



ACCESS TO ORIGINS: THE RIGHT AND ITS TERMS OF ACCESS

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Summary

The story of those adoptive families, who were created through intercountry adoption, is that of an intercultural encounter; a meeting with the other in all his individuality and social and cultural identity. The identity issue is therefore central to the adoption process. The search into one's origins belongs to this identity quest, which is present in every individual, and often stronger among adopted persons. Aimed at supporting the professionals, who accompany adoptees and their families at this time in life, and the various authorities competent to make decisions on this matter, the ISS/IRC launched a survey among its network. It offers a presentation and an analysis of its results in a detailed synthesis*. Furthermore, it provides you below with an executive summary aimed at concisely highlighting the resulting main trends.

From a legal perspective, the ISS/IRC has reviewed the content of international and domestic instruments on the adoptees' right to access their origins. It has observed that, at international level, the trend is pursuing the recognition of this right (see arts. 7.1 and 8 of the Convention on the Rights of the Child, art. 9 and 30 of the 1993 Hague Convention, and para. 42 of the UN Guidelines), even though some instruments, such as the 1993 Hague Convention, remain more finely-shaded and refer to domestic legislation. In relation to the latter, the ISS/IRC states that there is a clear evolution towards a more flexible attitude about the confidentiality of the information on the child's background, which once used to be the majority and absolute. Thus, it is promising to see an increasing number of receiving countries and countries of origin recognising the right of adoptees to access their origins and regulating the latter. The conditions that come with this right vary, sometimes radically, from one country to another. These usually refer to the age of the adopted person (a right recognised for persons, whose age may vary between 12 and 25 years, depending on the country), and to the adoptive and/or biological parents' consent – or even that of the judicial authorities.

From a practical perspective, the implementation of such a right refers countries to their own responsibilities; i.e. first, the approval of measures enabling the centralisation and preservation, for a sufficiently long – preferably unlimited – time, of the most detailed possible data relating to the origins of the adopted child, including the identity of his or her birth parents. Secondly, the availability, for all involved actors (adoptee, birth parents, adoptive parents), of quality professional support that is able to respond to the diversity of

needs of each one. The ISS/IRC has also addressed the nature of those actors with responsibility for such support and the latter's content. These reflections have highlighted that, from the preparation of adoptees for a search for origins and its potential consequences (discovery of fraudulent elements, absence or loss of the file, the biological parent's refusal to have contact, etc.), to the trips organised to their country of origin, through the potential meeting with the biological family, the support offered by competent professionals has proven to be essential, and special attention should be paid by post-adoption monitoring services, whenever these exist. As evidenced by the results of the study, this support takes place at various levels: general awareness-raising as to the content, the stages and implications of a search for origins, individual psychological support if necessary, recourse to family mediation when there is a wish for a meeting with the biological parents, etc. Furthermore, the professionals will need to be able to help these persons to solve potential conflicts caused by the clash between the right of adoptees to access their origins, and that of the biological parents to remain anonymous. In some countries, the legislation resolves this issue by giving priority to one of these rights; in others, a solution based on consensus will have to be identified between the involved individuals.

Finally, the support provided to adoptive parents at the time of their preparation for the adoption, and during the post-adoption follow-up, will also play a crucial role in the positive development of a search for origins. Indeed, some of them interpret this process as a denial of the adoptive relationship, a failure of mutual love, and feel that their parenthood is questioned. Thus, helping them to overcome these thoughts, to consider their child's biological parents as a part of their life from the beginning of the adoption, appear to be essential, in order to allow them to experience their child's search for origins constructively and to support him or her in this process.

As a means of conclusion to its study, the ISS/IRC has decided to identify, based on the information received from some countries, the current challenges faced by those, who have undertaken a search for origins, and to suggest several reflections and practical guidelines aimed at overcoming these. Among these, the following may be mentioned: the absence, in some countries, of legislation or regulations on this issue, or the clash between the States' respective sets of legislation. Thus, the ISS/IRC suggests resorting to several tools, aimed at undertaking lobbying actions with governments, in order for the right of access to be incorporated into, and regulated by, domestic laws. It also mentions several means to develop knowledge on the conditions for the exercise of this right in various countries. Another challenge – no less important – is raised by those adoptions vitiated by irregularities, which have been exposed during a search for origins. When faced with these extremely delicate situations, with very strong psychological implications for those involved (the anger felt by adoptees, the development of a double mourning among the biological parents, the responsibility and guilt of the adoptive parents), the recourse to family mediation will be an adequate response (see Monthly Review N°12/2011). The establishment of support groups and adapted psychological follow-up will also prove beneficial.

Other challenges also appear at a time when new technologies proliferate, in particular the expansion of social networks, such as Facebook. The ISS/IRC has considered it to be important to highlight the risks raised by adoptee-biological parents meetings through social networks, in the total absence of professional supervision, of preliminary preparation of those involved, or the protection of the privacy and confidentiality of personal data. In particular, these practices may jeopardise the security and physical integrity of biological mothers, due to, for example, religious, cultural or incidental characteristics. The ISS/IRC mentions the mechanisms that have been established by some countries in order to raise awareness among the global population on such risks and to prevent them. Furthermore, it introduces the tools developed, in particular, by the British Association for Adoption and Fostering (BAAF) to train and support parents and professionals.

* The synthesis/analysis of the results of this ISS/IRC study is available in English and French at the following address <http://www.iss-ssi.org/2009/index.php?id=44>, under the section “comparative fact sheets”. You may also access as an appendix (at this same address) all of the information received from the consulted countries. We wish you a happy reading and always remain interested in receiving your reactions and thereby enhance our reflection.
