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Adoption and Child Welfare Protection in France¹

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Abstract :

This article presents the French Child Protection system which is managed by the Child Welfare of local authorities (Aide Sociale à l'Enfance) and the Judicial Juvenile Protection depending on the central government (Protection Judiciaire de la Jeunesse). Children's Judges are involved in child protection. The majority of children in care live in foster families and were placed after court orders. All the administrative and judicial measures on families are revised each year, even in case of long-term placements. Foster carers received professional training and are supported by the teams of the foster care agencies. Working on child-parents ties, is a necessity because the majority of the birth parents retain their parental responsibility. In the French tradition, there is a great reluctance to break families ties. The authors present the adoption policy and practice with its two systems (full adoption and simple adoption) and the foster family care system. The evolution of care situations is argued.

Key words :

Child Welfare Protection, adoption, foster care, children in danger, child placement

¹ Parts of this paper have been previously presented in two international seminars: Adoption and Looked after children, organised by the Department of Social Policy and Social Work of the University of Oxford (London, July 2001) and Transitions to adulthood of vulnerable people organised by the Universities of Loughborough (Centre for Child and Family Research) and York (Brussels, October 2003).

INTRODUCTION

Important changing trends in adoption practice and in the nature of foster care have been observed for more than 25 years. These shifts have appeared jointly with changes in social attitudes and the development of: i) knowledge of neglect and abuse, children's needs, attachment and parenting through empirical, clinical and epidemiological research; and ii) social and family policies. In France, for example, financial allowances for single parents in 1980 have reduced the number of babies in care in state nurseries.

As in several European countries, the following changes should be noted: 1) changes in purpose: a decrease in the number of wards (60%: 1987-1997 in France), and of adoptable babies and of children in need, particularly older children; and an increase in the number of court orders; 2) changes in practice: smaller residential institutions, an increasing diversity of services and programs with trained professionals and multidisciplinary teams, an increase in inter-country adoption (40%: 1989-1999), reinforcement of co-ordination of services. For example, foster families who acquired professional status in 1977 (wages in addition to the child's expenses) have been obliged to undergo professional training since 1992.

THE FRENCH SYSTEM OF CHILD WELFARE, EVOLUTION

In 1670, Saint Vincent de Paul created the Foundling Hospital in Paris. Since then, the French Child Protection system has depended on the State to support families facing difficulties. The most important reform occurred in 1983-84: the decentralisation of protection responsibilities and the transfer of power from central government to local authorities (*Conseils Généraux*). Each *Conseil Général* is autonomous (in terms of making administrative and financial decisions) and consists of three departments: Social Services, the Mother and Child Health

Protection and Child Welfare services. However, certain functions of the Child Welfare services are still directly tied to the State; for example, the function of the tutor of Wards of the State and the control over the legality of decisions.

The Social Services missions are diversified. Our child protection system is managed by two sectors (1958/1959): Social Protection through the Child Welfare of local Authorities («*Aide Sociale à l'Enfance, ASE*») and Judicial Juvenile Protection, which depends on the State («*Protection Judiciaire de la Jeunesse, PJJ*»). While these departments are independent, a certain continuity exists between them: judicial and administrative interventions are complementary. The intervention of a children's judge is required only if a family requests it, or in an emergency, or in a dangerous situation for a given child (many are requested by the Mother and Child Health Protection, schools...). Families must comply with these judicial orders, which are very frequently the final stage after open dialogue and support (after several administrative measures have already been applied). Thus, judicial protection finalizes and takes over from administrative procedures.

In the 1984 law, 1) maintaining the child in his/her family is a priority: thus since he (she) is admitted into care, the project of returning home in the family unit must be anticipated: rehabilitation is planned); 2) families' responsibility concerning their rights and duties must be better taken into account. Thus, each child or family measure must be revised annually. Fewer children are expected to be in care in the future.

In 1996, the objective of keeping brothers and sisters together was emphasized. In addition, awareness of the reality of neglect and abuse led to the 1989 law on child protection and the prevention of mistreatment (with the green free telephone n°119), to the creation of the *Observatoire de l'Action Sociale* in 1994, and of the *Observatoire National de l'Enfance en Danger* ten years later.

Although numerous clinical studies and much research exist on the sociology of education regarding adoption and placement, those evaluating adaptation, health status, and behaviour are still underdeveloped in France, as opposed to in Anglo-Saxon countries. One could cite (this list is not exhaustive) the late adoption study (Duyme, Dumaret & Tomkiewicz, 1999), research on « hard to place children » (Dumaret, Duyme & Tomkiewicz, 1998, Donati & Dumaret, 2001, Dumaret & Rosset 2001), studies on looked after children during their placement (Careps 2003) or on adult outcome (Assailly, Corbillon & Duyme, 1989, Bauer, Dubechot & Legros, 1993, Corbillon, Durely & Mackiewicz, 1997, Dumaret, Coppel-Batsch & Couraud, 1997, Fréchon 2001).

ADOPTION

The legal framework for adoption

Adoption legislation in France takes two legal forms: full adoption and simple adoption.

Full adoption is new parentage through rupture with the birth family. Children younger than 15 years old are adoptable; after the age of 13, the child's consent must be obtained. Adopting couples (85%) must be married for more than 2 years, or both parties must be older than 28; in unmarried couples, only one (older than 28) may request adoption. This type of adoption is very difficult to revoke.

Simple adoption is an additional parentage. There is no age limit for the adoptee. Adoptive parents have parental rights, social allowances & Simple adoption may be revoked on severe grounds and it may become full adoption.

Full adoption also involves intra-family adoption. It is arranged by a lawyer. The child must be older than 2 years of age, and spousal consent for adoption of the stepchild must be obtained.

There is no rupture with the family of origin (grandparents).

Similarities between full and simple adoption include: status of capabilities, differences in age, allowances for weeding, change in family name, registration in the family record book, conditions for inheritance, and mandatory child support for parents.

Except for intra-family adoption, simple adoption does not work very well and is not very often employed: above all, it concerns children with mentally ill parents and children in permanent placement with foster families. It can be problematic for children in long-term care with very antisocial or disturbed parents: Who will protect the adoptive family if there are conflicts with the birth parents?

Who is adoptable? The Wards of the State

The law allows for five situations that define Wards of the State (Rosset, Faudot and Dumaret, 1993). Situations 1, 2 and 3 are the most frequent:

1. No legitimacy, no parentage: anonymous delivery, found baby, family name unknown, child not recognized after birth;
2. Adoption consent: secrecy about parent(s) identity may be requested or not;
3. Abandonment decided by Court Order after conscious relinquishing of parental responsibility has been recorded for one year. This decision may be reversible before the child is placed in an adoptive family;
4. Orphans without family guardianship;
5. Loss of parental rights.

Many children are in care but only a small number are adoptable. At present, there are 1000 adoptions of Wards (among 3000 Wards), 2900 inter-country adoptions, perhaps 2500 intra-family adoptions and 10 000 candidates waiting for adoption.

Wards may be adoptable; and they have a guardian: the Head of the County assisted by the Board of Guardianship or "*Conseil de Famille*". Any child is adoptable, regardless of his/her health status (1984). The board of guardianship is made up of members elected by the Head of the County; they are elected for three years, and can be re-elected three times.

The other children in care are not adoptable; they have parent(s). The stability of the child-parent relationship and its impact on the child's development are the common grounds underlying any project prepared by the local authorities and proposed to the Board of Guardians: placement or adoption.

Adoption practice

For birth parents, there are two procedures: i) voluntary consent, with a child of any age (cases 1 and 2); they then have 2 months to retract their consent (1 year if the two parents have parental authority) and ii) court order if the parents disappear completely for one year (case 3). After this deadline for retraction, the child becomes Ward of the State and is adoptable.

For adoptive candidates, approval is sought from local authorities (ASE); it is national, and remains valid for five years. Future parents must meet with a psychiatrist, a general practitioner, a psychologist, and a social worker. Very few candidates are refused. Adoptive candidates have outlined their wishes for the child (sex, age, race...) and his/her physical characteristics; some accept children with medical problems. The ASE social team and those who have been consulted evaluate possible dangers in the child's reception. Given the number of requests for adoption and the feeble number of adoptable children, the ASE finds adoptive

families quickly, except for those children with great difficulties (they will stay with their foster care givers or in institutions). As soon as the child's tutor has accepted placement for adoption, the child arrives in his/her adoptive family, and his/her parents have six months to request adoption. During this time, they receive support from the adoption's social team. Adoptive families are often regrouped within national and regional volunteer associations. Families wishing to adopt a baby or very young child are referred to international associations for adoption.

For adoption of older children: the child's opinion is also taken into consideration during careful psychological evaluations. One evaluates his/her development, his/her adaptation to the adoptive family, and his/her capacity for separation and attachment. Often, the foster agency requests the expert opinion of an outside specific organization. If the child has a strong pathology (autism, for example), and if the child adjusts well to the adoptive family, he/she remains in that family. Half of these older children are generally adopted by their foster care givers. Financial allowances have been given to these (those who ask for it) in order to compensate lost wages.

In case of problems with the child or in the relationships between the adoptive parents and the child, the adoptive parents would seek help in treatment centres in their cities or their region.

Current issues in adoption

The majority of adoptable children born in France are from North Africa; there are few black-skinned children, few candidates of colour, and very few racially mixed couples who wish to adopt. One recalls that Islamic people do not adopt (see the Koran, sourate 33); they have "Kefala", which means guardianship, but they do not have judicial parental ties with the child. The question of adoption by homosexuals is currently a controversial issue. The question is

approached as with single people: if they adopt, it is unrelated to their sexuality. Since the 1996 law was passed, the ASE adoption team remains at the disposal of adoptive parents upon request (request for information in the child's file, request for advice from a psychiatrist or psychologist...). In 2002, the law on Access to origins for people born into secrecy about their parent(s) identity (adoptees and the Wards of the State) was voted. In one year, the *Conseil National pour l'Accès aux Origines Personnelles*, which is responsible for researching personal origins and which accompanies those searching for their origins, handled approximately 800 cases, some resulting in mother-child reunions.

CHILDREN LOOKED AFTER

The judicial categories

The French system consists of two series of measures (basic texts: Code Civil, C.Civ., Code de la Famille et de l'Action Sociale, CFAS).

Administrative measures: Children at risk of danger

These preventive measures administer assistance, mostly at home (*« aide éducative à domicile »*, AED), meant to bring material, educative, and psychological support to minors, to their families, and to young people from 18-20 years old (CFAS art. L221-1, statutory order of 1959, laws of 1986 and 1989). These measures are carried out by social workers and psychologists to help parents exercise parental authority (parental responsibilities): managing conflicts between parents and children, overseeing budget and school ties... Other social and educative measures (*« aide éducative en milieu ouvert »* AEMO) have a more restrictive character for families; they are decided by the children's judge (C.Civ. art.375).

Judicial measures: Children in danger

Court orders are decided based on the likelihood of danger (edict of 1958) or of developmental difficulties for the child: for his/her «security, health and morality»; they included mistreated and abused children. All are in charge of the Local Authorities or the Juvenile Protection, in the private or public sector. Categories are as follows:

1) delinquent teenagers (edict of 1945), 2) children placed directly by a judge; 3) children looked after by the local authorities following a judge's decision: in care or at home (judicial AEMO); 4) children of age (18-20) under the Judicial Juvenile Protection (statutory order 1975).

Besides providing financial allowances (400 to 450,000 families) and the help of social workers at home (20 to 25,000 families), the function of Social Services includes preventive and educational support for 127,400 children living in their families and for 134,400 placements. Thus, the number of children in care is slightly superior to that of children receiving educative assistance. In 2002, 1% of the French population under 21 (261,800) benefited from placement or educational support in families managed by the Child Welfare services.

Concerning children in danger, judicial definitions (Code Civil, laws and statutory orders, etc.) are somewhat different from those used by the Observatoire de l'Action Sociale (using statistics on the green free telephone and enquiries about neglect and abuse). Thus, only some of the children in danger are known (those referred to the Child Welfare services). Among the new situations preoccupying us for the past three or four years are those of young migrants, notably those from clandestine emigration. How many are in the country is unknown but in the Parisian department, with 4500 young people at the ASE, 850 of these young people have been counted.

Children in care

In France, 134,400 children, adolescents and younger, are living in care (Table 1). The majority are managed by the social services of local authorities and the others are directly managed by Judicial Juvenile Protection (measures on children established by the courts).

i) Children directly entrusted to the social services of the Local Authorities ASE: 75% of them are placed by judicial measures established by the courts. The majority (56%) live in foster families, 36% in institutions, 4% are autonomous adolescents and 4% in other accommodations. For several years, the number of children in foster families has increased slightly, while that of children in institutions has been diminishing (DRESS 2004). Among the Wards of the State, 34% are adopted and 66% live in foster care, as other administrative categories (temporary care, court orders).

ii) Children placed directly by the judges: the judges place these young people through members of the child's extended family, in institutions or with other individuals. It is to be noted that financial support of all placements by court order is provided by local authorities (*Conseils Généraux*).

Table 1

Reasons of placement, family characteristics, parental responsibilities: For the last two decades, local authorities have coped with parents having severe difficulties. The most common reasons for admission into care are: neglect (30%), abuse (15-20%), parental mental illness - psychiatric mothers (40%) or depressed mothers with psychological problems (33%). Then we find: troubles in parent-child relationships (50%), alcohol or drugs users, social pathology that

concerns about 4/10 of the mothers and more than 1/3 of the fathers. The precariousness of the economic situation is never a direct reason for placement (Naves & Cathala, 2000).

For children in care, foster care givers or institutions are not alternatives, they confront the child's specific needs: some of them will experience normal family life, others not (special needs, teenagers...). As for the duration in placement, the mean has been decreasing for several years (no national statistics), but it varies widely according to the judicial situation: children admitted after court orders stay 2-3 years longer in care than those admitted through administrative measures.

A study on 400 children in care through judicial measures (mean age at survey = 11 years) in the largest foster agency in France noted that 55% of children were admitted before 4 and 30% after 6; duration of placement was 6 years, and 50% children were placed for 5 years or more. In one-third of the situations, the two parents have parental responsibility; in half the situations, the mothers are alone; for the other children, rights or guardianship are delegated to the local authorities (Dumaret & Ruffin 1999).

Foster family care

Family foster care is a tradition in France: a family organization is offered -- a woman with her spouse, an extended family with grandparents, other children & Some children -- those very psychologically disabled (autistic), those who are too old and for whom no foster families are found, and those who have very involved relationship with their parents -- are placed in residential centres or institutions. Working on child-parent ties is a necessity. First because in the great majority, parents retain their parental responsibility (only the right to have the child live at home is lost). They still have «health» and «education» rights, and must be consulted by

social workers for example for: choice of the school, religion, authorisation for rearing or for surgery.

There are 44,500 foster families in France, who can accommodate 92,000 children. More than a third of them rear two children and a fifth of them look after three children or more (DRESS 2004). Foster families are under control of foster agencies: volunteer agencies are an extension of the public sector (15-20%).

A foster family and its stable environment are offered to a child to give him/her structural referent points. He/she has had the experience of dysfunctional or pathological ties in his own family. Such relationships and his/her own troubles have led to breakdowns in parental abilities. Generally, the child will repeat what he knows: violent behaviour, symbiosis and rejection, risk of mistreatment. It is the team's guidance helping the foster family that will pinpoint this mechanism and treat it. A foster family is not a substitute family (as it used to be), and has no legal rights to the child; it has to take responsibility for global educative care. All have been selected and have received training. Foster families are members of family placement and cooperate with the team composed of full-time social workers and part-time psychiatrists, psychologists and therapists (David 2000, Rottman 2001).

Both public and private agencies have considerably expanded their monitoring and support staffs. Care-taking practices have evolved in an attempt to avoid disruption in the continuity of the child's care, to lessen the impact of change on the child's life, to maintain family contacts and to improve the supportive environment within the foster families.

Among the most important aims of family placement, let us note: 1) to allow the child to (re)build or elaborate a relationship with his birth family, 2) to create new ties with other parental references, peers &, 3) to oversee the emotional commitment between the foster family and the child, 4) to support the child in his sense of identity and history. Maintaining

relationships consists of maintaining psychic permanency in a daily life in which regular visits occur (regular does not mean frequent) as well as shared periods: preparations of birthdays, meals, holidays in special centre for child-parents, mothers visiting siblings together.

Working on the parent-child relationship means very closely monitoring the parents encounters with the child: visits at the family home, visits in a neutral environment. This depends on the child's age and the parental pathology.

With these multi-problem families, the principle of multi-causality and the complexity of interactions in child development mean that educational and therapeutic care cannot be efficient if programs do not support all the actors: the parents, the child, the foster family. Thus, in theory (David 1989), there should be two teams in the family placement: 1) a team for the child: the foster family, his educational referent (a social worker), a psychologist aware of the continuity of his history ; 2) a team for the parents: a social worker as referent, and sometimes a psychologist to encounter the parent. Only in well-to-do volunteer agencies do the two teams co-exist. If the child needs special care (therapy), this is not paid for by the local authorities but by the State (Social Security).

Family placement exists only because there are parent(s)s, generally a mother. It is a constant obligation to help the parents in their responsibility. Research has shown a tendency in long-term placement of a lessening in the parent-child relationship, if the team is not present enough. When the relationship has been lost, when the parent has not given sign of interest for a year, the local authorities may ask for judicial relinquishment: the child becomes Ward of the State by court order, and therefore adoptable.

Thus, this complex approach of the foster family care reflects the complexity of the child situation. Secure fostering in a family placement is a very heavy and perilous organization, it is costly in psychological and human terms for all professionals involved.

CONCLUSION

While in the Anglo-Saxon system, the objective is to guarantee the child stability in his place of living and security during childhood, the French Child Welfare Protection system has, until now, privileged the birth family.

Local authorities services of the Child Welfare Protection are not identical throughout France, and in fact, numerous differences exist. For example, certain benefit from a greater number of volunteer organisations, and others have more alternatives for care or support groups for the parents of placed children .

For years, the evolution of care situations indicates that the number of placements has diminished, and that the number of measures for home assistance has increased. The majority of placements are judicial. Psychosocial situations of families at risk are heavier; children have undergone trauma and discontinuities, and therapeutic care is necessary (Berger 1992). In addition, for the past decade, a new way of thinking has developed, centering on « mutual good treatment » between users and professionals and on parent-child relationships during placement.

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Table 1 Children living in care

	total
A. administrative measures (25%)	
Wards	2,860
temporary care	11,939
temporary care (18-20)	13,137
Total A	27,936
B. judicial measures (75%)	
guardianship to ASE	3,669
parental rights delegated to ASE	2,893
parents who have lost their rights	28
Placements to ASE	76,638
Total B	83,228
Children entrusted to the ASE: A+B	111,164
C. Direct placements by the judges	23,236
Children in care of the ASE: A+B+C	134,400

Source : Ministère des Affaires Sociales, du Travail et de la Solidarité, DREES : 1) Etudes et Résultats, n° 255, August 2003, 2) Document de travail, n°61, January 2004).