



# Monthly Review

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

N° 252

JUNE 2021

## TABLE OF CONTENTS

### EDITORIAL

Rightfully considering fathers, their  
role, experiences and needs 1

[ACTORS](#) 3

[ISS/IRC NEWS](#) 3

[BRIEFS](#) 4-5

### LEGISLATION

ECTHR ruling: the importance of a  
birth father's consent 5

### PRACTICE

'Mad, sad and Bad' to 'Dad': care-  
experienced men's experience of  
fatherhood 7

Taiwan-Australia: A study on the  
sense of belonging and identity 8

### CROSS-BORDER CHILD PROTECTION

The Swiss Federal Central Authority  
under the 1996 Hague Convention  
publishes an 'aide-mémoire on the  
international placement of children  
for protection purposes' 10

### FURTHER READINGS & MATERIAL

11

[FORTHCOMING CONFERENCES,  
WEBINARS AND TRAININGS](#) 13

## EDITORIAL

### Rightfully considering fathers, their role, experiences and needs

Far from being invisible or absent as she may be in other areas of society (e.g. unequal pay or career opportunities) and in certain cultural contexts (e.g. family law provisions conveying unequal parental rights), the woman, and here the mother, whether biological or adoptive, has long been an integral part of the adoption triad. But what about the father? What do we know about the birth father who is to consent to the adoption of his child, and the impact that this choice has on his life? What do we know about the experience of the person who becomes a father through adoption or by other means (e.g. ART, surrogacy) or about the adoptee or the person with care-experience who becomes a father? Much is written about mothers' experience, but do we have the same extent of knowledge and testimonies from fathers? And what resources and support are available to them?

Through this editorial, ISS/IRC wishes to reflect on the progressive paradigm shift observed in contemporary family law including adoption procedures, which gives and will continue to give a greater place to the father(s). While long overdue, these reflections appear timely as they join the action points proposed in a recently published report to equalise practices around child care (see p. 4).

#### The birth father: rightfully considered?

For a long time, the birth mother was the only one to whom authorities turned when seeking consent for a child's adoption. Long-time absent from the scene, the father and his rights were only taken into consideration progressively over time, in order to be accompanied during the process of caring for his child and to make informed choices. Indeed, to suggest that biological fathers are evasive would not reflect the truth of many cases (see Monthly review n°180 of March April 2014). Situations

might vary and range from: a mother who gives birth without the father being aware of; an extra conjugal relation leading to the refusal of the father to recognise paternity; the death of the mother and the father not having adequate support to take care of his child(ren); or to the falsification of the birth certificate and the omission of the father's identity to evade obtaining his consent, etc. (see Editorial, MR n°180 of March April 2014). Is it not time to question these circumstances more deeply? Is it not time to reflect on the consent of the father, whose recognition and exercise of paternity at birth and beyond is more uncertain than that of the mother (see p. 5)? Is it not time to sensitise professionals in providing counselling, guidance and support to birth fathers, especially if the latter express the desire to care for the child? Would such due

consideration of the father not be necessary to correctly implement the subsidiarity principle and to affirm that all efforts were undertaken to prevent an unnecessary family separation? Is it not time to recognise the importance of the birth father, hence his active involvement in the adoption procedure (if possible), given the expressed desires and clear benefits for adoptees in search for origins processes? If no efforts of involving the birth father are made *ab initio*, what are the chances of an adoptee to find answers on their birth father, key part of their identity? In this sense, while few legislative texts address this issue, ISS/IRC encourages national legislators to explicitly include the birth father in the adoption procedure in order to give these men the possibility of being an integral part of their child's adoption process (see Fiji's Adoption Act 2020, which recognises several situations that can designate a father in the framework of an adoption procedure). The only thing left to do would be to put the theory into practice through trained and informed professionals that accompany birth fathers in a sensitive manner.

### **Adoptive father and other forms of fatherhood: rightfully considered?**

Regarding the adoptive father, ISS/IRC had highlighted in Monthly Review No. 180 of March-April 2014 the difficulty for the latter in many contexts to find his rightful place and to exist as key figure in the adoption proceedings. Yet, having the necessary time to bond with the adoptive child, often a child with adverse/traumatic childhood experiences, is important not only for both adoptive parents but is key to setting the basis for a successful adoption. Has this situation changed in recent years? While, in Western countries, we can observe a movement towards equalising maternal and paternal rights in family law and in practice, does such trend also include paternal rights in adoption and child care (e.g. paid adoption leave or parental leave<sup>1</sup>)? Isn't such inclusive approach long overdue in the light of more and more States providing the possibility for single persons and same-sex couples to adopt domestically and internationally (see [The Guardian article](#))? Adoptive fatherhood in such contexts clearly triggers diverging opinions and is seen by many as controversial, but shouldn't these debates be seen as a great opportunity to better understand what adoptive fatherhood is about and entails? What is adoptive children's experience with their adoptive fathers, whether in same-sex or heterosexual couples, or even adoptions by single men? If we carefully listen to adoptees' testimonies, as in any family constellation, the adoptive father can take a crucial role in the adoptee's life; so why is such role then not or inadequately given credit to in laws and policies? Additionally, fathers' experiences in raising an adoptive child are crucial to help shape preparatory and post-adoption services and support in order to cater to specific needs and circumstances that can only be beneficial to the concerned children. Could part of the answer to the above question lie in the fact that few fathers seem to come forward and share their experiences, or are willing and comfortable to seek out for support in case of difficulties? Despite the scarce research

"The study of adopted persons as parents could be one of the ultimate tests of adoption as a successful social intervention: in their transgenerational transmission of attachment, will the pre- or the post-adoption attachment experiences prevail in adopted person's parenting? Beyond attachment related issues, it would also be very interesting to see how adult adoptees reflect on the meaning of adoption as they traverse through various adult roles and have different life experiences."

Source: Jesus Palacios & David Brodzinsky, 2010, Review: Adoption research: Trends, topics, outcomes. Available in [English](#).

available on fatherhood<sup>2</sup> and the child-father relationship<sup>3</sup>, similar testimonies are shared by other fathers such as step-fathers, foster fathers or even social fathers and intending fathers in the context of ART and surrogacy arrangements. In the era of more and more openness, some of these fathers mention indeed encountering difficulties and feeling discomfort, when required to talk to the child about their child's background, including conception and birth. Hence, one might wonder: might another explanation for their little consideration be linked with their own perception of their fatherhood, non-genetic in most of the above-mentioned situations?

### **Adoptees and care-experienced men as fathers: rightfully considered?**

Evidence and professionals have long pointed out how the environment influences our development and the formation of a person's personality. This is particularly true with regard to adoptees and care-experienced persons. Indeed, adoption and care-experience have a lifelong impact (see p. 8; and MR No°214 of 2017). One of the biggest life-altering moments is becoming a parent as it has an enormous impact on our psyche and always entails questions of coming into the world and of transmitting information, identity, culture etc. When someone has been abandoned or relinquished and then placed in alternative care or adoption, these questions remain the same, however there is a higher possibility of them remaining unanswered. What happens when an adoptee or a person who has spent some time in the alternative care system himself becomes a father? How do adopted/care-experienced adults adjust to parenthood? How do they cope with the turmoil of feelings that becoming a father entails? How will their past experiences

affect their relationship with the new-born child? And how to talk to their own children or even grandchildren about their story and their origins? Like mothers, fathers can face challenges in adapting to the changes that a new-born normally brings into the family and couple's relationship. However, fathers may experience these feelings alone, as they may be reluctant to express them or they might believe – because of their past experiences – that others may minimize or dismiss them. Thus, this may have a negative impact on the attachment style with their own child. Luckily, paternity also has a restorative power, as it gives fathers a sense of purpose and achievement (see p. 7).

**In many contexts, fathers remain still too invisible in laws, policy, practice and research. Yet, progress seems to be underway thanks to societal changes. Indeed, in the light of varying family structures, the diverse forms of fatherhood all require due consideration by trained and sensitised professionals that understand the diversity of experiences and are able to provide adequate and individualised support to equip and encourage fathers to exercise their role towards their child (see p. 4, Action Point 4). In line with its new advocacy approach on providing a bigger platform for adoptees and the members of the adoption triad, ISS/IRC wishes to contribute via its Monthly reviews and an upcoming section dedicated to portraying different views, in encouraging fathers to share their stories.**

ISS/IRC Team  
June 2021

### References:

- <sup>1</sup> See pp. 16 and following to learn more about parental leave in the Nordic Countries, Nordic Council of Minister (2019). *State of Nordic Fathers*; See also, Barker, G., Garg, A., Heilman, B., van der Gaag, N., & Mehaffey, R. (2021). *State of the World's Fathers: Structural Solutions to Achieve Equality in Care Work*. Washington, DC: Promundo-US.
- <sup>2</sup> E.g. Coleman, J (2001) *Focus: young fathers*. *Young People's Health, Network Newsletter* 15:1; Deborah H. Siegel (2014), *Fathers in Adoption: Are They Forgotten?* *Social Work Today*, Vol. 14 No. 6 P. 14; Kowlessar, O, Fox, JR, Wittowski, A (2015) *The pregnant male: a meta-synthesis of first-time fathers' experiences of pregnancy*. *Journal of Reproductive and Infant Psychology* 33: 106–127. DOI: 10.1080/02646838.2014.970153; Kumar, SV, Oliffe, JL, Kelly, MT (2018) *Promoting Postpartum Mental Health in Fathers: Recommendations for Nurse Practitioners*. *American Journal of Men's Health* 12(2): 221–228. DOI: 10.1177/1557988317744712
- <sup>3</sup> E.g. Roberts, L (2017) *A small-scale qualitative scoping study into the experiences of looked after children and care leavers who are parents in Wales*. *Child & Family Social Work* 22(3): 1274–1282. DOI: 10.1111/cfs.12344; Weston, J (2013) *Care Leavers' experiences of being and becoming parents* (Unpublished doctoral dissertation). University of Hertfordshire, UK.

---

## ACTORS IN INTERCOUNTRY ADOPTION AND CROSS-BORDER CHILD PROTECTION



- **Belgium, Canada, Colombia, Ecuador & Finland:** these countries have updated the contact details of their Central Authorities, competent authorities and/or accredited adoption bodies designated under the 1993 Hague Convention.
- **Croatia & Ecuador:** these countries have updated the contact details of their Central Authorities and competent authorities designated under the 1996 Hague Convention.

**Source:** Hague Conference on Private International Law, <https://www.hcch.net/en/latest-updates>.

---

## ISS/IRC NEWS ↑

### Process towards quality care for migrant children in Morocco

In the framework of the UNICEF Morocco *Hijra wa Himaya* project that ISS has been supporting since October 2019, an ISS team prepared and facilitated a regional workshop on 18 June in Tangier in collaboration with the Presidency of the Public Ministry (PMP) and UNICEF Morocco and which saw the active participation of more than 40 representatives of youth, State institutions and civil society from Oujda and Tangier.

The main objective of the ISS workshop was to strengthen the dynamics of collaboration at the local and interregional level in order to ensure quality care and the implementation of sustainable solutions for migrant children and in their best interests. The participation of actors from two regions allowed for interregional sharing of experiences and practices. In addition, group work aimed in particular at mapping for each region the different stakeholders and their services offered to migrant children for each of the 8 steps of the [ISS methodology](#), to carry out a SWOT (strengths, weaknesses, opportunities and threats) analysis of the local care models. The work showed the many challenges faced by young people, particularly in terms of accommodation and emergency

care, but also in terms of the need to have prospects for the future, whether in Morocco or in a third country. Through the development of a roadmap for each region and the commitment of the various actors, a strengthening of the quality of care taking into account the best interests of the child is expected in these regions.

This workshop took place the day after a PMP coordination day with the same actors. The exchanges allowed for a better understanding of the issues and challenges on the ground in relation to migrant children thanks to the interventions of several state actors and NGOs present in Tangiers and Oujda. This day was rich in sharing practical experiences of actions and services made available to migrant children, but also in testimonies. Thus, two young migrants were able to give poignant testimonies about their migratory journey, their integration in Morocco and the importance for them of finding reference persons who believed in them.

---

## BRIEFS

---

### **State of the World's Fathers – Structural Solutions to Achieve Equality in Care Work**

This recent [report](#) addresses the challenges of achieving equality in care work through several axes including men's involvement in care nowadays, the impact of Covid-19 on unpaid care work and whether national Covid-19 policies are promoting equal care. Finally, the report proposes seven key actions to promote more equitable care:

- 1) Put in place NATIONAL CARE POLICIES and campaigns that recognize, reduce, and redistribute care work equally between men and women;
- 2) Provide equal, job-protected, fully paid PARENTAL LEAVE for all parents as a national policy;
- 3) Design and expand SOCIAL PROTECTION PROGRAMS to redistribute care equally between women and men, while keeping a focus on the needs and rights of women and girls;
- 4) Transform HEALTH SECTOR INSTITUTIONS to promote fathers' involvement from the prenatal period through birth and childhood and men's involvement as caregivers;
- 5) Promote an ETHIC OF MALE CARE in schools, media, and other key institutions in which social norms are created and reinforced;
- 6) Change WORKPLACE CONDITIONS, culture, and policies to support workers' caregiving – and mandate those changes in national legislation;
- 7) Hold male POLITICAL LEADERS accountable for their support of care policies, while advocating for women's equality in political leadership.

Source: Barker, G., Garg, A., Heilman, B., van der Gaag, N., & Mehaffey, R. (2021). [State of the World's Fathers: Structural Solutions to Achieve Equality in Care Work](#). Washington, DC: Promundo-US.

### **New ruling of the ECtHR on surrogacy (May 2021)**

The judgment concerns the refusal to recognise a parental link between a child and two Icelandic nationals, who were married at the time of the child's birth but have since been divorced. The child was born to a surrogate mother in the United States and is not biologically related to the two applicants. Despite their refusal, the Icelandic authorities nevertheless left the child in foster care with the two women, considering this to be in the child's best interests. The European Court of Human Rights found, in a judgment of 18 May 2021, that the relationship between the two women and the child constituted family life, despite the absence of biological ties. However, the Court found that the decision not to recognise them as legal parents of the child had a sufficient basis in domestic law. Indeed, surrogacy is illegal in Iceland in order to, according to the Government, protect women who might be forced into a surrogacy arrangement and the rights of the child to know his or her biological parents. Taking into account the efforts made by the authorities to maintain the existing family life, in particular through foster care for the two women, the Court concluded that, in the present case, Iceland had acted within its margin of appreciation and that there was no violation of Article 8 of the European Convention on Human Rights.

The ISS/IRC would like to take advantage of this judgment to recall [the Verona Principles](#) published in March 2021 (see Monthly Review No. 250 of March-April 2021). The experts of the Working Group, as well as the Icelandic authorities, were not insensitive to the situation of the surrogate mother and established a principle on the consent of the surrogate mother, in order to ensure in particular that the latter consents in a free and informed manner to surrogacy. Furthermore, the Principles suggest that States that do not allow surrogacy on their territory, but which face such situations, should address issues of parental responsibility and parentage in order to ensure that the child has legal parents at birth. Finally, linked to this ECtHR judgment is the issue of access to origins and protection of identity. Indeed, States have a duty to ensure that children born through surrogacy have the opportunity to have access to information on their identity.

Source: [Valdís Fjölvisdóttir and others v. Iceland](#), 18 May 2021, application no.71552/17.

## 2021 UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child

In May, the UNHCR published the [2021 Guidelines on the Best Interests Procedure](#). They replace the 2008 Guidelines, the 2011 Field Handbook and the provisionally released 2018 Guidelines (see Monthly Review no.240 of March-April 2020). While they are primarily target procedures applicable to asylum-seeking and refugee children, the Guidelines also apply in specific situations such as internally displaced, returnee and stateless children. The Guidelines serve two main objectives: situating the best interests of refugee children within a comprehensive child protection system and strengthening child protection case management for all refugee children. It especially advocates for a best interests procedure analysis based on the four following factors: the views of the child, the parents or caregiver and the views of those close to the child; the child's situation in terms of family and close relationships; the child's development and identity needs; and considerations affecting the child's safety and protection. In addition, a [BIP Toolbox](#) has been released which complements the Guidelines by providing with a range of tools and additional guidance such as assessment tools, checklists, example and case studies, training material, standard operating procedures, etc.

ISS/IRC encourages reading these tools in conjunction with its [2017 Publication on Children on the Move](#), to ensure that professionals are the most well-equipped when it comes to protecting children's best interests.

Source: [2021 UNHCR Best Interests Procedure Guidelines: Assessing and Determining the Best Interests of the Child](#).

---

## LEGISLATION ↑

### ECtHR ruling: the importance of a birth father's consent

Last April, the European Court for Human Rights issued a [ruling against Russia](#)<sup>1</sup> related to domestic adoption. In this particular case, the Court found, among others, a failure of the Russian authorities to secure family life of the applicant, the father, whose son, whom he believed dead, was relinquished by his mother at a maternity ward.

Under what circumstances should a consent to adoption be given and how can it be revoked? How to articulate the different roles, rights and interests at stake when doubtful elements appear in an adoption process? When are parental rights permanently terminated? How to manage contacts and visits with the biological family? All these questions are raised in the present ruling, and provide an opportunity to reflect on various essential safeguards for any adoption.

#### The facts

The applicant is the father of a boy whose mother gave her written consent to her son's adoption within a day after his birth, the baby being weak and having very poor prospects of survival according to the doctors. She also filled and signed a similar consent form on the father's behalf without notifying it to him. The applicant, who believed that his son had died at birth, remained unaware that the child had survived, until he received a claim for removal of his parental authority over the boy in the context of an adoption proceeding. Despite the fact that the applicant had formal parental status, his numerous attempts to recover the boy, who continued to live with his foster family, proved futile as the latter denied the applicant any access to his son. In the meantime, the biological mother had also revoked her consent to her son's adoption within the legally foreseen revocation timeframe, and expressed the desire to take

care of him (see especially §§ 38 and 73). Despite this legal step taken by the mother, the applicant's claim for his son's return to his biological family was dismissed by the national courts as well as his claim to be granted access, with reference, in particular, to the fact that the applicant and his wife had abandoned the child at the hospital and to a child's report which stated that his transfer to his birth family, representing a new environment, would cause him psychological trauma and was not in his best interests. At the time of the ruling, the boy was aged 5, and had become accustomed and deeply attached to the foster family.

#### The ruling

The applicant complained about the national authorities' decisions denying his son's return to his family as well as his contact rights with him. In its analysis, the Court raised doubts about the conditions of obtention of the birth mother's consent: *"It does not appear that the courts attempted to establish whether (the wife's applicant) had been provided with full information about the consequences of her actions, and whether her physical and mental condition at that time enabled her to fully understand the meaning of her actions"*. (§190). Further, the Court underlined the fact that the applicant was unaware of his son's survival and that, as soon as he had found out that he was alive, he had started taking steps with a view to having him returned to his family.

While recognising that a sudden separation of the child from his foster family might have negative effects on him, the Court was not convinced that the national authorities explored all possible options. For example, the question of gradually reintroducing contacts between the child and his biological family was never raised. Accordingly, the Court concluded that “*the domestic authorities failed to secure the applicant’s right to respect for his family life*” (§194).

“Article 8 [of the European Convention of Human Rights] thus imposes on every State the obligation to aim to reunite a natural parent with his or her child (...). It includes a parent’s right to take measures with a view to being reunited with the child, and an obligation on the national authorities to take such action (...). At the same time, it is clearly also in the child’s interests to ensure his or her development in a sound environment, and a parent cannot be entitled under Article 8 to have such measures taken as would harm the child’s health and development”. (§§ 174 & 175).

### ISS/IRC’s Analysis

For ISS/IRC, this recent ruling of the ECtHR highlights three important key points:

**1) Requirement of informed and free consents, including of the birth father:** Key to determining a child’s adoptability is obtaining the free and informed consent of the child’s biological parent(s) to his or her adoption. Yet, the father’s consent is rarely explicitly required as per the applicable law. More than a legal requirement, professionals involved in obtaining consent for a child’s adoption should be sensitised to the particular place of the biological father: information, support, preservation of data for the child’s possible future access to his or her origins, these are only facets that should be envisaged regarding the biological father’s involvement in this crucial step of the procedure. Regarding the birth mother’s consent, in the light of the experience of child-birth, it seems important to provide the mother with sufficient time after birth to be legally able to give her consent, following adequate counselling and information. In the case at stake, her consent was obtained one day after birth. While the 1993 Hague

Convention remains flexible on this point<sup>1</sup>, based on available research, and as stressed by a medical expert in the present case (see § 61), a new mother would remain in a state of stress in the days and weeks following child birth, and could possibly also suffer from short-term amnesia.

**2) Revocation of consents and stability of the child’s legal status:** Should there be no lapse of time provided by law to give consent after birth, there should be a *minima* a fixed timeframe for revocation of consent. Given the permanent consequences of an adoption, the existence of a timeframe for reflection for birth parents is crucial - during which they should receive due counselling - and may constitute an additional safeguard in ensuring that their decision is final. On the other side, too long timeframes for revocation of consent might create insecurity for the child regarding his/her legal status (see Monthly Review n°187 November-December 2014) and not be in line with the child’s needs and interests.

**3) Addressing irregular elements:** In the present case, the absent of the father’s consent was rapidly known to authorities. This fact, which strongly raises concerns as to the legality of the adoption, was not deemed sufficient to enable the father regain access to and care of his son. Further, it was argued that the child was now living with his foster family for years, and that it would not be in his interests to return to and have contact with his biological family. It is therefore of utmost importance to recall that authorities cannot base their decisions on situations created by their inactions or the passing of time (see especially case [Terna c. Italy](#) analysed in Monthly Review n°249 February 2021). Answers are to be given when factual elements of irregularity appear. Indeed, no one can ignore that during the review of an adoption procedure, doubtful elements might emerge: unclear, uninformed or absent consents or uncertainties about the veracity of the child’s history, are only examples of the numerous situations encountered. While recognising that investigating on such irregular practices might shed the light on malpractices of certain entities, or on the non-validity of procedures, States must take actions, in respect of the child’s rights to identity and to family life.

In definitive, ISS/IRC would like to emphasise that “there are no grounds for a State (...) to refuse to carry out or assist the investigation of alleged illicit practices on the basis or pretext that, at the time of that alleged practice, the adoption was considered to be ‘in the child’s best interests’” (see [Responding to Illegal Adoptions: A professional handbook](#) at 128). Moreover, this case recalls the importance of the conditions surrounding consent(s) within any adoption procedure, and of the intervention of trained and qualified professionals on whom biological parents can rely, in order to take their decisions in the most adequate and appropriate manner. More than only securing birth parents’ consent(s), it will also prevent the discovery of potential irregularities if the adoptee decides to undertake a search for origin process.

## References:

<sup>1</sup> Case of *Naltakyan v. Russia*, application n°54366/08, 20 April 2021.

<sup>2</sup> The 1993 Hague Convention does not give further indication as to the time frame between the birth and the mother's consent to adoption, except that the latter must be given after birth. Indeed, according to the [Explanatory Report of the 1993 Hague Convention](#), "a somewhat flexible provision would be better than a rigid requirement, because it may take account of the cultural, sociological and psychological differences that, undoubtedly, may affect the time advisable to accept the revocation of the consent given by the mother."

## PRACTICE ↑

### 'Mad, sad and Bad' to 'Dad': care-experienced men's experience of fatherhood

In a 2020 article, three authors from Coventry University and Coventry & Warwickshire NHS Trust, examined the transition to fatherhood of five fathers, who have all spent several years in the alternative care system as children. Their focus is on the impact of their care experience onto the relationship with their children.

While there is a lot of literature on the impact of pregnancy and motherhood on women's mental health, very little is known about fathers' experience, especially of those fathers who have experienced part of their childhood in alternative care. Existing literature has well demonstrated that the adverse childhood experiences of mothers can cause difficulties with bonding with the child, create increased anxiety and have a negative impact in the cognitive and behavioural development of the child. It is reasonable to think that, like mothers, fathers as well face similar psychological challenges in adapting to the changes that a newborn baby normally brings into the family relationship and the transition to fatherhood.

A recently published study therefore aimed at shedding lights on how fathers, who spent their childhood in foster families or institutions, are affected by their past experience in order to better understand which kind of support they need. For the study, five fathers were interviewed, aged from 25 to 66 years, with at least one biological child. The interviewees were all between 20 and 24 years old when they had their first child and spent between 7 to 14 years in the care system and had between one to 12 placements.

#### Main findings

Based on the study results, the authors have identified three key themes: 'Going back to move forward'; 'Reliving the past', and 'breaking the cycle'.

- *'Going back to move forward'*: one of the main results of parenting experiences highlighted by the authors stems from the personal low-esteem that the interviewees had of themselves. The detrimental impact of being in care affected their self-identity which in turn had repercussions throughout their adult relationships. The interviewees believed that adverse childhood was

due to personal rather than the results of external factors. Besides, all fathers recognised the difficulties in trusting others. All those feelings had a negative impact on their attachment style with their own children. Given the fact that they thought to be temporary and worthless, the interviewees did initially not want to be emotionally involved in their relationships with the child.

- *'Reliving the past'*: the second aspect that emerged from the interviews related to how parenthood reminded them of their past experiences. With the paternity they relived not only the fears to be constantly judged and the mistrust suffered during the years of their childhood, but they recognised also that paternity allowed them to experience the childhood they never had. Additionally, the restorative power of paternity was also pointed out as it allowed these fathers to regain the lost childhood and it gave them a sense of achievement.
- *'Breaking the cycle'*: finally, as a consequence of the adverse childhood experience, all interviewees expressed the need of a parenting style that could oppose their bad experiences in order to "break the cycle". Parenthood offered them the possibility to find their place in life moving from the "mad, sad and bad" stigma to "dad" definition.

#### Conclusion

The study notes that care-experienced fathers are reluctant to seek support, therefore it is important that service providers are aware of this. Several types of support are suggested based on the peer-led support networks. Wilderness therapies, community-based programmes, horticultural therapy as well as narrative therapies are some of the examples to help care-experienced fathers express their past.

**The ISS/IRC welcomes this interesting study, which addresses a yet unexplored topic, and embraces supporting care-experienced fathers in building a healthy relationship with their own child from the beginning.**

**Reference:**

E. Dandy, J. Knibbs, F. Gilbey, *'Mad, sad and bad' to 'Dad': care-experienced men's experience of fatherhood*, 2020, *Adoption&Fostering*, Vol. 44(3), p 285-300. Available at <https://journals.sagepub.com/doi/full/10.1177/0308575920945172>.

## **Taiwan-Australia: A study on the sense of belonging and identity<sup>1</sup>**

*A recently published study shows how Taiwanese adoptees faced many challenges encountered by a group of Taiwanese-Australian adoptees during their childhood in developing their identity and achieving a sense of belonging in Australia.*

“I always described myself as feeling like I was wearing a costume, like, I was Australian, but then I had this mask on, that people would perceive me in a different way.” (p. 83)

Justin's<sup>2</sup> description reflects what many intercountry adoptees experience as bicultural individuals. Intercountry adoptees often identify with both their birth and adopted cultures. However, due to limited access, they may not know how to identify with their birth culture, and episodes of discrimination make them feel as they do not belong in their “adoptive country.” This may lead to conflicts in creating their identity and sense of belonging.

In 2018, a group of researchers conducted a study on 11 Taiwanese adoptees, trying to understand which factors, during their childhood, influenced their development of identity and sense of belonging. This article aims at investigating the unique social and political factors that are present in the Australian context and how they shaped the intercountry adoptees' understanding of self.

### **Intercountry adoptions in Australia**

The Intercountry adoption formally started in the mid-1970s, and still today, the majority of children adopted in Australia come from the Asian continent. These types of adoption occurred at a time when Australia was changing its immigration policies. These changes brought many consequences on the life of non-white immigrants and to intercountry adoptees as well.

Before the 1970s, Australia had a very strict policy on non-British immigration. The Parliament introduced in 1901 the “Immigration Restriction Act” which formally established the “White Australian” policy. Non-British immigrants, and especially Asians, were systematically discriminated against. In the 1970s, this policy was

dismantled and multiculturalism became the core of the country. Immigrants were encouraged to celebrate their cultures and Australians were exhorted to value cultural diversity. However, tensions remained between the recent multiculturalism and the old notions of the country as a White British society and even after many years the idea that Australians are predominately Caucasians remains. Prior research has established that Asian-Australians are perceived as less Australian than white immigrants, “even if they display assimilation with the national culture.”<sup>3</sup>

### **Methodology**

The research team conducted, in 2018, 11 interviews with Taiwanese adoptees and tried to answer the question: “what are the factors that influence identity development and belonging for Taiwanese adoptees in Australia?” (p. 76).

Participants were aged between 20 and 50 years old and were adopted between the 1970s and 1990s. The 11 participants are representative of a high proportion of the earlier adoptions from Taiwan. The interviews were semi-structured and the data were analysed through a constructivist approach, to better understand how the outside world influenced the adoptees' construction of their identity as interactions with the environment and humans can influence human development. These interactions can be divided into three levels: micro level (interaction with the closest individuals), meso level (interaction with peers or community), and macro level (interaction with society in general).



## Findings

The findings of this study highlight that at each level of human interaction, intercountry adoptees encountered some difficulties that made them question their identity.

- **Society impact on identity development:** all adoptees argued that achieving a sense of belonging in Australia was very challenging. Many of them reported having had a feeling of discomfort with their Asian identity because they did not fit into the stereotypical “Australian type”. They raised the issue of not feeling fully accepted as Australian for the way they looked and had to constantly explain their identity or respond to questions about their background: “ It’s a very frequent thing that people ask, ‘What’s your nationality?’ and I say, ‘I’m Australian,’ but then they look at you and think you don’t look Australian” (p. 79).

Society did not accept them as Australian because of their physical appearance, rather than where they grew up, with the results that many adoptees had a problematic relationship with their bicultural identity, and felt not comfortable in expressing either culture.

- **Peer impact on identity development:** the adoptees had different experiences concerning their relationship with peers. Those who grew up in predominantly Caucasian environments experienced racism (intentional or unintentional) from their peers, with a consequent feeling of discomfort for their Asian appearance. Others, who grew up in a multicultural environment, experienced very few episodes of racism.

Many reported having positive impacts on their identity development from being involved with adoptive and Asian communities because it allowed them to develop a sense of belonging and to normalise not having a white Australian identity. A similar positive experience occurred when they engaged with other adopted peers.

- **Parental impact on identity development:** Taiwanese adoptees explained that their adoptive parents had different roles in shaping their cultural identity. Some parents tried to engage their children in Taiwanese culture but their lack of understanding of the culture made it more challenging for the children to develop a positive bicultural identity. The most successful attempts occurred when parents fostered meaningful relationships with people from that particular culture or having relationships with other families who have adopted children from the same country.

The study points out that there is a need of supporting adoptive parents and giving them the tools to create an open environment that encourages difficult conversations about race and identity. It is also necessary to encourage parents to engage with their child’s birth culture: attend places where most people are Asians or engage with other families that have adopted Asian children. These practices help intercountry adoptees to normalise their identity as non-white Australians, and it allows them to achieve a secure sense of self and belonging.

## References:

<sup>1</sup> Stoddart J, Wright AC, Spencer M, Wichelen S van. ‘I’m the centre part of a Venn diagram’: belonging and identity for Taiwanese-Australian intercountry adoptees. *Adoption & Fostering*. 2021; 45(1):71-89. 9 March 2021. <https://journals.sagepub.com/doi/abs/10.1177/0308575921989825> .

<sup>2</sup> A fictive name was chosen.

<sup>3</sup> Thai, M, Szeszeran, NA, Hornsey, MJ, Barlow, FK (2020) *Forever foreign? Asian Australians assimilating to Australian culture are still perceived as less Australian than White*.

### The Swiss Federal Central Authority under the 1996 Hague Convention publishes an 'aide-mémoire on the international placement of children for protection purposes'

In January 2021, the Federal Office of Justice (FOJ), a Swiss Federal Central Authority, published an aide-memoire<sup>1</sup> on the international placement of children, the main features of which are presented in this article.

As shown in the ISS/IRC's recent publication on *kafalah*, it is becoming increasingly common for many countries, such as Switzerland, to have to decide on recognising and enforcing within their own legal systems precautionary measures of an unknown nature and effects, ordered by other countries. In principle, international placements of children fall within the scope of Article 33 of the 1996 Hague Convention, which provides for a very specific procedure. However, the application of this article raises several questions, as also highlighted in the 2020 ISS/IRC's *kafalah* study. In addition, the contracting States, including Switzerland<sup>2</sup>, may be faced with another plight: that of a "fait accompli", i.e. a child who is located in the host country following a decision by the country of origin or informally, without prior consultation or even notice to the host country's authorities.

#### Raising awareness on applicable procedures

Thus, the Swiss Federal Central Authority decided to draw up an aide-mémoire aimed for any authority involved in international placements of children, to outline a clear procedure. This practical tool, which solely covers certain legal aspects of these placements such as those pertaining to civil law while stressing the need to comply with immigration procedures to issue residence permits, illustrates the proper operation and application of Article 33 of the 1996 Hague Convention and its articulation with Swiss law, in particular with the [1977 Ordinance on the Placement of Children](#) (OPE, as per its French acronym; link to French version).

#### Considering different scenarios

In particular, the document defines the steps to be followed to carry out the procedure by distinguishing three main scenarios:

- **International placement:** a distinction must be made between "inbound cases", i.e. when a child residing abroad must be placed in Switzerland; and "outbound cases", i.e. when a child residing in Switzerland must be placed in a third country. A second distinction is made based on the countries that call upon

Switzerland to cooperate, that is, whether they are contracting or non-contracting countries to the 1996 Hague Convention.

- **Voluntary placement:** this is a placement in a third country that is not based on a decision from a competent authority. In practice, the competent authority may be contacted and aware of the placement but, for some reason, they decide not to make a formal decision. The aide-mémoire also makes a distinction here between cases where the child arrives into or leaves Switzerland as a result of the placement. Two different procedures are provided for depending on whether the third State concerned is a contracting or a non-contracting State to the 1996 Hague Convention.

- **The "fait accompli":** in face of this situation, the aide-mémoire also distinguishes the procedure to be followed depending on whether the 1996 Hague Convention should have been applied or not. In any case, it is imperative to regularise the child's situation quickly so that their international placement truly corresponds to their best interest. In this situation, the aide-mémoire points out that recognising or enforcing a foreign placement order may be refused; however, if it is in the child's best interest, the aide-mémoire advises that the relevant steps provided for by the 1996 Hague Convention (the need to request a report on the child and the reasons for their proposal for placement) and by Swiss law must be taken as soon as possible. In the event of the cantonal authorities giving a negative notice, considering that the child is already in Switzerland, cooperation between Swiss authorities and those of the concerned country is particularly important in order to find a solution that is in the child's best interest.

In the event that the other concerned country is a non-contracting State to the 1996 Hague Convention, Swiss law applies, as explained above

Each of the aide-mémoire's sections defines the role of the competent authorities, their assigned functions, the applicable standards for various scenarios and they stress the need to comply with the current legislation, both Swiss and foreign.

In all cases where a child arrives or is to be placed from a contracting State to the **1996 Hague Convention**, the procedure to be followed is defined in Article 33 which details the various stages of consultation and prior compulsory approval.

The aide-mémoire also goes over the situation in which the foreign country's Central Authority's placement decision and/or request has not been sent nor received correctly (e.g. if the final decision on placement is communicated directly to the migration authorities). In such a situation, the authority that received the request and/or the final decision must immediately transfer it to the cantonal central authority so that they can coordinate the notice procedure. Exceptionally, if the decision is communicated directly to the competent Swiss authorities to order the placement, they may choose whether they wish to cooperate directly with the foreign authorities.

On the other hand, when the child arrives or is to be placed in a State that is not a **contracting State to the 1996 Hague Convention**, in the absence of bilateral agreements, Swiss law applies, and in particular, the provisions of the *1977 Ordinance on the Placement of Children* (OPE, as per its French acronym), which applies to any child placement, regardless of their State of origin or the State in which the child is to be placed. In particular, the OPE designates the guardianship authority of the foster parents<sup>3</sup> place of residence as the competent entity responsible for granting the authorisation to foster the child and consequently supervising the placement. It would also be necessary to carry out an in-depth examination of whether the conditions defined in Article 33 of the Ordinance on Admission, Residence and Employment (OASA, as per its French acronym) are fulfilled. This article provides that residence permits may be granted to

In 2020, the Court of Justice of the Canton of Geneva was called upon to examine two situations of "fait accompli" placements between Morocco and Switzerland. In both cases, since the 1996 Hague Convention procedure had not been followed, nor had the rules of Swiss law been complied with, in both cases, the Geneva Central Authority refused to authorise bringing the children placed under kafalah into Switzerland for their subsequent placement in Switzerland.

Source: [ISS/IRC Kafalah Study of 2020](#), see pp. 170 and following for more information.

children placed in care if the conditions regarding fostering children outlined in the Civil Code are met.

The placement conditions regulated by the OPE and OASA also apply to cases of voluntary placement as well as "fait accompli" in both inbound and outbound cases with countries that have not ratified the 1996 Hague Convention. Furthermore, with regard to the "fait accompli", the aide-mémoire reiterates that the Swiss embassy of the country in question and the ISS play an important role since they can be requested, if necessary, to provide all the useful and necessary information in such context. Other provisions applicable to the latter two situations are found in the Federal Private International Law Act as well as the Immigration Act. Finally, the aide-mémoire refers to the CDAS and COPMA Recommendations on out-of-home placements<sup>4</sup>, published in November 2020, which offers qualitative

guidelines so each canton can develop its own approach, all the while basing it on the child's role and participation throughout all stages of the placement arrangement, on the importance for the child of having a reference person and on the support and guidance of the foster family.

In the final section, the aide-mémoire addresses procedural issues, such as communication languages, translations and procedural costs. In particular, each authority must bear its own costs (costs of mediation, information retrieval, correspondence, etc.), except for legal costs (in particular, lawyers' fees). The aide-mémoire emphasizes that only "reasonable costs" may be claimed by the authorities and that it is important that these costs be notified in advance to the other State's authorities.

**The common theme throughout the aide-mémoire is the need for close collaboration and coordination among all the competent authorities in Switzerland, as well as between them and foreign authorities. The ISS/IRC acknowledges the importance this type of tool has in order to ensure that the procedures comply with international standards and the laws in force in the States concerned with international placements of children and encourages its widespread use. A better understanding of the procedures to be followed and implementing them effectively will guarantee that the international placement of children respects their rights and is in line with their best interest.**

## References:

<sup>1</sup>Federal Office of Justice (FOJ), 2021. *Aide-mémoire sur le placement international d'enfant à des fins de protection*. Available at: <https://www.bj.admin.ch/bj/fr/home/gesellschaft/kinderschutz/platzierungen.html>. (in French, German or Italian).

<sup>2</sup>See Switzerland's reply to the Questionnaire concerning the practical operation of the Hague Convention of 19 October 1996. Available at: <https://assets.hcch.net/docs/9d5aa120-0572-4029-acb4-25b64930cd51.pdf> (in French).

<sup>3</sup>A foster parent is a person who acts as a parent to a child without necessarily adopting the child. Under Article 316 of the Swiss Civil Code, the placement of children with foster parents requires authorisation from the guardianship authority and is subject to the supervision of the guardianship authority or another office designated by cantonal law. Article 300 of the Civil Code regulates the status of the foster parent.

<sup>4</sup> See the CDAS and COPMA Recommendations on out-of-home placements on the CDAS website <https://www.sodk.ch/fr/themen/enfance-et-jeunesse/placement-denfants-hors-du-foyer-familial/> and COPMA website <https://www.kokes.ch/fr/documentation/recommandations/placement> (in French).

---

## FURTHER READINGS & MATERIAL



- **Child's Rights Connect (2020), *My Pocket Guide to CRC Reporting*** : this introductory guide destined to children about the CRC, the Committee on the Rights of the Child and its reporting process, is now available in 4 languages (French, English, Spanish and Turkish).
- **Instituto Interamericano del Niño, la Niña y Adolescentes (IIN-OEA), la Facultad de Ciencias Sociales de la UDELAR y el Instituto del Niño y el Adolescente de Uruguay, *Trabajo Social con Familias Dilemas Teórico-Metodológicos, Éticos y Tecno-Operativos (2020)*** : the book aims to identify various issues and problems that Social Workers and other professionals deal with on a daily basis. It does so by trying to capture a perspective that tries to discover the family as a living group, imprecise, difficult to determine and traversed by various mediations to which the text tries to give visibility. Thus, in addition to theoretical currents, there are also the dilemmas of violence based on gender and generations, of people with disabilities, ethnic diversity, children and adolescents in conflict with justice, the problems of care, aging, etc.
- **Podcast: Episode 2 - *Reimagining an Africa Where Every Child Is In a Loving Family with Ms. Grace Mwangi*** : the Youth Division of the African Union Commission in partnership with UNICEF's Office to the AU and ECA brings you the Day of the African Child Podcast series where we will be unpacking Agenda 2040 in conversation with experts.
- **R. Nhep and K. Van Doore (Avril 2021). *Impact of COVID-19 on privately run residential care institutions*** : this study explores the effects of COVID-19 on a small number of private institutions and provides important evidence to support advocacy, engagement and technical support for alternative care reform.
- **Tien Sy Pham, Haiying Qi, Dingxuan Chen, Huilin Chen, Fang Fan, *Prevalences of and correlations between childhood trauma and depressive symptoms, anxiety symptoms, and suicidal behavior among institutionalized adolescents in Vietnam, In : Child Abuse & Neglect (March 2021)*** : the authors investigated the prevalence rates of childhood trauma, depressive symptoms, anxiety symptoms and suicidal behaviors among Vietnamese adolescents and compared the differences between institutionalized adolescents (IAs) and non-institutionalized adolescents.. In addition, they examined the multidimensional associations between childhood trauma and psychopathology among IAs. Five hundred forty-six participants were recruited into two groups (IAs and NIAs) matched by age, sex and grade.
- **UNICEF Innocenti, *Video from the perspectives of child migrants***.

---

## FORTHCOMING CONFERENCES AND TRAININGS (WEB-BASED) ↑

---

a) *Child's Rights Identity in Alternative Care*, 1<sup>st</sup> July 2021, Transforming Children's Care Webinar#5; b) *8th Family Law & Children's Rights Conference: Wolrd Congress 2021 Through the Eyes of a Child*, 12-16 July 2021, World Congress on Family Law and Children's Rights; c) *Anxiety in Children and Young People during COVID-19*, Future Learn.

\*\*\*\*

**COORDINATION:** Jeannette Wöllenstein-Tripathi

**EDITORIAL AND DRAFTING COMMITTEE AS WELL AS DISTRIBUTION:** Liliana Almenarez, Carlotta Alloero, Christel Ceres, Juliette Duchesne-Roulez, and Jeannette Wöllenstein-Tripathi.

**CONTACT:** [irc-cir@iss-ssi.org](mailto:irc-cir@iss-ssi.org) - [www.iss-ssi.org](http://www.iss-ssi.org)

**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, Italy, Luxembourg, Malta, Monaco, New Zealand, Norway, South Africa, Spain, Sweden, Switzerland, The Netherlands.