

## **THE SOCIAL TEMPORARITIES OF INTER-COUNTRY ADOPTION AND THE LIMITS OF THE PLENARY ADOPTION MODEL**

**Françoise-Romaine Ouellette**

**Institut National de Recherche Scientifique, Urbanisation, Culture et Société. (INRS-UCS)**

**Université du Québec, Canada**

**francoise-romaine\_ouellette@ucs.inrs.ca**

### **Abstract**

This paper discusses adoption-related social issues using Quebec as the point of reference. It analyses key developments in the field of adoption and provides food for thought regarding the limits of plenary adoption. The thread of discussion consists of three temporalities of adoption: the length of the process, the child's development and the intergenerational transmission.

### **Length of the legal and administrative process**

The length of the legal and administrative process for international adoption triggered the struggles for power and legitimacy that saw the birth of the field of adoption in Quebec. At the end of the 1980s, an estimated 1500 adoptive applicants were left waiting for an evaluation of their adoption project. The government was also enforcing stiff restrictions that made it extremely long and difficult to adopt internationally. However, strong response and lobbying by adoptive parents associations succeeded in getting the authorities to modify their stance. In 1990, a new legislation provided a fairly flexible framework for private initiatives, faster procedures and easier interchange with child donor countries. Following that, several new players entered an increasingly diversified adoption scene: new accredited agencies (their numbers growing to 16 in five years), new private practice social workers and psychologists who were newly allowed to evaluate adoptive applicants, and several hundred new adopters.

Over the years, the internal tensions have occurred in connection to the issue, until then, of smooth and rapid adoption procedures. In 2006, a new prohibition on independent adoption was passed, but not seriously contested. Consequently, the diverging interests of the receiving and sending countries on this same issue have become much clearer. For example, the receiving countries and their licensed agencies are actively seeking new countries to which they can refer adopters. They respond to the shutdown of certain countries (Rumania, for one) and pressures from adopters (including same-sex couples). How much weight does this carry in curtailing implementation of appropriate legislation and social services in the countries of origin? Certain countries of origin grant adoptions without terminating kinship ties. Is it fair or desirable to convert all those adoptions into plenary adoptions once the children have settled in the receiving countries? The Hague Convention authorizes such a conversion into plenary adoption if consent to the adoption was given knowingly. But does the person giving consent really have a choice?

## **The time dimension of child development**

By providing a new family for children deprived of parents, adoption helps them in their development to adulthood. The attention which health experts pay to this temporality of adoption has been instrumental in changing Québec's youth protection interventions, which are now designed to see that children placed in extended foster care become eligible for adoption. Adoptive applicants are asked to foster a potential son or daughter pending his or her availability for legal adoption. They are involved in an experience of shared parenthood since the birth parents retain parental authority until the completion of the legal process. However, it ultimately leads to a plenary adoption, as if it was always in the child's best interest to be cut off for ever from his or her birth family.

Fost/adoption programs advocate what could be described as a curative approach to adoption. However other recent therapeutic initiatives in international adoption, driven by similar scientific and clinical concerns, are characterized by their family focus aimed at prevention and support. They consist of coaching, counselling and training for adoptive parents, especially in the post-adoption stage.

The new professionals plying their expertise about child development and attachment on the adoption scene are influential. They help us all to concentrate more on issues of protection, health and welfare. Nevertheless, decisions made from the vantage of specialists in health and psychology apply within a legal framework that lacks the flexibility of clinical judgments. It underlines the importance of clearly distinguishing between the urgent need for a child's social and emotional permanence and the urgent need that he/she may – or may not – have for a new and exclusive filiation.

## **Intergenerational transmission**

Plenary adoption disrupts the time frame for passing on identity markers: genealogical position, name, cultural affiliation... It allows adopted children only one intergenerational pathway: through their adoptive family. This univocal approach was long bolstered by secrecy within the family, the confidentiality of adoption records and the ban on direct contact between birth and adoptive parents. Not all aspects of this approach still apply. Most domestic adoptions and international adoptions no longer take place under cover of complete anonymity. Additionally, the International Convention on the Rights of the Child (CRC)<sup>1</sup> recognizes that children have the right to know their parents, to be reared by them whenever possible, to maintain a personal relationship with them unless this is contrary to the child's interests and, as far as possible, to enjoy continuity in terms of education and religious, cultural and linguistic origins. Theoretically, the search for the children's best interests should take account of these rights of the child. This supposes keeping an intergenerational channel open not only on the side of the adoptive family, but on that of the birth family as well. As shown by the practice of valuing the birth culture of internationally adopted

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1. All countries of the world, with the exception of the United States and Somalia, have now ratified this convention.

children, adoptive families should be aware of these transmission issues. Still, like many professionals in this field, they usually hold onto the idea that adoption basically works like a new birth. Nevertheless, the closed adoption model is being challenged by open adoptions and also when adoptees are searching for their origins. In this respect, a new service organization model was recently introduced in Québec to centralize records and requests for information. But how far can the State go to facilitate searches in birth countries? Another issue is to clarify the means of implementing collaboration with countries of origin that do not have the same confidentiality rules as ours, especially when it comes to locating individuals and seeking their consent to reunions. For example, will Québec's legislative restrictions, which do not allow biological siblings to seek reunion, serve as guidelines for cooperation agreements with countries whose laws do not include such restrictions?