Monthly Review
published by the International Reference Center for the Rights of Children Deprived of their Family-ISS

N° 203
JULY 2016

EDITORIAL

Long-term considerations: A crucial decision element, yet habitually forgotten

When determining the best interests of the child, long-term considerations – as essential foundations providing perspective, sustainability and an identity beyond childhood – are too often ignored.

With competing interests, keeping the child's in mind, even paramount, in decision making can be challenging, if not impossible when long-term considerations are given inadequate attention. Looking back in time, we often admire those, who have taken courageous stands and made choices against external pressures – resulting in outcomes frequently against the *status quo*. The challenge today is whether we, as professionals, will be on the right side of history, noting below a few of the many opportunities before us.

Alternative care

Once a child is born, one of their first fundamental rights is that of birth registration and a nationality (Arts. 7 and 8 UNCRC). Yet, these rights are systematically contravened when *prima facie*, the right is linked to a pre-condition such as birth country, parentage, domestic and private international laws. This situation can lead to contraventions, for example, statelessness, which leads to a lack of access to basic services for indefinite periods of time (see p. 7). For instance, as we observe literally thousands of children on the move, should they not have the same rights as others, who are not moving, such as accommodation, education, health, etc. (see p. 8)? Should we not ensure that fundamental rights are respected, irrespective of the cost now for us as society?

In terms of timelines in alternative care, a fine balance must likewise be met in terms of how long one should wait before placing the child in alternative care or making the difficult decision that family reintegration is not in the best interests of the child? Keeping the child in limbo can lead to ongoing movements from temporary placements to another or even long-term care in residential care institutions – both likely harmful.

Adoption

Moving on to adoption, worryingly, we see some countries of origin continuing intercountry adoptions with insufficient frameworks in place to ensure that they are ethical and truly a child protection

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measure. Equally, of even more concern, we see receiving countries continuing to allow private and independent adoptions, particularly dangerous in these countries, despite documented risks (see p. 3). Whilst both situations can be defended because children's immediate interests are met – yes, in the great majority of cases, children are well cared for in families – yet the long term consequences of possible illegal adoptions must be considered.

If we consider the long term, in some cases, this may mean that children are not allowed to remain with prospective adoptive parents, especially if they have to a great degree participated in the illegalities. This may be necessary even when the child has remained in their care for some time – noting some may receive terms of imprisonment such as Spanish adoptive parents, who paid 1,500 euros to a poor Romanian family. Very few children – now adults – are thankful for allowing illicit practices to occur in their personal history, marring their identity. As quoted in *Responding to Illegal Adoption: A Professional Handbook*, Marie-Ange, 24 years old, of Haitian origin, born in the Dominican Republic, then adopted in Quebec, shares '*this information shattered all that I had built about my origins and my background. I did not know what to do, I felt broken into a thousand pieces. I was ashamed. I was no longer worth anything*'.

Moreover, when moratoria are hastily implemented as opposed to being part of larger reforms, children – particularly those left in the pipeline – can bear the brunt of short-term decision making. A fine balance needs to be found between protecting children and seeking their overall interests (see p. 5). Definite conditions must be in place when calling for moratoria, even if this takes time to have the necessary framework.

Donor conception and international surrogacy arrangements

With medically assisted reproductive technology and surrogacy booming resulting in a rather 'easy access to children', we often forget their long-term needs. An immediate gain for adults wanting children with perhaps a long-term cost for the children born. Recalling that the Committee on the Rights of the Child has said that surrogacy, when practiced in an unregulated manner, leads to the sale of children raises serious concerns for the future. Likewise, few countries have measures in place to ensure access to one's origins and some even continue to allow anonymous donations. Fortunately, some have ensured access is possible (see p. 10). Many children are not so fortunate. At international level, there is zero regulation and we are leaving a 'missing or even damaged identity' legacy for thousands. Could we not learn from intercountry adoption practices as discussed in the handbook on illegal adoptions cited above?

If we do not act to change flaws in existing systems, we become complicit and are, in some way, becoming responsible for generations to come. Awareness-raising and training is needed on long-term considerations. As child protection professionals, we have the amazing opportunity now to ensure that we are on the right side of history if we consider the long term.

The ISS/IRC team
July 2016

ACTORS

- **Austria, Burkina Faso, Cambodia, Croatia, Denmark, Northern Ireland, Latvia, Lithuania, Panama, Peru, Vietnam:** Since February 2016, information on these countries' competent authorities has been updated.
- **Bulgaria:** The contact details of the Central Authority as well as those of its accredited adoption bodies have been updated.
- **Burkina Faso and New Zealand:** Both countries have published tables on their official adoption fees.

Source: Hague Conference on Private International Law, https://www.hcch.net/en/latest-updates1.

BRIEF NEWS

Côte d'Ivoire: Suspension of intercountry adoption

In accordance with the information published on the website of the French Central Authority, and confirmed by the Central Authority of the Côte d'Ivoire, the Ministry of Promotion of Women, the Family and Child Protection, the Council of Ministers decided, as of 11 May 2016, to suspend the registration of new intercountry adoption request until the implementation of the 1993 Hague Convention. The latter has been in force in the country since 1 October 2015.

Source: Mission de l'Adoption Internationale (France), http://www.diplomatie.gouv.fr/fr/adopter-a-l-etranger/actualites-de-l-adoption-internationale/les-breves-de-l-adoption-internationale/2016/article/commucote-d-ivoire-suspension-de-l-enregistrement-de-nouveaux-dossiers-d.

LEGISLATION

The current status of the prohibition of private and independent adoptions

The ISS/IRC has recently updated a comparative study[1] that focuses on the legal framework regulating private and independent adoptions[2], and is pleased to share below its results, thereby demonstrating how this framework has improved over the past years and should be considered as a guidance.

The international adoption community (*e.g.* the Hague Conference on Private International Law, the Committee on the Rights of the Child, the Council of Europe) clearly condemns the resort to private and independent adoptions – which are both, inconsistent with international standards due to the lack of supervision, and of professional support (see attached box) – and highlights the importance of monitoring and accompanying the entire adoption process. Since its creation, the ISS/IRC has shared this position and encourages the development of legal and practical provisions at country level to help prohibit such practices in the respect of international principles and safeguards.

Risks related to private and independent adoptions that may lead to an intercountry adoption not being in the best interests of the child:

- ➔ Violation of the principle of subsidiarity;
- ➔ No proper determination of the child's adoptability (*e.g.* lacking the consent of birthparents);
- ➔ No professional matching;
- ➔ Unsuitability of prospective adopters with regards to the child's specific needs and inadequacy of the adoption project;
- ➔ Great vulnerability of prospective adopters due to unsupervised and unregulated proceedings in the country of origin;
- ➔ Violation of Article 29: risk of direct contact between birthparents and applicants (prior to the matching);
- ➔ Involvement of unauthorised bodies/persons;
- ➔ Increased risk of direct payments, improper financial or other gain:

Consequently:

- ➔ **Great exposure to irregularities and adoption breakdowns/disruptions;**
- ➔ **Serious violations of children's rights, such as abuse and child trafficking or impossible/difficult implementation of the right to know one's origins.**

The legal prohibition of private and independent adoptions by receiving countries

As mentioned above, the potential consequences, such as child trafficking, the sale of children and other fraudulent practices, may arise without the support of clear prohibitions in domestic laws.

The Icelandic legal system offers clear provisions relating to the prohibition of private and independent adoptions, by requiring the prior approval by the competent authority, which might be revoked in case of new circumstances not compatible with the best interests of the child. Furthermore, no adoption can take place without a mediation process and through accredited authorities.

Other examples, such as Australia, where legal systems show that political strength goes beyond the simple prohibition enshrined in the legal framework. The Australian Government launched

a policy paper explaining the general procedure for identifying cases of independent adoptions and prevent the potential lack of protection[3].

The legal prohibition of private and independent adoptions by countries of origin

To avoid fraudulent practices and better ensure the respect for children rights throughout the intercountry adoption process, some countries of origin have amended their law in accordance with international standards and safeguards. For instance, in Haiti, important legislative improvements have been achieved. In particular, Article 6 of the 2013 *Loi réformant l'adoption* prohibits any private or independent arrangement without the intervention of competent authorities and accredited bodies. Furthermore, Russia, which is not a Contracting State to the 1993 Hague Convention, prohibits private arrangements and imposes that prospectice adoptive parents complete a compulsory training, resort to an accredited adoption body, and ultimately receive the adoption approval from the Courts of the child's habitual place of residence.

The monitoring of independent adoptions by competent authorities

Our research intended to obtain important information regarding domestic practices, in which some form of independent adoption process may be allowed, under strict conditions. This is the case of the Scandinavian countries, particularly Sweden and Norway, and the Flemish Community of Belgium. Particular attention should focus on the current practices of the Flemish Community of Belgium, which allow the intervention of bodies other than accredited adoption bodies. In this regard, the intervention will be admitted upon an agreement reached between the Flemish Central Authority and the competent Central Authority in the country of origin (see Monthly Review No. 11-12/2010 of November – December 2010 for a detailed account of the support available in this type of procedure).

Specific sanctions to prevent risks

Finally, the ISS/IRC would like to underline that many countries foresee sanctions intended to prevent the risks related to private and independent adoptions and post-adoption sanctions. For example, Norway and Australia provide severe sanctions, such as imprisonment and fines for any private adoption arrangement. Belarus prohibits the illegal transfer of children. Brazil imposes sanctions in the case of illegal gains perceived from a child's placement, and Fiji condemn the illegal gain from adoption processes.

Based on the cooperation spirit of the 1993 Hague Convention, receiving countries and countries of origin have the shared responsibility to ensure that a best interest process is carried out systematically for every child and that it is adequately monitored. For those countries that have not yet fully implemented the prohibition of these practices – in their legal framework and in practice, the ISS/IRC would like to encourage them to pursue their efforts and would be happy to accompany them on this path.

References:

[1] To be published in the next months.

[2] Definitions available in Chapters 8.6.6 and 10.1.1.6 of the Guide to Good Practice No. 1 of the Hague Conference on Private International Law.

[3] For the variety of intercountry adoption-related state legislation in Australia, please refer to the following: https://www.ag.gov.au/FamiliesAndMarriage/IntercountryAdoption/Pages/Intercountryadoptionlegislation.aspx.

Moratoria: In the best interests of the child? (Part 2)[1]

Following up on the first part of this article, which was published in last month's issue, Nigel Cantwell, an International Child Protection Consultant, explains moratoria from the perspective of receiving countries, and helpfully identifies the necessary frameworks for ensuring that moratoria are, in fact, implemented in the best interests of the child – both, in the immediate and long term.

Why do receiving countries impose moratoria?

In stark contrast, moratoria declared by receiving countries always target individual countries of origin whose intercountry adoption practices are deemed to fall below acceptable standards for safeguarding the child's rights and best interests. Justifying its suspension of adoptions from Ethiopia in June 2012, Australia noted that 'the changing and complex Ethiopian adoption environment meant that the Australian Government could no longer be confident that the programme would continue to operate in a way that protected the best interests of Ethiopian children'. The government pointed to 'ongoing challenges in identifying orphanages, in which Australia could have trust and confidence' and the 'growing numbers of non-government adoption agencies operating in Ethiopia [leading] to increased competition for referral of children to intercountry adoption programs', which 'is not always conducive to ethical adoption practices'.

Such decisions are generally made unilaterally, rather than as a concerted move, although they may snowball more or less quickly. The United States, for example, was the first country (in 2001) to prohibit adoptions from Cambodia, and it was followed over the next four or five years by most receiving countries – the notable exception being Italy, which has maintained its programme. In contrast, the European receiving countries were the first to ban adoptions from Guatemala during that same period, while the United States was practically the only country processing adoptions from Guatemala in the years up to the 2008 moratorium. In the case of Viet Nam, three countries (Ireland, Sweden and the United States) decided that conditions did not enable them to renew their agreements with the authorities in 2008–2009, but other countries, to which Vietnamese children were being adopted (notably Denmark, France and Italy), decided that such a move was unnecessary.

Nepal – An exception

A rare example of coordinated action to date is adoption from Nepal. In 2010, all of the 13 main receiving countries suspended the adoption of any children declared as 'abandoned'. This had been the officially recorded status of the vast majority of intercountry adoptees from Nepal, but it was clear that it did not reflect the reality in many cases.

The best interests implications of such disparate policies are considerable. The biggest and most obvious question revolves around the fact that, if the best interests of the child are to be the paramount consideration in adoptions, why do the competent authorities of receiving countries have such divergent views on whether or not those best interests are being safeguarded adequately at any given point in time?

Preserving the best interests of children through a moratorium

Moratoria declared by receiving countries invariably take the form of official statements that no more applications will be accepted in relation to the country of origin in question, while allowing for the completion of cases already under way ('transition' cases that have already reached a specified stage in the process). These moratoria are often combined with an offer to provide technical assistance, so that the country of origin can meet the standards required (and, where appropriate, accede to the 1993 Hague Convention), allowing intercountry adoptions to resume.

Experience shows that countries of origin are more likely than receiving countries to declare an immediate or almost immediate suspension. The aim is, at least in part, to pre-empt a flood of applications before a moratorium comes into force.

As noted above, one justification for suspending adoptions lies in the need to create the most conducive context for the successful preparation

and establishment of fundamental reforms. In most cases, the spur for reform is the evidence of serious and widespread systemic problems that constitute or result in procedures or activities that are not in keeping with international standards – and therefore violate the best interests and rights of the child.

Response to systemic failures

The key word here is 'systemic'. In other words, the problems and actions to be addressed by a moratorium are not those attributable to individuals or agencies acting in isolation that infringe the law or abuse what is otherwise a valid system. Clearly, such cases are to be dealt with by law enforcement and judicial bodies.

Systemic problems involve practices that do not comply with international standards but are nonetheless required or tolerated, or that are simply not addressed adequately, if at all, by the legislation, system and/or procedures in place. Consequently, they are 'accepted' and their incidence is generalized.

Examples of systemic failures

Examples include:

- a lack of effective procedures to verify the alleged 'abandonment' of a child;
- a lack of guarantees to ensure that consent for adoption is fully informed, freely given and involves no recompense;
- a legal requirement for every adoption agency to provide 'humanitarian' financial contributions, often based on the number of adoptions carried out, to secure authorisation to operate (a clear incentive for the country of origin to maximise the number of children made available);
- regulations that require or allow adoption agencies to identify specific residential facilities ('orphanages'), with which they will 'cooperate' directly (which can create an unwarranted channel for intercountry adoption);
- little or no oversight of residential facilities set up and/or financed by agencies with an interest in intercountry adoption;
- tolerance of 'independent' or 'non-agency' adoptions (by some non-Hague signatory countries of origin, as well as certain receiving countries in their relations with non-Hague signatory States);
- a lack of professional procedures to match children with prospective parents;
- no provision to authorise or monitor individual 'facilitators' working with agencies or prospective adopters in the country of origin.

Such systemic failures, which seriously jeopardise the protection of children's rights and best interests, have underpinned most major suspensions in recent years, including those put in place in Cambodia, Guatemala, Liberia, Nepal and Viet Nam.

If, on balance, the suspension of adoptions is deemed necessary to prevent rights violations, it must be planned and carried out in a manner that respects the best interests of the children, who are affected – actually and potentially.

Need for clarity and expediency

There have, to date, been many instances where lack of clarity and expediency in following through the initial decision has jeopardised those best interests severely.

In particular, there has often been a failure to foresee from the start the criteria to determine which pending adoption cases should proceed and how this should be done. As a result, these so-called 'transition' cases have been left in an administrative and legal limbo that creates uncertainty and anxiety in the children concerned and cannot, therefore, be in their best interests – even more so when that limbo lasts for several years. This has happened, for example, in Guatemala where, at the time of the vital moratorium in January 2008, there were over 3,000 transition cases, of which 714 had still not been resolved three years later, and 73 were still pending in mid-2013.

At the same time, it has to be recognised that where many hundreds of children can be said to be in the intercountry adoption process at one stage or other – as in Guatemala – it is difficult to deal appropriately with their individual cases.

While the quickest possible resolution is desirable in principle, it is important not to overlook the probability that many (or even most) of the children involved will have been the subject of illegal or unethical practices that led to their being declared adoptable abroad. Inevitably, each case requires very thorough and time consuming review.

Issues to address prior to moratoria

To reduce the negative impact of this apparent best interests conflict between ensuring stability for the child and the case review time-lag, some issues must be addressed before adoptions are suspended:

- A clear announcement should be made of both the reason(s) for and the goal(s) of the initiative;
- The specific issues to be tackled and the responsibilities and processes required for carrying out the reforms need to be identified and made public;
- Where appropriate, details of the expected technical assistance inputs should be published and their delivery programmed;
- A timescale should be established for undertaking each key reform, which should be made public, and a target date given for completion of the whole exercise;
- If the moratorium is declared by a country of origin, there should be a designated government contact point to provide updated information to the Central Authorities of the receiving countries concerned;
- The country of origin and relevant receiving countries should agree on the exact criteria to determine which adoption cases under way at the time of the suspension are to go forward, in each child's best interests, for review and potential completion (transition cases), for example, from the moment that bonding between the child and identified prospective adopters has been initiated;
- Detailed provisions should be in place to examine and decide on such transition cases, again on the basis of consultation between the country of origin and the receiving countries concerned.

In light of the analysis in these two articles, it is clear that there are many competing interests involved when imposing moratoria or not – courage is needed to ensure that the individual child is not forgotten – the history of thousands depends on it.

Reference:

[1] This text can be found in: Cantwell, N (2014). *The Best Interests of the Child in Intercountry Adoption*. Innocenti Insight, Florence: UNICEF Office of Research. The publication and all relevant referencing are available at: https://www.unicef-irc.org/publications/pdf/unicef%20best%20interest%20document_web_re-supply.pdf.

INTERDISCIPLINARY RESOURCES

No child should be stateless: A crucial issue to be addressed

The recent report No child should be stateless*, published by the European Network on Statelessness*[1]*, provides recommendations and concrete solutions to prevent children to be left stateless. ISS is happy to share an overview of the latter.*

The number of stateless children is growing every year, particularly due to international migration processes, but also relating to other contexts such as assisted reproductive technology (*e.g.* surrogacy arrangements) or intercountry adoption processes. However, given this current situation, domestic legal frameworks sometimes do not ensure the proper implementation of children's most fundamental rights, such as the right to a nationality and to be protected against any forms of sale or trafficking. *No child should be stateless* provides a comprehensive analysis of those issues and renders steps forward for States and other stakeholders on how to address gaps and fulfil their responsibilities under international laws.

Legal framework and challenges

The international human rights instruments, such as the Universal Declaration of Human Rights (Art. 15), the Convention on the Reduction of Statelessness (Art. 8), the UNCRC (Arts. 7 and 8), as well as regional instruments (*e.g.* European Convention on Nationality), provide a clear framework regarding the rights of every child to a nationality and identity in order to prevent their statelessness. However, many States in the world apply a *jus sanguinis* regime, which implies that a child's nationality is conditioned by their parents'

status. Consequently, this may lead to a violation of children's rights, such as their impossibility to travel, their exposure to sale and trafficking, as well as their discrimination, especially related to civil and social rights.

Furthermore, in the field of intercountry adoption, statelessness can result as consequence of lengthy procedures or the lack of provision regarding the attribution of the nationality to the adopted child. Concerning international surrogacy arrangements, despite many countries prohibiting such practice, the non-recognition of the commissioning mother or the surrogate mother as a parent, directly compromises the child's access to a nationality or identity.

Moving forward: Actual responses

To prevent statelessness, doctrine proposes different solutions such as: ensuring birth registration at legal and practical levels, as well as its effects in cross borders situations. Another solution could be to resort to the principle of *jus soli* in specific contexts. Additionally, the report highlights key aspects to inspire States and other stakeholders:

- Inscription of childhood statelessness as a major policy priority through worldwide campaigns (*e.g.* National Action Plans stimulated by the United Nations High Commissioner for Refugees' initiatives);
- Communication and cooperation between stakeholders to encourage joint actions;
- Transparency and awareness on childhood statelessness, by reporting and providing data collection;
- Ratification of the 1961 Convention on the Reduction of Statelessness;
- Adoption of amendments to domestic laws and policy guidelines addressing situations of potential statelessness.

The ISS/IRC welcomes this report that calls for the respect of children's rights facing risks of statelessness and a violation of their fundamental rights, and identifies some very practical ways of improvement, which can inspire stakeholders at all levels.

Reference:

[1] European Network on Statelessness (2015). *No child should be stateless*, http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_NoChildStateless_final.pdf.

READERS' FORUM

All children have a right to liberty, including migrant children

Ben Lewis, Global Advocacy Coordinator at the International Detention Coalition, and Leeanne Torpey, Coordinator of the Global Campaign to End Child Immigration Detention, remind us that it is never in the best interests of a child to be detained simply because they or their parents/guardians lack the proper immigration or travel documents.

Every day, all around the world, millions of children are affected by immigration detention. Whether detained themselves or impacted by the detention of their parents or guardians, migrant children are particularly vulnerable to abuse and neglect when subject to detention on the basis of their or their parents' migration status.

Reasons for children's detention

In practice, States often detain child refugees, asylum seekers, and migrants for a number of reasons, which are completely avoidable, such as to conduct routine health and identity screening; to maintain family unity; or to facilitate engagement with ongoing asylum or migration procedures. Sometimes, children are detained without the knowledge of State authorities, for example because there is a failure to properly conduct age assessments, or due to a lack of appropriate child screening and identification while, at other times, children are knowingly detained, for example when they are detained together with their parents or guardians on the basis of maintaining family unity.

International consensus

Regardless of the reasons for immigration detention, a number of studies have shown that detaining children has a profound and negative

impact on child health and well-being. Migrant children deprived of liberty are exposed to increased risks of physical and sexual abuse, acts of violence, social discrimination and denial of access to education, health care, and family life. Even very limited periods of detention in so-called 'child-friendly' environments can have severe and lifelong impacts on children's psychological and physical well-being and compromise their cognitive development.

A growing body of UN, regional, and domestic human rights experts have called upon States to 'expeditiously and completely' end the practice[1]. As a result, over the past five years, the issue of child immigration detention has risen in importance on the global human rights agenda. UN, inter-governmental and civil society actors have undertaken significant research and reporting, which finds that immigration detention is never in the best interests of a child, and have lobbied State policy makers to end the immigration detention of children as a matter of priority.

The work of the International Detention Coalition

The International Detention Coalition (IDC) is a unique global network, of over 300 civil society organisations and individuals in more than 70 countries that advocate for, research and provide direct services to refugees, asylum-seekers and migrants affected by immigration detention.

The IDC's three strategic priorities are:

- Ending and limiting detention, particularly for children;
- Developing and promoting alternatives to immigration detention;
- Improving the rights, conditions and monitoring of places of immigration detention.

Remaining challenges

However, despite this growing attention and international consensus, significant gaps remain. Migrant children continue to be detained on the basis of their or their parents' migration status every day, in nearly every country in the world. There remains a virtual lack of effective prevention, monitoring, and reporting on the issue by States, and there are no validated statistics on the number of migrant children in immigration detention at any one time.

There are alternatives

While, globally, the use of detention has been increasing, there have also been recent developments in some countries to avoid detaining children consistent with international law and good practice. Governments are increasingly seeking innovative ways to prevent refugee, asylum-seeking and migrant children from being detained in the first instance, or to expeditiously seek the release of children into rights-based, child-sensitive alternatives to detention (ATD).

Research shows that alternatives, when implemented properly, are more affordable, effective and respect the human rights of migrants[2]. Building trust, respecting and valuing the dignity of the migrant, and providing a fair, transparent process are fundamental.

To promote and facilitate rights-based ATD, the IDC has developed a Community Assessment and Placement (CAP) model[3], which provides a decision-making tool for Governments, NGOs and other stakeholders seeking to prevent child immigration detention.

About the Global Campaign

The Global Campaign to End Immigration Detention of Children was launched during the 19th session of the UN Human Rights Council in 2012, to draw attention to the many detrimental effects that immigration detention has on children, and to encourage States to cease the immigration detention of children consistent with their UNCRC obligations[4].

The Global Campaign urges States to adopt ATD that fulfil the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.

The Global Campaign coordinates international, regional and national activities with the goal of raising awareness of the issue of child immigration detention, and encouraging States to 'expeditiously and completely cease the immigration detention of children'.

Even short periods of detention have been shown to have a profound and negative impact on child health and well-being. A growing body of UN, regional, and domestic human rights experts have called upon States to 'expeditiously and completely' end the practice of child immigration detention, promoting the use of ATD, which are more affordable, effective and more humane. The Global Campaign to End Immigration Detention of Children is open to all organisations, which would like to be part of the movement.

References:

[1] See: End Immigration Detention of Children, http://endchilddetention.org/the-issue/child-rights/.

[2] Sampson, R, Chew, V, Mitchell, G, and Bowring, L (2015). *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention (Revised)*. Melbourne, Australia: International Detention Coalition; http://www.ohchr.org/Documents/Issues/Migration/Events/IDC.pdf.

[3] See: International Detention Coalition, http://idcoalition.org/cap/.

[4] *Supra* 1.

THE RIGHTS OF THE CHILD AND CROSS-BORDER ASSISTED REPRODUCTIVE TECHNOLOGIES

Donor conceived person testimony – The importance of knowing one's identity

This testimony from Chloe Allworthy, a donor conceived Australian, explains her desire to know her origins, the challenges in undertaking searches given the lack of infrastructure and her unexpected discoveries. The ISS/IRC welcomes this testimony as it shows many of the same lessons/desires of adopted persons.

There are an estimated 60 thousand donor-conceived people in Australia. It is also estimated that around 90% have not been told that they are donor conceived. I am one of the few donor conceived people, who was told very early on in life, and have had time to process what this means for me. Donor conception is when a person is conceived using the help of a sperm, egg or embryo donor. In my case, a sperm donor had aided in giving me life.

I share 50% of his DNA, but to me, he was a generous stranger. It was as if he was a blank canvas, and no matter how much I tried to paint a picture of who he was, I just could not. Half of my identity was unknown and this led me to feel a range of emotions including anxiety, loneliness, disconnect, fear of the unknown and also curiosity. These feelings have had an ongoing impact on me in my life.

'Who am I?' and undeniable differences

Even before being told, I had become aware of the vast differences in my physical appearance as opposed to those of my parents. My dark curly hair, brown eyes and pale skin in comparison to my blue-eyed, tanned skin and light haired parents. Even as a child, this made me question why I was so different to those around me. It was often something I would lay in bed at night thinking about, and wondering what my donor was doing at that moment in time.

Through my teenage years, I began to develop into an outgoing individual, who loved to perform, sing and dance. This was a passion that was not shared by anyone else in my family. My black sheep status drove me further into the curiosity of where I had come from. I knew I already had a Dad, who I loved and cared very much about, but the void of having something missing was just too strong not to pursue.

Starting and persevering with the search

I began the search for my donor at the age of 18 after a long list of health problems and no medical history. I only had three blood relatives at the time and this was not sufficient for my medical history, let alone for my children in the future. A constant gamble with any donor conceived person's health in not knowing what health issues may lie around the very next corner.

After a long difficult process in searching for my donor through Births, Deaths and Marriages, I

was told that he could not be found. It felt as if my world was crumbling away, taking pieces of me with it. I had waited for so long to piece the puzzle of who I was together. My donor's file was kept only a few hours from where I lived, and there it sat. The clinics had a hold of the critical information relating to my life, my heritage and my DNA, yet I was denied access to this file. The frustration that comes with this was, at times, unbearable.

I did not admit defeat. All I was searching for was the opportunity to ask my donor if he wanted contact and, if so, the chance of a friendship with him. If he was not open to contact, I would respect this and at least I could live with myself knowing I had done everything in my power to ask the question. Life is so short and I had always feared that I would have regrets if I left the search too late.

Unexpected discoveries

Luckily for me, after contacting my clinic (Melbourne IVF), a lovely woman was willing to help me. Just a few weeks later, I received some news, but not exactly the news I was expecting. '*Chloe, someone has been in contact with us with the same questions as yourself, he is your brother'*. My face lit up and tears filled my eyes. I had never considered siblings. I was then told that there were 10 siblings born as a result of his donation and one wanted contact with me. In meeting my brother, this really answered a lot of my questions. Same personality traits and interests, and I had gained a great new friend and a brother. In finding my brother, this opened up a whole new curiosity for me surrounding my other siblings. What where their lives like? Were they anything like me?

Almost 2 years later, after many phone calls, e-mails, and hassling multiple people for help, my donor was found. Next came the big question: did he want contact? Thankfully, it was a yes! Ken had called the clinic in 1993 to enquire if there were any successful pregnancies from his donation. He had been told that no children were born when in fact there were 11, including me! Ken and his family invited me to Adelaide to meet his beautiful wife and four children, I had more siblings and for the first time sisters!

Meeting and forming a relationship with my donor and his family has definitely changed me as a person. I am no longer angry at the world, my anxiety has improved, I know where my interests and personality have come from, and I finally have an understanding of exactly who I am. The missing pieces are slowly coming together and my donor and I are currently searching for the 9 other siblings together, one of whom has been recently found in the last few weeks, another beautiful sister! Ken and his children are all musically talented and sing just like me, something I have often wondered about. To my surprise, my donor is also a teacher, just like me along with two of my siblings.

Importance of access to origins and openness

For me, being donor conceived has had its ups and downs; but at the end of the day, it has definitely helped me grow as a person in accepting challenges, overcoming my fears of the unknown, and has given me the strength to fight for what I have always felt was rightfully mine, which is to understand where I have come from.

In knowing my donor, I feel so much peace now in my life and in gaining a friendship with him, I have allowed myself to finally be comfortable with who I am, because he has allowed me to see that the person I have become is something that he is proud of, and that was what I had always set out to achieve.

FORTHCOMING CONFERENCES AND TRAININGS

- **France:** *Accompagner les liens enfants-parents en pouponnière*, Pikler Lóczy, Paris, 15 – 16 September and 11 – 12 October 2016. For further information, see: http://pikler.fr/.
- **Spain:** *XIV International Conference of the European Scientific Association on Residential & Family Care for Children and Adolescents*, EUSARF, Oviedo, 13 – 16 September 2016. For further information, see: http://www.congresoeusarf.com/eusarf2016/introduction_en_66.php.
- **Switzerland:** ***a)*** *Atelier d'expression de soi pour les enfants ou adolescents d'une famille d'accueil*, Espace A, Geneva, starting September 2016; ***b)*** *Grandir avec deux familles: Défis et ressources de l'accueil familial, 1er Colloque sur l'Accueil familial,* Espace A, Geneva, 6 October 2016. For further information, see: www.espace-a.org.
- **United Kingdom:** ***a)*** *Pathways: A lifelong understanding of education, trauma, intervention and success*, IFCO 2016 European Conference, International Foster Care Organisation, Sheffield, 1 – 3 September 2016, registration until 19 August 2016. For further information, see: http://2016conference.ifco.info/en/home-page.html; ***b)*** *Supervising and Supporting Foster Carers*, CoramBAAF, London, 7 September 2016. For further information, see: http://corambaaf.org.uk/training.
- **United States of America:** *The Ties that Bind: Exploring the causes and consequences of children separated from their families across international borders*, 6th Annual Conference, ISS-USA and the University of Maryland School of Social Work, Baltimore (MD), 13 October 2016. For further information, see: http://www.iss-usa.org/training-events/iss-usa-6th-annual-conference.

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DISTRIBUTION: Liliana Almenarez

The ISS/IRC wishes to thank the governments (including of some federal States) of the following countries for their financial support in the preparation and distribution of this Monthly Review:

Andorra, Australia, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, Malta, Monaco, New Zealand, Norway, South Africa, Spain, Sweden, Switzerland, The Netherlands.

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