

The Rights of the Child in Domestic & Intercountry Adoption

ETHICAL PRINCIPLES GUIDELINES FOR PRACTICE

International Social Service—United States of America Branch Inc.



The Rights of the Child in Domestic & Intercountry Adoption

Ethical Principles and Guidelines for Practice




Dear Colleague,

International Social Service–United States of America Branch is republishing “*The Rights of the Child in Domestic and Intercountry Adoption*” for dissemination in the United States.

Our goal in this undertaking is to contribute to the standards of practice in child welfare in the United States and particularly the standard of practice in international adoptions. We believe this document will provide policy makers and child welfare practitioners an easy reference when considering best practices on behalf of families and children subject to foster care and adoption. If followed, agencies will be well prepared to meet the forthcoming requirements of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption as it is implemented in the United States and abroad.

This document was originally published by the International Resource Center for the Protection of Children in Adoption. Located in Geneva, Switzerland and a part of International Social Service, the Center holds a collection of materials and scholarship with a focus on international adoption, the rights of the child and the laws and statutes governing the practice of child welfare in every country. Because of the profound expertise of the Resource Center, staff from the Center have had the opportunity to play an integral role in the development of the United Nations Convention on the Rights of the Child and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. We are pleased to play a role in bringing this excellent resource to you.



Joanne Selinske
Director
International Social Service–United States of America Branch

OTHER RECOMMENDED PUBLICATIONS

- *The Child's Right To Grow Up In A Family – Guidelines for Practice on National and Intercountry Adoption and Foster Family Care* – ICSW / Adoption Centre / ISS – 1997– c/o Swedish Society for International Social Welfare, Box 1520, s-172 29, Sundbyberg, Sweden. Available in English, Spanish, Portuguese, Russian, and Swedish.
- *Intercountry Adoption – Innocenti Digest* – UNICEF – 1998– c/o UNICEF-ICDC, Piazza SS Annunziata 12, 50122 Florencia, Italy – fax 0039055244817. Available in English, Spanish, and Italian.
You can also access those documents via the ISS' web site (www.iss-ssi.org); chapter: International Resource Centre; sub-chapter: Children's Rights and Adoption – Publications of interest.
- Web site of the Hague Conference on Private International Law: www.hcch.net

Geneva – November, 1999
ISS/IRC

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Introduction

To mark the tenth anniversary of the United Nations Convention on the Rights of the Child the International Social Service has prepared this document for its interlocutors in the network of the International Resource Centre for the Protection of Children in Adoption (IRC/ISS), and all those active in upholding the rights of the child. It deals with both internal and intercountry adoption. While certain principles and practices referred to relate more to intercountry adoption, it is the protection of the child that must continue to be the primary concern in both areas.

- We deem it essential to define the **ethical principles** that should govern adoption, a fundamental decision in the life of several human beings, among them a child in a vulnerable position.
- Although the ethical principles are conceived essentially as a frame of reference, we consider it important to supplement them with **a number of guidelines to ensure that the ethical principles are respected in practice**. They are the product of exchanges of views with professionals from all over the world. They reflect and complement the principles enshrined in the 1989 Convention on the Rights of the Child (CRC) and the 1993 Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption (THC). We hope to be able to enhance them with future publications.

We hope this paper will be of use to you in your practice and that your contributions will help us to supplement and improve upon it. Please write and share with us your experience, indicating the points where you agree or disagree. Please bring to our attention other documents published for the same purpose.

Geneva, November 1999
General Secretariat of ISS
International Resource Centre for the Protection of Children in Adoption

1 *Ethical Principles*

Adoption: A Social and Legal Protective Measure for Children

Adoption is not an arrangement made between individuals. It is a social and legal protective measure for children. It should be considered and authorised with this sole aim in view. The State bears the responsibility to ensure it is so.

It should be made available to all children whose personal and family situation warrants it, without prejudice against their social situation, physical features, ethnicity, culture, physical or mental health disorders.¹

The Best Interests and Fundamental Rights of the Child

Any protective measure taken for a child shall be governed by the child's best interests and by respect for his/her fundamental rights.²

This means that:

It is the child who must be the starting point in the process leading up to adoption.

This process is initiated because the child's situation warrants it, not because others have expressed the wish to adopt the child or are in quest of a child.

The handling of any child's case cannot be left

to the birth parents, to unqualified protagonists or those of doubtful ethics, or to prospective adoptive parents. It must be carried out by **services competent in the protection of children**, which as far as possible, should be pluridisciplinary and subject to accreditation and periodic inspection by the competent national authorities. Direct adoption from one family to another must be banned, except under extraordinary circumstances supervised by child protection services.

Professionals engaged in adoption proceedings should be guided as **a priority**, in the perception of their work and in their practice, by **the needs of the child**. While they must be careful to listen to and respect the wishes of prospective adoptive parents and the demands of birth parents, whatever their particularities may be, they are not required to accord them priority, but rather to consider the extent to which they correspond to the best interests of the child. Professionals must be aware that adoption in the best interests of the child is one that fosters the creation of an environment or family relationships that satisfy all parties.

Since time is essential in a child's development, professionals should **act as quickly as possible** without jeopardising overall respect for procedures. They should cut as much

as possible the periods of waiting, of uncertainty or transition that children live through.

The child, in a manner appropriate to his/her age and degree of maturity, must be kept informed and consulted about any life plan for him/her.

The above applies equally well to internal and intercountry adoption.³

Priority for the Prevention of Abandonment

Priority must go to allowing children to be raised in their own family, i.e.: staying with the birth parents or the extended family (avoiding relinquishment); being reunited with the immediate or extended family (children at the pre-abandonment stage). Governments and civil society must do their utmost to ensure that families of origin have the possibility, and are encouraged, to care for their children.

This requires the formulation of policies and programmes that take human development and equity into account, and that result, amongst other things, in:

- psycho-social support services and/or financial support for mothers or families in difficulty,
- social dialogue with the extended family and especially the grandparents, so that they help in preventing abandonment,
- sensitization to the importance of the father's role, training for parenthood,
- awareness of the needs and rights of the child,

- conscious and responsible sex education and family planning,
- the promotion and upholding of women's rights,
- fair incomes, access to employment,
- a reduction of world economic imbalances.⁴

The Search for Alternatives

When the birth family does not meet the conditions that ensure the psychosocial development as well as the physical and emotional integrity of the child, competent child protection bodies must look for adequate alternatives. **Poverty alone should not be a criterion for severing a child's bonds with his/her birth family.** But one should also be careful neither to use it as a criterion to refuse the alternative of a substitute family for a child that respects his/her rights and integrity.⁵

Priority for an Alternative Family

The family is the best environment for a child's development: **offering a child a substitute family should, other than exceptional and justified cases, prevail over his/her placement or long term residence in an institution.** It is the responsibility of the competent* authorities to see to it that whenever children enter institutions, their personal and family situation is quickly investigated and suitable family protective measures are sought.⁶

Priority for a Permanent Solution

To flourish a child needs stability in his/her contacts with the adults around him:

permanent solutions must prevail over provisional arrangements for an undetermined period of time.⁷

Subsidiarity of Intercountry Adoption

Intercountry adoption is subsidiary to internal adoption. As a priority a child must be placed for adoption in his/her own country or in a cultural, linguistic and religious environment akin to his/her community of origin. A decision in favour of intercountry adoption should only be taken after an unsuccessful search has been conducted for a satisfactory solution in the child's country of origin. In the interest of the child the competent* authorities shall see to it that **such a search is carried out without undue delay.**⁸

The Adoptability of the Child

Adoption is a personalised life plan for a child. Such a plan can only be decided upon after a preliminary psycho-medico-social study of the child and his/her birth family. The conclusion that it is not possible for the birth family to care for the child and the assessment of the child's capacity to benefit from a family environment **determine his/her psychosocial adoptability.** This is supplemented by his/her **legal adoptability**, which forms the basis for the severance of the filiation links with the birth parents, in the ways specified by the law of the State. **The adoptability of the child must be determined before starting adoption proceedings.**⁹

Parents' Eligibility to Adopt

Adoption aims at offering a child who has lived through traumatic experiences (the incapacity or impossibility of the birth family to care for him/her being one of them) and who sometimes has little in common with the society about to receive him/her, the family best suited to meet his/her needs. **The adoptive family must therefore be recognised ahead of time as being fit** and able to ensure, in lasting and satisfactory fashion, the protection and respect of the child with such a background and characteristics. A psycho-medico-social family study should therefore be undertaken **before adoption proceedings are started.** It will help to confirm or disqualify the **family's adoptive capacity which must be officially certified.**

In the case of **in-family adoption**, the parental capacity of those adopting the child should also be studied and certified.¹⁰

Pre-Placement Preparation

The child, the adoptive family and the birth parents should be prepared for adoption. Adoption will satisfy the interests of all parties, if adequate preparation allows each person to understand the short and long term implications of adoption for his/her life. Moreover, counselling must help the child and the adoptive family to approach more calmly their first meeting and the opening moments of life together.¹¹

Post-Adoption Support

Access to qualified post-adoption support services should be made **available** to the child, the adoptive parents and brothers and sisters, as well as the birth parents, in order to answer questions and unravel or resolve problems which might arise.¹²

The Right to Confidentiality

The child, the birth parents and the adoptive family have the right to confidentiality and to respect for their private lives. **Access to their file will be strictly controlled.** When deemed necessary in the best interests of the child, the publication of personal data will be issued by appropriate means, **to recipients chosen** for their ability or interest in problem solving, but will not be made available to a wide, unspecified public through channels such as internet.¹³

Search for Origins

Children have the right, if they so feel the need and when their age and degree of maturity allow, to know their history, especially information relating to their birth mother and father, brothers and sisters, wherever possible. **It is essential to have this information gathered and preserved. A qualified psychosocial assistance is necessary for processing the search for origins.** Specialised professional services should be set up or reinforced to encompass this process.

This right may be difficult to respect in the present social context of certain countries. However, given the growing number of searches for origins by young and adult adoptees, each State must do its utmost to improve the exercise of this right.¹⁴

Profit – Abuse – Trafficking – Sale

The protection of children in a vulnerable position must not be a source of material or other profit. Any abuse, trading or trafficking in this field flouts the rights of the human person and, as such, must be combated and severely prosecuted.¹⁵

Armed Conflict – Natural Disasters

Intercountry adoption is not a step to consider in countries of armed conflict or among victims of natural disasters. It can only be envisaged after a sufficient period (two years generally recommended) to allow the competent bodies to ensure that no member of the child's family or community is still alive and wishing to care for the child. Meanwhile priority must be given to put the child in a safe location, to “on site” assistance measures to enable the child to remain in his/her community and if possible in his/her country or region.¹⁶

Guidelines to Ensure That Ethics and Principles Are Respected in Practice

These guidelines provide a frame of reference. We are aware that their application will run into numerous obstacles. Nonetheless, we hope they will facilitate progress towards practices that accord children greater respect. Moreover, we recommend that their application be adapted according to circumstances and the best interests of each particular child.

*Certain countries of origin** may find it difficult to make the necessary human and material resources available. Receiving countries*** must help them to develop the capacity to shoulder their responsibilities.*

Both receiving countries and countries of origin are responsible for the exercise of the rights of the child in adoption. Only genuine cooperation between them will make it possible to provide greater protection of children.

The Adoptability of the Child

Adoptability

Determining a child's **adoptability is a matter for both the child and his/her birth family:** mother, father and the extended family, and sometimes the community.

A child's adoptability must be established **before** a particular matching is considered.

Adoptability is more than a mere legal concept.

It must take into account **psychological, social, medical and legal factors.** Adoptability establishes that:

- a child is in need of an adoptive family, since he/she cannot be kept in or reunited with his/her birth family.
- a child is psychologically and medically fit to benefit from adoption. Because of earlier experiences some children may have lost the ability/ the wish to develop a new emotional dependency bond or they may show clear limitations in adjusting to a family environment. However, **the great majority of children are capable of reaping the benefits of a permanent family environment.** Some of them, because they display more difficult traits (physical or mental handicaps, serious psychological traumas, illnesses, etc.) will need an adoptive family setting with special features that make their physical, emotional or psychic recovery possible. But **families willing and able to provide them a suitable human environment do exist.** It is essential to ensure that these children are not discriminated against and that the utmost is done to give them access to the benefits of adoption.
- a child is legally adoptable.

Study of the Child and His/Her Birth Family

Adoptability must be established by means of **psycho-medical-social studies of the child and the birth family**.

No time should be lost before undertaking and carrying out the study of a child's adoptability. **As soon as the child enters an institution (hospital, maternity clinic, temporary or long term child care institution), his/her situation should be investigated.** This will avoid the harmful effects of keeping children in an institution without proper consideration. It will also help to clarify transitory or dubious situations that can harm a child's development.

As soon as a child enters an institution, and to keep memory of his/her experience (in the interests of the child and his/her future adoptive family), it is desirable that a life book be created to collect the history and details of the child's lifespan. This book will form a part of the file that will later be handed over to the family with whom the child is placed.

Child protection and family professionals will be responsible for carrying out the psychosocial studies.

The child study must be as thorough as possible, since the child's future and that of his/her birth family and of the prospective substitute family will depend upon it.

The study, which is confidential, should cover, as far as possible:

- The identity of the child, his/her parents and extended family: if the child's parents are

unknown, a search should be made to trace them and discuss the child's future with them.

- The situation of the child's birth family – immediate family, (parents, brothers and sisters) and extended family (grandparents etc): socio-economic situation, nature of relationships between relatives, relationships with the social environment, main difficulties, positive factors etc.
- The child's past, in as much detail as possible about the stages of his/her **personal and family history**, ethnic and religious upbringing.
- The reasons for the child's ties with the birth family to be weakened or severed, for the abandonment decree or the adoption consent.
- The stages of the child's physical, motor, intellectual, and socio-emotional development.
- His/her state of health; medical history, (including available information about the mother's pregnancy and delivery, vaccinations etc) and that of the birth family.
- His/her physical and general appearance, personality and behaviour.
- The child's present situation, with all available information about his/her present environment, way of life, habits, ability to be responsible of oneself according to his/her age, relations with other children and with adults around him/her, his/her pace, etc.

One must make sure that a child's relinquished status is not the result of abuse, trafficking, sale or kidnapping.

The child's origin must be carefully established.

When the child seems legally adoptable because of **parental consent**, one must check that the consent is or was freely given, without pressure, without material compensation or otherwise. The social services must:

- counsel and assist the parents in considering other alternatives than adoption for their child;
- inform them and be sure they have properly understood the consequences of adoption, which might become intercountry adoption;
- make sure they have clearly grasped the implications for the child, themselves and the future of their legal bond and their social and personal attachment to the child;
- ensure they are informed of the possibility of a future contact in the event of a search for origins by the then full-grown child;
- collect their possible wishes with regard to profile of the substitute family in order to respect them as far as possible if they are in the interests of the child.

Parental consent (and especially that of the mother) **must not be given before birth or during the first weeks of the child's life.** The mother, and the father, must be given the opportunity to become attached to the child and to avail themselves of a period of reflection after the birth of the child. During this period and during the pregnancy, it is very important to

provide psychosocial and economic support services to the parents to reduce the risk of abandonment or, in that eventuality, to help them part with the child respectfully.

Drawing Up a Life Plan for the Child

The studies should result in a life plan for the child, prepared by a **team** of child protection professionals, as far as possible pluridisciplinary. A life plan means the most appropriate protective social measure (or series of measures) for the child. One of the measures may be adoption.

The plan for the future must be **built around the interests of the child.**

- **Every child is a unique being**, duly considered as such in the plan.
- The child's birth mother and father should participate in the definition of the plan as far as possible.
- The child should participate, in a manner appropriate to his/her age and degree of maturity, in devising, carrying out and eventually reassessing the plan.
- The plan will see to it that blood (or possibly love) brothers and sisters (siblings) are not separated, especially when they know each other; if it happens under extraordinary circumstances, provision must be made for them to remain in contact.

Adoption will only be selected as the life plan when, despite all efforts, keeping or reuniting the child **in the immediate birth family or in the extended family** proves impossible or contrary to the interests of the child.

Adoption should be selected as the appropriate step only if it appears to **fit the child's personal characteristics** (see page 6).

Intercountry adoption of a child should be considered only when, on the one hand the child could not benefit from adoption by a family in his/her country of origin, despite efforts to that effect, and when, on the other hand, it appears appropriate for the child's personal characteristics (ability to adapt to a different family, social, ethnic, cultural, linguistic, educational environment; different physical features etc.)

Except in very special cases, **adoption must prevail over indefinite institutionalisation** for children whom it proves impossible to reunite with their birth family, **without prejudice** against ethnic aspects, physical characteristics, age, physical or mental health disorders.

If adoption is chosen as the life plan for the child, **his/her legal adoptability must be clearly established and certified.**

Child Report for Adoption Purposes

A report on the child is prepared on the basis of the above mentioned studies. This report is handed in to the entities responsible for matching and for the adoption decision. **It must be as complete a picture of the child and his/her birth family as possible so as to help the competent bodies to achieve matching in the interests of the child and the family that will adopt him/her.**

Moreover, thanks to the information contained in the file they receive, the adoptive parents will better know and understand the child and his/her past, and be better equipped to

receive and accompany him/her throughout life. They will also be able to answer better the questions which the child asks about his/her life story.

The report will contain, to the extent possible:

- The reasons why adoption is the proposed measure. In the case of intercountry adoption a particular justification will be added.
- A synthesis of the psychosocial information gathered during the child and birth family study.
- The medical file on the child's history, state of health, as well as his/her birth family's antecedents.
- The legal file dealing with his/her adoptability.
- A description of his/her present environment, habits, relationships, behaviour.
- An assessment of the positive factors and risks in the child's personality, experience and characteristics which have a bearing on the development of a satisfactory adoptive relationship.
- Guidelines for the type of family likely to meet the child's needs and to ease his/her bonding in its midst and in the surrounding society: the composition of the family, its character, age etc.
- Any other information that can help matching in the interests of the child and the adoptive family.

- Photographs or possibly a video of the child.

The information about the child's origins must be preserved by one of the bodies responsible for adoption. If later the adopted child feels the need and when his age and degree of maturity permit, he/she could receive the information with the appropriate psychosocial support services, taking into consideration the rights of the birth family and the law of the State concerned.

The possible renewal of contact with the birth family must take place within a specialised psychosocial framework, as much for the birth family as for the adopted child.

It should only be continued if both parties accept to do so and appear able to assume the consequences. The IRC/ISS recommends that contact be only considered when the adoptee is no longer an adolescent. Any steps taken must preserve the confidentiality due to each person involved.

The Adoptive Eligibility and Suitability of Parents

The ISS Opinion

Adoption must be a meeting of the child's needs and the wishes of the parents. This does not mean that adoption has to meet the various wishes of the prospective adoptive parents (hereafter referred to as PAPs) but that these parents must wish for children and be able to want the child placed in their care. However, **adoption is a right of the child** in need of permanent substitute parental care. **Adults do**

not have a right to be entrusted with the care of a child just because they want one. The right to equality between people is too often used to justify recognition of anyone's right to adopt.

The child in need of adoption is a child who has suffered serious deprivation. His/her history, situation as an adopted child and sometimes his/her physical features make him/her initially a different person in the environment of the country or the community envisaged for his/her placement. The receiving family should not add to his/her differences or deficiencies, but should:

- provide or give new value to the maternal or paternal representation that he/she has lacked or suffered from;
- ensure an environment that will ease his/her social inclusion; and
- enable him/her to face up to the particular difficulties of the adoptive family relationship.

It is for these reasons that ISS believes, except in justified special cases, that a couple, composed of a man and a woman, whose age is in proportion to that of the child, provides a more favourable environment for the development of a child than a single person, a couple of the same sex or a couple where the advanced age of one or both partners constitutes an element ill suited to the needs of the child or an element of risk in respect of the duration of parental protection.

It is essential to ascertain that those with whom a child will be placed for adoption are equipped to assume this responsibility in the best interests of the child. **The adoptive family must be capable, on a lasting and satisfactory basis, of**

caring for a child who:

- is a stranger to them;
- comes to them with a past, before they knew him/her, that must be taken into account and respected;
- has, in most cases, lived through traumatic experiences, such as the death or incapacity of his/her birth parents to take care of him/her, an insecurity in his/her attachment to adults, prolonged periods of institutionalisation, hardships etc; all of which give rise to special needs and are a potential source of particular problems;
- bears, especially for an intercountry adoption, a culture, a language, physical features, behaviour etc. that are different.

The adoptive eligibility and suitability of parents **must be determined before** a specific matching is considered.

The adoptive eligibility and suitability of parents cannot be reduced to a mere legal, economic or religious concept. **It must take into consideration ethical, psychological, social and medical factors.** It must be established on the basis of a thorough psycho-medical-social and legal study of applicants for adoption, and be carried out by professionals in child and family protection.

The study, which is **confidential**, must gather information, as far as possible, about:

- the composition of the family;
- the civil, legal and judicial status of the prospective adoptive parents (PAPs);

- the PAPs' level of education, professional status, economic situation, place of residence, social, ethno-cultural and linguistic identity.

An advanced education, economic comfort or high social standing of the PAPs are not in themselves a sufficient guarantee for the interests of the child. It is essential to assess the adoptive family's psycho-emotional capacity to raise the child who may be placed in their care, as well as their ethics about the rights of that child, through the collection of information about:

- the physical, mental and emotional health of both PAPs;
- the general appearance and personality of both, their personal history, the aspects of their family history with their parents and siblings that would help to understand how such relationships could strengthen or inhibit them as parents;
- their history and relationship as a couple;
- their fields of interest and their involvement in their community;
- the possibility and probability of having their own children in future;
- their experience of children, their educative capacity, their ability to cope with difficulties which might create differences between the child and the social or family environment;
- if appropriate, the personality of their children and their relationship with their parents and their environment, as well as their attitude towards the contemplated adoption;

- the social environment in which the adopted child will be placed (extended family – social circle in which the family moves – community) and the attitude one can expect to find towards the child, especially if he/she is different from these surroundings; mention of the emotional or other kinds of support that the PAPs and the child can expect; foreseeable difficulties;
- the PAPs' wish for children and the reasons why each of them wants to adopt a child;
- their concept of adoption and their ethics about it, their awareness of the difficulties they may encounter at the different stages of their life with the adopted child, their attitude towards the child's past, his/her history and secrets, his/her differences, the adoption disclosure and the child's search for the birth parents;
- the profile of the child they would like to adopt and reasons behind it;
- the PAPs' plans for their future and that of the child they wish to adopt.

As a follow-up to the study, **a team** – as far as possible pluridisciplinary (social worker, psychologist etc) – will decide upon the adoptive eligibility of the PAPs. It will draft a report for the bodies responsible for matching and the adoption decision. **This report will provide as complete a picture as possible to assist the competent bodies to achieve a matching in the interest of the child and family that will adopt him/her.**

The report will contain, to the extent possible:

- the reasons why the PAPs were considered fit to be entrusted with a child for adoption. If it is a case of intercountry adoption, the justification will take into account the particular requirements, such as the need to cope with the problems arising from physical, ethnic and cultural diversity, the traumatic circumstances related to a possible long period of institutionalisation, health problems;
- a synthesis of the psycho-medico-social information gathered during the study of the PAPs and their surroundings;
- the administrative or judicial file on their identification and civil status, as well as the certification of adoptive eligibility;
- photos of the family;
- a description of the PAPs' expectations of adoption, with appropriate comments;
- an assessment of the positive factors, within the adoptive family and its environment, that will ensure an emotionally, morally, educationally and materially satisfactory framework for the child, and ease his/her integration; an assessment of the limits that risk jeopardising them in the case of a internal and/or intercountry adoption. Intercountry adoption calls for a wider range of abilities, given its more complex nature;
- an assessment of the family's capacity to care on a long term basis for a child who does not necessarily correspond to its image of him/her;

- guidance on the type of child that the family seems best equipped to cope with (behaviour, character, age, particularities etc); its capacity to care for a sibling group;
- any other information that might help to achieve matching in the interests of the child and the adoptive family.

It is very important that **prospective adoptive parents have access to systematic and thorough preparation for adoption**, preferably **before** the assessment of their adoptive capacity, including:

- ethics about adoption and the rights of the child in a vulnerable position;
- information about the nature of adoption and the profile of children in need of adoption in the different countries of the world;
- the stages, personal rewards and possible pitfalls in the adoptive relationship and points that help to cope with them;
- issues to consider in order to ensure a better respect for the child, his/her experience, origins, needs and particularities, rights;
- special demands of intercountry adoption.

Good counselling helps the PAPs to strengthen their resolve in their approach to adoption. It is **also an action in the interest of the child**, since it fosters in the PAPs a greater capacity to receive the child and accompany him/her throughout his/her development. It is, therefore, an action **in the interests of the adoptive family as a whole**.

Matching

Matching is not the adoption decision. It is a proposal to establish an adoptive relationship between a particular child and a particular family. The adoption decision itself comes later.

An adoption in the child's interests is one that fosters the creation of an environment or family relationships that satisfy all parties: the birth family, the child and the adoptive family. Matching is therefore a key point in time. It is the convergence of two life plans: that of the child and that of the family in whose care he/she is to be placed.

Matching should:

- be the **proposal of an adoptive family for a child** that fits the life experience, characteristics and needs of that child.
- take place **after child protection professionals have established the psycho-medico-social and legal adoptability of the child**.
- take place **after child and family protection professionals have established the psycho-medico-social and legal adoptive eligibility of the prospective adoptive family**.
- be assigned to **a team** and not be left to the responsibility of an individual; the team should be composed of **child protection professionals** trained in adoption policies and practices. They should preferably be specialists in psychosocial fields. In the case of intercountry adoption it is desirable to invite a lawyer in the team to check that the legal requirements are met and are compatible between the countries concerned.

Matching also should:

- not be left, other than in duly justified exceptional cases to the initiative of the birth family. It must, whatever the circumstances, be supervised by a competent child protection service and take place after obtention of consent;
- not be left to the sole initiative of the staff of child care institutions or the child's guardian or tutor, although these people should, as far as possible, be included in, or consulted by the team that makes the proposal, since they know the child;
- must never be left to the initiative of prospective adoptive parents, by choosing a child among others in the course of visiting institutions for children, during visits to families in the country of origin or from catalogues; and
- must not be left to the initiative of prospective adoptive parents by choosing a child from a catalogue of public adverts on internet.

Professionals from the country of origin and from the receiving country must be jointly responsible for matching in the case of intercountry adoption. The proposal should, as far as possible, be put forward following consultations between:

- In the country of origin: a professional who knows the child and a representative of the central authority (or of the competent authority or the accredited body).

- In the receiving country: a professional who knows the chosen family and a representative of the central authority (or of the competent authority or the accredited body).

Before the proposed matching is confirmed it should be submitted for approval to the chosen adoptive family through the good offices of one of the competent bodies involved in adoption procedures in the family's country of residence.

It is desirable, both in the interests of the child and of the adoptive family, before the matching is officially confirmed, that the proposal be followed by a face to face meeting between the child and the future adoptive family, and, if possible, by a brief period of getting to know each other.

It is very important in bringing the child and the adoptive family together that:

- **the child and the future adoptive family first be prepared** for the proposed meeting (photos, exchange of information, information about attitudes or points to be careful about etc.)
- the meeting be held in privacy and assisted by persons who have been caring for the child.

3 Protagonists Directly Involved in Adoption Procedures

Bodies or persons who play a role in adoption procedures, whatever the importance or level of their participation, are defined here as protagonists.

The 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption (THC) refers to the protagonists described below under items 1 to 3. Those considered under items 4 and 5 are not accepted by the Convention.

The ISS clearly prefers the bodies mentioned under items 1 and 2, particularly those whose staff are composed of pluridisciplinary professionals in child protection (social workers, psychologists, jurists) and who have benefited from special training in adoption and the rights of the child, and who are guided by ethical standards in the best interests of the child.

It believes that experience as an adoptive parent is not a sufficient qualification to play a role in adoption procedures. Moreover, while acknowledging the indisputable value of volunteer work, the ISS considers that it cannot be recognised as a skill in itself and does not justify overlooking professional qualifications in child protection.

- **Central authority** in internal and/or intercountry adoption,¹⁷ and/or other competent public or judicial authorities.¹⁸
- **National accredited bodies** in the

receiving country – in the country of origin.¹⁹

- **Bodies or persons**, not accredited but who are officially recognised (under the terms of the Hague Convention) to act in adoption procedures.²⁰ They are not subject to all the demands made upon the accredited bodies (among other things being non-profit making).

A State party to the THC may refuse the participation of such protagonists in adoption procedures (at stages that take place on its territory or in other countries concerned) when the procedures concern persons who reside in its State. To do so it must make a declaration in accordance with the terms of THC art. 22-4.

- Bodies and persons acting in adoption procedures without being accredited or officially recognised to do so (under the terms of the Hague Convention), without it being against the law or the administrative regulations of the country (their own country or the other concerned), but who are beyond the scope of the THC.
- Bodies and persons acting in adoption procedures without being accredited or

officially recognised to do so (under the terms of the Hague Convention), it being against the law or the administrative regulations of the country (their country or the other involved).

For intercountry adoption, ISS favours the participation of accredited bodies (listed under item 2 above), **especially in the receiving country**, since they provide a firm link case by case between the country of origin and the receiving country, between the child and the adoptive family, between the field and the governmental levels.

However in the interest of the child, the ISS insists on the need to:

- reinforce the criteria for accreditation
- systematise the accreditation methodology
- deepen the training of these bodies on the rights of the child and adoption
- improve their periodic supervision.

Without underestimating volunteer work the ISS recommends that sufficient material resources be made available to accredited bodies for the hiring of professionally qualified staff, for training in adoption and the rights of the child and for organising their work in an appropriate manner to ensure the genuine protection of children. A part of the tasks performed by accredited bodies is delegated to them by the State, which should ensure or assist with the provision of adequate resources and qualifications.

The IRC/ISS strongly opposes any undue or obviously exaggerated profit or material gain in the context of adoption. Protection of the child in a vulnerable position must not become a source of inappropriate revenue or profit. **The ISS considers it essential that the following be quickly proposed and periodically updated at the national and international level, in both receiving countries and countries of origin:**

- a list of the steps involved in adoption procedures, or related to adoption, that could justify a payment;
- ranges of emoluments, fees and the cost of services in adoption that could be considered reasonable.

The Rights of the Child in Domestic & Intercountry Adoption

Ethical Principles – Guidelines for Practice

The International Social Service (ISS) is an international non-profit NGO, created in 1924. It has a worldwide network of national sections and correspondents (governmental and non-governmental) which facilitates communication among social services in different countries in order to resolve problems of individuals and families resulting from international migration. It also investigates and reports on the conditions and consequences of individual and family migration from an international standpoint.

In this context, ISS has for many years worked on the question of intercountry adoption and participated to the elaboration of international declarations and conventions in that field. ISS is developing an International Resource Centre for the Protection of Children in Adoption (ISS/IRC), which aims to promote and favour a better respect of children's rights in that matter. The ISS/IRC facilitates, at an international level, the circulation of information and documentation, the knowledge of human and professional resources, the exchange of experience, the analysis of situation, the promotion of global policies in the best interests of the children.

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Footnotes

*Competent: in this paper, it means governmental or private bodies whose official responsibility is to carrying out the tasks implied by the child protection.

**The State of origin: the term used in the THC (art. 2-1). The State where the child is habitually resident before being considered for adoption.

***The receiving State: the term used in the THC (art. 2-1). The State where the child has been, is being or is to be moved either after his or her adoption in the State of origin, or for the purposes of such an adoption in the receiving State or in the State of origin.

¹ CRC* art. 2 / THC* preamb., art. 1-a and b.

² CRC art. 3 / THC preamb. para 4, art. 1-a.

³ CRC art. 21.a, art. 12 / THC art. 29, art. 4-d, art. 21.2.

⁴ CRC art. 18 / THC preamb. para. 2.

⁵ CRC art. 20 para. 2.

⁶ CRC art. 20-3 / THC preamb. para. 1.

⁷ THC preamb. para. 3

⁸ CRC art. 21-b / THC preamb. para. 3, art. 4-b.

⁹ THC art. 4, art. 16-1.

¹⁰ THC art. 5, art. 15.

¹¹ THC art. 4-c-1, art 4-d-1, art. 5-b, art. 9-c.

¹² THC art. 9-c.

¹³ CRC art. 16.

¹⁴ CRC art. 8 / THC art. 30.

¹⁵ CRC art. 21-d, art. 35 / THC preamb. para. 4, art. 1-b, art. 11-a, art. 32.

¹⁶ CRC art. 22, art. 38 / THC recommendation 24 October 1994.

¹⁷ THC art. 6)

¹⁸ THC art. 7, 8, 9

¹⁹ THC art. 10, 11, 12

²⁰ THC art. 22-2

CRC: The 1989 United Nations Convention on the Rights of the Child

THC: The 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption.

The texts of those Conventions are available on the International Social Service's web site, in chapter "International Resource Centre", sub-chapter "Conventions" – www.iss-ssi.org

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