



# Monthly Review

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## EDITORIAL

### COVID-19 challenges and opportunities for improving ICA practices

*In response to the pandemic, States have imposed varied security measures, impacting upon adoption procedures, producing inevitable delays as well as potential scope for reforms...*

As the pandemic continues, how can States adjust their alternative care and adoption practices in line with both new realities and international standards? This editorial explores potential adaptations, conducive to keeping children's best interests at the centre in the short and long term.

#### Alternative care and principle of subsidiarity

Due to economic, social and health pressures, there is a growing number of families at **risk of separation**. There is an acute need to support them and prioritise family based care as outlined in the recently published [Technical Guidance for Alternative Care Provision during COVID-19](#), developed by an inter-agency group (see p. 5). Whereas challenges vary across different professions, individual social workers have greater capacity for flexibility with their case management, as shown in [Cambodia](#), whilst adjusting the court machinery is somewhat more complex. The Fundación Sierra Dorada's work in Argentina is a helpful example of supporting judicial proceedings and family integration within health requirements (see p. 11).

As to finding **suitable care options**, moratoria on building of large scale residential care in response to the pandemic seems appropriate. Yet, the question remains concerning the role for smaller facilities within a child protection framework, which must take into account the realities of each country's alternative care system, availability and quality. UNICEF's White Paper on the role of small scale residential care provides helpful guidance (see p. 8). In parallel to questions about residential

care, others arise about the role of adoption, as discussed below.

#### COVID-19 and 'new' intercountry adoption cases

In terms of **new cases**, States must ask how they can ensure robust gatekeeping in declaring the child's adoptability and agreements for moving forward with the procedure in accordance with Article 17c of the 1993 Hague Convention. Can remote meetings totally replace home visits, specifically when assessing whether separation is necessary and if other family-based options have been exhausted? Anticipating such practical realities, Paragraph 166 of the UN Guidelines for the Alternative Care of Children notes that, in emergencies, 'the validity of relationships and the confirmation of the willingness of the child and family members to be reunited must be verified for every child. No action should be taken that may hinder eventual family reintegration, such as adoption, change of name or movement to places far from the family's likely location, until all tracing efforts have been exhausted'.

Without clear measures in place to assure the above, the ISS/IRC encourages caution in hastily declaring the adoptability of children. Yet, at the same time, efforts should continue to find appropriate placements for children and avoid indefinite institutionalisation.



### COVID-19 and 'pipeline' intercountry adoption cases

As to **pipeline cases**, where intercountry adoptability has been declared pre-pandemic, border closure has created many obstacles and, arguably, children are suffering the most, remaining often in strained alternative care facilities. The ISS/IRC encourages Central Authorities and accredited adoption bodies to use extended waiting periods as occasions to better prepare children and families (see Monthly Review No. 171 and 172 of April and May 2013).

The [Hague Conference on Private International Law](#) cautions against fast-tracking unless all safeguards have been complied with (see Monthly Review No. 241 of May 2020). Noting that many children have been in residential care for years prior to being declared adoptable, the Peruvian authorities have adapted their practices to ensure continuity in the treatment of dossiers, including at the child proposal stage and during the probationary period, promoting accompanied remote meetings between the family and the child and even initiating a probationary period via a proxy. Similarly, the Guatemalan authorities are intending to continue with family integration once matching has taken place, despite the limitations imposed by the pandemic.

When an adoption decision has been made, clear guidance is needed from Central Authorities about physical entrustment of the child and travel conditions, such as whether special exceptions for travelling are permitted. For example, countries, such as China, have decided that travel restrictions will continue apply to all, and the Philippines has created a 'special visa' for adoptive parents to be able to enter the country. The ISS/IRC encourages both, receiving States and States of origin, to disseminate this information on their websites and to all affected families, as is the case with the French Central Authority, which has set up a specific hotline.

### COVID-19 and 'past' intercountry adoption cases

As the numbers of adoptions, especially intercountry will fall even further in 2020 – some predicting 1,000 children worldwide – the pandemic may create an opening to redirect some

resources from processing new cases to **supporting past cases**. For example, the Australian authorities have undertaken research, which outlines the growing needs of post-adoption support (see p. 6). Other States have been working on addressing past questionable practices, such as Chile and Guatemala. Civil society has been supporting work for search for origins, as in the Czech Republic (see p. 12) and [developing guides](#), as in Norway. It may likewise be fitting to undertake longitudinal research on adoptions in different national contexts, as undertaken in relation to Greece (see p. 10).

### COVID-19 and 'future' intercountry adoption cases

As uncertain is the pandemic's future, it is difficult to predict entirely **the future of intercountry adoptions**. What is certain is that children should benefit from living in a family environment, where possible. Equally, there is a need for frameworks to be in place to ensure that adoptions are truly in the best interests of children – which regrettably continues to be an ongoing challenge – as illicit practices continue. Cooperation between States is certainly needed in these situations.

To this end it is not surprising that there are calls to use the opportunity of the pandemic, to call for a temporary global moratorium on intercountry adoption (see p. 5) – to reallocate resources to ensuring that adoption can occur properly and respond appropriately to past cases.

Whilst the ISS/IRC appreciates the motives and message behind such calls, it is important that family based options are available for children in need of care – be it a return to parents, kinship care, foster care or adoption. Whilst, ideally, all children should be supported to remain with family, sadly in many countries adequate support systems remain a distant possibility. It may be that the current state of the world provides an opportunity for countries to pause and take stock of their child protection systems, yet care must be taken to ensure that such exercises – which are often lengthy – do not undermine the immediate needs of those children, who are in need of a family today.

States have autonomy in choosing which specific measures will be available for their children, so long as they comply with international standards. The ISS/IRC notes that where there are continuing (gross) violations of illicit practices in certain country contexts, the use of moratoriums may be helpful (see Monthly Review No. 202 of May-June 2016 and No. 203 of July 2016). To support whatever decisions States make with regards to adoption, the ISS/IRC can only reiterate the chance for stakeholders to upskill by completing the six-week free training [MOOC on alternative care](#), which starts on 21 September and the three-hour [MOOC on COVID-19: Adapting Child Protection Case Management](#), available in Arabic, English, French and Spanish.

The ISS/IRC team,  
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