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EDITORIAL

Open adoption: Several speeds, several measures

The Fourth Special Commission on the Practical Operation of the HC-1993 (SC) was an opportunity to launch a debate on open adoption, and to reflect the very diverse developments and positions in this field, from one country to another and from one continent to another.

Pages and pages could be written on the definition of the concept of open adoption, as it refers to so many formal and informal practices. A non-exhaustive presentation of some of them was the subject of a comparative analysis published by the ISS/IRC in May 2015 on the basis of a survey undertaken within its network¹. It appears, from the latter, that this type of adoption is, in general, marked by the preservation of some form of contact between the child, members of his family of origin and the adoptive family. The nature of the contact itself may range from a simple exchange of non-identifying information on the identity of the parties involved – which are defined, by some, as semi-open adoptions – to a form of direct contact – which are defined, by some, as fully open adoptions. The session on open adoption organised at the Fourth SC, which was hardly unanimous, was an opportunity to reflect the very controversial character of this system and the difficulty of agreeing on a common recommendation on this issue. Furthermore, the ISS/IRC would like to call upon you to consider the positions of the various countries, and to reflect on the implications of this type of adoption, which, even though it has some clear advantages, is not in the interests of all children and is not risk free.

Is it a system accepted by all countries?

The variety of positions with regards to the system of open adoption is as wide as its developments. Whilst in some countries, such as New Zealand and Germany, open adoption is a well-established practice, or has even become the norm (U.S.A.), in other countries, such as Spain, it is experiencing its first steps (see p. 4) given society's evolution, which leads to the search for new forms of family care (see p. 9). Finally, it remains fully excluded in a considerable number of countries of origin, in particular in Latin America and Eastern Europe, which have expressed their firm opposition to this system at the Fourth SC, advocating for the anonymity enshrined in the laws of some of these countries. Amongst the reasons put forward are the socio-economic imbalance between families of origin and adoptive families, the potential conflicts of interests amongst the various parties involved, and the violation of Article 29 of the HC-1993 when the contacts take place prior to the professional matching. The ISS/IRC, on the other hand, maintains that some openness in adoption and '*where not prohibited by domestic legislation, and after professional matching, contact between the adoptee [, his adoptive family] and biological family (...) may be beneficial in some cases*', as stated in the final recommendations of the SC².



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However, the ISS/IRC reminds the importance of respecting the cultural, socio-political and legal conditions imposed by countries of origin.

Is it an adequate system for all children?

Whilst open adoption may have benefits from the child, such as some form of continuity or a stronger feeling of identity, it has its risks and cannot be recommended in every situation. The various studies that have been undertaken on the experiences of adoptees, adoptive parents and biological parents in relation to some form of post-adoption contact are key tools in the understanding of this system's implications (see p. 13). The selection of such an option must therefore be led by the child's interests and must not place the latter in a conflict of loyalty or go against his wishes. From one situation to another, open adoption may therefore either be recommended by the professionals – for example in late or relative adoptions – or, on the contrary, be ruled out –in particular in those cases, in which the child has been a victim of abuse or neglect, or when the biological parents suffer from a behavioural disorder or a serious addiction. The need to provide a framework to this system therefore seems essential, and the ISS/IRC recognises those countries that have included this option and its terms and conditions in their legislation (supervision by competent authorities, conclusion of contact agreements amongst the parties prior to the adoption judgement, which detail the nature/frequency/potential mediation by a third party, which are all examples that are detailed in the ISS/IRC's comparative analysis).

Is it a system available to all professionals?

As mentioned by an experienced professional, the success of an open adoption relies on the full commitment of the adoptee, the adoptive family and the family of origin, as well as on that of the professionals. First, it is worth gathering the consent of all the persons involved and to ensure that they have been informed of the concrete implications of such a decision, for example through mediation (see p. 8). Then, the professional support for the contact, in particular in intercountry adoption (see p. 6) will call for specific adjustments (the selection of a neutral place for the meeting, close cooperation with local partners, etc). Furthermore, ongoing support must be available to the parties in cases of difficulties linked, for example, to a refusal of contact. Finally, open adoption is a process full of risks, given that it occurs over time, which is why review mechanisms for the contact agreements must be provided for, as well as tools for the resolution of potential conflicts, such as the resort to mediation.

For the ISS/IRC, open adoption is a permanent family care option that may be considered for some profiles of children, provided that essential safeguards for its positive operation are set up, such as its inclusion in a legal framework, its supervision by a competent authority, in-depth preparation and ongoing professional support for the parties involved.

The ISS/IRC team
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