

Fact Sheet N° 20

Adoption

THE ADOPTABILITY OF THE CHILD: OBJECTIVES AND RESPONSIBILITIES

The initiation of the adoption process requires first and foremost knowing if the child in question is likely to benefit from this kind of measure. Adoptability is not just a legal concept. It involves various elements: social, psychological, medical and legal.

The various objectives of determining adoptability:

1. Determining adoptability establishes the fact that the child is legally adoptable.
2. It establishes the fact that the child needs an adoptive family because he cannot be cared for or reintegrated in his family of origin.
3. It establishes that the child is both emotionally and medically capable of benefiting from adoption. Due to their previous experiences, some children may not yet have the capacity/the wish to forge an attachment with an adoptive family or they display serious limitations in adapting to a new family environment. Nonetheless, the great majority of children is ready to reap the benefits of a permanent family environment.
4. Some of them, because they display more difficult characteristics (physical or mental backwardness, serious psychological traumas, illness, etc.), will need an adoptive family environment that offers special features that make their physical, emotional or psychic recovery possible. It is important to endeavour not to discriminate against these children and to do the utmost to provide them with the benefits of adoption.

The role of the local social services

Adoptability is determined on the basis of an analysis of the personal and family situation of the child (see Fact Sheet no. 1.2). It is quite common in many countries of origin that the competent authority receives very few files of children who need to be adopted, while a significant number of children residing in institutions should certainly benefit from adoption as a permanent life plan. Sensitizing and training the local social workers (those responsible for the institutions, social services, judges and magistrates, the police, NGOs and local Committees for the Rights of the Child) should be carried out so as to encourage the study of the status of children under their responsibility and the elaboration of a permanent family life plan for each one of them, to supplement the ethical foundations promoted by the international conventions.

It is also necessary perhaps to ask one self if the staff of the institutions are the most suitable for taking the initiative of a study of the status of the child and his family of origin, when the objective of this study is to extract the child from the institution in order to put him back in a

family environment (his biological family or a surrogate family). Isn't the interest of the institution contrary, in certain cases, to that of the child, and can't deinstitutionalization imply the closure of institutions because of the absence of children? Would it not be more desirable in this situation, for the local and regional social services to intervene?

In a certain number of countries, the psychic-medical-social and legal study of the child and his family of origin only starts when it is assumed that the child may be "adoptable". Although this may be seen as a push in the right direction for the deinstitutionalization of the child, it runs the risk of *a priori* steering of the final decision about the appropriate life plan for this child, without paying enough attention to other options, particularly within the family of origin. Furthermore, it is serious when a State or its administrative and judicial authorities restrict the benefit of such studies to supposedly adoptable children instead of developing a global policy that allows all children in care institutions and foster families to benefit from this measure that is an indispensable factor in successfully defining a family life plan.

The legal investigation

It is also necessary, when the Court is the entity in charge of the investigation that precedes the adoptability decision, to ask oneself about two factors:

1. Taking into account that adoption is only one of the possible options in the list of life plans for a child, and is subsidiary to options within the family of origin, is the Court the most competent body to take the initiative and launch a study of the status of children and their family of origin? Wouldn't the intervention of the local, regional or national social services for the protection of children be more desirable in this case, requesting the court's intervention when it becomes indispensable in formalizing the decisions?
2. Practice shows, however, that in various countries of origin, these studies duplicate each other: First, an administrative body does them and then a professional team of the Court also does them. Isn't it a waste of human and financial resources, already scarce in the country, and contrary to the best interests of the child, because these resources could be invested in a greater application of a global policy for children and the family? Moreover, it stretches out the process and the delay for the children in undefined and less favourable circumstances.

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For more information:

The child's right to grow up in a family : Guidelines for practice in national and intercountry adoption and foster family care - ICSW / Swedish ICSW / Adoption Centre Sweden /ISS - 1997. Update of the 1982 Brighton guidelines, prepared in consultation with a wide international network of professionals and approved at the ICSW world conference in Hong Kong in 1996.

http://www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_di_eth.html

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