid policies?

The voice of diplomatic and Consular representations: An influential voice in relation to foreign authorities and the international community?

Let us examine the impact of the voice of a country's diplomatic representations abroad with regards to children's rights. May the latter – without interfering – use their diplomatic influence to promote the improvement of legal frameworks and child protection systems in those States, in which jurisdiction they are located? Children being a purpose that should bring together, could they not join their voices to take those of children to a higher level (see p. 10)? The decade that is ending provides us with some examples of promising practices. In Haiti, the

'Montreal Group'³ has been a significant source of support for the IBESR (Haiti's Central Authority in adoption matters) in terms of advocacy⁴ and in terms of cooperation actions to support the alternative care reform (see Monthly Review No. 228, January 2019). In India, the communication conveyed by the General Consuls of eight European States⁵ to several clinics, requesting that they stop offering surrogacy services to their citizens without prior consultation with the Embassies triggered a reform of the legal framework⁶. A bill regulating surrogacy was subsequently submitted to Parliament, which intended to reserve the resort to surrogacy to Indian couples who are infertile and have been married for over five years⁷; its final approval is pending.

At global level, the intervention of States' Permanent Missions to the United Nations has also had an impact. This is evidenced by the major role played by the latter in the drafting and promotion of the Guidelines for the Alternative Care of Children, finally approved by the UN General Assembly in 2009, and most recently, in focusing the General Assembly's Resolution on the Rights of the Child – adopted on 18 December 2019 – on the rights of children without parental care (see *Brief news* below). Whereas the voices of diplomatic missions may therefore move forward such progress, in the absence of adequate training, they may also account for dissenting voices and therefore become a hurdle rather than a lever.

The voice of diplomatic and Consular representations: A voice listened to by their authorities?

Through their establishment in a country, these representations are able to gain in-depth knowledge of its local context, legal framework and potential challenges. Is this precious information sufficiently taken into account before initiating or reviewing cooperation with a country in relation to intercountry adoption? Does their feedback have an impact on the preservation or termination of such partnerships? Whilst the feedback of Embassies in Vietnam on the gaps in the system⁸ was behind the suspension of intercountry adoption by receiving States and the

launch of a process of ratification of the 1993 Hague Convention, the ISS/IRC has also been able to witness that the diplomatic corps sometimes adopts a critical view of the alternative care and adoption system of a country, in which it acts, without considering a potential termination of the partnership by the receiving State it represents. Likewise, do this knowledge of the system and the lack of means to act lead officers on diplomatic and Consular posts to resign themselves and to turn a blind eye to some illicit practices by believing that 'this is how things work here'?

The relationship developed between the diplomatic representations and the Central Authorities therefore appears essential (see p. 9), in terms of ensuring smooth adoption proceedings and their follow-up (see p. 5) and in terms of the prevention of illicit practices, provided their voices are expressed in unison and place the child's best interests at the heart of any decision. In particular, this would prevent decisions being made in violation of children's rights, as was the case in the speeding up of proceedings and evacuations following the earthquake in Haiti in 2010⁹. A mutual dialogue and the constant sharing of information amongst Central Authorities and diplomatic representations – as vital links in the chain – therefore appear to be essential for a strengthened implementation of the rights of children in intercountry adoption and, in general, in cross-border situations. As described below by ISS-Spain and ISS-USA, the cooperation offered by diplomatic representations is valuable when searching for a solution for cross-border cases affecting children (see p. 12). Evidence of the latter can be seen in a Central Authority's recent drafting of a questionnaire to assess adoption procedures in countries of origin specifically designed for and aimed at Embassies and Consulates. Furthermore, with regards to surrogacy, the examination of birth certificates issued in this context by diplomatic representations could also prevent existing irregularities in this field (see Monthly Review No. 236, October-November 2019).

The voice of diplomatic and Consular representations: A voice that informs and protects its citizens, including children?

Whilst they represent a State, diplomatic representations also manage citizens. Thus, do they not have a role to play in terms of raising awareness, providing support and preventing risks and poor practices for their citizens? Could they not be an appropriate channel to warn against the risks linked to ‘voluntourism’¹⁰ and to being a volunteer in orphanages for example, as undertaken by [France’s Embassy in Cambodia](#)? Since they act as a bridge between both countries, should they not act also as an entry point and a source of information and advice for potential adoptive parents in relation to Competent Authorities, in particular on complex issues, such as adoption by expatriates¹¹ or intrafamilial adoption¹² (see [information provided by France’s Embassy in Haiti](#))? Furthermore, as the number of searches of origins constantly increases¹³ in many countries, a role is developing for diplomatic representations, which could – if they do not do so already – advise adoptees, raise their awareness as to the risks of a search without support and, in

general, refer them – in similar terms to potential adoptive parents – to the competent actors in order to prepare them for the country’s cultural characteristics and the preservation of a bond with the culture of origin.

Finally, in order to become genuine Ambassadors of children’s rights at international level, but also in the daily management of situations of children in need of cross-border protection (see p. 7), the provision of specific tools and training appears to be unavoidable and should be further promoted. ISS-USA’s experience, which is presented below (see p. 12), and the *Protocol for the consular care of unaccompanied migrant children and adolescents* and its Toolkit¹⁴, developed by UNICEF and the Ministry of Foreign Affairs in Mexico, are promising practices, which the ISS/IRC is pleased to promote and hopes to see more of in the future. These diplomatic representations undoubtedly play a key role in the prevention of decisions that put children at risk; for example, migrant children, for whom a return is considered without any sustainable project that respects their rights and needs having been developed, despite this being essential (see p. 7).

The ISS/IRC is convinced that diplomatic representations have a key role to play in the strengthening of legal frameworks and child protection systems by undertaking advocacy and cooperation actions. However, it calls for improved training of their staff on international standards and for strengthened collaboration between the countries’ Embassies and their Central Authorities. This is how these representations can act as genuine Ambassadors of children’s rights.

The ISS/IRC team
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References:

¹ See Monthly Review No. 07/2011.

² Some States have adopted strategies based on children’s rights, such as Belgium ([Note stratégique : Le Respect des Droits de l’Enfant dans la Coopération au Développement](#)) and Sweden ([The Child Rights Perspective in Practice](#)).

³ The ‘Montreal Group’ was created in late 2010 upon an initiative of the Central Authorities of Quebec (Canada) and France, and includes representatives of the Embassies and Central Authorities of the main receiving countries operating in Haiti, of the Hague Conference on Private International Law and of UNICEF.

⁴ Ratification of the 1993 Hague Convention, of the Optional Protocols to the UNCRC on the sale of children and children in armed conflicts, a law reforming adoption, a law on trafficking, etc.

⁵ Belgium, Czech Republic, France, Germany, Italy, Poland, Spain, The Netherlands.

⁶ Hague Conference on Private International Law (2012). [A preliminary report on the issues arising from international surrogacy arrangement](#). See p. 25, Para. 45.

⁷ [The Surrogacy \(Regulation\) Bill 2016](#).

⁸ See: https://www.iss-ssi.org/images/Publications_ISS/FRA/VIETNAM-FRA.pdf.

⁹ See: https://www.iss-ssi.org/images/Publications_ISS/ENG/Haiti_ISS-ANG.pdf.

¹⁰ See Monthly Review No. 223, July 2018.

¹¹ See Monthly Review No. 210, March 2017 and No. 220, April 2018.

¹² The ISS/IRC will focus on this issue in a 2020 forthcoming issue of its Monthly Review.

¹³ See Monthly Review No. 236, October-November 2019.

¹⁴ Available in English and Spanish at: <https://www.gob.mx/sre/documentos/protocolo-para-la-atencion-consular-de-ninas-ninos-y-adolescentes-migrantes-no-acompanados-13061>.

