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HAPPY 31ST BIRTHDAY TO THE CONVENTION ON THE RIGHTS OF THE CHILD!

EDITORIAL

Declaration of adoptability: Too many or not enough?

How can States ensure that the number of children being declared adoptable reflects the real needs of the children in the State of origin?

As intercountry adoptions numbers continue their steady decline since the 2004 peak, with numbers for 2019 being analysed in a coming issue of the Monthly Review and forecasts for just 1,000 adoptions in 2020 – due in part to the COVID-19 pandemic, it seems opportune to ask whether perhaps there are more children who could benefit from this child protection measure? Affirmative responses are largely based on the fact that thousands remain in residential care – albeit with the great majority having at least one living biological parent. Conversely, maybe the numbers remain too high, given ongoing systemic unethical practices and discussions around potential moratoria (see Monthly Review No. 245 of September 2020, p. 5)?

Whilst there are many ways to tackle these questions, this Editorial seeks to focus on how children are being declared adoptable. It notes that international standards require an assessment of psychological, medical, social and legal aspects – centring on the child's needs.¹ Arguably, it is important to measure success based on such standards in order to realistically determine improvements with available resources. Otherwise, other baselines such as profiteering, wishes of prospective adoptive parents and escaping poverty are likely to distort this objectively useful child protection measure.

Adoptability and psycho-medico-social aspects

The psycho-medico-social aspects are based on an assessment report of the child. The quality of this report will depend on who is preparing the report, their professional capacity and multi-disciplinary nature of the approach. Given that, in many States of origin, the social service workforce is still in its embryonic stages and child psychologists are lacking, can it be said that there is sufficient capacity to declare a child truly adoptable? If adoptability reports may be clearly deficient, competent authorities in the States of origin might need to be careful when 'declaring' adoptability based on such reports. Likewise, receiving States should be cautious when providing their article 17c agreement confirming that the adoption can proceed.

The quality of the report will likewise be linked to who is interviewed. Reports should include the child, his or her parents as well as consultations with those in his or her entourage. The latter should extend to any person of significance to the child, including teachers, neighbours and notably the wider family. Given that social workers often are underpaid, juggling an overload of cases and have limited means to undertake physical meetings, in particular outside the countries' main cities, is this ideal realistic? If not, what is the threshold for accepting resource limitations? Perhaps COVID-19 has opened up the remote work opportunities? To this end, the Guatemalan Central Adoption Authority has adapted its domestic

procedures, seeking to implement robust assessment measures. In Cambodia, ISS has been working to ensure full medical and other assessments for children with disabilities in care and to ensure the potential for permanent options for them in their families of origin or through adoption (see p. 13).

The importance of rigorous reporting will facilitate the work of receiving States in their preparation efforts, such as the programme in Finland (see p. 7), and in identifying potential adoptive parents for children with specific profiles in States of origin.

Adoptability and legal aspects

The legal aspects are primarily based on whether proper and informed consents are obtained, as well as any other requirements in national standards, such as profiles of children that may be declared adoptable (e.g. age, status of orphans, withdrawal of parental responsibility, etc.).

Whilst ensuring proper consents has been covered in the *Guide to Good Practice No. 1*,² the question still arises as to whether States should be satisfied with having only the

consent of the birth mother. What balance is required to ensure that the father's consent is obtained, even when the birth (single) mother may face stigmatisation – debates in this regard have been raised in recent years in South Korea, for example?

What responsibility or perhaps even opportunity should the birth parent's extended family have in caring for the child? More broadly, what support should be provided to

support parents in their caregiving role and to prevent abandonment?

The question also arises in cases where the child is being cared for in residential care and the director of the facility is considered the legal guardian. Is there a conflict of interest in the director being required to give his or her consent to the adoption, when often there is a 'potential flow of additional income' to the institution for every child that is adopted? Is this also the case for children placed in foster care – who might or might not be allowed to adopt the child themselves? Some countries have addressed this by giving a 'voice and vote' to bodies known as Family Councils.

Without proper consents and inappropriate declarations of adoptability, there is always heartache among so many - with the child suffering most, including into adulthood (see p. 12).

As caution is required in improperly declaring the child's adoptability, it is equally incumbent on States to provide children with a stable and loving family environment where possible. As research continues to show the massive harm to children growing in large scale residential care, States are encouraged to invest in their social service workforce and wider child protection professionals. Receiving States can provide technical assistance to support States of origin by funding for example, training of actors – even remotely. The question is not about too many or too few 'numbers'. What we need is the political will that centres on genuine assessments of the rights of children and quality adoptions in conformity with international standards.

The ISS/IRC team,
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References:

¹ ISS/IRC. *Factsheet No. 20: The determination of the adoptability of the child*. Available at: <https://www.iss-ssi.org/images/thematic-facts-sheet/eng/20.Adoptability%20and%20Consent%20doc.pdf>.

² HCCH (2008). *The implementation and operation of the 1993 Hague Intercountry Adoption Convention. Guide to Good Practice No. 1*. Available at: <https://assets.hcch.net/docs/bb168262-1696-4e7f-acf3-fbbd85504af6.pdf>.



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