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EDITORIAL

Raising applicable standards: a bold or necessary action?

Since the beginning of the Covid-19 pandemic, debates have turned around proportionality of measures, and on how to uphold existing human rights standards. Indeed, the pandemic has on many accounts added a layer of complexity leading to individual rights being out waded by public measures adopted in the interest of public health and safety, aimed at containing and eradicating the pandemic; hence considered a necessary step for many Governments. But might this time also be an opportunity to reinforce and even to uplift certain applicable international human rights standards as bold but necessary steps?

In the fields of adoption and alternative care, do collective interests and voices of adoptees and persons with care-experience call upon changes? Do the latter also refer to uplifting of relevant principles and standards, in order to respect, to protect and to fulfil their fundamental rights, such as identity rights, right to grow up in a family environment, protection and sanctions against rights violations (e.g. sale and trafficking of children) (see [editorial Aug 2021](#))? One thing is for certain: the Convention on the Rights of the Child turned 32, on 20 November 2021, and has changed lives of numerous children around the globe since its adoption. Yet the need to reinforce the implementation of children's interrelated and interconnected rights has led to numerous clarifying and complementing provisions (Optional Protocols, General Comments, Alternative Care Guidelines, 2019 GA Resolution, 2021 DGD, 1993 Hague Convention, documents produced by Working and Expert groups, etc.). In this context, voices in favor of raising currently applicable standards in the alternative care and adoption fields aimed at changes in practice, have become louder and more numerous, and are being raised across sectors and stakeholders: Government officials, persons with lived experiences and their families, child-rights

organisations. Do we hear these voices and are we prepared for changes?

Reinforcing or uplifting applicable standards in alternative care and adoption?

But what does it mean to uplift standards? Is it about introducing more safeguards or about adopting stronger messages via reviewed standards? What are the factors that led some countries to introduce promising transformations into their child protection and alternative care system? What are the drivers of such uplifting and reinforcement efforts: lessons from the past (see [editorial Mar-Apr 2021](#)), current implementation difficulties, ineffective measures, or even right violations despite existing standards? While for some, it is about reinforcing implementation of existing standards and the need to redirect efforts, budgetary measures included, for others, it might be about introducing new innovative approaches and eventually even to adopt reviewed or new standards. Isn't past and recent history surrounding children's rights constantly showing us that international standards need to evolve, be strengthened, and adapted in an ever evolving and complex world? A recent example of such adaptation are the ISS Verona principles aimed at

protecting the rights of the child born through surrogacy (see [ISS website](#)): ISS embarked in a long consultation and drafting process with various experts from different disciplines and countries - although global consensus on surrogacy has not yet been reached. However, it is strongly believed that the rights of children born through surrogacy need to be addressed urgently. This is also the premise of the [HCCH Expert group on parentage/surrogacy project](#) whose objective is to discuss the feasibility of new international private law instruments related to recognition of parentage, including parentage following an international and national surrogacy arrangement.

Tackling underlying drivers to take necessary actions

Whether in the alternative care or adoption field, underpinning considerations such as financial flows that influence child-rights centered decision-making processes, directly or indirectly, have been stressed as remaining problematic (see [DGD recordings](#); [Explanatory Report](#) 1993 HC; HCCH [Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption](#); HCCH [Expert Group on Financial Aspects](#)). But what is concretely done to get a better understanding of the drivers and barriers that impact current realities, including tracking financial flows within the alternative care and adoption systems (e.g. [Tracking Progress Initiative](#))? What is for example being undertaken to ensure that financial means (internal and external) for institutional care are being adequately redirected to family support, prevention services and quality family-based care? When making budgetary decisions, are implications and potential discrepancies in approaches between national and local levels considered and do they comply with real needs and realities on the ground? What is being done to effectively monitor and tackle potentially undesired consequences of such budgetary decisions?

In the light of prevailing contributions, donations and cooperation projects undertaken in the context of

intercountry adoption: what is being done to prevent financial aspects creating dependencies, competition, and influence on intercountry adoption procedures? Are currently applicable standards effective to tackle these risks and ensure strict separation between these financial support forms and intercountry adoption procedures? Currently, these questions are being discussed intensively in the context of drafting of the *HCCH Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption* and will surely be at the core of discussions during the Special Commission in 2022.

Joining forces across borders, across sectors to take bold actions

Uplifting international standards will remain void if not accompanied by concrete actions. Bold actions, no matter the field, will require political will, common approaches among States, among disciplines and sectors (public-private) to have a positive impact in children's lives. In this Monthly review, ISS/IRC therefore presents various initiatives and projects that are trying to address sensitive and complex issues in order to introduce change. They are all a testament to courageous and bold actions that are needed to continue working towards realising children's fundamental rights. These actions range from effectively implementing measures and means to transform a political will to support families into practice; supporting, protecting and advocating for the most vulnerable families and children in extremely harsh conditions; partnering up across borders to solve complex child rights and human rights situations involving several countries; and continued awareness raising of professionals and concerned persons on complex legal matters.

**ISS/IRC Team
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irc-cir@iss-ssi.org
www.iss-ssi.org

ISS
32 Quai du Seujet
1201 Geneva / Switzerland