



ICAV Perspective Paper

Illicit Intercountry Adoptions

**Lived Experience Views on How Authorities and
Bodies Could Respond**

Compiled by Lynelle Long, July 2020

Introduction

In the past, ICAV Perspective Papers have brought together a range of views on a specific topic from intercountry adoptees all over the world. The goal of these papers have been to raise greater understanding of the complexities we live. This paper attempts to bring together not only the voices and experiences of impacted intercountry adoptees who have lived experience with some form of illicit practice in their adoption, but we also include for the first time, a few adoptive parents and first family representation.

For the purpose of this paper, we will use the term *illicit* adoption practice because it includes illegal adoptions but its meaning can also extend to unethical practices. Sometimes adoption practices are technically legal under the law of the relevant country but are fundamentally unethical under international or other standards such as the CRC, the Optional Protocol (Sale of Children), and the Palermo Protocol.

Illicit practices can vary immensely but in general, participants experienced one or more of these 3 categories of instances: one category of illicit practices are instances where the child never should have been removed from (or should have been returned to) their family; a second group deals with subsidiarity in the sense that while it may have been necessary for the child not to be with their family, in-country solutions should have been used; then there are wrongs that go to matching--- such as falsified child study forms — in instances where an adoption could have been appropriate, but the wrongdoing led to creating a placement that was problematic.

An objective of this paper is to break down the perception that illicit intercountry adoptions affect just a few. Another objective is to attempt to learn from the past and provide solutions for the future, as well as ensure those from historical intercountry adoptions, are provided for in terms of services and support. A third, is to demonstrate that the remedy needs to deal with the wrong.

We are the voices of those most impacted by intercountry adoption practices, past and present from the late 1940s beginning with the Greek and German cohorts, through to the rise en-masse of intercountry adoptions from Asia, South America and the explosion to many other countries like Ethiopia and China at its peak in the early 2000s. We share

the views of over 60¹ intercountry adoptees / adoptive organisations representing a minimum² of 13 adoptive countries and 26 birth countries.

Adoptive Countries: Australia, Belgium, Canada, Denmark, France, Germany, Italy, Netherlands, Norway, Sweden, Switzerland, UK, USA.

Birth Countries: Bolivia, Brazil, Canada, Chile, China, Colombia, Dominican Republic, Ethiopia, Greece, Guatemala, Haiti, Hong Kong, India, Indonesia, Iran, Italy, Malaysia, Nigeria, Paraguay, Philippines, Romania, South Korea, Sri Lanka, Taiwan, USA, Vietnam

The co-ordination of seeking and gathering responses occurred from 8 - 30 June from members of the ICAVs wide network, which largely operates over social media. Participants were invited based on the knowledge that ICAV sits as an Observer at the Hague Working Group to Prevent and Address Illicit and Illegal Adoption Practices, which meets on 8 July, 2020 and that ICAV would do it's best to represent their input and make it freely available on ICAVs website.

Contributors were asked the following two questions:

1. What should authorities and bodies do to respond to specific cases of illicit practices?

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

A handful of 9 adoptive parents also knew about ICAVs collection of responses and expressed interest — so they have also been included, along with one first father from Guatemala who wanted to share too, and an advocate for Uganda families. It is encouraging to see brave, courageous adoptive and first parents speaking out as it will hopefully embolden other parents to do likewise. I hope that in the future, we will hear more from first families as their voice is still largely unheard and invisible from legislation, policy and practice discussions in intercountry adoption, yet they are often the least empowered due to the many disadvantages that led to our adoptions to begin with.

¹ One group chose to keep their submission private and confidential for the HCCH only

² Some adoptive organisations included the consultation of up to 50 members

In this paper, I present a **Summary of Responses** and didn't order them in any hierarchy or try to analyse or interpret these responses to maintain their independence. I tried to present the overall thematic responses in a sequence according to the process of adoption, beginning with legislation internationally, then the process in-country impacting biological parents, then moving towards the processes in adoption with adoptive parents, then finally to adoptees, grown up as adults. I did not want to espouse a magic solution from everyone's input, but leave it fairly open to your interpretation. My goal was to ensure everyone's views are valid and to acknowledge that the stage of where people are at, and what they want, can vary. This will always be the case, although as adoptee generations age, we will see larger and larger cohorts of impacted peoples wanting a response. There was not one person who said they didn't want a response and are satisfied with the way things are currently, so I think it's fair to conclude all who are impacted WANT some kind of response and when reading through the submission, there is a collective feel (and some spell it out) that silence and inaction contributes to and compounds their sense of trauma.

I also do not attempt to speak for everyone but merely performed a role of gathering responses and presenting them in a fair, unbiased way. My own submission is included under my name so as to ensure my personal reflections are also captured separately.

A HUGE thank you to all the adoptees, adoptee organisations, adoptive parents, adoptive parent organisations and first family representatives who participated! This paper has been created because of your honest sharing, effort to put your thoughts together, and trust in ICAV to represent them fairly.

I hope this paper encourages policy and legislation makers and professionals around the world, to realise the benefits of learning from those with lived experience and listening to find ways forward, out of what is often traumatic and difficult situations.

Lynelle Long

Founder & Executive Director
InterCountry Adoptee Voices (ICAV)
July 2020

Index

Introduction	2
Index	5
Summary of Responses: Q1	8
Summary Of Responses: Q2	13
Adoptee / Adoptee Group Submissions	19
Colin Cadier: La Voix des Adoptés (VDA)	20
Dott.ssa Margarita Soledad Assettati	25
J Aucayse	28
Gabbie Beckley	30
Faith Beacham	31
Nicolas Beaufour	32
Robyn Bedell	34
Kara Bos	36
Sander Breeman: Geadopteerd uit Sri Lanka	37
John Campitelli: Italiadoption	38
Kim Soo-bok Cimaschi: Koreani Adottivi Italiani Organizzati	39
Susan Cox	41
Anna Davison	43
Aaron Dechter	45
Courtney Dobson	47
Sun Hee Engelstoff	48
Coline Fanon: Racines Perdues	49
Moses Farrow: Gide Foundation	54
Esteban Orlando Fleurant: RAIS	56
Julia Forson	57
Ming Foxweldon	58
Marie Gardom: ICAV UK	59
Eric Gustafsson	61

Dr Ryan S Gustafsson	62
James Hanks	64
Maria Heckinger	65
Christine Heimann: AdopteeBridge	67
Maria Hernandez	69
Maya Hewitt: CACH-ALL	71
Eva Hoffman	73
Katelin Huber	74
Dr Tobias Hubinette	75
Linzi Clare Ibrahim: Sri Lankan Adoptees	76
An Jacobs: Adoptie Schakel	77
Anand Kaper: DNA India Adoptees	78
Emily Kes: Adoptees for Justice	79
Melanie Kleintz: Adoptierte aus aller Welt	80
Kristopher Larsen: Adoptees for Justice	83
My Huong Le: Vietnam Family Search	89
Jessica Sun Lee	91
Fanny Lefebvre	92
Kimura Lemoine	92
Lynelle Long: ICAV	93
Author Mae	98
Leti Mendes: ICAV USA	99
Philippe-Pradeep Mignon: Empreintes Vivantes	101
Michael Mullen: Also-Known-As	102
Alessia Robin Petrolito: Adopt Cloud	103
Alejandro Quezada: Chilean Adoptees Worldwide	104
Jini Roby	105
Paula C Sabbia	107
Michael Salvia	109

Patrick van der Steen: Sri Lanka Family Project	110
Olivia Ramya Tanner	110
Tia Terefe	111
Flavia N Testa: Iranian Adoptees Worldwide	112
Michael Thielmann	113
Jane Jeong Trenka: TRACK	114
Utendlandsadoptertes Politiske Utvalg (UAPU)	116
Dr Indigo Willing: Adopted Vietnamese International	117
Biological Parent Submissions	123
Gladys Bulyaba: Kugatta Uganda	124
Gustavo Amilcar Tobar Fajardo: Guatemala	126
Adoptive Parent Submissions	128
Jessica Davis: Kugatta Uganda	129
Andrea Kelley: Ethiopian Adoption Connection	131
Tracey Chambers: Ethiopian Adoption Connection	133
Kerri Vandiver	133
Cindy Burt	134
Danielle West	135
Anita Pring: Thailand	136
Julia Rollings: India	139
Desiree Smolin: India	142
Appendix A	145
Appendix B	150
Appendix C	155
Appendix D	156
Appendix E	160

Summary of Responses: Q1

The next few pages is a collated list of the input everybody gave on both questions. The number beneath each point, identifies the number of times this was specifically mentioned (black for adoptees, red for adoptive parents, green for biological parents), but keep in mind, some issues raised that have few person's input is not to be discounted any more or less than another point that had many. One has to also account for the varying amount of knowledge about intercountry adoption processes, practice and legislation from person to person. Some people who contributed have just started to understand their adoption had illicit practices involved and on the other end of the spectrum, are those who have deeply investigated over years, to those who work in the field as professionals with a grounding in child protection, child welfare, and/or legal backgrounds. Also the perspective is different depending on which triad member responded and what their first language is.

Q1. What should authorities and bodies do to respond to specific cases of illicit practices?

■ Ensure a legal framework and definition of what constitutes illicit adoption practices with reference to other relevant laws (human trafficking, sale of children, wire fraud, money laundering, human smuggling, etc) and founded upon international Human Rights norms; in this development, consult with adoptee experts.
20 3

■ Expand Victims Protection legislation nationally to include illicitly adopted intercountry adoptees and their families.
2

■ Create an independent Investigative Commission; a body that has the powers to thoroughly investigate (internationally or nationally) and impose penalties. The body to include expert triad representation - weighted more towards adoptees; no political figures allowed. Outcomes of investigations to be publicly available and a central repository of cases maintained. Both countries to be investigated for their roles. The body to have the power to randomly inspect adoption files in any country or entity.
24 4

■ During an investigation, adoptive parents are not able to have their governments interceded on their behalf.

2

■ Central Authorities to proactively find and communicate discovered patterns of illicit practices to adoptees whose adoptions were facilitated by the same investigated entity/person(s); provide opportunity for adoptees to respond and offer funded services.

1 1

■ Establish an Intercountry Adoptee Bill of Rights and an adoptee led Working Group at Hague level to ensure ongoing inclusion of lived experience in future research and policy discussions.

1

■ Swift Response and impose harsher penalties of imprisonment and monetary fines; allow civil or criminal suits against those involved.

26 5

■ Fines from participating in illicit adoption practices to be used for Restorative Justice to victims.

6

■ Educate and publicise the laws and legal consequences of illicit adoptions.

2 2

■ Maintain a public register of denounced entities/person(s) involved in illicit practices; close them from operating.

11 1

■ Require transparency of records and independently confirm validity of consents.

7 3

■ Adoption agencies to have procedures and capture written evidence to show they are taking measures to prevent illicit practices.

1

■ Require controls of monies (itemised affidavit of all funds involved in the adoption).

3 2

■ When a violation is suspected, the adoption process and any other pending cases from that same entity should cease, be reported and investigated before proceeding any further.

5 3

■ When a violation occurs, bring swift prosecution while protecting privacy of the child(ren).

6 2

■ A family or juvenile court judge to rule on the return of the child to biological family.

1

■ Post conviction, use restorative justice and restitution to support ongoing contact between children and families.

1

■ Ensure Returning the Child to birth country is an option and both countries need to work together to make it happen.

1

■ Funded support services for those impacted, provided by trauma informed, culturally sensitive professionals that includes:
legal aid; counselling; financial aid; lived experience support groups; family tracing; DNA testing and genealogy services; travel support; language classes; translation services; mediation services; culture and heritage supports;
Funded support services can be modelled from other similarly related trafficking services.

27 4

■ Followup and ask impacted adoptees what they want at regular stages through their life

2 1

■ Search Services to be accredited to limit profiteering and standardise fees.

1

■ All adoption facilitators to provide free access to adoptees for a copy of their records, without redaction.

4

■ When false information in adoption files is detected, correct it; ensure adoptees receive correct information.

1

■ Ensure laws exist to revoke an adoption, re-issue free corrected and true birth certificate, provide free citizenship in both countries (legal costs and support funded) should the adoptee desire.

7 2

■ Public acknowledgement that these kinds of adoptions have occurred, i.e., an international or national Apology.

6 2

-
- Provide financial compensation to victims of illicit adoption practices.

7 1

- Acknowledge and consult with lived experience expertise and consult with them on improvements in policy, legislation and practice towards responses and prevention.

3

- Put the internationally recognised Child's Right's Convention as the lead convention, stop using the Hague Convention because it is being misused.

1

- Withdraw current adoptions, cease all intercountry adoptions until the issue of illicit adoptions and lack of citizenship is resolved.

5 2

- Ensure impacted adoptees are not left stateless.

1

- Abolish Amended birth certificates.

1

- Create procedures and an action plan of specific steps for how to respond to impacted people.

3 1

Summary Of Responses: Q2

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

■ Provide universal access to pre care, neo natal care, mandatory counselling with x minimum number of sessions, independent legal support and education to understand adoption including the lifelong outcomes for adoptees, for vulnerable mothers contemplating adoption .

15 3 1

■ Strengthen alternatives (family preservation, kinship care, community based care) with facilitated family group conferencing where culturally appropriate.

12 3 1

■ Provide social protection programs and economic capacity of parents (meals, education, literacy / computing skills, micro financing for small business opportunities); and local educational opportunities for the children.

9 2 1

■ Provide education and awareness to birth communities about the negative effects that can happen for biological family and adoptee, when giving away a child for adoption.

1

■ Authorities and bodies to focus more effort in protecting Children's Rights to stay with their biological family, rather than prioritising child abuse or education.

1

■ Strengthen laws for registering a child once born and require independent verification of the child's identity, or include an internationally accepted DNA test to prove parentage.

7 2

■ Eliminate Baby Boxes as this encourages parents leaving children with no identity.

1

■ Residential child care centres to be stopped from being used as “holding tanks” for adoptions and not allow exclusive contracts with adoption agencies.

1

■ Minimum standard (months - year) timeframe that allows parents their rights to change their minds about consent.

1

■ A clause in all intercountry adoption papers that states biological family has the right to contest paperwork if illicit practices information is discovered at any point in time.

1

■ External body of independent experts to review adoption process and records, submitted as part of court records.

3 1 1

■ Ensure abandonment cases aren't being created due to ease of process compared to verifying and compiling individual histories.

1

■ In-court consent only of both parents with independent legal representation and independent interpreter provided (expense paid) with reputable DNA testing results to verify parentage.

7 2

■ Develop a DNA Registry with details of the child and consenting parents.

4

■ Lost children services to be comprehensively funded and developed with Family Reunification the sole focus.

1

■ Eligibility of children and other alternatives offered, to be independently and multi-verified.

4 2

■ If the parents have signed their rights away with full knowledge of adoption legally, have workers in-country who advocate for them and can continue to support them after the adoption is completed and provide ongoing contact or update reports.

1

■ Centralise adoption and allow only government entities to conduct adoption; i.e., cease private, independent and non-Hague adoptions.

8

■ Separate adoption practices from any organisation with a religious affiliation or humanitarian aid connection.

2

■ Countries should not allow individuals with political ties to serve in any capacity in the adoption process; i.e., ensure transparency in the procedures and the relationship between the public functions of the committee and the private interests of the authorised bodies.

2 1

■ Ensure a legal framework and definition (as per Q1).

15 2

■ Add an amendment to the Hague Convention that solely addresses the issue of illicit practices.

1

■ Create an independent Investigative Commission (as per Q1).

13 1

■ Countries who are signatory to the Hague Convention need to strengthen the role and responsibility of Central Authorities, or create an independent arm to monitor

adoption practices and have the authority to take action against those who participate in illicit activities .

4

■ Accreditation providers to include adult adoptee expertise in their team of assessors when regularly auditing an agency.

1

■ Better fund the Hague Permanent Bureau to allow Country self report data be better analysed, investigated and captured with recommendations for Convention improvement.

3

■ Comprehensive and independent psychological screening of prospective parents, with x number of minimum sessions, to identify those with deep seated mental health conditions and deem them unsuitable to adopt.

8

■ Education to prospective parents and professionals with a mandatory international standard that includes identifying signals of illicit practices and how to report, addressing their fears of ending their chances to adopt by reporting.

12 1

■ Age and health (emotional and physical) restrictions of prospective parents should apply in all countries.

1

■ Adopting parents required to be fluent in the language of their prospective child (most important for older age children) and have ongoing connections in the country to maintain links.

1

■ All adoptions should be Open & Simple adoptions, not Plenary.

2 3

-
- Adoptees to maintain all rights to their birth and adoption records.

8 1

- Eliminate or cap money allowed in an international adoption; intercountry adoption should be free, as done in domestic adoption.

9 2

- Independent followup visits and data capture on adoptee throughout their life journey to ensure their safety and well being, access to post adoption services, an independent space to report if abuse or neglect is happening.

4 1

- Funded support services for those impacted as per Q1.

3 1

- Create an action plan of specific steps for what responses will be provided to those impacted.

1 1

- Fund an adoptee led academia / journalism global entity that is commissioned to continue researching, investigate patterns of illicit adoption practices; educate the wider public and professionals; and outreach to specific cohorts of adoptees who share these adoption histories. Example, build on what the Schuster Institute: Brandeis University has done so far.

5

- Put the internationally recognised Child's Right's Convention as the lead convention, stop using the Hague Convention because it is being misused.

1

- Withdraw current adoptions, stop all intercountry adoptions until the issue of illicit adoptions is resolved.

4 2

- Favour domestic adoption ahead of international, ultimately resort to end intercountry adoption.

- Resource and support an end to orphanage tourism.

1

- Establish watchdogs / ombudsmen for orphanages / private children's homes who facilitate adoptions to improve transparency and accountability.

2

- Include crowd funding for adoption fees in "illicit adoption" definition.

1

- Ensure Citizenship in both countries before the child is adopted.

1

- Better comprehensive care for parents who cannot have biological children. Help them with their suffering, support and guide them through their grief.

2

- Meet face to face with impacted people who report illicit activities.

1

Adoptee / Adoptee Group Submissions

The following pages captures the individual and group submissions, in alphabetical last name order.

Colin Cadier: La Voix des Adoptés (VDA)

Colin Cadier born in Brazil, raised in France; President of VDA; Celine Giraud born in Peru, raised in France; Founder and previous President of VDA, current Advocacy Coordinator VDA. [La Voix des Adoptés](http://lavoixdesadoptes.com).

Contribution from “Voice of the Adopted” through the ICAV

Working Group on Illegal Adoptions

Permanent Secretariat of the Hague Convention

As a French Association, law 1901, recognised of general interest, La Voix des Adoptés (VDA)³ was created in 2005 with the objective of being a privileged place of listening and sharing for the adopted people whatever their ages and their origins (from France and abroad). VDA has a seat in the National Council for Child Protection since September 2016 and has been a member of the Board of Directors of the French Council of Associations for Children's Rights since April 2018.

Impregnated by the needs of adoptees, our association acts for their well-being, their personal construction, their progress. This engagement of adopted volunteers in the interests of adoptees is a recent approach with a promising and fruitful dynamic.

The voice of adoptees defends a practice of ethical adoptions, in accordance with the Hague Convention of May 29, 1993 on the Protection of Children and Co-operation in matters of International Adoption: the best interests of the child and the principle of double subsidiarity (Cf Art.21 of the CIDE) must be guaranteed, and the fight against any embezzlement, any abduction of children or deception of the biological families must be a priority⁴.

In our Association's experience and practice, we are confronted with stories of unethical adoptions, with the harmful, traumatic and post-traumatic effects, inherent in these stories where there have been drifts, irregularities. Our Association pays particular attention to the way of welcoming and managing these specific stories with ethics and integrity, stories where the fundamental rights of the child have been violated (permanent

³ <https://lavoixdesadoptes.com>

⁴ De Monléon JV, Pierron J. *Les droits des enfants adoptés*. Pédiatrie Pratique 2016;283:16-7.

deprivation of their original identity and of the right to grow up in his family)⁵.

This is why, since 2020, a specific pole, called Advocacy Pole, has been set up within the VDA association in order to allow formalising global reflections on subjects touching on the ethics of adoption and post -adoption. This Pole aims to be a resource place for adoptees (information, orientation, support) but also a place of observation, whose data (testimonies, surveys, consultations) will support its reflections, recommendations, and more overall its advocacy actions.

It is in this context that the VDA was asked to respond to two issues raised by the Hague Working Group on the question of illegal adoptions. Here are the VDA's responses:

1. What should authorities and governments do to respond to specific cases of illegal practices?

First of all, we believe that a **joint investigation between the country of origin and the host country** should be initiated on this issue. It is only after a willingness to move forward together on this sensitive subject that solutions can emerge. A **charter**, which marks the commitment of the countries in the management of these illicit adoptions, could be ratified by the signatory countries.

Second, we could answer this question with three key words: recognition, support, resources.

■ **Recognition:** Persons concerned by cases of illegal practices must be recognised as victims of this offence as soon as it is proven. A **Recognition Commission** could be envisaged and could be at the initiative of opening independent external investigations, taken in charge by the States responsible for adoption (sending and receiving) in order to provide the necessary responses to the persons concerned, i.e., the adopted adult and their families. Investigative material should be kept in digitised and archived files. The recent decision of the Dutch government in this regard goes in this direction⁶.

⁵ Contribution de la Voix des Adoptés aux Etats Généraux de la Bioéthique. 2018. (en ligne) <https://etatsgenerauxdelabioethique.fr/media/default/0001/01/e7acb3a97cfffad591828e81ac9b9cc786452266e.pdf>

⁶ <https://www.rijksoverheid.nl/ministeries/ministerie-van-justitie-en-veiligheid/nieuws/2018/12/06/onderzoek-naar-mogelijke-misstanden-oude-adoptiezaken>

■ **Support:** In order to support them in this reality which they did not expect, psychological cells could be made available to the adopted persons concerned. These cells, made available by the host States, would also be open to their families (adoptive, biological).

■ **Resources:** To facilitate the search for origins when a case of illegal practice is proven and the adopted person is blocked in his searches, the Central Authorities could ensure, by using their power of control, that the person can have the maximum access of information necessary for its research (access to the files of the courts, the OAA, lawyers, etc.)

Finally, in order to respond to proven cases of illegal adoption, and after having recognised the persons concerned as having been victims of these networks, they should be allowed to obtain **compensation**.

In this, the VDA association is positioning itself for the approach of a **restorative justice** so that a constructive dialogue is opened and the victim can find in a serene manner, the keys for resilience. **Partnerships with associations or centres specialising in restorative justice or victim assistance** could be envisaged (in Switzerland, for example, the Law on Aid to Victims - LAVI)⁷. Cooperation between Central Authorities to map their resources would be encouraged.

Nevertheless, in order to allow redress to be obtained, the VDA association stresses that two aspects of national and international law should be subject to modification in order to be adapted to the specifics of the adoption process. In this regard, reading this manual can shed light on the shortcomings of today's international judicial system, which prevents the effective prosecution of those responsible and therefore, reparation for the victims.

In fact, in French law, for example, there is no adequate reason to designate the overall process which allowed the existence of a wrongful adoption and which could provide for the intervention of several different actors (pressure on biological families, incitement to abandon, deception, breach of trust, forgery and use of forgery, concealment, etc.). In addition, often, the establishment of a strategist who has all the appearances of

⁷ <http://centrelavi-ge.ch/>

legal acts makes the detection of illegal adoptions even more complex. The creation of a qualification for "adoption fraud" that would fall under criminal law appears to be appropriate.

Finally, the question of prescription should be reviewed in order to allow the adopted persons concerned, but also their families, to benefit from a reasonable period of time to report the facts from the moment they are known. The prescription must take into account the specificity of the initiation of the search for origins which can be done at any age. The rhythm of each person must be respected.

The discovery of an active involvement of an OAA in one or more cases of proven illegal adoptions should give rise to the withdrawal of its **accreditation, authorisation and accreditation** by the Departments, the Ministry of Foreign Affairs and the country of origin. This possibility would be added, in France, in the "Code d'Action Social et des Familles".

Q2. What should authorities and bodies do to prevent and respond to patterns of illegal practice?

According to the VDA, the establishment of an effective system which allows the recognition and the reparation of the illicit adoptions, should have a dissuasive effect in the sending and receiving countries. Networks must know that means could be deployed to search for those involved and that heavy sanctions could be taken against them.

In terms of prevention, the role of child / infant care structures in the countries of origin is essential, since intermediaries intervene between the biological family and the adopting parents or OAA. In all cases, for countries which do not apply all the recommendations of the Hague Convention, the cases of illegal or unethical adoptions reveal the absence of consent of the biological family (abduction, abduction) or the concealment of information (concealment and use of forgery). Each signatory state (of origin or host) undertakes to guarantee favourable conditions on both sides of the adoption process. We observe that the "networks" have developed when the adoption procedures showed (present) flaws or when the controls by the authorities are (or have been) lacking.

Colin CADIER

Président

Céline GIRAULT

Coordinatrice Pôle Advocacy

See **Appendix A** for original French submission.

Dott.ssa Margarita Soledad Assettati

Born in Chile, raised in Italy; Certified Psychologist-Psychotherapist; Certified Transactional Analyst - Emdr; Former Honorary Judge Court of Appeal Juvenile Section; Head of Centro Adozione Minori e Famiglia (Adoptions Center Minor and Family).

In Italy the system of adoption corresponds to a law of 1984 (L. n. 83/1984) and a subsequent amendment of 2001 (L. n. 149/01), after Italy ratified the Hague Convention in 1998. This law regulates national and international adoptions. With regard to domestic adoptions, the authority that ensures the regularity of the adoption procedure is the Juvenile Court. In Italy there are 29.

Regarding international adoptions, a central authority (International Adoptions Commission - CAI) has been established which ensures contact with the central authorities of countries which make children available for adoption. The intermediators in international adoptions are the Authorized Entities; these entities are private associations accredited by the CAI and represent it abroad. There are currently 50⁸.

The authorities must always answer to the Juvenile Court and follow the Italian and European legislation that the Hague Convention should ensure the application of the best interests of the child. Therefore, the International Adoption Commission should ensure the legality of the procedures adopted in the case of international adoptions and the Juvenile Courts should monitor the action. In this context, the Authorized Entities, through the accreditation to operate through the CAI, should ensure compliance with the procedures.

What happens when the bodies that are the first to interface with the adoption countries operate in an illegal or not fully legal way?

Theoretically, the CAI should withdraw the accreditation. In practice, we have seen dubious procedures in the past by some very powerful Authorised Entities which have not been followed by any revocation action, such as the case of adoptions in Congo and Ethiopia. To answer the question, it is necessary to see how the CAI is configured in its staff. The Commission is partly composed of political figures: currently the president of the CAI is the Minister of the Family. The vice president is generally a technician of the

⁸ <http://www.commissioneadozioni.it/gli-attori-istituzionali/gli-enti-autorizzati/albo-degli-enti-autorizzati/>

legal branch (a Magistrate/Judge) appointed by the government. Most of the Commissioners are technical representatives of the various Ministries. Some Commissioners are representatives of foster family associations in Italy. Finally, there are some experienced professionals on adoption issues, almost always of legal extraction.

Unfortunately, we must note that in Italy the appointments and appointments do not follow the logic of competence on the subject but purely political. In answering this question, it would therefore be necessary to ensure transparency in the procedures and the relationship between the public functions of the committee and the private interests of the authorised bodies. Procedural transparency, therefore traceability in technical and fiscal documentation, already extremely high, It must also be associated with the control over the activities of the institution, which cannot stand as a representative of a State to justify its own profit, which is purely economic in nature, despite the fact that it is formally a non-profit organisation. In Italy there was only one public body in the Piedmont region which guaranteed an economic disinterest with regard to the adoption procedure and its professional performance. Unfortunately, it's no longer operational.

The Italian law, in fact, in the pre-adoption and immediately post-adoption phase, is structured in such a way that there is a fair control over the procedures. What is lacking is control in the medium and long term. What does this mean? It was found that many foster children told how we were "taken away from the foster family" many years after the adoption, when it was already too late to intervene. So, it takes a Copernican revolution over the ethics of adoption. Are we sure that the institution of adoption responds to the supreme interest of a child when, to give an adopted family to these children there is an economic exchange? Of course the answer is no. International adoption in Italy should be free, as Domestic Adoption is.

Finally, I think it would be really important to include in the International Adoption Commission some truly technical figures from the adoptive world, not political figures. So real professionals of the adoptive sector who work in private and public dress and who know the various facets of the adoptive process. Among these, of course, it would be useful to include adopted people, rather than adoptive parents, who can represent an authoritative voice on the subject and who are not linked to personalistic dynamics and self-celebrative, but which effectively respond to ethical and professional dynamics. Currently among the commissioners of the CAI there are representatives of the associations of adoptive families, which inevitably respond to their system of values,

which has highlighted that there is still a strong adoptive ideology, according to which Adoption is a road to "Salvation", a form of neo-colonialism, in which race, skin, gratitude are priority to respect for the origins and identity of the adoptees. The latter "must be grateful for being saved". Now, for these parents there is no interest in supporting the origin of foster children, so there is also no idea that adoption is a trauma to the adopted child, who has been "uprooted and disfigured" in his original identity. This category of adoptive parents has, and will never have, no interest in working with their countries of origin on supporting and changing policies to support women and motherhood. These last aspects are the only ones that can guarantee in the medium to long time a true success of the adoption as last way for the supreme interest of the Minor in difficulty.

J Aucayse

Born in Peru, raised in the USA.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Authorities should remove the license immediately of the adoption agency and or parties used and investigate immediately into who allowed the adoption to proceed forward. Adoption should then be nullified completely.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Create a database of complete adoptions that have reported illicit adoption practices and make sure there is verifiable proof. This can be collected by using organisations like ICAV or major newspapers in specific countries. Find out the organisations used or governments that reported incorrect data to forward an adoption and monitor the current practices of these adoption agencies/ countries if they still exist. By doing this, a scale can be created and used for future adoptions, where families can have less worry about their child being illicitly adopted. This might even put more pressure on origin countries to increase surveillance on illicit practices.

For complete adoptions, find out the details through a self-report survey to assess in what ways the adoption was illicit. By analysing the data it can be assessed if a country has improved or is still consistent in producing illicit adoptions and by what means. This will be good data to provide for countries that have couples looking to adopt. It will also be good data to provide to the country of origin where it might start a bridge to acknowledging the wrong doings by the country to their former child citizens.

I am a novice when it comes to understanding the complexities in international law. However, I do believe a focal point should be established to understand the patterns origin countries have been following over the decades when it comes to illicit adoptions. Self-report survey's can be erroneous due to missing information or lack of any paperwork. However, this will also point in the direction of what data has been misconstrued or purposely messed up and which countries are frequent offenders. Like in

my instance, I was adopted illicitly by my mother being lied to and told I would be adopted in Peru, her other condition was that my birth name be kept and even that didn't occur. My birth country also incorrectly documented my birth surname on my birth certificate. A blood test was the only way I was able to confirm parent-child DNA. The end result is for origin countries to acknowledge their lack of organisation or humanity when dealing with these adoptions and offering services that can reconnect missing children. Even going to the lengths of creating an international database, adult adoptees or parents of adoptees can seek out birth family. This database can be accessible to law enforcement in each countries so birth families can seek their own kin, if need be. I would like this dream to be a reality, however I gather we are not at that point yet. To me, data analysis is the most important thing right now.

Gabbie Beckley

*Born in Sri Lanka, raised in Australia; BCW, MSW Social Worker in Child Protection;
ICAV NSW Representative.*

I think that the first port of call should be looking at family and kinship arrangements first and foremost and using family finding strategies to shake the tree until someone suitable falls out!

A bigger emphasis should be on keeping children in the country of origin and less importance placed on 'white fragility' on the notion that adopted children are for filling an unmet biological need. There are plenty of children domestically that need love, care and attention.

If authorities find out that an adoption is illegal talk to the child, young person or adult first. Ask them what they want to do, every 6-12 months for their life and when and if they want to know more, help them find out their roots and make a connection. Also keep up their connection to their mother tongue as it is vital going forward they have a way to communicate when they do go back.

I also think that compensation should be a given, we have lost so much and money will aide in travel, interpreters and support to the family.

At the end of the day we bare a heavy burden and we must be recognised and allowed to process our emotions, however we see fit.

Let's learn from the past mistakes and not let history repeat itself.

Faith Beacham

Born in China, raised in the USA.

I want homeland security to redefine their definition of human trafficking to include fraudulent intercountry adoptions. If fraudulent adoptions were included as a definition, then the US government would become more strict about adoptions in. Where children are adopted from would be investigated more. The US has a tendency of setting up “private” adoption agencies and adopting from countries that are vulnerable such as Vietnamese adoptees after the *Vietnam War* or the Chinese adoptees during the *One Child Policy*.

I am hoping the re-definition of human trafficking would include fraudulent adoptions which would slow down the “demand” for children. China has been keeping up this “demand” and yet how they are getting the “supply” of children is not being investigated. So if the US can slow down the demand and focus on which children are actual orphans who need families, instead of taking babies that may have been trafficked, the US is extremely guilty for creating this “demand” as they are the top country involved in receiving international adoptions. Private adoption agencies have become multi-million dollar businesses! Changing adoption to a government process would hopefully put a stop to profiting off orphans from other countries. We would also need to set of punishment systems within our countries. All the amazing aspects of adoption were corrupted and made dirty when human trafficking became involved but it doesn’t have to be the end as well. Can it be improved upon?

Nicolas Beaufour

Born in South Korea, raised in France; Blogger at [H Story](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Denunciation of the adoption agency in which such case have occurred. The adoption agency should have his authorisation revoked and should not be allowed to do any adoption as long as the employees, volunteers implicated are not removed from their position inside the agency.

Prosecution of the person(s) implicated.

If such case occurred in a Hague Convention country, inform all others States immediately about the case, context, persons implicated, country of origin and country of destination. All details should be notified and registered. An investigation should be done to get to the bottom of the case and to find out the whole ramification of the illicit practice (third party, website, portal, contact person, family members, etc.)

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Strict control over international adoptions, the eligibility of such children must be verified, and verified again to be sure that international adoption is the only, and only way to allow the child to grow up in a safe environment.
- The procedure of adoption should be strictly followed to the letter and no bypass should be authorised. As such, financial deals should be put into strict scrutiny.
- Background checks on adoptive family should be made. They need to be thorough and impartial. If known, a background check on relinquishing family must be made to be sure that the child could not be adopted by relatives in his own birth country.
- Government must put in place stronger child protection service, better social response to allow the child to stay in his birth country.
- Adoption agency should be audited regularly at least once a year by independent adjudicators, adult adoptees and representative of the government.
- Adoptive family should go through an adoption education course, in which the adoption agency, central authority members, and a panel of adult adoptees can assess the pertinence of the adoption agreement for the family.

-
- As soon as a glitch is detected in the process, the adoption procedure should be put on hold, and an investigation should be launched to check the source of concern.
 - Children in birth country should not be left to an adoption agency. They should be held in government facilities while adoption agencies try to find domestic adoptive family. A child should never be left in the sole responsibility of a 'company' that will make money over his international adoption.
 - Regular check ups on the adoptive family should be made after adoption. To check the well being of the child and to check the surroundings (neighbourhood, school, family, etc.) to protect the child against racism, segregation, bullying.

Let's be clear. International adoption occurs when a government is no longer able to manage his own population and social welfare. It is the responsibility of each government to deal with illicit practice on their own soil.

During my research on the matter of illicit adoption practice I found an article that somehow confirm the point I was trying to make with my own personal reflection on the subject: www.ohchr.org/EN/Issues/Children/Pages/Illegaladoptions.aspx

Robyn Bedell

Born in Greece, raised in the USA.

I am not sure what could've been done to prevent my adoption from happening. But I can share with you my own thoughts and memories of the dysfunctional household I was propelled into at the age of 14 months.

My adoptive parents lost their biological daughter when she was not even two years old. They requested to adopt not one but two children. Through circumstances they ended up receiving two children within a month of each other. I was 14 months old and the other girl was a newborn. My question here is, who was responsible for investigating the mental health of the adoptive mother figure in this situation?

My biological mother had been widowed by my biological father while pregnant with me, leaving her with four other children as well. She was convinced to give me up for a better life than what she could give me at the time. I know I never left her until she went to surrender me at the airport. She changed her mind but they took me from her anyway, telling her nothing could be done. My question here is why? Was there anyone responsible for helping mothers in her situation? Why, when she asked her brother for help, did he refuse? Should there not have been some kind of responsibility from the family to help care for one of their own? And was there no state system of social services in place to help alleviate poverty rather than condone overseas adoptions?

When I was 16, I met a young man 25 years old, who told me he could make me happier than I was living at home. My parents didn't like him and told me to leave if I was going to continue talking to him. I wanted to be happy. What happened next was far beyond anything close to being happy. For the next almost 4 months I was physically and sexually abused by not only the young man I thought was going to make me happy, but also used sexually by his brother, in "exchange" for him letting us live with him, so we would not have to live on the streets. Why did the teachers not question my absence from school for so long? Why did I not receive some kind of therapy to overcome the emotional and physical scars that this experience was going to cause as I move through my life?

One of my biological sisters was also placed out with a family in another village, in Greece. Our mother would go visit her as a friend of the family. When my sister found out the truth she went home and made several attempts to contact the attorney involved in

my adoption. He only hung up on her every time she called. Why did the attorney not want to speak up for me? I have now learned more about this attorney by comparing notes with other Greek adoptees. He was a known bully and never assisted in any reunion we know of.

On one of my trips back to Texas after my adopted Mother died, I had the opportunity to meet with one of my kindergarten teachers. She told me that she remembers picking my adoptive sister and me up in the mornings to take us to the church for class and that I would be crying - every morning! Was my adoptive father abusing me? I told her no, I feared it was my mother. I was four years old. The verbal abuse that I received from this woman who was supposed to be my mother, carried on up until the time I was old enough to move out on my own. In her final days she did "apologise" and tell me that she was surprised I turned out to be the better daughter, for helping my father take care of her until she died.

I am almost 63 years old now and still cry for the life I missed and the life I had and still have. My life is filled with questions of WHY? In response to your questions, it is clear to me that screening procedures failed miserably, as did any system of oversight over adoptive parents. But it is also clear to me that well-established Greeks, such as the lawyer who handled my adoption, took advantage of mothers in vulnerable situations. It would give meaning to my life if I knew that my adoption would become an inspiration to others to prevent similar poorly handled adoptions from happening.

Kara Bos

Born in Sth Korea, raised in the USA, residing in the Netherlands; recently awarded a win in her Sth Korean legal suit filing for Paternity rights.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

I find this question quite preposterous as there should already be a protocol in place! If it doesn't actually exist then of course law enforcement should hold these perpetrators responsible and persecute them to the full extent of the law. These practices should be brought to the surface and addressed on a world platform so that every country that faces this kind of illegal activity can be made aware and it can be stopped. I'm sure if it happens in one country, then it is happening in many others. This should also be retroactive, even if in 2020 a country is recognised in 1960 to have been performing illicit behaviour surrounding adoption, then they should be held accountable even today for those actions. The victims and their families should receive compensation and the proper attention for the injustice dealt to them.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Any illicit practices that are made known should be brought as shared knowledge with the world so that protocols can be put in place to prevent these practices from happening again. Hefty punishments should be rendered as a warning to all involved about the consequences of such illegal activity. Also any organisation involved should be of course dismantled and punished accordingly. I think there should be a world investigative committee formed that recognises and addresses these problems specifically so that the proper attention can be placed on these illicit practices as only then can prevention happen, and action be taken. If a country's government turns a blind eye to these practices then they should be held accountable on a world platform, as only then will they take responsibility for the illicit practices and injustice done to the victims and their families.

If I think about it more, specific examples would be the brothers home in Korea which has now been proven to have done many illegal activities surrounding adoption and was trafficking children. Holt has had several cases where it's now been proven (no

legal action) that proper procedures of fact checking families was not done and therefore children were adopted without consent of parents. In my own case, domestic adoption has been shown to have not taken precedence over international adoption, and it was known that agencies were even advertising their services as a solution to social problems, nothing related to poverty or a war torn country. So if we look at only these examples than any country where this has been discovered should be investigated. If they've signed the Hague Convention then even if the adoption is retroactive, legal recourse should be taken and the country should be held responsible on an international level, not just leaving the responsibility within the sending country. Since they are involved in international adoption, then the international community should also hold them responsible.

Sander Breeman: Geadopteerd uit Sri Lanka

Born in Sri Lanka, raised in the Netherlands; Founding member of [Geadopteerd uit Sri Lanka](#).

Recognise the fact that there are cases with illicit practices.
Advice for searching on the ground, verify all papers in hospital and registration offices at government level.

Provide a DNA Kit, 2 is best, from a recognised international DNA database.

Provide after care (post adoption support), cultural knowledge, translation.

This all on an easy to reach level.

A closer look on the demand factor is needed, the motivation of why to adopt.

A closer look on the adoptability of a child is needed, standards have changed over the years.

DNA passports would be the ideal counter measure against fraud.

Severe penalty for those involved in illicit adoptions, including the adoptive parents, and compensation for the child and mother, should be in place.

John Campitelli: Italiadoption

Born in Italy, raised in the USA; Founder of [Italiadoption](#).

I *taliadoption* has been setup as a mutual search and assistance network for free for adult intercountry adoptees born in Italy and adopted abroad. We do everything pro bono and have excellent results. We work on the “pay it forward” method: I help you and you help the next person based on what you have learned in your search and reunion experience. All our findings are shared with the group so other can learn from the experience of each one of us.

Adoption organisations have been reticent at providing assistance to adoptees who have suffered from illegal and illicit adoptions. It has been clear that they will only release information upon payment of “search” fees! This is outrageous - to have to pay for something that is ours, and is illegal at best! We as adoptees are running into stone walls with many different agencies, but we always find way to get around them!

They made money on the adoptions, now they demand money from the adult adoptees. I call that double dipping!

For example, the USCCB/MRS and the DHS/USCIS provide case records at no charge and so should adoption agencies like ISS USA. ISS USA has offered search and tracing assistance at a cost of a \$1,500 US dollars and \$200 US dollars for our paperwork which includes redacting the names of bio and adoptive family.

Kim Soo-bok Cimaschi: Koreani Adottivi Italiani Organizzati

Born in Sth Korea, raised in Italy; Founder of Koreani Adottivi Italiani Organizzati (KAIO); Co-Founder of AdoptiON AIR.

In my opinion, the authorities should report both to the country of origin and to the receiving country that these are illegal cases - they should be declared so they can be counted as illegal, otherwise the risk is they will be forgotten.

Furthermore, this would serve to leave the case "open" in the event that, as some Cambodian birth mothers did, searches were made for the children who were given up for adoption.

Furthermore, we believe that adoptions from countries where illegal cases have occurred should close so that each state takes care of its orphaned children and reform and improve the social system that supports families, unwed and abused mothers and abused minors. In this way the system of international adoptions would cease to be part of the system of economic-commercial agreements between nations.

The authorities should ascertain better when there are cases of adoption with non-reliable consents by the contact person which has not been investigated in depth due to a rebounding of responsibility between the authorities of both the adopting and origin nation.

Original Italian:

Secondo me le autorità dovrebbero segnalare sia al Paese di origine sia al Paese ricevente che si tratta di casi illeciti conclamati in modo che possano essere annoverati come illeciti, altrimenti il rischio è che vengano dimenticati. Inoltre ciò servirebbe a lasciare il caso "aperto" nel caso in cui si siano, come hanno fatto alcune madri di nascita cambogiane, delle ricerche per i figli che sono stati dati in adozione.

Inoltre riteniamo giusto che vengano chiuse le adozioni da nazioni in cui si sono verificati casi illeciti in modo che ogni Stato possa prendersi cura dei propri figli orfani e riformare e migliorare il sistema sociale che sostenga le famiglie, le ragazze-madri (unwed mothers) e i minori maltrattati e abusati. E in questo modo il sistema delle adozioni

internazionali smetterebbe di rientrare nel sistema di accordi economico-commerciali tra nazioni.

Le autorità dovrebbero accertarsi meglio in ogni caso quando ci sono casi adozione perché spesso si sono verificati casi di non affidabilità da parte dei referenti sul posto e questo non ha permesso di indagare in profondità con un rimbalzo di responsabilità da parte delle autorità della nazione adottante e quella di origine.

Susan Cox

Born in Sth Korea, raised in the USA; VP Policy & External Affairs, [Holt International](#).

Intercountry adoption practices have changed dramatically since it began as a humanitarian response to orphaned children (primarily of mixed race) following the Korean War. It was controversial then and continues to be controversial today.

The unwavering priority of adoption must always be to find families for children, not children for families. Sadly, that mandate is often ignored. The Hague Convention on Inter-country Adoption has been pivotal to implementing and improving international norms and systems to protect birth parents, adoptive parents, and most importantly, the children to be adopted.

When I attended my first Hague Special Commission meeting in the early 1990's the Treaty was still being drafted. I was the only adoptee in the room and felt like an island. Years later, both the specifics and nuances that were considered and discussed then, represent a very different time and place in adoption than it is today.

Preserving adoption records, search and reunion, requirements of parent preparation and training, issues of race, culture and identity and other adoption issues have evolved to include the perspective of the adoptees themselves. While there is not unified agreement on adoption practices and implementation, I am pleased that adoptees with a global perspective now have the opportunity to participate in the process. If the intent is improve the practice, and build policies that will create systemic changes that increase protection of children and families, it is also imperative to be open to listening to and considering the view of others; to acknowledge and respect that there are adoption professionals who are committed to the best interest of children and seek to improve adoption practices from a practice as well as a philosophical perspective. The following is my personal reflection of intercountry adoption principals.

Inter-country Adoption IS NOT:

- A solution to world poverty or all social problems for homeless children.
- The means to a political agenda for nations, states or individuals.
- The first line of defence for children who need families.

-
- An appropriate long term systemic and sustainable response for a nations orphaned & vulnerable children.

Intercountry Adoption IS:

- An individual option for individual children who need families.
- A complex humanitarian response to homeless children that can respect their need for connection to both birth and adoptive families.
- Complicated because it forms interracial, international, intercultural families.
- It is generational – the impact of which spans lifetimes and generations.
- Preferred over long term foster care or institutionalisation

*Children are a nation's greatest resource.
But without deep commitment to their well-being
And investment of adequate resources
They can become a nation's greatest liability.
~Pearl S. Buck*

Anna Davison

Born in Hong Kong, raised in Australia; ICAV QLD Representative, former ICASN HK

Country of Origin Representative.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Have a third party involved if possible to stop this from happening again with checks and balances who actually look after the interests of the birth parents.

When I was reunited with my birth mother over 20 years ago I was advised about the circumstances surrounding my adoption and relinquishment in the 1970's in Hong Kong. I was advised after she gave birth to me they had priests, doctors, nurses, psychologists and police in to see her as she was initially refusing to sign the paperwork at the hospital. When questioned what she thought she was signing at the hospital, she thought she was signing paperwork for me to have treatment. She left the hospital 7 days after giving birth to me.

Also when we met, she claimed that she never knew I was adopted and when she was questioned where she thought I was all my life, her reply was an orphanage.

There was also a case where a person employed by the Hong Kong government went to Taiwan in the 70's and came back to Hong Kong with 2 girls, 2 days later. When questioned how he got the children back to Hong Kong from Taiwan as the children didn't have passports and within a short period of time, he left Hong Kong government and returned to the UK shortly after that happened.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Have more check and balances put in place for all countries that have a history of this already.

Also, don't let people who have wealth cheat the systems by passing all the regulations and adopting from 3rd world countries. Have an impartial interpreter who

looks after the interest of the birth parents. All intercountry adoptees are to have citizenship of both countries before the child is adopted.

Have a central body for each country who has an agreement with The Hague on adoption. Don't allow private adoptions, don't let churches get involved.

Aaron Dechter

Born in Colombia, raised in the USA.

My name is Aaron Dechter. I was stolen at birth and my birth mother never got the opportunity to hold me. I was adopted to the United States in 1975 and two years ago I found my birth family. Thanks to DNA and lots of research, we re-connected. All my life I was told I was abandoned and unwanted. The agency falsified all details to prevent any finding of the truth, but they failed to predict technology and DNA. Since reconnecting with my mamá and family, I know the truth of how I was stolen from the hospital and how she was deceived. I consider my story and my voice to help others as a calling for action and healing.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

This has been an ongoing issue for many years. So the practices of preventing or slowing is not working. A good start would be to begin holding those accountable with prison terms and with heavy monetary fines. Restitution given to those who are directly affected as victims of trafficking and illegal adoption. The money could be used for many things like counselling, providing any resources to assist in paperwork (original) or any records available. In many global cases, there is a language barrier and that could help us who have been victims with translation of documents, etc. I am fortunate, I had the money to pay for my own research and DNA, but many don't have that luxury and as the victim I should pay for nothing. There needs to be more man power assigned to specific cases that cover all related issues. We are people, we are humans who are being sold, traded and/or bartered. It is immoral and more needs to be done.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Humans are not commodities that boost economies. I'm a stolen child from Colombia and was purchased in the name of Churches from the agencies that mislead. They misled adoptive families and international adoption should have tougher requirements and more investigation performed. It's time the nations were held accountable for allowing this to happen. As a Colombian importation globally for coffee, flowers and produce is dealt with in laws and regulations. The same approach must be

done for humans. There is no singular solution for preventing illegal adoptions or trafficking. More can be done with education, faster investigations and accountability. We live in 2020, these practices must end. We live in the digital age where simple research can be done within minutes and fast access to records, research and investigating journalism about patterns. Nations, organisations, churches, agencies and those who are complicit only know one thing and that's money. So it's time to make the fines so heavy that they won't be so inclined to allow for this. Nations must do more to prevent this from happening in their cities and municipalities. Stop denying what is going on and take action!

Courtney Dobson

Born in Canada, raised in USA.

I would like to see some concrete steps and supports offered to past victims of illegal adoption.

When considering the numbers of rehoming and re-adoptions that exist, especially of international adoptees, I'd like to see an improvement in checks and balances being implemented to curb this recurring trend of dissolving permanence for the adoptee.

I'd like to see clear, concrete oversight offered to denote the seriousness of illegal adoptions, and harsh consequences for those discovered to still be intentionally skirting these oversight measures.

I hope to see a devotion to new or recurring funds specifically for aiding adoptees that have illegal adoptions.

I hope to see additional training for workers who assess and train prospective adoptive parents so they will better recognise illegal practices. I'd like this training for prospective parents to be a mandatory requirement.

Sun Hee Engelstoft

Born in Sth Korea, raised in Denmark; Creator of Documentary, Forget Me Not.

My mother Shin Bok Sun was 19 years old when she gave birth to me on 20 June, 1982 in Busan, South Korea. A month before that she had signed an agreement with Holt International that she would give me up for adoption when I was born, which was already illegal at the time.

I was adopted into a Danish white family with two parents and I grew up as an only child. It took me 15 years and more than 10 visits back to South Korea to be able to find out what information my adoption papers actually contain in Korean. That means the translation to English is insufficient and imprecise and it also showed me that no-one wanted to tell me the truth about what my adoption papers said. When I confronted Holt International with this information, they told me that someone had made a mistake in mixing up the dates and that happened all the time. Learning about this was so emotionally difficult.

I know now that authorities didn't respect the law and therefore failed in protecting my mother in this vulnerable state of being young, unmarried and pregnant. By failing my mother in this process and coercing her into relinquishing her unborn baby, they also failed my father, both their parents (my grandparents), my extended family.

Coline Fanon: Racines Perdues

Born in Guatemala, raised in Belgium; Founder of Racines Perdues - Lost Roots - Raíces Perdidas.

Q1. What should authorities and agencies do to respond to specific cases of illegal practices?

International adoption is no longer possible in Guatemala since 2007 and it joined the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption on the 29th of May 1993.

This decision had to be made since there were more parents willing to adopt than children deliberately put up for adoption, which created a problematic situation and encouraged human trafficking.

In the event that international adoptions in Guatemala would be possible again, we recommend the following points:

- As soon as a suspicion or a proven case of illegal practice is made, the competent authorities should be legally obliged to freeze all pending files, close the country's adoption process and put the approved adoption agency in default as to his right to practice. Light must be shed and doubt is not allowed.
- The government should request the opening of a legal investigation on behalf of the Belgian state with a request for DNA testing at their expense. The government approves adoption agencies; therefore, it is their responsibility to ensure that accreditation is granted to reliable adoption agencies.
- The government must request, through diplomatic channels and by all possible means, the country of origin (embassy or consulate) to verify all the documents in the file and not only the legalisation of the acts. This point is raised in the context of fraudulent adoptions in Guatemala as the gateway to all abuses. No checks were made on the substance of the files as long as the form was filled in.
- In order to stop the procedure in progress, it seems essential to us to be able to identify all the prospective adoptive parents expecting children from the country

concerned. It is also essential to identify all the people who managed files in the various administrations, intermediary and adoption agencies.

In case of a finalised adoption and adopted child living with the adoptive family:

We believe it should be possible to legally break the adoption procedure. Legal actions fall under criminal law and civil law, but governments should be able to put in place a special family law procedure by including the two legal matters mentioned above.

The legislator must be given the possibility of creating a specific legal framework for adoption.

This should include:

- The lifting of legal requirements in the area of human trafficking linked to the specific context of adoption. Victims are aware of their history, and by definition of their alleged victim status, after they reach the age of majority and generally after the age of 30. Therefore, we ask for a full prescription waiver identical to war crimes and crimes against humanity, since they are regularly linked to the context of adoption. Consequently, we would like the penalties for the crimes of trafficking in human beings in matters of adoption to be defined, heavy and incompressible with the provision of convicts to their respective nations.

This request should be made internationally and both for the country of origin and for the country of adoption.

- Create legal texts (Ministerial decrees, decrees, judicial circular) to make adoption an official sub-matter of trafficking in human beings. This framework would allow the creation of an investigation unit within the Police on this matter, which currently does not exist. The training of these specialised investigators remains to be defined as well as their fields of action. Archival research and contacts with the various countries concerned make an investigation into adoption a sensitive subject by its nature.

- We are requesting from the legislator a law imposing on each country, having appointed its adoption control administration, the ability within it to create an origins research unit. Within this same cell, we are asking for the creation of a cell of psychologists who can support adopted persons in their quest for identity but also to deal with this potential truth concerning child trafficking.

- Only a family court judge or a juvenile court judge should be able to rule on the return of a child to his biological family. Obviously, every situation must be seen on a case-by-case basis with the sole interest of the child in mind. Also, this judge should be able to force the state to supervise contact between the biological and the adoptive families within a regulated cell (requested in the previous paragraph). Both for minors and for adults. Creating this legal framework could create the possibility of a return of the child to their biological family either physically or virtually, depending on the court decision, and to support adoptive and biological families.

We ask for an international law which the different countries of adopted persons could use.

It seems appropriate to set an amount of compensation for the biological family, so they can be represented by a lawyer. Biological families generally do not have the financial, legal, or linguistic resources to take part in the proceedings, although there are considered as victims by assault.

- We ask the legislator the creation of a specific status that would guarantee the maintenance of the rights conferred by adoption and nationality if it is not possible for the adopted person to find his biological family following the falsification of his personal data.
- We request that adult adoptees who wish to resume their original identity can make this request to the state free of charge (change of name, modification of civil registers, modification of acts, etc.). This would cause a loss of the rights conferred by full adoption such as succession but also a complete discharge of the obligations inherent therein.

Q2. What should authorities and organisations do to prevent and respond to patterns of illegal practice?

We are reconsidering international adoption. The multiple scandals that have broken out surrounding adoptions all over the world show us that laws are not enough to prevent these crimes.

Uprooting, cultural, linguistic and racial change is a source of questioning on the part of adoptees. It would be interesting to favour adoptions within the country itself, or

even the same continent and ultimately resort to end international adoption. Raising awareness and directing all adopting candidates to support actions and the preservation of childhood in the countries of origin is important. One point that seems essential to us is to legislate the verification of parentage between the adopted child and his biological mother using DNA. Genetic analysis must be carried out by the country of the parents applying for adoption in order to avoid any form of attempted fraud or proven fraud.

This has already happened in Guatemala: the blood of the biological mother (dead or alive) was drawn and the third person who gave the child for adoption gave a vial of blood as if it were his own. Corruption in some countries cannot guarantee the certainty of a successful adoption.

- We call for the creation of an international law to prevent all humanitarian associations from practicing adoption or even from providing any assistance to facilitate adoptions.
- We ask for a law prohibiting the use of an adoption agency from a country other than the country of nationality of the adoptive parents for reasons such as legislative or procedural flexibility, attractive economic reasons due to lower administrative costs. Such a situation must be condemned in this sense, both for the people who use these methods, and for the people who offer them.

In general, we recall the importance of comprehensive care for adoptive parents who cannot have children. The suffering of not being able to have a child must be heard, supported and guided.

- We ask for a law revoking a full adoption from the age of majority of the adopted child, effectively and immediately, if the adoption turns out to be illegal, and only at their request.
- We ask for better training of the authorities who are controlling adoptions and to focus on prevention with adopting parents on what the signs are that should alert them to possible fraud. For example, a change of sex of the child at the last minute, a change of first name or date of birth during the procedure, a chronology check between the adoption documents and the requests actually made to recognise questionably-dated documents, etc. It might be useful to appoint an external observer

in the adoption process, having no connection with the country concerned and having no political connection with the nation to add a neutral level of certification.

We recall that these conclusions arise in situations where adopted persons are the result of child trafficking, illegal and irregular adoptions.

See **Appendix B** for original French version.

Moses Farrow: Gide Foundation

Born in Sth Korea, raised in the USA; LMFT; Co-Founder of [Gide Foundation](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

The priority of the authorities and bodies needs to be on the safety and well-being of the child. They must first respond to and provide support for the immediate psychological, emotional and physical needs of the child to mitigate and prevent both short term and long term effects of the illicit practices. Understanding that what happens to them will be engraved into their life's narrative and have profound and possibly lifelong consequences, the authorities and bodies must determine the cause of the illicit practice and swiftly take action to protect the safety and well-being of the child.

Authorities and bodies must have cooperation between both States, policies, laws and resources in place to ensure this swift action to determine the best of course of action dependent on the nature of the illicit practice beginning with an investigation to determine the cause.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

In order to prevent and respond to patterns of illicit practices, authorities and bodies must have cooperation of both States, political will and resources to determine the cause(s) to make the necessary systemic changes, identifying individuals, addressing vulnerabilities in enforcing policies and practices, and reducing economic and personal gains from such illicit practices. Authorities and bodies must address the obstacles to responding to illicit practices, especially the ones that are motivated by fear. The intention must be understood that the highest priority is the safety and well-being of every child and that all efforts are made towards that end.

While laws and enforcement of those laws may be necessary to include penalties, fines and imprisonment, other preventative measures must also be explored and implemented including training and education, thorough background checks and psychological evaluations of those responsible for the child. Involvement of other well-

informed Actors, NGOs, experts and professionals is necessary to provide a network of checks and balances, accountability and oversight to ensure that the child proceed through the ICA process as safely as possible.

Authorities and bodies have a responsibility to provide the environment in which the child will grow and thrive and not be burdened with the effects of trauma resulting from illicit practices.

Esteban Orlando Fleurant: RAIS

Born in Dominican Republic, raised in Canada; Co-Director of RAIS - Ressource

Adoption

We believe that more attention should be paid to orphanages as well as adoption agencies. Real supervision and control is essential for the well-being of children. Better supervision will prevent and avoid further drifts. Abandoned children are as valuable as any other child and deserve their safety.

- Systematic verification of the criminal background of staff working in orphanages and adoption agencies
 - Severe penalties for all those convicted of having participated in an illegal adoption
 - Foster internal adoption
 - Prohibit private adoptions (such as those still taking place in the United States for example) - Pay attention to the American "adoption machines"
 - Standardize adoption files
 - Increase inspections
 - Carry out post-adoption visits over a period to be determined (minimum 3 months). This is to ensure that the child is always with the parents who adopted him (and not sold or otherwise).

See **Appendix C** for original French submission.

Julia Forson

Born in Nigeria, raised in the UK.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

I would like to see authorities and bodies respond with compassion for adoptees who live with the added wounds caused by ‘illicit adoption’ practice. Adoptees who find themselves in this situation should be able to access clear and simple resources and support from authorities and bodies. Adoptees should be able to access advice and post adoption support from trauma informed professionals who are experts in their own field. There should be financial support to help with legal costs, citizenship, personal therapy, family therapy, mediation, travel, DNA tests and any other support that may be needed. We would also like to see authorities and bodies work in consultation and close collaboration with adoptees to draw up new legislation against ‘illicit adoption’ practices. It is vital for authorities and bodies to learn from the past and to actively seek out and engage with the many voices of adoptees who are speaking up. Adoptee voices need to be heard and given the platform that they deserve.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

There should be resources dedicated to help countries clampdown on ‘illicit adoption’ practice. We would like to see legal action taken and tougher penalties handed out to those people and ‘agencies’ found to be breaking the law at every stage of the ‘illicit adoption’ process. With the exception of the birth mother who we acknowledge may have given up her child for a multitude of reasons for example because of poverty, rape, and shame or through coercion. In the case of transnational ‘adoption’ we believe that both countries should be held accountable for any illicit practice subject to international law.

We strongly believe that adoptees should be able to access either free or subsidised support, expert advice and therapy at any age. It is also crucial to understand the often deeply traumatic effect that not only ‘illicit adoptions’ but more broadly adoption as a whole has on both the child and adult adoptee. It can be a lifelong journey to heal from the psychological wounds of adoption and some of us never do. Much could and should be learned by listening to the brave adoptee voices, as we are experts in our own right.

Listen closely to the lived experiences of adoptees, engage with the research and learn from our adoption stories. The answer is there.

Ming Foxweldon

Born in China, raised in the USA.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Firstly, I think authorities need to have a game plan/protocol for certain situations so they're prepared with the right tools/teams to evaluate the situation and create solutions to stop those involved. Ideally there needs to be more rules/regulations in place to ensure these kinds of actions can't even be administered by the crooks. Fines are too soft a punishment for such crimes. Jail time and fines should be sufficient. On the note of incarceration, I think this should be treated seriously and no one should be let off easy for exploiting children. This applies to agencies who are "willingly" involved with this illicit practice. The future of the child is in the hands of society, we must hold the child to the highest degree. The birth family should be supported properly, and the relatives/friends who want to engage in illegal behaviour should be put behind bars along with their facilitators.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Collecting data, reporting effectively, holding people accountable. Surveillance of people's behaviours should be highly considered. As stated before, true punishment for those who think to commit such acts should be addressed. Falsification should be held to the same degree as committing the crime. No one should be let off easy, period.

Marie Gardom: ICAV UK

*Born in Malaysia, raised in the UK; ICAV UK Representative; Co-Founder [ICAV UK](#),
Executive Coach.*

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Financial and logistical/ resources to support search and therapy including DNA tests for both adoptees and birth families, travel costs, accommodation, translator costs and adoptee competent therapists.
- A representative role created in Embassies to support, advise and navigate the legal systems, rules and customs of sending countries.
- Accreditation for search services to limit profiteering and encourage results based fees, to make it easier for adoptees to find trusted and vetted services.
- A clear statement of commitment which can be referenced when adoptees are facing resistance from agencies holding records, with inconsistent approaches to sharing information and consequences for not doing so. Ensure in-country prosecution for failure to cooperate.
- A ban on fees and redaction on birth records.
- Family therapy and mediation to support and navigate the changing relationships as secrets and accountabilities unfold.
- Funding for legal and support roles to manage cross country cooperation and differing (and oblique) legal rights between receiving and sending countries.
- Legal action against organisations which colluded in and led the illicit and illegal practices, such as the Catholic Church.
- Fines to participating organisations and use the money to support adoptees in searching, therapy and community support.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Adoptees maintain all rights in all circumstances to their birth records and any records pertaining to their adoptee status.
- Citizenship should be an automatic right in both countries (not transferable to adopting parents to prevent people using children for visas).

-
- Gene testing as a way to reduce the risk of trafficking as well as create family connections for life - practicalities need discussion.
 - Increase/review penalties for illicit activities to reduce the financial incentives in adoption (what is the current penalty for illicit /illegal adoptions and rate of enforcement?)
 - Government sanctions against countries who fail to have protections in place to prevent illegal and illicit adoption practices.
 - Post adoption follow-up and reviews of information to both understand "rehoming" practices and to provide continued liability for the safety of adoptees.
 - Review rehoming practices to see if there's any connection to illicit practices.
 - Resource and support an end to orphanage tourism.
 - Centre adoptee voices and educate about realities.
 - Fund academic research into the ecosystem and market forces of adoption.
 - Make crowdfunding illegal and considered "child trafficking" as it is essentially facilitating the buying of children.
 - Make buying and selling of humans illegal in all forms, including intercountry adoption.

Further needs not covered in these questions but which when included in the process may reduce adoption as a whole and therefore illicit and illegal practices, and pertain to the health and well-being of children and adult adoptees:

- Funding of post adoption support therapy and community for both adoptees and families of adoptees.
- Post adoption services which include follow up and review of family relationships, child emotional and physical safety which includes issues of transracial relationships families readiness to discuss, learn and understand differences.
- Broaden assessments of potential parents out to extended family and community to assess larger community readiness to accept and support transracial adoptees.

Eric Gustafsson

Born in Bolivia, raised in Sweden.

1. Check legitimacy of children going over any border is a start, not just checking if there exist papers, but investigate if its legitimate. This means calling up the local authorities to confirm.

2. Stop making it possible to make money from us. There's more of course, but this is a good start, I figure.

If you can slam down hard on the ones making money, you remove the incentive. If you make sure any money found goes to the locals, they would be more eager to go for it.

I'd love to see more people in front of the International Court of Justice in The Hague, Netherlands.

Children need to be verified on both sides of a border, both at departure and arrival. We need to make it harder to get people over the borders. And of course, they need to have a register nationwide at each departing port (airports, sea ports). This should list which children arrive with who, when, going where, and coming from where.

Its simple stuff. China⁹ is a good example.

⁹ <https://www.theguardian.com/world/2009/nov/27/china-executes-child-traffickers>

Dr Ryan S Gustafsson

Born in Sth Korea, raised in Australia; Honorary Fellow at Asia Institute, University of Melbourne

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Institute a mandatory reporting system.
- Document specific cases of illicit practices in a central repository, in order to trace larger patterns.
 - Outcomes of investigations should be made available by respective Federal governments, and other receiving countries' authorities.
 - Make publicly available the outcome of investigations in both receiving and sending countries.
 - Provide options for counselling and financial support for adoptees and birth families affected.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- If patterns of illicit practices are discernible in the activities of particular adoption agencies and state departments, restrict or cease ongoing adoptions.
 - Disallow private adoptions.
 - Ensure adoption agencies keep and adequately maintain all records of adoptions, and make these available to adoptees.
 - Communicate uncovered patterns of illicit practices to adoptees whose adoptions were facilitated via the agencies and bodies identified, and provide opportunities for these adoptees to respond.
 - Investigate discrepancies in adoption figures between sending and receiving states.
 - Fund adoptee-led research into patterns of illicit practices and the ongoing impacts of these for adoptees.
 - Establish a central repository, run by adult adoptees, that archives and collates specific cases and larger patterns of illicit practices (incl. lack of informed consent of relinquishing parent/s, false documents, child 'swapping,' creation of orphanhood or adoptability).
 - Establish outreach programs or activities to raise awareness among adoptees of these adoption histories.

-
- Ensure counselling and other mental health supports are provided for all adoptees.

James Hanks

Born in Taiwan, raised in the USA.

My understanding is that participating Signatory Countries are supposed to define, establish, and protect the general rights of adoptees and if they haven't already, they should establish, review, define and maintain a standing agreement between themselves of what constitutes illicit practice and behaviour. They then also need to form a Governing Body to promote, investigate, and monitor intercountry adoptions.

If illicit practices occur, there needs to be

1. Consequence of Illicit Actions
2. Investigation
3. Suspension
4. Termination

Maria Heckinger

Born in Greece, raised in the USA; Author of Beyond Third Door.

I am a Greek adoptee raised in the United States and appreciate the opportunity to share my thoughts.

The question of how “illicit” adoption practices affected me is difficult to answer. As part of the post-WWII relief effort, born in 1953, I was among the first wave of Greek orphans adopted by an American family. My adoption was a blessing that literally saved my life. The two-year process my parents endured was agonising for them and there were a couple of hiccups along the way, but there was no evidence of illegal or improper behaviour by Greek or U.S. officials. My parents only paid for services directly connected to moving my adoption forward. I can honestly say my adoption was just about picture perfect. Looking back, I think being an early adoptee was probably a lucky break for me.

Based on conversations with other Greek adoptees I discovered many adoptions were not as above board as mine. It was an eye-opening experience to learn my adoptee friends were victims of unscrupulous officials in Greece and the U.S. The lack of effective accountability at the state and civic level created a system ripe for fraud. Greedy officials and individuals preyed on couples happy to pay anything to become parents. With numerous individuals and agencies working to place children, there was no uniform system of accountability. For adult adoptees this became evident when they examined their paperwork. Irregularities were abundant. Some arrived with thorough paperwork while others had little, not even a birth certificate.

My 1984 return to the orphanage made me one of the earliest adoptees to return to Greece. Being early was another lucky break. I was greeted warmly by the orphanage director who could not do enough to help me. He gave me access to every artifact connected to the orphanage and my adoption: the ledger entry from the nurse who had found me in the baby receiver, a note from my birthmother, a legal document, and even a few photos of the original building. I found my birthmother the next day! I was speechless as she shared her heart-rending story. When just 15, my mother became pregnant by a fellow villager during the cruelest of circumstances. Disowned and exiled to the mainland, she spent the remainder of her pregnancy homeless on the streets of Patras. Her precarious social and economic situation, along with the lack of support networks left

Harikleia with no real choices. Hard as she tried, Harikleia could not take care of herself and raise a baby. Her only alternative was to place me in the Patras orphanage until she could work and save enough money to care for me. Things did not work out and in 1956 Harikleia lost me to a foreign adoption.

In the ensuing years, as adoptees came of age, many started looking for their Greek roots. Sadly, the practices of the 1950s were exposed and fears of legal liability resulted in closed doors at the orphanage and a general lack of cooperation on root searches. A law requiring adoption records be made available for returning adoptees was passed in 1996, but in practice it had no teeth and requests were roundly ignored. If adoption records were readily available, every adoptee who went to Greece for adoption information would not end up making a heartbreaking plea for help through the Greek media. A popular thought among American adoptees centres around the notion that Greek officials are simply waiting for the orphans to age out and die, thus closing a bleak chapter in Greek history.

The best hope for any adoptions is complete OVERSIGHT and total TRANSPARENCY.

Christine Heimann: AdopteeBridge

Born in Sth Korea, raised in the USA; Founder/Executive Director of [AdopteeBridge](#).

As an adoptee who has been in the field of post adoption for over ten years, I feel there definitely needs to be more education and training requirements for potential adoptive parents. Both in-person training and independent training done by the adoptive parents. This is something I have consistently seen and heard, when working with not only adoptees, but adoptive families. The adoptive parents were not prepared well enough by their adoption agency.

I understand there cannot be discriminatory practices, regarding religion, but the topic of “saving” a child—especially due to religious grounds, should be addressed. The argument of “saving” a child has been used not only with adoptive families, but also with those organisations arguing they are trying to help a birth family—they argue with a birth mother they are trying to help her, by “saving” the child—to give the child a better life, with adoption. There should be a separation of religion and adoption. This is not to say a birth family, nor adoptive family cannot have religion. It just should not come into play with adoption. This includes no agency should have a religious affiliation.

In addition, adoption agencies must be able to say “no” to perspective adoptive parents. At a large adoption agency I previously worked at, amongst the social workers, they said they never felt as though they could say “no” to perspective adoptive parents. Why? Because there would always be another program for the individual/couple to go to and/or they said management would say unless the individual/couple was a past convicted felon, child molester/sex offender, etc. the social workers would need to find a way to make them eligible. Why? Because the adoption agency WANTED these individuals/couples for MONEY—to stay in business.

As a founder of a non-profit, I understand it is difficult to find ways to make ends meet, but this should be done in an ethical way, and not with the lives of children.

In addition, I firmly believe, there needs to be more consistent practices and oversight with regard to post adoption services. Much can be learned from the negative (and positive) experiences adoptees have had when working with their placing agencies. From various cases, you can see trends starting to build before a child was placed in a home—poor training requirements, inconsistent contact with homestudy and placing

agency, poor follow up post-adoption, etc. There needs to be consistent practices post-adoption for adoptees to feel safe, once placed. How many adoptees are not only abused—physically and sexually, but also psychologically? There needs to be more services to prevent abuse—especially when it comes to the mental health of adoptee. I will argue that there are many cases where adoptees have been abused in their adoptive homes that could have been prevented, had there been better pre and post adoption management.

Finally, for those cases where sadly an adoptee is abused or murdered by an adoptive family member—more drastic measures must be taken by authorities regarding the licensure of the agency and the social work staff who placed this child. You look at the list of adoptees who have been killed by adoptive family members and the list of the agencies that have been involved. Yes, several have closed, but have they closed because authorities forced them to? Or, because financially they need to close? Several large agencies have had adoptees been murdered, but are still operating several programs. What action steps have they done to prevent this from happening again? There needs to be specific action steps put in place when illicit practices do happen. This can help (hopefully) prevent other future cases from happening, again.

Listen to the voices of adoptees—especially those in the field of adoption and post adoption.

Maria Hernandez

Born in the Philippines, raised in Canada.

The more I think of these questions, the more it makes me cry. I keep thinking about what can bring justice to children who've turned into adults like me, that knew nothing about any of it.

How do the authorities respond to these cases?! How do they fix any of this so many years later?! It can't be fixed. It can't be justified. You can't bring any justice to us. 🥲 It literally brings me to tears thinking personally what could the government of Canada and the Philippines do for me now? The Canadian government approved my entry without question. The Philippine government didn't even know who I was in being approved to leave my country. How could they ever know?! In child trafficking from poor countries, the authorities rarely ever catch things before it happens. And many times things are happening within poor countries and their very own authorities turn their backs and pretend it isn't happening. How do we trust the authorities?!

Answer to #1: If the case was brought up and found illicit actions have happened, the government and all authorities should right this by providing the adoptee/child/adult the necessary justice by helping them trace their birth family, funding the expenses and providing some sort of funding for a year to help the birth family and the child who was separated. We should be granted double citizenship and the cost of travelling and accommodation for the adoptee/child to help with cultural and heritage loss.

Answer #2: There should be better adoption legal rights when birth families put up children for adoption or children found and put up for adoption. There should be a minimum of 3 years for children to stay in orphanages and funded, to provide the time for the birth families to fully relinquish their rights. We need to do better in establishing whether it is true that children can't be kept with their blood relatives or families.

Agencies who find children (lost or dropped off), should have the funding to help this child search for her family. DNA samples should be kept for future reference and can't be used for any other purpose other than to keep it in a database for these children who may or may not search later on. If birth families voluntarily put up their children for adoption, they too should provide DNA samples for later use to easily trace them with how DNA is used and available today.

All countries should require proof of adoption or DNA samples for child and parent, if an original birth certificate can't be provided. This means, all adoption changes of birth certificates should be labelled as adoption certificates and not birth certificates. This will distinguish documents for any petition or change of citizenships. Also allowing children and adoptees access to their birth certificate with proper documentation of names that can't be erased and changed by agencies and potential adoptive parents.

The only thing that can now be utilised to compensate the child and the birth family is money. It starts with money and ends with money, unfortunately. 😭

I want to change my birth certificate. I want to in some small way erase adoption out of my life, if that makes sense. I just want to put the right things on there with my parents name, with my real name. It doesn't change much but it does change my legal documents to state the real me and not some made up person and lies.

If money was taken out of the equation i.e., "funding" for abducting and selling children, then it would make it harder to create an illicit adoption. People are abducting and kidnapping children because money is involved. Many poorer countries with agencies and orphanages who participate in illegal adoptions are obviously making commission on abductions and kidnapping and it allows the agency and orphanages to get more funding by participating. In the end, if as a collective we can figure out what these incentives are find the "lesser of the two evils" and eliminate that, then these agencies and orphanages will have no choice but to just manage the children who are truly orphaned and put up for adoption.

Maya Hewitt: CACH-ALL

Born in China, raised in the UK; Secretary for [CACH-ALL](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Allocate funding and provide appropriate resources; i.e. trained professionals in EFT (Emotion-Focused Therapy), interventions, Bio-Feedback therapy, family therapy etc.

Support families through allocation of appropriate professionals who empathise and understand situations through primary experiences or at the very least, secondary sources with valuable expertise and experience in the field of adoption and the changing nature of family dynamics.

Lobby for visibility and protection in respective embassies; offer legal and searching rights and advocate for as much transparency as possible.

Ensure aid and cross-country cooperation where possible in facilitating adoptee rights. For example, issue respective visas for birth countries as a right to adoptees; allowing long-term residency rights but not compromising respective naturalised citizenship (differs in each country but for example, F2 Visas for Republic of Korea).

Defund adoption organisations who have been involved in the practice of illegal cases; e.g. Bethany Hope - separating migrant families at the US border. Following on with legal action against the organisations involved and immediate disbanding.

Signpost towards better community support i.e., adoption organisations run by adoptees.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Cross-country rights for adoptee to all documentation concerning adoptee whether identified as false or not.

Ownership rights of all documentation recorded concerning adoptee.

Automatic guarantee of citizenship in adoptive country, banning the practice of non-citizenship i.e., US adoptions from Republic of China/ People's Republic of China. Ensuring that adoptees who are non-citizens obtain citizenship of their adoptive country and do not remain stateless.

Adoptive families to receive comprehensive education and training on DNA testing and how to breach this subject with adopted children.

Review countries available for international adoptions and ensure they comply with international agreements e.g. ASEAN+3 Human Trafficking Review - automatic ban for countries who do not provide substantial evidence to execute legal adoption practices.

Establishing effective watchdogs/ ombudsmen for orphanages, private children's homes and NGOs facilitating adoptions and improve transparency, allowing better accountability.

Funding of post adoption support therapy and community for both adoptees and families of adoptees.

Eva Hoffman

Born in Sth Korea, raised in Denmark.

My position is that all international adoption should cease.

I don't see how the Hague mitigates any of the ethical concerns for child welfare when children are removed from their language, culture and families.

My own adoption was a clear case of trafficking a baby with falsified papers. The impact of my adoption is lifelong, including my family, language and culture being taken. My family found me, 33 years after losing their daughter, sister and cousin to adoption.

In addition, no child should be adopted unless citizenship in the receiving country has already been granted. Their original citizenship should also remain valid. A child cannot consent to giving up citizenship.

Adopting parents must be fluent in the language(s) of their prospective child and have **real** connections to the country. The default should also be open adoption (a broad term that covers many models).

I also think all adoption organisations must rectify past corruption and provide adoptees with redress.

Katelin Huber

Born in Romania, raised in the USA, currently living in Spain.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Each case can vary tremendously and should be reviewed individually to ensure the best and most fair choices are being made in respect to the children involved and their family. Free and affordable resources should be provided to those in need of a lawyer or protection in such cases because a lot of problems arise when there isn't adequate access or knowledge of how to handle each specific circumstance. We cannot bundle all illicit practices into one category and assume the laws in place will protect them.

Honest and fair review panels to evaluate each case could better prepare the authorities for handling future similar cases and lead to further protection laws to be made. It would also be beneficial if the specific cases were reviewed properly in both governments of the countries involved in the adoption. If this were to happen, then I believe we could prevent more illicit practices in adoption from continuing. We would not only be holding the governments accountable who are involved, but allow them to also regulate each other and encourage checks and balances.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

I believe authorities have a duty to protect these children and should take accountability for these cases of illicit practices by passing laws in reference to the common patterns that are seen to continue. This would protect children going through the adoption process as well as implement protections for children in orphanages. These children do not have the voice to speak up for their rights, so we must do so for them. Creating these laws is a first step but enforcing them properly and ensuring they are upheld is the biggest challenge. Those who cannot follow these laws should be held responsible and be prosecuted by law. People need to be aware that there are consequences for taking part in such horrendous practices.

Further advocacy and availability of information on adoption should be readily available in order to make these families clear about what they are agreeing to. This information should be provided in a clear and simple way so that all parties involved can properly assess the situation at hand and not fall victim to overly complex language that often aids these illicit practices and deceives the biological parents of the child in question. There is no excuse for taking part in these illicit practices and extreme legal consequences should be enforced.

Dr Tobias Hubinette

Born in Sth Korean, raised in Sweden; Associate Professor in Intercultural Education.

Agencies and other actors, and whether in the supplying or receiving countries, must be punished accordingly when illicit practices are discovered and they must above all, be monitored so that such practices do not happen. Therefore a clause or some kind of amendment to the Hague Convention must be included to solely address the issue of corrupt and illicit adoptions.

Linzi Clare Ibrahim: Sri Lankan Adoptees

Born in Sri Lanka, raised in Australia; ICAV NSW Representative; Founder of [Sri Lankan Adoptees](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Investigate thoroughly and ensure that the child is okay. Arrest all who were involved. Give the child/ren the support and resources they need to heal. The trauma they endured because of illicit practices was not their fault.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Authorities need to intervene immediately, arrest/charge all who were involved. Help needs to be provided to the vulnerable so that they are safer and their children aren't taken from them.

An Jacobs: Adoptie Schakel

Born in India, raised in Belgium; Co-Founder of [Adoptie Schakel](#).

Q1. What should authorities and bodies do to respond to specific cases of illicit practices?

A response should work along 2 axes:

- Detect and correct false information in individual adoption files. Ensure that the adoptees receive correct information on their own adoption file.
- Take legal actions against entities and/or persons that have profited from such illicit practices.

Any action will need to involve various parties involved in adoptions including, but not limited to, (official) adoption organisations, the legal system in the countries concerned, contact persons in childcare centres, and individuals taking care of the transport of children.

Q2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Illicit practices are harder to identify as the number of intermediaries in the adoption chain grows. Authorities should at the very least contain the number of intermediaries.

Secondly, illicit practices only exist because they are profitable for certain entities or persons. Authorities should remove as much as possible any incentive for such illicit practices. As an example, schemes reimbursing adoption organisations on a “fee per child” basis are likely to encourage such practices.

If authorities are unable to guarantee correct treatment of adoption files, authorities should consider ending international adoption altogether.

Anand Kaper: DNA India Adoptees

Born in India, raised in the Netherlands; Former chairman of Kiran, Dutch association of Indian Adoptees, Former Secretary of United Adoptees International, Counsellor for Root Searches in [DNA India Adoptees](#)

First of all, we need a solid definition of *illicit adoption*. There can be adoption processes which are done following the Hague Adoption Convention, but at the beginning of the process, they were illicit on the side of the sending country.

The narrative of ‘best interest of the child’ predominates the discussion regarding this issue (e.g. the Rahul case in The Netherlands).

I believe we should make policy to prevent or even banish illicit adoption, which means quit the Hague Adoption Convention and put the internationally recognised Child’s Right’s Convention as the leading convention regarding child rights. I truly believe the Hague Adoption Convention is misused to carry out illicit practises in adoption processes, leaving adoptees empty handed.

Authorities should make efforts:

1. To prevent illicit adoption;
2. Let an independent authority investigate the process if there is any suspicion of illicit adoption;
3. To shut down an adoption centre if there is evidence of illicit adoption;
4. To withdraw the current adoptions.

Emily Kes: Adoptees for Justice

Born in Sth Korea, raised in the USA; Chairperson of Adoptees for Justice, Co-Founder of Adoptee Rights Campaign.

Authorities and bodies should have a responsibility to publish data on cases and patterns. They should act accordingly to the findings such as implementing changes to adoption screening procedures and prospective adoptive parent education (i.e. trainings) as relevant for prevention of future illicit practices.

With regards to prevention, governments and/or social institutes should be required to document and publish data on the reasons children are being put up for adoption (i.e., socio-economic) to identify root causes for adoption and to determine what resources are needed for a parent to keep a child (for cases where a parent would keep a child if financial or other barriers were alleviated). This would also link with screenings for individual cases and for transparency on adoptions in specific demographics that are taking place.

Melanie Kleintz: Adoptierte aus aller Welt

Born in Peru, raised in Germany; ICAV Europe Representative; Founder of Adoptierte aus aller Welt.

My name is Melanie Kleintz. I was born in Peru in 1979 and was adopted in 1980. I have been advising and coaching adult adoptees and adoptive parents in Germany since 2010. I have been working with ICAV since 2017. I have the following suggestions:

In my opinion, conditions should be created which prevent illegal practices from the outset and which preventive measures can no longer be used to take illegal routes.

I see prevention work as the most important part so that children are not involved in the “adoption process”.

My principle applies to all couples or parents who want to adopt worldwide. Suitable parents should be sought for a child and not a child for a couple or a parent so that they can call themselves “family”.

As soon as the adoption is illegal and that will always come out at some point, the adoption has not been successful. Then the “dream family” tilts into the abyss and “nothing can make up for it”.

The “adopted children” should grow healthy and powerful and become good “citizens” for the country of adoption. With illegal and wrong prerequisites, this is not possible from the start. It is therefore my personal wish that the next generations of adoptive children can grow up strengthened and healthy in a loving family from the beginning, in which they receive all information about their origins and the absolute dedication, love and support of the adoptive parents. Then I can hope that there are more confident and empowered adult adoptees. Because the way I experience it here, it cannot go on.

Adoptive parents claim their children are “lucky” for themselves but the adult adoptees can have a life that is unhappy.

My suggestions are:

A uniform aptitude test should apply to adoptive parents worldwide. If this is violated or if these are not 100% observed, adoptive and foster parents should be excluded from adopting or caring for a child.

1. Adoption organisations should not receive fees for the adoption of adoptable children. Neither governmental nor by the prospective adoptive parents.

2. Adoption mediators should only receive a reasonable hourly wage for office work (maximum 10 hours per ADOPTION):

In the event of a violation, “human trafficking” must be assumed and the adoption agency must be closed.

3. As with domestic adoptions (here in Germany), only the notary fees should be incurred, which then have to be paid directly to the notary by the adoptive parents. The notary should not always be the same and should not be recommended by, or connected to, the adoption agencies.

In the event of violations and unclear circumstances or violations, the adoption should not be recognised in the child's country of origin and the parents and the notary should be excluded from further adoptions.

4. Both biological parents (even if not married) must have submitted the declarations with mandatory advice (from at least 5 counselling sessions) when adopting. Both birth parents must be present at the notarial certification and the “hearing at the family court” of the adoption.

If these provisions and guidelines are not met or if a parent is opposed, the adoption should not be recognised.

5. Age restrictions of adoptive parents should apply to all countries!

Domestic adoptions are strictly restricted to an age limit.

Reason:

Because the age restriction does not apply abroad, the "older adoptive parents" only have the thought and the opportunity to bring their "desired child" from abroad.

6. A 3 year requirement of psychotherapy for all future adoptive parents!

In psychotherapy, grief and trauma work with the parents should be treated separately. This psychotherapy should show that they are parents to a child and don't need a child for their partnership and relationship. The therapy should be carried out by independent psychotherapists in the adoptive parents place of residence.

Reason:

The yearning and urgent desire for a child and the possibility of a quick fulfilment easily leads to illegal ways!

Mostly there is only one parent who wants to adopt urgently and convinces the other partner of the adoption. This must be excluded by separate therapy.

Most adult adoptees find that they were a replacement for deceased "biological" children.

These ideas are from *Tim Hanstein (Chairman of the Korean Adopted in Germany)*.

7. An external commission should be set up in each of the large adoption countries to check whether the adoptions made, were legitimate.

Parents of origin must have the right to be informed about the child up to the age of 21. Development reports need to be maintained.

These requirements for adoption should apply to all adoptive parents worldwide!

See **Appendix D** for Melanie's submission in German language.

Kristopher Larsen: Adoptees for Justice

Born in Vietnam, raised in USA; Executive Director of [Adoptees For Justice](#).

A Statement Regarding Illicit Practices in Adoption

Executive Summary

Throughout the history of intercountry adoption, illicit practices in adoption have existed and have proven difficult to stop. While the creation of the Hague Convention in 1995 has been an important body in supporting reforms of the adoption industry, we know illicit adoptions persist.

To that end, Adoptees for Justice was asked to provide a statement answering the following two questions: 1) what should authorities do to respond to specific cases of illicit practices, and 2) what should authorities do to prevent and respond to patterns of illicit practices. As the scope of each question is very different, we answer each question in two subsequent sections.

The first section focuses on adoptees and adoptee rights, and provides several examples of legal consequences and challenges that can arise for intercountry adoptees. In this section, Adoptees For Justice strongly recommends a Transnational Adoptee Bill of Rights. The second section presents additional considerations within the realm of illicit practices in intercountry adoptions, and proposes further investigation and discussion. In this second section, we recommend the creation of an adoptee-led working group to ensure that adoptee voices are included in future research and policy discussions.

Adoptees for Justice is a nonprofit, nonpartisan organisation that is led by intercountry adoptees and whose mission is to educate, empower, and organise transracial and transnational adoptee communities to achieve just and humane adoption, immigration, and restorative justice systems. As adult adoptees with firsthand experience of intercountry adoption, we recognise the significance of including adoptees in these policy discussions, and we appreciate the opportunity to provide our perspectives to this working group.

1. Responding to specific cases of illicit practices

Illicit adoptions have many causes and occur in various ways. Numerous suggestions exist for how States and the Hague can address these fraudulent adoptions

through increased reporting, halting the adoption, imposing additional restrictions or exerting political pressure, among others. However, we believe, the rights of the adoptee should hold primary importance when considering actions involving adoptees in these cases.

As an organisation comprised of and led by adult adoptees, Adoptees for Justice believes that every adoptee is entitled to certain rights that should be prioritised and protected. Therefore, we propose two suggestions: 1) creating an **Adoptee Bill of Rights** to affirm this principle (not comprehensive, but the beginning of a framework), and 2) developing a **working group** entirely composed of adoptees who can provide necessary perspectives on the child's experience of intercountry adoption.

1.1 Transnational Adoptee Bill of Rights

These rights include the following:

- The right to citizenship for every intercountry adoptee.
- The right to accurate, un-redacted birth, medical, and adoption records.
- The right to search for birth family in country of origin.
- The right to post-adoption services provided by both receiving and sending countries.

The process for an intercountry adoptee to gain citizenship varies by country. However, it is clear that adoptees lacking citizenship in the U.S., is an issue. In the U.S., several adoptees were deported as adults to their country of origin due to lack of citizenship — a failure which can result from a combination of poor governance, lack of communication from the adoption agency, and/or adoptive parent neglect.

In one case, South Korean adoptee Adam Crasper was detained for nine months in a U.S. immigration detention centre, before being deported to Korea¹⁰. He still resides in South Korea, where he filed suit in 2019 against the South Korean government and Holt Children's Services for gross negligence in allowing adoptions to proceed without ensuring citizenship. This case is progressing through the courts, but many other adult adoptees without citizenship reside in the U.S. Considering the gravity of the consequences that can occur when citizenship is not obtained, this must be an urgent consideration for all intercountry adoptions, whether illicit or otherwise.

¹⁰ 'Adoptee deported by US sues S. Korea, agency', 2019 January 23, AP News, <https://apnews.com/12472d8f87944f12ae63f74a2829a410>

Furthermore, illicit adoptions may be undiscovered for many years if not decades. Lemn Sissay, an Ethiopian man who grew up in England's foster care system, fought for thirty years for access to records to discover that his birth mother was a victim of child harvesting¹¹. Meanwhile, fourteen year old Betty Lub successfully sued in Ethiopian court to revoke her adoption, which was based on the false claim that her birth parents were deceased¹².

These cases demonstrate the importance of long term protections for adoptees as a part of addressing and preventing illicit adoptions. States must consider broader policies that allow for access to birth records and searches, and there are legal changes in these areas recently.

Adoptee Kara Bos successfully filed a suit in South Korea and legally won the right to register as her birth father's daughter, despite the birth family's objection¹³. Meanwhile, in the U.S., more states recognise the right for adult adoptees to access their original birth certificates, with New York becoming the tenth state in 2019 to allow unrestricted access¹⁴.

Adoption's impact is lifelong, and creating this Adoptee Bill of Rights would help increase awareness of and support for long term adoptee rights within intercountry adoption, while also encouraging States to strengthen their local adoption laws.

2. Preventing and responding to patterns of illicit practices

Countries are repeatedly involved in illicit adoption practices, for many reasons. However, merely increasing regulations to safeguard against trafficking in these countries does not necessarily prevent alternative methods of illicit practices to continue. For

¹¹ 'In Conversation: Lemn Sissay On His New Book About Re-claiming the Ethiopian Heritage Stolen From Him by England's Foster Care System', 2019 October 14, Okay Africa, <https://www.okayafrica.com/lemn-sissay-interview-on-new-book-about-re-claiming-ethiopian-heritage-englands-foster-care-system-pen-pinter-prize-winner-2019/>

¹² 'Ethiopian Adoptee Wins Legal Case to Revoke Adoption', 2013 February 11, VOA News, <https://www.voanews.com/africa/ethiopian-adoptee-wins-legal-case-revoke-adoption>

¹³ 'Korean Adoptee Wins Landmark Case in Search for Birth Parents', 2020 June 12, New York Times, <https://www.nytimes.com/2020/06/12/world/asia/south-korea-adoption-Kara-Bos.html>

¹⁴ 'New York Adoptees Anxiously Await Opportunity To Request Original Birth Certificates', 2020 January 15, Gothamist, <https://gothamist.com/news/new-york-adoptees-anxiously-await-opportunity-request-original-birth-certificates>

example, after China's child trafficking scandals, there is a greater effort from China's government and law enforcement to end baby selling. But an article from April 2020 shows there remains a rampant underground system of child trade thriving on the app WeChat¹⁵. Thus, regulations and other forms of legal and political pressure alone are not enough without additional considerations of the economic, cultural, and technological environments in specific countries as well.

It is troubling to know children are sold voluntarily by their birth parents or family in less economically developed countries. However, we think wealthy countries demand greater scrutiny for allowing exorbitant adoption fees during the process as well. Individuals in these affluent countries spend thousands of dollars to adopt from other countries, which only incentivises people in countries with less wealth to take advantage of this demand.

Furthermore, prospective adoptive parents from wealthy privileged nations are sometimes so desperate to adopt that they overlook problematic practices. This ignorance or naivety allows illicit practices to evolve as long as the demand for children persists and the funds that come with it. However, these adoptive parents can further harm and cause disruption for the intercountry adoptee, especially if they discover later that illicit practices were involved, such as falsified documentation.

In one evolving case involving Chinese adoptees, the adoptive parents are suing the adoption agency for failing to accurately inform them about one child's age and history of sexual abuse, which led to abuse of other adopted children in the home¹⁶. Another example from China is the high profile case of Huxley, whose adoption was disrupted when the adoptive parents determined his known disability was too challenging for them to handle¹⁷.

¹⁵ 'Inside China's Black Market for Foster Children', 2020 April 29, Sixth Tone, <https://www.sixthtone.com/news/1005575/inside-chinas-black-market-for-foster-children>

¹⁶ 'Parents sue Centennial adoption agency claiming they weren't informed of Chinese son's sexual-abuse issues', 2019 August 14, Denver Post <https://www.denverpost.com/2019/08/14/lawsuit-centennial-adoption-agency-chinese-boy-pedophile/>

¹⁷ 'A YouTuber Placed Her Adopted Autistic Son From China With A New Family — After Making Content With Him For Years', 2020 May 27, BuzzFeed News, <https://www.buzzfeednews.com/article/stephaniemcneal/myka-stauffer-huxley-announcement>

While these cases are recent and still developing, they both illustrate the continued harm from adoptive parents who are under-educated about illicit adoption specifically and about adoption challenges generally. The combination can lead to subsequent illicit practices. For Huxley, his adoptive mother Myka Stauffer claimed in an apology that she had only been required to watch a video training for one day, and that she was naive, unprepared, and wishes she had had more training¹⁸. Nevertheless, Huxley was “rehomed” and according to authorities, the family found an individual rather than an agency to facilitate his transfer¹⁹. While details around this particular case remain unclear, a glance at Facebook pages like *Second Chance Adoptions* shows numerous children undergoing secondary adoptions, oftentimes due to unprepared adoptive parents²⁰.

Lastly, the Huxley case provides one final consideration: how people profit using adoptees after adoptions are finalised. In this case, the adoptive parents were YouTube vloggers who used their platform to not only pay for the adoption through fundraising, but also leveraged the adoption to gain more followers. Many of their videos, their popularity, and their revenues were based on Huxley’s adoption, which suggests the need for greater discussion about how children may be exploited using new technology, whether through the WeChat app, Facebook pages, YouTube channels, or elsewhere on the internet.

All of these examples point to the following areas of concern that we believe require further research and investigation before we suggest specific recommendations:

- Wealth disparities between countries demanding adoption and those supplying it.
- Lack of education standards for prospective adoptive parents, expectant parents and families considering adoption placement, and their surrounding communities.
- Adoption for children with disabilities.
- Use of emerging technology to rehome, trade, and/or traffick children.
- Other ways individuals and organisations profit off of adoptees.

¹⁸ ‘Myka Stauffer breaks silence on giving up adopted son, apologizes for ‘being so naive’, 2020 June 25, Global News, <https://globalnews.ca/news/7107809/myka-stauffer-instagram-apology/>

¹⁹ ‘A YouTuber Placed Her Adopted Autistic Son From China With A New Family — After Making Content With Him For Years’, 2020 May 27, BuzzFeed News, <https://www.buzzfeednews.com/article/stephaniemcneal/myka-stauffer-huxley-announcement>

²⁰ Second Chance Adoptions, <https://www.facebook.com/secondchanceadoptions>

Conclusion

In conclusion, the challenges surrounding illicit practices in intercountry adoption are numerous and complex. These problems do not have easy answers or solutions, particularly as global and local environments continue to rapidly evolve. Nevertheless, creating things like a **Transnational Adoptee Bill of Rights** and an **adoptee-led working group** would be feasible and meaningful progress that an organisation like the Hague could do.

Furthermore, in order to enact these recommendations, we believe this process necessitates an ongoing inclusion of adoptee voices in future research and policy discussions. The issues we overviewed in the second section require much further research and analysis to determine evidence based recommendations, but we strongly believe that adoptees, particularly those who have been impacted negatively or by illicit practices, need to be included in the conversation. Adoptee led organisations, like Adoptees for Justice and others, would provide useful insight based on our lived experiences, which can help inform an understanding of how intercountry adoption practices impact the children involved.

My Huong Le: Vietnam Family Search

Born in Vietnam, raised in Australia, now living permanently in Vietnam; Vice Director of Centre for Social Protection of Children Long Hai, Vietnam; Co-Founder [Vietnam Family Search](#)

I have seen Vietnam in adoption go from too easy to now almost impossible. The tragedy now is many children will remain in orphanages being institutionalised until they are of age to leave and never have a family of their own. For me this is a greater issue to look at!

1. What should authorities and bodies do to respond to specific cases of illicit practices?

In general, the adoption cases that come forward today in which adoptees have been involved in illicit practices, each case needs to be looked at individually to assess why the adoption went ahead in the first place. Doing this though only aims to rectify the mistakes of the past so they don't happen today. Tragically the scars for the birth family and adoptee are already deep once it comes to light that an adoptee's adoption was fraudulent in anyway.

Counselling needs to be provided for the birth family and adoptee and also possibly financial support. Who is responsible for providing this? Where does this leave the adoptee? Are they entitled to dual citizenship of the country they were adopted to and from, should they wish to return to either?

Harsh penalties need to be in place for child trafficking and illicit adoption practices within every country, set by a governing body such as The Hague. There can be misconceptions and cultural factors determining what is illicit and what isn't.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices.

Laws within each country around registering a child once they are born needs to be addressed. If a child is born at home, then there may never be any record of that child's birth. When a child is born, who is entitled to register that child? What time frame must this occur within? Who has the right to relinquish a child?

The adoption process needs to be regulated and the only way to do this is to establish international laws that each country involved in adoption must adhere with.

Countries who are signatory to the Hague Convention should ensure the effective monitoring of adoption practices.

All private and independent adoptions must cease operating.

The monetary gain from agencies, intermediaries and governments needs to be transparent and accountable. Donations given to support orphanages must be completely separate.

The legal framework surrounding the adoption and how the paperwork is done needs to be transparent to prevent papers being falsified.

In regards to my own adoption story, I was stolen from my mother at 1 day old, hence my mother never registered me. At the age of 3, the lady who stole me took me to her village town, said I was her daughter and registered herself as the mother.

Then, the lady who stole me gave me to her foreign boyfriend who was working in VietNam in 1975 and asked him to adopt me. Within 10 days he paid and had papers stamped in VietNam to say that I was his child. When I arrived in Australia, there he said I was orphaned and legally applied to adopt me, which took 2 years.

It is clear to see all the steps in my adoption that never should have happened. Thankfully today, many of these processes are impossible, but believe it or not, in VN today there is still no law to register a child once they are born, hence children can be stolen and given false documents.

I have been thinking about whether I wanted to prosecute the fake woman claiming to be my mother. I don't really, but what would be justice for me is to have a birth certificate re-issued with my true mother's name on it. An impossible thing to do here if I go and ask for this! Unlikely it could happen, but wanted to share what I'd love.

Jessica Sun Lee

Born in Sth Korea, raised in the USA; Author.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

In cases where there is a paper trail, all paperwork should be made available to the adoptees. In cases where there is not, free search assistance should be provided. I know that will unlikely materialise many results. On top of that, we should be issued apologies and reparations in the form of free language classes, homeland trips, cover retroactive and new legal fees (for naturalisation paperwork, immigration issues, deportation cases), automatic citizenship to our homelands if requested, and the immediate citizenship of the countries to which we were adopted—for those who don't have it.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Halt all intercountry adoptions in the countries that have allowed illicit practices. Investigate thoroughly. Shut down trafficking rings. Provide better family welfare.

Fanny Lefebvre

Born in Haiti, raised in France.

For the moment nothing is done for adoptees in France. The current Malian case is the first to be prosecuted. Normally, the files are inspected by the MAI (the Central Authority for adoption in France) when the organisation or parents asked for adoption. Now the MAI is more careful because the mentality about adoption has changed. The MAI tried to deny adoptions done by questionable organisations in Central Africa. There was a legal trial last year in Belgium about this.

I want the country to acknowledge that these kinds of adoption occur and acknowledge that adoptees and their families are victims. Adoption is not always roses and rainbows. Sadly, people take advantage of vulnerable people already in distress in third-world countries and it also a different kind of way for colonialism. Always white people telling what is better for coloured people and how to raise and manage their children.

I want to see a change in a law because there is no human trafficking for adoption in the French legislation. Actually, when parents make the adoption legal, everything that happened in the past is erased. For example, the Malian case is for fraud because there was nothing else in French law that they can file for.

I want resources like psychological support, legal support, and a state organisation where adoptees can find information and help.

Kimura Lemoine

Born in Sth Korea; raised in Canada; Archivist at [Adoptee Cultural Archives](#), artist, activist.

I was thinking about an adoptive parents questionnaire on their rights and responsibilities if they fail in their duty. Also racism, white privilege sessions and exams on awareness and behaviours towards children of colour, plus a guidebook on existing resources and an obligation to learn from a range of books and anthologies written by adoptees.

Lynelle Long: ICAV

Born in Vietnam, raised in Australia; Founder & Executive Director of [InterCountry Adoptee Voices](#) (ICAV).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Impacted adoptees in Australia want to see better collaboration between entities to work together and find a way to provide practical, financial, emotional, and legal support relatively quickly. I believe in reality, a collaborative model might also be appropriate for other countries who's entities have split jurisdictions and responsibilities.

There have been two positive examples in the past 5 years in which Australia has shown the ability for an excellent template for responding to illicit adoptions. Both cases occurred in South Australia with one Taiwanese adoptee from the legally prosecuted Julie Chu²¹ trafficking ring. She was supported via the Federally funded Search and Reunification Service²² to meet two of the offenders face to face and government officials in Taiwan. She was also practically and financially supported by the State of South Australia to travel to Taiwan with translation services provided. Since the meeting, she would like further help accessing the criminal matter as it is in the Taiwanese language. She also wants to obtain Dual Citizenship but this can't be done without a birth certificate and it is problematic with a fraudulent one. It seems she is being required to pay for the costs to apply and figure this process out without any assistance on either end. Sadly, the funding was not continued for the Search and Reunification service, so this avenue is no longer available as a source of support to adoptees.

Another case was with a Preet Mandhir adoptee, adopted at an older age where she remembers the argument her father had with the adoption agency who claimed he couldn't take his daughters back because he couldn't pay the "expenses" they'd spent in looking after them after they'd been lost. This adoptee was again supported via Federal government's two services; one for Search and Reunification, and the other that provides

²¹ <https://www.upi.com/Archives/1983/06/02/Selling-kidnapped-babies-for-adoption/9639423374400/>

²² <https://www.iss.org.au/our-services/intercountry-adoption-tracing-and-reunification/>

free counselling²³ to all intercountry adoptees in Australia; together these services with State funding and state funded Post Adoption Support Services, this adoptee was enabled to fly to India and be reunited with her mother, receive translation, emotional, and financial help. Of course, this type of support needs to be ongoing and her mother should be provided supports too, to maintain connections.

Both cases highlight how there needs to be established funded Federal post adoption services that address both practical support with emotional support, along with funding from the State - all coordinating and supporting the adoptee to be given practical, emotional, legal, and financial responses.

This suggestion of a co-ordinated approach is also reflected in what Taiwan has just accepted via Emily Yueh-Mi Lai, a social worker, and committee member on the *Human Rights Committee of the Ministry of Justice in Taiwan*. She has recently submitted a proposal²⁴ to assist adoptees who were trafficked to return to Taiwan for family reunion. The two ways in which she suggests this can be achieved is by giving trafficked adoptees rights via the Crime Victims Protection Act and to establish an inter-ministerial and inter-departmental unit to have oversight and responsibility for the human rights of trafficked adoptees and allow them full searching supports.

Another example of an appropriate response that could be learned from, is the work Jini Roby has been involved in as Trustee of the Restorative Justice Program developed in Utah, USA in response to the the victims of illegal adoptions from Samoa²⁵. After legal conviction of the defendants, funds were collected from them and placed into a Trust to provide monies towards helping the victims move forward. We can learn a lot from what was done in this case and make sure that in the future, more emphasis is placed on helping adoptees be reunited with their families and find a way to make trafficking in intercountry adoption a legal possibility which could lead to harsher penalties and a larger fund pool for restorative justice purposes.

I'd like to see an investigative body established in both adoptive and birth countries, independent of the stakeholders involved in facilitating intercountry adoption. Through this investigative body, individuals who are impacted can submit their case and apply for

²³ <https://relationshipmatters.com.au/services/counselling-support-2/>

²⁴ See Appendix E

²⁵ <https://www.brandeis.edu/investigate/adoption/samoa.html>

support, whether it be emotional, legal, financial, or practical. This body must be led by triad representation with adoptees holding a majority. This body must have the power to direct multiple jurisdictions to work together, have funding that enables work towards concrete actions and responses.

We should also find a way to utilise other models of support for victims from similar fields. For example, in Australia²⁶, USA²⁷, and the UK²⁸ they have all developed a strategy to support trafficked people that could be replicated and modified for intercountry adoption scenarios.

I believe we should definitely stop intercountry adoption from countries or stakeholders who have a known history of repeated illicit practices; and we should halt or suspend adoptions from a country program when suspicions have been raised, until further investigation concludes. Most importantly, authorities must respond with action and not silence. This silence only acts to perpetuate further trauma on victims who deserve support.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Each birth or adoptive country, or an international entity with appropriate powers, headed up/led by triad representation, needs to conduct an official investigation into the historic cases that involve illicit practices. The triad should be the focus for invitations to submit, but it might also be good if supporting entities submitted as to what they've experienced in serving the needs of the impacted triad e.g., psychologists, post adoption entities, academics, legal professionals, so that comprehensive services input can be gathered with the benefit of understanding where the gaps are that can be addressed.

From this investigation, a full report needs to be given with a number of recommendations that includes a plan for steps forward to remedy / provide reparation to those impacted, lessons learnt, and changes recommended for future adoptions to better prevent.

²⁶ <https://www.dss.gov.au/women/programs-services/reducing-violence/anti-people-trafficking-strategy/support-for-trafficked-people-program>

²⁷ <https://www.acf.hhs.gov/trauma-toolkit/victims-of-human-trafficking>

²⁸ <https://www.nidirect.gov.uk/articles/help-and-support-victims-human-trafficking-and-slavery>

Fundamentally, we need agreement on what constitutes “illicit” adoption and this needs to be reflected in legislation. We need to create a funded legal centre, with professionals fully trained from a trauma informed perspective, to provide legal advice and services to impacted persons. We need adoption trafficking to be included in the wider trafficking definitions. We need to recognise the two distinct stages where trafficking occurs i.e., the entry into an orphanage and then separately, the adoption of the child. Kate van Doore’s thesis²⁹ highlights the importance for the distinction from a legal perspective.

Elvira Loibl’s book³⁰ also makes a number of useful recommendations which I like, namely:

1. Banning intercountry adoption risks returning us to pre Hague days where prospective parents use private underground adoption channels. So if we are not going to ban and stop intercountry adoption outright, then we have to address the inequities for those of us who are impacted and provide a full suite of support services so that we are given full support, in the knowledge that illicit practices in adoption will continue to occur;
2. We need to either strengthen the role of central authorities or we need an independent entity to be a place where complaints are lodged and fully investigated;
3. We definitely need to stop the flow of money or put a cap on money exchanged;
4. There must be independent and multi verifications that a child is deemed eligible for adoption;
5. We must criminalise the sale and purchase of children.

If we are going to continue to conduct intercountry adoption, I would like to see all intercountry adoption move from Plenary to Simple adoptions as a minimum to better protect the rights of the adoptee but ultimately I prefer preventative methods that support families to keep their children and domestic alternatives offered, following the Principle of Subsidiarity.

We also need to consider what both Australia and Canada’s responses so far have been to forced adoptions (illicit practices) and learn from what has been done well and

²⁹ https://research-repository.griffith.edu.au/handle/10072/382724?fbclid=IwAR3sl0WDSfRm0G_UdcfBIDqbSP0uh7_k76nr3uEveSdLEjVhLz9KM45g9sA

³⁰ <https://www.bookdepository.com/Transnational-Illegal-Adoption-Market-Elvira-Loibl/9789462369160>

what needs improving. Canada's Indigenous people were forcibly removed and adopted - they've only this year started to receive compensation³¹ after decades of advocacy, but they are yet to receive an apology. Australia's Stolen Generation of Indigenous people³² and those impacted by the Forced Adoptions era³³ have received an apology but no compensation. I believe we need both a national apology AND compensation but prior to these things happening, there was a full independent investigation / commission; this full independent investigation, I believe, is the crux of what's needed to begin the process.

³¹ https://www.cbc.ca/news/indigenous/sixties-scoop-cheques-healing-support-1.5625874?__vfz=medium%3Dsharebar&fbclid=IwAR2fOpdNkVuAvqs3e0InXLIRR2FPaVhNESQLBETRk3MQacdJ0iJp0IWUvc

³² <https://aiatsis.gov.au/explore/articles/apology-australias-indigenous-peoples>

³³ <https://www.abc.net.au/news/2013-03-21/gillard-delivers-apology-to-victims-of-forced-adoption/4585972?nw=0>

Author Mae

Born in Haiti, raised in the USA; author of [The Perks of Being an Adoptee](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

A thorough investigation of the illicit practices have to be done. If we don't take the time to ask the hard questions, it will take no time at all to make the wrong decisions.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

A pattern is usually something that happens over and over again with a similar outcome ... in adoption, the outcome is massive loss. Like many dominoes lined up, children are exploited. All it takes is one bad apple to knock all the dominoes down ... as they go down, they take others with them, eventually hitting the ground. Some survive the fall and get back up, but others stay down. Illicit practices only take one tap, touch, or blow to forever affect the life of an adoptee. We don't need to see patterns, we need to catch the first domino before it brushes the rest!

Leti Mendes: ICAV USA

Born in Colombia, raised in the USA; ICAV USA Representative.

I thank you for giving me a chance, as a victim of an illicit adoption to have a voice!

1. What should authorities and bodies do to respond to specific cases of illicit practices?

When specific cases of illicit practices are discovered, as a victim of this practice I, along with the many other countless and nameless victims deserve to know that there will be consequences. These practices should no longer be swept under a rug, which has further victimised all involved, but especially us adoptees.

A place to start would be to have uniform consequences, across all of the nations. The consequences should be clear and concise for any person or organisation that has any part in the adoption process, including lawyers, social workers, orphanages, prospective parents, etc. to understand. When authorities respond to specific cases and find clear evidence of an offence, then any party involved should lose their rights and be banned from ever taking part in any way, shape or form in any kind of adoption, fostering or running/owning an orphanage or anything else to do with children ever again, as well as being heavily fined, if not jailed. Note, this should also go for prospective adoptive parents that knowingly took part in obtaining a child in an illegal or illicit manner.

The names of the offenders should also be placed on a list for anyone looking to adopt to access and be sure that those they are working with, are legitimate and don't have a stained background. Note, this only addresses the offenders, the baby/child involved must have their needs as a victim addressed along with the natural family.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

As part of the prevention, the above should be done to prevent offenders from becoming repeat offenders. Countries should not be allowed to have anyone with political ties serve in any capacity related to adoption or the adoption process especially when it comes to the income that is made from adoptions. As a matter of fact, to help prevent

illicit practices the countries tied to the Hague Convention should, must show, that they have no tolerance and strict punishment policies for offenders. Countries not willing to be part of the Hague Convention should not be allowed to adopt children out of or into, via a ban of sorts.

Another possible prevention might be having independent groups that work by a set of standards put forth by the Hague Convention in each country to oversee or investigate suspected illicit or illegal practice, as well as evaluate the various orphanages.

Countries should be willing to set aside a fund for children that will become adult victims to be able to access the help needed to attempt to recover from this lifetime crime. If a person that was a victim of an illicit adoption comes to find out that they have been wronged by the system, they should be able to access funds for life long mental health as this crime does incur PTSD that has pushed some in our (adoption) community to suicide. We should be able to access help from both our native country and current country in attempting to retrieve all the paperwork that may lead them to their true identity and family, and lastly, they should be able to access services to help them regain their native tongue.

As an international adoptee of the 70's, much of the information related to my adoption was found to be falsified on legal documents. It made any efforts to trace back to my birthmother impossible. I am not the only victim and though many things have changed, the consequences of these actions are still felt each and every day of my life, as they are for the countless other adoptees and the families they were separated from. I share this because it is important to reiterate the lifetime consequences of illicit and illegal adoptions.

We are victims that have lived a lifetime of trauma related to our adoption but when we discover that our adoptions are illicit or illegal, the re-traumatisation is nearly impossible to come back from mentally. Since my journey has begun, there has been nobody to fight for me, I have had no support, no translators, and no advocates as I dealt with the government here in the US and the government in Colombia. It has cost me so much money to search, travel and to get mental health treatment over the years, yet my heart still aches every day. This pain and suffering spans generations, aside from my own pain, there is the pain of my children, the pain my birthmother died with, and the pain of my birth sisters and their families. There was and is no help for the multiple people that

have been touched and suffer pain from my adoption. We need to do better, we owe that to every baby, child that is separated from their birth family. Adoption really should be a last resort and there should be no profit involved. If we took the profit out of adoption, would that help prevent illicit and illegal adoptions.

Philippe-Pradeep Mignon: Empreintes Vivantes

Born in Sri Lanka, raised in Belgium; Founder of Empreintes Vivantes for Sri Lankan adoptees - Belgium.

This is a subject that continues to touch me! These two questions are a bit vague for me but I would say:

1. The authorities should set up a specific unit for cases of illegal practices leading to the various trafficking in children. A cell that would do just that - track and dismantle networks in all fields of action, identify false associations, social networks, etc..

2. As soon as a child enters an adopted country and comes into contact with his adoptive family, there should be direct supervision of the body which carried out the adoption. Don't just validate "official" papers and turn a blind eye to the rest.

It's sad to get there, but only in this way can we fight these horrible networks by attacking their sources.

Michael Mullen: Also-Known-As

Born in Sth Korea, raised in the USA; President of Also-Known-As.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Individuals and agencies that engage in illicit practices in adoption should be prosecuted with legal ramifications similar to kidnapping and child trafficking.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Where patterns of illicit practices have occurred in countries, international adoptions should be halted from that country until the government demonstrates it has the ability to track and manage its adoption caseload. All agencies and government authorities must be able to provide the evidence that only children properly and willingly given up for adoption are entering the adoption system.

Alessia Robin Petrolito: Adopt Cloud

Born in the USA, raised in Italy; MA in Visual & Critical Studies, Blogger at [Adopt Cloud](#) and [ArP Adoptic](#).

Authorities and bodies should come to the understanding that addressing and dismantling social and academics taboos and inequalities are the first steps to respond and prevent patterns of illicit practices.

That said in my opinion, the only answer to both questions is action, listening and researching and investigating, to not leave anything said or unsaid and unverified.

In 2020, there cannot be topics - raised from direct experience - still neglected and or underestimated for mere financial and ideological interest.

Alejandro Quezada: Chilean Adoptees Worldwide

*Born in Chile, raised in the Netherlands; Founder of Chilean Adoptees Worldwide
(CAW).*

Submission has been kept confidential and submitted to the HCCH.

Jini Roby

Born in South Korea, raised in the USA; MSW, MS, JD, Professor Emeritus of Social Work, Attorney at Law, Independent child protection and social work consultant.

Prevention

- Provide universal access to pre- and neonatal care, combined with counselling for vulnerable mothers who may be contemplating adoption placements.
- Strengthen kinship and community-based alternative care, with support where needed.
- Provide social protection programmes such as cash transfers, meal programmes, education support.
- Strengthen economic capacity of parents — literacy, computer skills, other marketable skills.
- All adoptions conducted by government entities only.
- Stop using residential child care centres as 'holding tanks' for adoption; never allow 'exclusive' contracts with adoption agencies.
- Mandatory counselling sessions for parents contemplating placement.
- Facilitated family group conferencing where culturally appropriate.
- Transparency of process and records, to be reviewed by an external body of experts, and submitted as part of court records.
- In-court consent only, with independent legal representation, neutral interpreter and expenses paid.

Responses to Illicit Practices (for both Questions 1 and 2)

- Response is only possible when there is a legal framework, so be sure there is a clear set of laws relevant to illicit adoptions. These can be a comprehensive law on adoption, with references to other laws such as human trafficking, sale of children, wire fraud, money laundering, human smuggling, etc. The law must be founded upon international norms of human rights. There should also be allowed civil suits against fraudulent providers and their agents by birth and adoptive parents, and on behalf of/ or by the adult adoptee as well.
- Publicise the laws (and legal consequences) widely, require training for every entity and person engaging in any part of adoption, and show proof.
- Require stringent licensing, Hague standards to apply.
- Require transparency of records, especially confirm validity of consents if allowed to be taken outside of court.

-
- Require an itemised affidavit (sworn statement) of all funds involved in the adoption, submitted by the adoptive family, adoptive agency, and the attorney.
 - With a specific violation, bring swift prosecution while protecting the privacy of the child and where appropriate, the privacy of adoptive parents (unless complicit).
 - Post-conviction, use restorative justice methods where appropriate, e.g. the Samoan Adoptees Restitution Trust in Utah, USA to facilitate continuing contact between the children and their birth families, and where restitution is used to support on-going contact.

Paula C Sabbia

Born in Greece, raised in USA.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

In response to specific cases of illicit practices in international adoptions: I believe that swift action must be taken to investigate the alleged illegal activities. So often, time passes and enthusiasm to seek the truth wanes. Adoptees, no matter what their age, have a right to know all of the details and a right to justice if their adoptions were carried out illegally and /or deceptively. As in my own case, the documents passed on to me from my adoptive mother indicated that all had been conducted legally, however, now, after the passing of my adoptive parents and my involvement with various adoption groups, I wonder about how much deception was involved in my “procurement.” It appears that my birth parents might have been coerced into giving me away by a person of influence, and at this point in time after so many years, I fear that I have no way to prove it. It is a heavy burden to carry on with so much wondering.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Authorities carrying the onus of responsibility for international adoptions have the obligation to ensure safe and lawful execution of each step in the adoption process. Checks and balances should be in place to prevent any question of legality or due process. Each step in the process should be verified before moving to the next in a standardised, calibrated methodology. Independent review by unbiased quality control experts should occur at regularly prescribed intervals. Accomplished properly, this should reveal and /or prevent patterns of illicit practices. In response to discovered and verified illicit practices, those individuals found to be involved should be brought to justice in a prescribed, consistent, and timely manner. All documentation should be gathered and stored securely, with access readily available to adoptees. Even one small deviation from a fair, legal process could change the course of an adoptee’s life. Being adopted is already difficult and confusing. My wish is that authorities would recognise the trauma experienced by adoptees and therefore provide all the resources necessary for adopted individuals to learn their true story. As one step further, adoptees would benefit from wider

understanding on the part of health professionals, counsellors, educators, civil authorities, and the general public. Education and awareness for responders would go a long way toward affording adoptees the opportunity to calmly live an altered life. Not all adoptions are for the better. Recognition and understanding are major factors in calming the uneasiness often experienced by adoptees who might reside within a less than ideal placement, or even within a very good one. There are always questions. Preventing patterns of illicit practices would be so much better than having to respond to them.

Michael Salvia

Born in Paraguay, raised in the USA.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Adoptees conducting their own searches for answers is expensive and time consuming. I would want the applicable government to support adoptees and foot the bill for investigators and DNA testing, or even create an investigative department to support reunification. Fine the groups that were illicitly practicing and fund the search with that money. The money should also go towards medical screening for adoptees, since we don't have a family medical history we can compensate by paying for testing that normally wouldn't be done.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Personally, as an adoptee, I want records. I want all organisations/businesses/etc., associated with adoption to be able to provide all records forever, no expiration. I want the records to be auditable, and for an auditing body to be able to follow up on them. Too many adoptees find out their birth mother's name was a default name which all kids received from whichever business adopted them out. It shouldn't take adoptees coming together a lifetime later, to figure that out. I want adoptees to always have access to all of their records. Everything. We need openness and accountability to expose illicit practices and stop them as soon as possible. When an organisation is found to be illicitly practicing adoption, they must be stopped immediately. To make this possible, they shouldn't be allowed to house many children at a time. I don't want a "too big to shut down" excuse situation.

Patrick van der Steen: Sri Lanka Family Project

Born in Sri Lanka, raised in the Netherlands; Co-Founder of [Sri Lanka Family Project](#)

As long as there is money involved with adoption, as long as people are willing to pay almost any price to be a parent, as long as there are people willing to do anything for money - I think intercountry adoption isn't the answer to a better life for anyone. So I would suggest stopping now and think very hard how to do this fair. For the sake of birthparents, adoptees and potential adoptive parents. As long as there are people willing to take advantage of everything, this delicate subject could end up with child trafficking, kidnapping and selling. So cut these lines, stop the process and get back to the drawing board.

Olivia Ramya Tanner

Born in Sri Lanka, raised in Switzerland; previously Co-Founder of [Back to the Roots](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Provide life-long, optional, free trauma therapy;
Provide a formal apology to adoptees, first families and adoptive parents;
Promise to prevent repetition of such practices.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Abolish adoption and instead focus on family-preservation.
Require anyone involved in child care decisions to be trauma-educated in order to truly centre the best interest of the child.

Tia Terefe

Born in Ethiopia, raised in Sweden; residing in the UK.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

I would like to see authorities and bodies respond with compassion for adoptees who have to live with the added wounds caused by illicit adoption practices. Adoptees who find themselves in this situation should be able to access clear and simple resources and support from authorities and bodies. Adoptees should be able to access advice and post adoption support from trauma informed professionals who are experts in their own field. There should be financial support to help with legal costs, citizenship, personal therapy, family therapy, mediation, travel, DNA tests and any other support that may be needed. I would also like to see authorities and bodies work actively against illicit practices, to learn from the past and engage with the many voices of adoptees who are speaking up. Adoptee voices need to be heard and given the platform that they deserve.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

There should be resources dedicated to ensuring that countries are held accountable for engaging in illicit adoption practice, i.e., experts who are familiar with how these agencies are set up and how they work. I would like to see legal action taken and penalties given to agencies/people who do not follow the legal requirements. Regular reviews and safeguarding checks should be a given. The responsibility needs to be taken by every single agency/person/authority who enables the child to be adopted. In the case of transnational adoption, both countries should be held accountable for any illicit practice. Adoptees should be able to access financial support to access expert advice and therapy **at any age**. It is important to do whatever it takes to put a stop to illicit adoptions. It is also important to understand the trauma it causes. It can be a lifelong journey to heal from adoption wounds and some of us never do. Much could be learned by listening to the brave adoptee voices as they are experts in their own right. Listen to the research and learn from our adoption stories. The answer is there.

Flavia N Testa: Iranian Adoptees Worldwide

Born in Iran, raised in Italy.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

Acknowledge illicit adoptions happen. Understand if their entities are part of the problem. Address with new practices toward a better understanding of why this happens.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

Follow the money trails and understand WHO is involved and HOW. At which point stop these channels or at least try to make them less accessible.

It is a wide web of international players who knows exactly what is going on. From NGOs to Diplomatic agencies who do not report illicit behaviours at the highest levels. Then there is the trickle down effect to other bodies and entities.

Adoption is already a hard transition at the best of times. At the worst it is a horrible practice that has ripple effects across all generations and cultures.

Michael Thielmann

Born in Sth Korea, raised in Canada; member of the Sth Korean National Unification Advisory Council (NUAC) Toronto; former VP of Outreach in Korean Canadian Adoptee Association.

By definition, illicit adoption practices needs to fall into human trafficking, kidnapping/aiding and abetting, and abduction. Authorities and governmental bodies need to recognise the truth in which illicit adoption is, and the fact that adoption in itself is a multi-million dollar a year industry, and at its peak in the 80's and 90's it was a billion dollar a year industry.

All guilty parties, and people(s)/organisation(s)/entities associated to, and with illicit adoption practices should be punished under the criminal and immigration laws of human trafficking in the origin country of the child, the destination country of the child, AND international law. In addition, all guilty parties should be charged with kidnapping and abduction.

What should authorities and bodies do to prevent and respond to patterns of illicit practices?

There are three facets that need to be addressed:

1. Acknowledgement that adoption is a legal form of human trafficking.
2. Remove the commerce component from adoption and have all costs covered by the countries participating in the adoption process.
3. End to end resources and supports for all adoptees for all related needs for the lifelong journey of adoption; all costs covered by the countries participating in the adoption process.

Jane Jeong Trenka: TRACK

Born in South Korea, raised in the USA, now living permanently in South Korea; author, President of Truth and Reconciliation for the Adoption Community of Korea (TRACK).

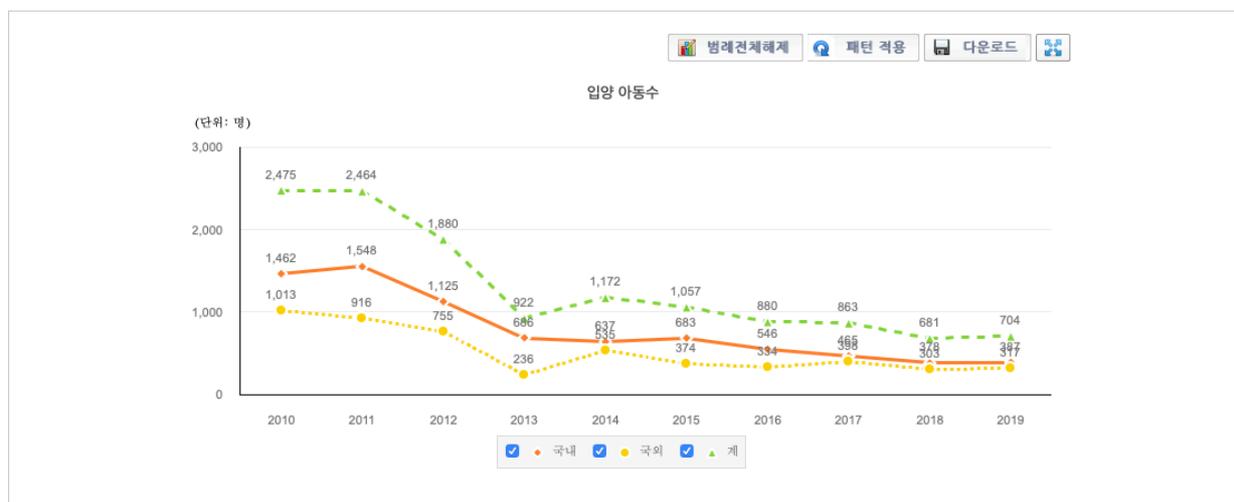
The Hague doesn't even read the self-reports that countries send into their office. They could start by doing that. I don't think the Hague even has enough funding to get someone to read all those reports, catch errors and omissions and follow up with countries about why they are filling their forms out like that.

If you just look at the reports from the USA for instance, which are posted on their website, you can see those omissions. Enforcement is the problem and it is a known problem.

Authorities in different countries might have different things that they should do, but for the Hague, they should just start by reading the stuff that people send in and detect when things don't look right, otherwise it's just going through the motions without any substance or action.

The other obvious answer is the anonymous abandonment baby boxes --- of course there is no way to know who drops those kids off or if they have been kidnapped or what. Some of those children have been adopted overseas so that is something to think about for any country that has baby boxes.

[Link](#)



출처 : 보건복지부 내부자료

Yellow is international adoption, Green is total adoptions, the other one is domestic. These statistics are really upsetting because clearly South Korea has the capacity to adopt all the children domestically but they are not. There were 1462 domestic adoptions 10 years ago and last year 387 but they are keeping a 50/50 quota system. South Korea continues to send half the kids overseas, no matter how many kids they start with. My view is South Korea is really in violation of overseas adoption as last resort. They are just keeping this quota system to please the adoption agencies. This in itself, isn't it a kind of illicit/illegal practice? But yet it's so embedded in South Korea's system that this violation IS the system itself.

Utendlandsadoptertes Politiske Utvalg (UAPU)

Christina Violeta Thrane Storsve (born in Guatemala) & Diana Patricia Fynbo (born in Colombia), raised in Norway; Co-founders of Utenlandsadoptertes Politiske Utvalg (UAPU) ie., Intercountry Adoptees Political Committee.

1. What should authorities and bodies do to respond to specific cases of illicit practices?

First and foremost we would like to raise awareness about this to our authorities through meetings between adoptees and the authorities as such. We want them to listen to us and include us as a first step to discuss this in general.

Then we would like for them to make a plan where over six months we have regular meetings with adoptees, accredited bodies and professionals in different areas other than just the adoption field.

All of this would result in a Investigative Committee that should:

- a) investigate both the authorities and the accredited bodies for illicit practices in the past.
- b) open up for individuals who have discovered that their adoption was illicit and guide and help them to present their cases for a full investigation.
- c) provide legal aid to those who wish to pursue their cases as some of these might involve compensation.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

In our opinion they should still do what we suggest in question number 1 i.e., initiate meetings in order to create a system that can handle current cases and use the insights from this to also find ways to prevent and respond to illicit practices.

Since there is no explicit system in Norway today, this is what needs to be done.

We are, of course, aware of the fact the government has their system that involves supervising and inspecting the accredited bodies, etc.. However, since we also know that illicit adoptions have happened on their watch, we need a new "independent" organisation to deal with this.

Dr Indigo Willing: Adopted Vietnamese International

Born in Vietnam, raised in Australia; OAM, Founder of [Adopted Vietnamese International \(AVI\)](#), Sociologist and Adoption Author, Former ICAV Representative (Vietnam).

Adopted Vietnamese International (AVI) is based in Australia and was founded in April 2000 to mark the 25th anniversary of the end of the Vietnam War at a time when over 3000 Vietnamese from orphanages in South Vietnam (a mixture of babies, infants and children) were airlifted from Saigon, now known as Ho Chi Minh City for adoption in the West. Now, 45 years later after the war and 20 years on since our launch, the AVI network is still dedicated to connecting those individuals today and assisting community members to find information on birth parents and other parts of their lost histories and identities.

Most of the Vietnamese War ‘orphans’ were sent to Western nations for adoption on the assumption by receiving families that the children would cease ties to Vietnamese people completely. Most were to end up in white families with varying degrees of safety and emotional acceptance (Harvey, 1983). But as the children matured, it was clear they received little acknowledgment of the Vietnamese cultural ties that were severed by adoption, and preparation for the racism they would face in the host society (Williams, 2003, Willing, 2004, 2006). Media in particular in the earlier stages of their settlement offered more simplistic tales of ‘rescue’ in Australia (Willing, 2004) and overseas, such as in American narratives of the adoptions (Cherot, 2009).

As time has passed, a far more complex picture is now in view that includes many adoptees having been disadvantaged from cultural loss, and in some cases, a deep sense of injustice from never being actual orphans (Fronek, 2011, Long, 2019, Willing, 2004, 2006, 2015, Wills, Hübinette and Willing, 2020). To this, I wish to highlight three main issues for consideration. **Firstly, adoptees have themselves now reached maturity**, with many reporting a desire to reconnect with Vietnam and Vietnamese birth parents and family, but feeling a significant sense of challenge from being raised at a distance from other Vietnamese people, Vietnamese language and culture (Chau, 2015, Long, 2019, Willing, 2004, Willing, 2015). **Secondly, the purpose of Vietnamese war adoption has long been challenged as being political rather than humanitarian in function** (Fokert, 2012) and since then, open to trafficking or unethical practices which has resulted in various country suspensions of adoptions at various times (ISS, 2009, Long, 2018, Selman, 2015). **Thirdly, there are a considerable lack of formal guidelines and funded support systems** for

navigating the few services, resources, sanctions, and laws available to Vietnamese adoptees to return and search for birth families and, where trafficking has occurred, find justice, reparations and healing.

In relation to my first point, there are some major advances we can learn from if we consider the past two decades. In an era of globalisation, adoptees from Vietnam have had much more opportunities for cultural mobility and forms of interconnectivity to maintain stronger links to other adoptees, Vietnamese people in the West, and also ones in Vietnam. Travel to Vietnam is also very common. Adoptive parents are also more likely to assist adoptees to stay connected to their 'birth culture', although with varying levels of commitment (Wills, Hübinette, and Willing, 2020). However, it is critical to acknowledge that most of the support for these activities are run at a grass roots level, and mainly by Vietnamese adoptee leaders who are left to self-fund their highly in-demand, and widely needed initiatives. For instance, many community projects and forums etc. aimed at assisting Vietnamese adoptees (and others) gain birth search information and to navigate adoptee rights-based issues are informally supplied by groups such as Intercountry Adoptee Voices (ICAV) network founded by Lynelle Long, and Adopted Vietnamese International (AVI) founded by Dr Indigo Willing OAM. Both the ICAV and AVI networks are based in Australia and run by individuals adopted during the Vietnam War - neither receive formal or permanent external funding. Clearly any support – administrative, funding or other - would be welcome and is certainly needed.

In terms of my main second point, about past and contemporary issues of illicit adoptions/ child trafficking or unethical practices in adoptions from Vietnam, we do not know enough about the actual extent due to lack of investigative powers and funding for research and documentation of key issues and incidents. Even formal figures have not always been captured well, as noted by demographers (see Appendix by Selman, 2015).

Although by past standards most of the Vietnam War adoptions would not be classified as trafficking and illicit (although some clearly were), by today's standards there are certainly many grey areas in hindsight. This is in no small part due to the disruptions of ordinary life caused by war, and a rush to get babies on planes to get away from the conflict, even for the more discreet pre-1975 war time adoptions, but particularly so for the mass-evacuation airlifts of April 1975 at the war's end (known as Operation Babylift). But the chaos of war does not take away from the deeply felt loss or serious issues many adoptees now face as they reconstruct their sense of identity and desires to find

Vietnamese family. Further and ongoing efforts to improve and safeguard adoptions need to include groups such as ICAV and AVI in for consultation on policies, within adoption focused committees, when appointing or seeking authority and expertise on Viet adoptees, and in the channelling of non-financial and financial support for searches for birth parents and projects targeted to care for the mental well-being of Vietnam War time adoptees.

I recommend there be a significant effort made to ensure adoptions abide by the key existing UNROC and Hague conventions, and the more stringent guidelines, policies and laws developed by sending countries. I also support any mechanisms to make adoptions more trackable and transparent, particularly in the paper trails, witness contacts, staffing and documentation around babies and children who are deemed adoptable. There is also a need to develop a committee of adoptees who are experts in adoption (through community work, activism, academia and the professional roles) to review adoption conventions, laws and policies annually and to generate annual reports on trends, issues and recommendations they feel are vital to ending illicit adoptions. This should also be funded – such as by authorities in any receiving country of adoptions and as a part of the expense in adoption fees.

In relation to my third main point about need for guidelines and funding to address these issues, as the Founder of AVI, I fully support the range of recommendations laid out by Ms Long, ICAV and their active membership on issues related to searching for birth parents and cultural support in this process. This includes 1) offering free birth searching services (again) through vetted organisations and also Vietnamese adoptee run projects, 2) compensation or funding for things such as Vietnamese language translators, 3) funding for DNA testing 4) funding of other expenses related to adoptee searches and reunions such as archive access fees and 5) funds for free counselling to any Vietnamese adoptee affected by adoption-related issues. I would also extend these needs to other transnational and transracial adoptees affected by similar issues of forced migration and loss of birth family and cultural connections. Where there are explicit cases of illicit adoptions and illegal/harmful practices that warrant and can lead to legal interventions, I would also support any calls for compensation for legal procedures to pursue justice and appropriate reparations.

Thank you for considering these issues and recommendations above.

References/Resources

Ballard, Robert, Goodno, Naomi, Cochran, Robert, & Milbrandt, Jay (2015) *The Intercountry Adoption Debate: Dialogues Across Disciplines* Newcastle upon Tyne, UK: Cambridge Scholars Publishing.

Chau, Adam, (2015) *Vietnamese Adopted*. CQT Media And Publishing and LGA Inc, Minneapolis, USA

Cherot, Natalie (2009) "Storytelling and Ethnographic Intersections: Vietnamese Adoptees and Rescue Narratives," *Qualitative Inquiry* 15.1

Fokert, Joshua, (2012) "Refugees, Orphans and a Basket of Cats: The Politics of Operation Babylift," *Journal of Australian Studies* 36, no. 4: 427–44.

Fronek, Patricia (2011) "Operation Babylift: Advancing Intercountry Adoptions into Australia," *Journal of Australian Studies*, 36, no. 4: 445 - 458

Harvey, Ian (1983), "Adoption of Vietnamese Children: an Australian Study," *Australian Journal of Social Issues* 18, no.1: 55–69.

International Social Services (2009), *Intercountry adoption from Viet Nam; Findings and recommendations of an assessment* (Geneva: ISS, 2009), available at: <http://www.iss-ssi.org/2009/index.php?id=8> (accessed June 21, 2011).

Long, Lynelle (2018) Degrees of Being Trafficked in Intercountry Adoption, *Intercountry Adoptee Voices*, Downloaded 27 June 2020 from URL: <https://intercountryadopteevoices.com/tag/child-trafficking/>

Long, Lynelle (2019) Ed. *The Colour of Time*, ISS and Post Adoption Resource Centre, NSW

"Saigon Vietnam—Evacuation of Orphans," March–April 1975, National Archives of Australia, A4531, 221/4/8, part 1.

Selman, Peter, (2015) Global Trends in Intercountry Adoption: 2003-2012 In *The Intercountry Adoption Debate: Dialogues Across Disciplines*. Edited by Ballard, R. L., Goodno, N. H., Cochran, Jr., R. F, & Milbrandt, J. A. Newcastle upon Tyne, UK: Cambridge Scholars Publishing. pp 9-48.

Wills, J, Hübinette, T.and Willing, I. Eds, (2020), *Adoption and Multiculturalism: Europe, the Americas and the Pacific*. Minnesota: University of Michigan Press.

Williams, Indigo, (2003) "Not Quite / Just the Same / Different: The Construction of Identity in Vietnamese War Orphans Adopted by White Parents" (MA thesis, University of Technology, Sydney, Department of Social Science)

Willing, Indigo, (2004) "The Adopted Vietnamese Community: From Fairy Tales to the Diaspora," *Michigan Quarterly Review* 43, no. 4: 648–64.

Willing, Indigo, (2006) “Beyond the Vietnam War Adoptions: Representing our Transracial Lives” in *Outsiders Within: Racial Crossings and Adoption Politics*, ed. Jane Jeong Trenka, Julia Chinyere Oparah, and Sun Yung Shin (Cambridge, MA: South End Press), 275.

Willing, Indigo, (2015) ‘Forward’, in Chau, A, *Vietnamese Adopted*. CQT Media And Publishing and LGA Inc, Minneapolis, USA. pp 1 – 6.

Wills, J, Hübinette, T and Willing, I , Eds, (2020 – In press) *Adoption and Multiculturalism: Europe, the Americas and the Pacific*, Ann Arbor: University of Michigan Press.

Appendix

Table 15: Adoption from Vietnam: 1998-2012 – to the eight countries receiving the most children during that period by rank in 2007.

Country	1998	2003	2004	2005	2007	2008	2010	2011	2012
USA	603	382	21	7	828	751	9	0	0
France	1,343	234	363	790	268	284	469	264	76
Italy	0	59	6	140	263	313	251	142	41
Ireland	0	39	16	92	130	182	10	0	0
Canada	79	45	6	0	86	111	171	90	n/a
Sweden	186	32	6	80	54	50	7	0	0
Denmark	58	11	13	72	51	39	34	23	3
Spain	0	0	0	0	0	0	320	178	41
TOTAL	2,484	936	488	1,198	1,695	1,739	1,279	704	(168)

In 2011, Vietnam ratified the Hague Convention with effect from February 2012, but the U.S. continued to advise against adoption from that country. Numbers have fallen further in 2012. Source: Selman (in Ballard et al, 2015)

Biological Parent Submissions

The following pages captures the individual submissions, in alphabetical last name order.

Gladys Bulyaba: Kugatta Uganda

Lives in Uganda and provides support to Ugandan families who have lost their children to intercountry adoption; Co-Founder of Kugatta.

1. It all starts with biological parents because they are the ones in care of these children. I think if the authorities & bodies practice awareness measures in families about the negative side of giving their children away for adoption, to stop listening to organisations which offers help by taking their children away from them, this would put an end to it. The biological families are only told of the good side and do not know about the emotional traumas that the child will face when separated from their families.

2. Authorities & bodies should work on putting more effort in societies to keep all children rights. In Uganda the child rights that is put on more effort is on child abuse and education, leaving out all other rights for children. Adoption is seen as "help" for the child, and a "gain" for those in charge. Not considering the child's rights to have his biological family and life ahead.

3. Authorities & bodies should fight to completely stop adoption in their countries / societies. This could be practiced by discovering what the cause is and helping biological families to raise their children. They can provide them with free school bursaries, empower parents to work and be able to fight poverty and earn some money to take care of their children.

4. Community sensitisation/ awareness about the negative effects that can happen to a child given away for adoption. A community together can fight to stop these practices. Through this sensitisation, families would understand that there is a higher chance of not meeting their children ever again. They would understand how hard it will be for a child separated from his family.

5. Authorities & bodies should work to see that there is a change from an adoption agency into a child/family support agency. These agencies would devise measures of helping families to raise their children. Providing help with education, loans for small businesses to biological families hence empowering them.

6. The sad part is the the same authorities & bodies are the same people earning bribes from these adoption agencies to keep their work easy. But if the biological families,

societies and communities are aware of these negative sides, they would fight hard for their children's rights.

Gustavo Amilcar Tobar Fajardo: Guatemala

Gustavo in a biological father who lost his children, born in Guatemala and adopted via intercountry adoption, to America. Gustavo's [petition](#) for falsely declaring his son as "abandoned" was successful in the Inter-American Commission on Human Rights. See [here](#) for Spanish language outcome.

Many thanks to Racines Perdues for the translation.

My name is Gustavo Amilcar Tobar Fajardo. I am Guatemalan by birth and I live here in Guatemala. My son was born in Guatemala in 1989 and on January 9, 1998, he was stolen from me to grow up elsewhere. He was adopted without my consent or that of his mother. I directly lodged a legal complaint here in Guatemala.

I am Guatemalan and I trust my country despite what happened. I know many cases similar to mine. I got help and found my son through social networks in 2006. We were helped by an association "childhood refuge" which is now called "Casa Alianza".

I want to speak out internationally to make people aware of the tragedies for families and especially that babies are sold and taken away without our consent. All together we want to find our children and help them find their families.

I would like to travel to several countries to testify to the inhumanity of trafficking from Guatemala.

Currently, here in Guatemala, on the orders of the International Court of Human Rights, a complaint has been opened with the prosecution. This is to investigate this case and to find the real people responsible for this case of illegal adoptions. We want to uncover this market of the trafficking in human beings and find all the children of biological parents who have been adopted in various countries.

I recommend the creation of a state office or an NGO where they oversee the actions of entities involved in adoption because there are many legal loopholes in the justice system for children in Guatemala.

I want to defend children who are defenceless victims of corruption. What matters is justice and not enriching the wealthiest.

If one day you can help me appear as a witness at The Hague, I am also available to testify.

Adoptive Parent Submissions

The following pages captures the individual submissions, in alphabetical last name order.

Jessica Davis: Kugatta Uganda

Adopted a child from Uganda to the USA in 2015; Co-Founder of [Kugatta](#).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Have procedures in place for adoptive families & adoption agencies to adhere to in response to such information when it comes to light.
- Adoption agencies should have procedures in place or required of them that must be adhered to and some type of written evidence to show they are taking measures to prevent the abduction, sale, exploitation & trafficking of children.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Better education for prospective adoptive parents & adoption agencies. Understanding statistics like ones that tell us 4 out of 5 children living in institutions worldwide have loving families they could go home is vital. If we don't understand the problem (family separation) going in it's easier to misread or misunderstand red flags during the process.
- There needs to be strict consequences when it's discovered situations like ours have occurred. For instance, there needs to be a halt on that agency's ability to process adoptions within that country until an investigation has been launched to determine what practices or lack of practices allowed such illicit practices to incur.
- I feel like there should be a clause in all intercountry adoption papers that states: biological family/relatives have the right to contest paperwork if new information of fraud, abduction or coercion are discovered at any point in time.
- DNA tests should be required of anyone involved in the process whatsoever. I have seen too many cases of children adopted together and listed as siblings when they are not, family members posing as someone else, etc.

- Education requirements / classes for anyone relinquishing provided in-country either through the US embassy (located in that country) or through the an entity within the sending country. Birth parents and relatives need to fully understand adoption before relinquishing their rights. Agencies should have to provide proof of this.

- Adoption agencies should be required to show detailed reports with receipts of where every dime of the foreign service fee are utilised within the sending country.

- A non-biased entity within the sending country to investigate before a child is even eligible for intercountry adoption.

Andrea Kelley: Ethiopian Adoption Connection

The following contributors are adoptive parents from Ethiopian Adoption Connection. They have all adopted children from Ethiopia to the USA; Andrea is Founder of [Ethiopian Adoption Connection](#) (Beteseb Felega).

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Stop all adoptions in process by those entities involved (agencies and orphanages) pending investigation.
- Investigate the processes of both the sending and receiving countries. Any one entity must not be able to claim plausible deniability.
- Receiving countries should not be allowed to use governmental pressure to get children adopted just because they are already in the pipeline.
- Shut down the adoption agencies.
- Revoke the adoption if it's completed and / or have legitimate mediation between families.
- Revoke visas.
- Close the country.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Fraudulent adoptions must be considered child trafficking.
- Natural families must have other options to adoption. Those must be offered and refused, with knowledge of the consequences, before an adoption can take place. Options to help them keep their child could include (incomplete list): financial and housing support, child care so they can work or go to school, medical care for mother and child, financial support for education, a kinship care system where a relative may take care of the child temporarily with or without support and they are NOT permitted to give the child for adoption, etc. Without options, every adoption falls under the umbrella of coercion. I don't believe most parents will give their children if they have the means and support to keep them.

-
- Identities must not be stripped from adoptees. Files must be computerised and kept. Adoptees must know where and who they came from. They must have access to their history.
 - Natural parents must understand what adoption is. They must know: the adoption laws in the receiving country; the adoption laws in their own country and that those laws are irrelevant once the child leaves the country; they must know laws around contact, open adoption, search initiated by either side, what rights they retain (none), etc.
 - Natural parents must understand it is very likely they will never see or hear from their child again.
 - Have workers in the country who advocate for the natural families and the child. They must be professionals who can translate, explain options, help with legal issues, etc, and they can continue to advocate for the natural families after an adoption is completed.
 - Monetary incentive for adoption must be removed completely.
 - Natural families should get regular updates which include contact information for the adopted child.
 - Open communication between the natural family and the adoptee/ adoptive family.

Tracey Chambers: Ethiopian Adoption Connection

Adoptive Parent and Board Member of Ethiopian Adoption Connection, Beteseb Felega

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Processes need to be in place to prevent blame for fraud being placed on the birth families who are taken advantage of.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Strict licensing.
- Periodic audits by authorities where birth families and adoptive parents are interviewed, and paperwork verified.
- Strict consequences like licenses suspended for violations.
- Ensure that agencies and orphanages don't erase histories because abandonment cases are easier to process than verifying stories.

Kerri Vandiver

Adoptive Parent

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- Close the country.
- Implement a mediation process for families on both sides to work out a plan of contact and visitation.

Cindy Burt

Adoptive Parent

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- The receiving country should be held accountable for every visa they grant for an illicit adoption.
- Sending countries cannot take the word of agencies in these cases.
- Investigate.

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- Receiving countries should be held accountable for every visa they grant.
- Sending countries must take responsibility.
- Adoptive parents must not be able to have their governments intercede on their behalf in an investigation or a stopped adoption.
 - Adoption entities and governments must be liable.
 - Illicit adoptions should fall under the definition of human trafficking.
 - Adoptions should not happen if the sending country is not legally allowing them to happen; no loopholes.
- Individuals and organisations who smuggle children across borders must be prosecuted.

Danielle West

Adoptive Parent

1. What should authorities and bodies do to respond to specific cases of illicit practices?

- If the adoptive parents and the biological parents want the child to returned to their birth families, both countries need to bend over backward to make it happen.
- At the very least, perhaps some level of contact could be forced (photos, reports, etc) until the child was old enough to decide?

2. What should authorities and bodies do to prevent and respond to patterns of illicit practices?

- The only true prevention is to not allow adoption.
- What will slow down the occurrence of illicit adoptions is to take money out of the equation as much as possible. Only actual services should be paid for in the sending country, like paying the fee new paperwork or court fee. NOTHING should ever be given to those caring for the child, not in donation form or otherwise. Care of the children needs to be paid for by the sending country; if the sending country is too impoverished or unorganised to fund that care, they are also too poor and unorganised to oversee an international adoption to meet ethical standards.

Anita Pring: Thailand

Adopted a child from Thailand to Australia in 2014.

We chose to adopt from Thailand because we had travelled there on a few occasions and had wonderful experiences, loved the friendly people, food, culture and beautiful landscapes and felt it was a country we could happily maintain a life-long connection to. It was also the least costly program. We recall being told intercountry adoption is considered the last resort option for care of a child in accordance with the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. We naively went into adoption in good faith that adoption processes in Australia in this modern day were robust.

Australia confidently declare they only facilitate intercountry adoptions if they are Hague compliant and our various state Adoption Acts are adhered to. Our adoption experience highlights failure on multiple fronts. Unfortunately, our incredibly poor reputation with adoption in Australia due to the Stolen Generation and Forced Adoptions is being perpetuated to this day with our continued disregard for human rights, laws and international conventions and a tendency to give too much credence to the processes of sending countries.

The adoption of our child was premature and illicit. After several hiatuses of intercountry adoption allocations from Thailand due to political unrest and government department shutdowns, a large backlog of prospective adoptive parent dossiers needed to be actioned which I believe contributed to the slack, unethical and premature declaration of eligibility of our child for adoption. In our case, Australia is receiving children that have birth family that love and want them but the lack of welfare too easily trumped by the desires of childless couples here. We know via direct communication with our child's Thai family that informed consent was not obtained, not by the parents, nor the kin contacted to investigate other options.

Amended birth certificates are also a stark reminder of the lack of progress in our adoption processes. Reform was recommended in 2012 but has not been implemented. However, I do not believe amendment nor integration is appropriate for a child who possesses an original birth certificate. An adoption order is proof of legal parentage and can be provided alongside an original birth certificate where necessary.

In 2013/14 and still today, there is very significant disparity in the fees charged for different stages of the intercountry adoption process in different states of Australia. If the process is similar, how are overall fees of \$12,003 in South Australia compared with overall fees of \$2,687 in Western Australia justifiable? I do not believe Thailand would profit from ICA as the only fee we paid directly to DSDW was 1000AUD to cover costs associated with our child's immigration medical, Thai passport and adoption visa.

I would recommend a thorough investigation into the integrity of the Thai intercountry adoption program. Intercountry adoption should not be an industry driven by the demands of 'wealthy', white, western couples.

Australia's intercountry adoption processes must be meticulous and uniform across the country. If any child allocated to an Australian adoptive family has a birth certificate, evidence of informed consent from birth parents must be included, documentation proving an exhaustive search for kin should be included. Australia should only be engaging in intercountry adoption with countries who are making a concerted effort to support their own families, single mothers, young mothers, poverty-stricken mothers and mothers and children with special needs. Thailand should not be resorting to intercountry adoption over social policy advancements and family preservation should be the clear priority of all sending countries.

Australia must replace plenary adoption with simple adoption, especially where informed consent of both parents was not obtained.

Amended birth certificates must be abolished.

I would recommend post-adoption supervision and support from the Department of Justice in the form of at least an annual check in with every intercountry adopted child/family. This is an obligation of receiving countries according to the Hague Convention. The many issues that arise for intercountry adopted children and their adoptive and biological families may be identified and referral to relevant support services offered. The avenue for informing the Department of Communities and Justice of questionable or illicit details of an intercountry adoption needs to be clear for families, including what support is available and what action needs to be taken. Information on the department website makes it sound like adoption is only illegal if not facilitated by the Department.

In our experience, questionable and illicit details have revealed themselves here and there in Thailand over the past 7 years. We can no longer accept that Australia nor Thailand have acted in the best interest of our child.

We would have liked the Australian government (State or Federal) to meet face to face with any family when illicit practices are disclosed. All paperwork should be brought to the table, the illicit parts clearly identified. Discuss what can be done to correct the mistakes of particular case or what will be done differently for future cases.

I would hope that from a policy and practice perspective, Australia would no longer accept allocation files without consents or evidence of exhaustive search for kin. What victims also want, is a formal apology and compensation for the trauma caused.

Julia Rollings: India

Adopted 2 children from India to Australia in 1998; Author of [Love our Way](#).

In 1998, our family adopted a young boy (aged 5) and his sister (aged 3) from an orphanage in southern India. We adopted with the approval and assistance of our Australian government intercountry adoption authority, from an orphanage that was approved by the Indian government, and through the relevant local district court in India.

In 2005, there was a huge scandal and several arrests at an orphanage near our children's, involving allegations of trafficking of children for intercountry adoption. This orphanage's director had links to ours through marriage, as well as having staff in common. Around this time, I read in the Indian media that the director of our children's orphanage had been arrested on unrelated charges involving the adoption of children placed there for temporary care, without the knowledge or agreement of the children's mother. Given the seriousness of these claims, we decided we needed to investigate our children's origins further to ensure their adoption had been legitimate.

In 2006, friends in India were able to locate our children's former village. They found neighbours who told how the children had been sold ten years earlier by their father, without their mother's knowledge. When this crime was exposed, the father was driven out of his village by outraged locals and members of the mother's family. Nobody knew the location of the two missing children. Several months after receiving this news, we were able to locate our children's mother and she independently confirmed this story.

Our children were by now young teenagers who only knew their life in Australia. Their firm wish was to remain in our family but to also develop a relationship with their first mother and their younger siblings (born after her remarriage). We travelled to India with our son and daughter the next year, to reunite them with their Indian family. We continued regular contact and visits to India every two to three years through our children's teen years until they reached adulthood.

Through this whole process, we received absolutely no assistance or support from either the Australian or Indian governments. We were left to negotiate a terrifying situation without legal, practical, emotional or financial assistance of any kind. We did not know the legal ramifications of what we had discovered: Were our children's adoptions

going to be challenged? Was their Australian citizenship at risk? What if their mother demanded their return? What were our children's rights?

We were not offered any assistance or advice, and we did not know where to go to obtain the support we so desperately needed. This situation was truly horrific but our family was completely on its own, navigating a totally unfamiliar situation and making tough decisions which held dire consequences.

The governments which had negotiated the international agreement through which we adopted had no interest in assisting us when we became the unwitting victims of their system's failure. Our children's rights had been totally violated - they had been sold, they had lost their family and their nationality, their history and even their birth dates had been altered, bogus documents had been presented to a court - but there was no interest from either government in supporting our children, or us, to deal with the consequences.

It was clear that a crime had been committed, both in the trafficking of our children and subsequently in false paperwork being presented to Indian and Australian courts. The evidence of what we had discovered was sent to the Indian government body tasked with responsibility for overseeing intercountry adoption, the Central Adoption Resource Agency, by registered mail to notify them of our children's case. We also sent evidence to the Central Bureau of Investigation (CBI) in Chennai, India, noting the similarities to cases they were already investigating with the other orphanage and asking them to investigate our children's case to determine if laws had been violated. Our requests were not even acknowledged and we have never received any communication from Indian authorities. Adoptions from India continued to Australia and to other countries.

When we came forward to adopt, it was with the clear intention of providing a loving home for a child who had lost their family. We were happy to adopt older children and children with disabilities. We already had children born to us and could have had more if we so chose. Instead, we wanted to share our good life with a child who already existed and who needed loving care. This motivation was corrupted by those who profited from trading in human beings, in clear violation of domestic and international law.

Our experience showed us that there is interest in formulating national legislation and international agreements that aim to protect the rights of children and adults, but

when those laws are broken and agreements breached, there is no interest in investigating what went wrong, supporting the victims and ensuring these violations do not occur again.

Desiree Smolin: India

Adopted children from India to the USA in 1998.

I am writing this as an adoptive parent, in the context of an illicit adoption that victimised the original family, the adoptees, and the adoptive family. I do not purport to represent the views of the other persons impacted. I am not herein representing the various organisations with which I or any family members have worked on these issues, but rather am speaking personally.

To make a long story short, in 1998, my husband and I adopted sisters, purportedly 10 and 12 years old, from South India. In early 1999, information arose from another adoptee suggesting that the mother had not voluntarily relinquished the girls, as had been repeatedly claimed by the agencies and in their paperwork. Although my husband and I wanted to find the family in order to ascertain the situation, our US placement agency repeatedly and over time refused and failed to assist us.

In 2004, we finally found their mother, brother and other family members in India, through the assistance of Gita Ramaswamy, a social justice activist in India. Gita's investigation verified that the children had been wrongly separated from their mother. The mother, as is common in India, had placed the sisters for temporary care in an orphanage/hostel and had returned to see them. She in no way relinquished them. The orphanages involved tricked her and eventually placed them for adoption with us, motivated by the financial benefits of placing children internationally. Indeed, the orphanage had actively recruited and encouraged the mother to place the children for temporary care, intending to trick her so they could place the children internationally for adoption.

In 2005 and 2006, my husband made two separate trips with each sister to India to re-unite with their mother and family, at our own expense. Though I had long insisted that we make the effort to determine the truth about the situation, and fully supported the reunions, I had to stay at home to care for our other children. The investigation and remedies for what we discovered was left entirely to us, and those — especially Gita Ramaswamy — who assisted us — without help or effective guidance from the agency or any governments. The US adoption agency was only willing to help if we agreed to waive their liability and leave the decision of whether or not to re-unite to their judgment — to the same agency that had earlier refused to investigate the situation. Throughout these

years, the agency and most of the US adoption community discouraged us from taking the suspicions of illicit conduct seriously.

WHAT SHOULD HAVE BEEN DONE?

1. The agency should have been legally obligated, upon being contacted by us with information indicating serious suspicion of a wrongful separation of the children from the family, to inform the governments involved. The agency and the governments involved should have ensured a proper investigation was done expeditiously. They should have been able to locate the mother and determine the truth by 1999, within months of the arrival of our adoptive daughters from India, given that the relinquishments had been relatively recent. If the agency or particular governmental units were too compromised to conduct a proper investigation, then NGOs and/or other governmental units should have been involved.

2. The wrongful removal of the children from their families and from India via an illicit adoption should have been defined by the agency and both countries as a serious crime in need of remedy. The intermediaries who acted intentionally should have been subjected to criminal penalties, and the intermediaries who acted negligently should have been subject at least to civil penalties impacting whether/how they continued to practice in the field of adoption.

3. An appropriate remedy for the harms of the wrongful separation should have been accomplished, in consultation with the adoptees, original family, and adoptive family. The travel involved should have been paid for by the agencies and/or governments involved. Appropriate post-reunion assistance should be provided. Appropriate professional counselling should have been provided, paid for by the agencies and/or governments which processed the adoptions. This counselling should also have been provided to the siblings involved (adoptive and original family), as well as to the adoptees, original parents and adoptive parents. This remedy should have been conducted in a context that acknowledged that the separation from the family and country of birth was wrongful and illegal, and hence that the adoption built upon the wrongful separation was illegal, but also took account of the impact of subsequent events on the various relationships. Trauma-based counselling should have been provided.

4. The adoptees should have retained citizenship rights in both their country of origin and adoptive country, given that both governments participated in negligently

permitting these events. Hence, the adoptees over time should have been permitted options as to where and with whom they made their lives.

WHAT SHOULD BE DONE NOW?

Despite the fact that we have brought this situation to the attention of the US placement agency and both governments, no assistance or remedy has ever been provided. The lack of response has wrongly normalised child stealing as a form of adoption, which has been very destructive to the families and individuals involved whose family relationships are defined by these unresolved crimes. There needs to be a public and social validation of these wrongs as wrongs. This need persists today, decades later, in the lives of those impacted. Hence, it is still necessary that the US placement agency (which still conducts international adoptions) and the governments involved publicly apologise and communicate these apologies directly to the adoptees, members of the original family and adoptive family. This must NOT be treated as though it never happened or as if — even worse — it does not matter that it happened. These kinds of illicit conduct destroy and deeply harm individuals and families, and pretending that they don't matter is a significant part of that harm.

Appendix A

Original submission in French by VDA

Contribution de la Voix des Adoptés par l'intermédiaire de l'ICAV

Groupe de Travail sur les adoptions illicites

Secrétariat permanent de la Convention de La Haye

Association Française, loi 1901, reconnue d'intérêt général, La Voix des adoptés (VDA)³⁴ a été créée en 2005 avec pour objectif d'être un lieu privilégié d'écoute et de partage pour les personnes adoptées quels que soient leurs âges et leurs origines (de France et de l'international). Elle siège au Conseil National de Protection de l'Enfance depuis septembre 2016 et fait partie du Conseil d'administration du Conseil Français des associations pour le droit des enfants depuis avril 2018.

Imprégnée par les besoins des adoptés, notre association agit pour leur bien-être, leur construction personnelle, leur cheminement. Cet engagement de bénévoles adoptés dans les intérêts des adoptés est une approche récente avec une dynamique porteuse et féconde.

La Voix des adoptés défend une pratique d'adoptions éthiques, conformément à la Convention de La Haye du 29 mai 1993 sur la protection des enfants et la coopération en matière d'adoption internationale : l'intérêt supérieur de l'enfant et le principe de double subsidiarité (Cf Art.21 de la CIDE) doivent être garantis, et la lutte contre toute malversation, tout enlèvement d'enfants ou tromperie des familles biologiques doit être une priorité³⁵.

Dans notre expérience et notre pratique associatives, nous sommes confrontés à des histoires d'adoptions non éthiques, avec les effets délétères, traumatiques et post-traumatiques, inhérents à ces histoires où il y a eu des dérives, des irrégularités. Notre association porte une attention particulière sur la manière d'accueillir et de gérer ces histoires spécifiques avec éthique et intégrité, histoires où il y a eu atteinte aux droits

³⁴ Site : <https://lavoixdesadoptes.com>

³⁵ De Monléon JV, Pierron J. *Les droits des enfants adoptés*. Pédiatrie Pratique 2016;283:16-7.

fondamentaux de l'enfant (privation définitive de son identité originelle et du droit à grandir dans sa famille)³⁶.

C'est pourquoi, depuis 2020, un pôle spécifique, appelé pôle advocacy, est mis en place au sein de l'association VDA afin de permettre formaliser des réflexions globales sur des sujets touchant à l'éthique de l'adoption et de la post-adoption. Ce pôle a pour vocation d'être un lieu ressource pour les adoptés (information, orientation, accompagnement) mais aussi un lieu d'observation, dont les données (témoignages, enquêtes, consultations) permettront d'appuyer ses réflexions, recommandations, et plus globalement ses actions de plaidoyer.

C'est dans ce cadre, que la VDA a été saisit pour répondre à deux problématiques posées par le groupe de travail de la Hague sur la question des adoptions illicites. Voici les réponses de la VDA :

1. Que devraient faire les autorités et les organes pour répondre à des cas spécifiques de pratiques illicites?

En premier lieu, nous pensons qu'une **réflexion commune entre pays d'origine et pays d'accueil** doit être engagée sur cette question. Ce n'est qu'au terme d'une double volonté d'avancer sur ce sujet sensible que des solutions peuvent émerger. Une **charte**, qui marque l'engagement des pays dans la gestion ces adoptions illicites, pourrait être ratifiée par les pays signataires.

En second lieu, nous pourrions répondre à cette question par trois mots-clés : reconnaissance, accompagnement, moyen.

■ **Reconnaissance** : Les personnes concernées par des cas de pratiques illicites doivent être reconnues victimes de cette infraction dès lors qu'elle est avérée. Une commission de reconnaissance pourrait être envisagée et pourrait être à l'initiative d'ouverture d'enquête externes indépendantes, prises en charge par les Etats responsables de l'adoption (accueil, et origine) afin d'apporter les réponses nécessaires aux personnes concernées, c'est-à-dire l'adulte adopté et ses familles. Les éléments des

³⁶ Contribution de la Voix des Adoptés aux Etats Généraux de la Bioéthique. 2018. (en ligne) <https://etatsgenerauxdelabioethique.fr/media/default/0001/01/e7acb3a97cffad591828e81ac9b9cc786452266e.pdf>

enquêtes devraient être conservés dans les dossiers numérisés et archivés. La décision récente du gouvernement hollandais à ce propos va dans ce sens³⁷.

■ **Accompagnement** : Afin de les accompagner dans cette réalité à laquelle elles ne s'attendaient pas, des cellules psychologiques pourraient être mises à disposition des personnes adoptées concernées. Ces cellules, mises à disposition par les états d'accueil, seraient également ouvertes à leur familles (adoptives, biologiques).

■ **Moyens** : Pour faciliter la recherche des origines quand un cas de pratique illicite est avéré et que la personne adoptée est bloquée dans ses recherches, les autorités centrales pourraient s'assurer, en faisant jouer leur pouvoir de contrôle, que la personne puisse accéder au maximum d'informations nécessaires à sa recherche (accès au dossier des tribunaux, de l'OAA, avocats...).

Enfin, pour répondre aux cas avérés d'adoption illicites, et après avoir reconnu les personnes concernées comme ayant été victimes de ces réseaux, il conviendrait de leur permettre d'obtenir réparation.

En cela, l'association VDA se positionne pour l'approche d'une **justice restaurative** afin qu'un dialogue constructif soit ouvert et que la victime puisse trouver dans un climat serein, les clés d'une résilience. **Des partenariats avec des associations ou centres spécialisés** dans la justice restaurative ou dans l'aide aux victimes pourrait être envisagés (en Suisse par exemple, la Loi sur l'Aide aux Victimes – LAVI)³⁸. Une coopération entre les autorités centrales afin de cartographier leur ressource serait encouragée.

Néanmoins, afin de permettre l'obtention de réparation, l'association VDA, souligne que deux aspects du droit national et international devraient faire l'objet de modification afin d'être adaptés aux spécificités du processus de l'adoption. A ce propos, la lecture de ce manuel peut être un bon éclairage sur les défaillances du système judiciaire international d'aujourd'hui et qui empêche la poursuite efficace des responsables et donc, par conséquent, la réparation envers les victimes.

En effet, il n'existe pas, dans le droit français par exemple, de **motif adéquat** pour désigner le processus global qui a permis l'existence d'une adoption illicite et qui pourrait

³⁷ <https://www.rijksoverheid.nl/ministeries/ministerie-van-justitie-en-veiligheid/nieuws/2018/12/06/onderzoek-naar-mogelijke-misstanden-oude-adoptiezaken>

³⁸ <http://centrelavi-ge.ch/>

prévoir l'intervention de plusieurs acteurs différents (pression sur les familles biologiques, incitation à l'abandon, tromperie, abus de confiance, faux et usage de faux, recel...). De plus, souvent, la mise en place d'un stratège qui a toutes les apparences d'actes légaux rend encore plus complexe la détection d'adoptions illicites. La création d'une qualification pour « fraude à l'adoption » et qui relèverait du droit pénal semble être appropriée.

Enfin, il conviendrait de revoir la question de la **prescription** afin de permettre aux personnes adoptées concernées, mais aussi à leurs familles, de bénéficier d'un délai raisonnable pour dénoncer les faits à partir du moment où ceux-ci sont connus. La prescription doit tenir compte de la spécificité du déclenchement de la recherche des origines qui peut se faire à tout âge. Le rythme de chaque personne doit être respecté.

La découverte d'une implication active d'une OAA dans un ou des cas d'adoptions illicites avérés devraient donner lieu à **retrait de son agrément, habilitation et accréditation** par les départements, Ministère des affaires étrangères et pays d'origine. Cette possibilité serait rajoutée, en France, dans le Code d'Action Social et des Familles.

2. Que devraient faire les autorités et les organes pour prévenir les schémas de pratiques illicites et y répondre?

Selon la VDA, la mise en place d'un système efficace qui permette la reconnaissance et la réparation des adoptions illicites, devrait exercer un effet dissuasif les pays d'accueil et les pays d'origine. Les réseaux doivent savoir que des moyens pourraient être déployés pour rechercher les personnes impliquées et que des sanctions lourdes pourraient être prises à leur encontre.

En matière de prévention, le rôle des structures d'accueil des nourrissons/ enfants dans les pays d'origine est primordial étant donné que les intermédiaires s'interposent entre la famille biologique et les parents adoptants ou OAA. Dans tous les cas, pour les pays qui n'appliquent pas toutes les recommandations de la Convention de La Haye, les cas des adoptions illicites ou non éthiques révèlent l'absence de consentement de la famille biologique (enlèvement, rapt) ou la dissimulation des informations (recel et usage de faux). Chaque État signataire (d'origine ou d'accueil) s'engage à garantir des conditions favorables de part et d'autres du processus d'adoption. Nous observons que les « réseaux » se sont développés lorsque les procédures d'adoptions présentaient

(présentent) des failles ou bien lorsque les contrôles par les autorités font (ou ont fait) défaut.

Colin CADIER

Président

Céline GIRAULT

Coordinatrice Pôle Advocacy

Appendix B

Original submission in French from Celine Fanon; Co-Founder of [Racines Perdues](#).

Conclusions de Racines Perdues à l'attention du Tribunal International de droit privé de La Haye (HCCH)

Juin 2020

1. Que devraient faire les autorités et les agences pour répondre à des cas spécifiques de pratiques illégales ?

En cas de pratique d'adoption illégale les autorités gouvernementales devraient :

En cas d'adoption en cours

Le Guatemala n'est plus un pays dans lequel l'adoption internationale est possible depuis 2007 suite à une suspension du pays des listes. (Cfr : Convention de La Haye du 29 mai 1993 sur la protection des enfants et la coopération en matière d'adoption internationale).

La situation était devenue telle qu'il fallait chercher des enfants à adopter et non des parents pour des enfants orphelins ou mis volontairement à l'adoption en 2007.

Dans l'hypothèse où les adoptions au Guatemala devraient ré ouvrir nous préconisons les points suivants :

- Suggérons que dès qu'il y a une suspicion ou un cas avéré de pratique illégale, les autorités compétentes soient légalement obligées de geler tous les dossiers en cours, fermer la filière d'adoption du pays et mettre l'agence agréée d'adoption en demeure quant à son droit d'exercer. La lumière doit être faite et le doute n'est pas permmissible.
- Le gouvernement devrait solliciter l'ouverture d'une enquête en justice au nom de l'état belge avec une demande de test ADN à leurs frais. Le gouvernement délivre un agrément aux agences d'adoption, par conséquent , il est de leur responsabilité de s'assurer que l'agrément soit octroyé à des agences d'adoptions fiables.

Le gouvernement doit demander par voie diplomatique et par tous les moyens possible au pays d'origine (ambassade ou consulat) de vérifier tous les documents du dossier et non uniquement la légalisation des actes. Ce point est relevé dans le cadre des adoptions frauduleuses au Guatemala comme étant la porte d'entrée de tous les abus. Aucun contrôle n'était fait quant au fond des dossiers tant que la forme était correcte.

Il nous semble essentiel de pouvoir identifier toutes les personnes candidats adoptants en attente d'enfants du pays concerné pour stopper la procédure.

Identifier au sein cette procédure d'adoption illégale : toutes les personnes qui ont géré le dossier dans les différentes administrations, intermédiaire et agence d'adoption.

En cas d'adoption finalisée et enfant adopté présent dans la famille adoptive

Nous pensons qu'il faudrait permettre de rompre juridiquement la procédure d'adoption. Les actions juridiques relèvent du droit pénal et du droit civil, mais les gouvernements devraient pouvoir mettre en place une procédure spéciale en matière de droit à la famille en incluant les deux matières juridiques citées ci-dessus.

Il faut conférer au législateur la possibilité de créer un cadre légal spécifique à l'adoption.

Celui-ci devrait inclure :

- La levée des prescriptions légales en matière de traite des êtres humains liée au contexte spécifique de l'adoption. Nous sollicitons une levée de prescription complète identique que pour les crimes de guerre et crime contre l'humanité. Par voie de conséquence nous souhaiterions que les peines pour les crimes de traite des êtres humains en matière d'adoption soient définies, lourdes et incompressibles avec une mise à disposition des condamnés auprès de leurs états respectifs.

Cette demande devrait être faite de manière internationale et tant pour les pays d'origine que pour les pays où les personnes adoptées vivent. Les victimes ont connaissance de leur histoire, et par définition de leur statut de victime présumée, après leur majorité et généralement après l'âge de 30 ans.

Les crimes de guerre et crimes contre l'humanité sont régulièrement liés au contexte de l'adoption

- Créer des textes de lois (Arrêté ministériel, décrets, circulaire judiciaire) pour faire de la thématique de l'adoption une sous-matière officielle de la traite des êtres humains. Ce cadre permettrait également la création au sein des services d'enquête des Polices et Gendarmeries d'une cellule d'enquête sur cette matière. Ce qui actuellement n'existe pas. La formation de ces enquêteurs spécialisés resterait à définir ainsi que leurs champs d'actions. La recherche en matière d'archives, les contacts avec les différents états concernés font d'une enquête sur l'adoption, un sujet sensible de par sa nature.

- Nous sollicitons auprès du législateur une loi imposant à chaque état, ayant nommé son administration de contrôle de l'adoption, la création au sein de celle-ci d'une cellule de recherche des origines. Au sein de cette même cellule, nous demandons la création d'une cellule de psychologues pouvant accompagner les personnes adoptées dans leur quête identitaire mais aussi à faire face à cette potentielle vérité concernant le trafic d'enfants.

- Seul un Juge en matière de droit de la famille et de la jeunesse peut statuer sur le retour d'un enfant auprès de sa famille biologique. Il est évident que chaque situation doit être vue au cas par cas en ayant comme seul objectif l'intérêt de l'enfant. Conférer également à ce Juge la possibilité d'imposer à l'état d'encadrer au sein d'une cellule réglementée les contacts avec la famille biologique et la famille adoptive (sollicitée dans le paragraphe précédent). Tant pour les mineurs d'âge que pour les personnes majeures. Créer ce cadre légal pourrait permettre de ramener l'enfant à sa famille biologique soit physiquement, soit virtuellement en fonction de la décision judiciaire statuée et accompagner les familles adoptantes et biologiques.

Nous sollicitons une loi universelle sur laquelle les différentes législations internationales des différents états des personnes adoptées pourraient se servir :

Il semble opportun de fixer un dédommagement pour la famille biologique.

La famille biologique n'a généralement pas les ressources ni financière, ni légale, ni linguistiques pour prendre part aux débats, bien qu'elle soit considérée comme victime par voie de fait. Et ce afin que les parents biologiques puissent se faire représenter par des avocats.

- Nous sollicitons le législateur la possibilité de créer et octroyer un statut spécifique mais qui permettraient de garantir le maintien des droits conférés par l'adoption et la nationalité s'il n'est pas possible pour la personne adoptée de retrouver sa famille biologique suite à la falsification de ses données personnelles.

- Nous demandons que les personnes adoptées adultes qui apprennent l'origine et le contexte de leur adoption et qui souhaitent reprendre leur identité d'origine puissent faire cette demande auprès des états sans frais. (Changement de nom, modification des registres civils, modifications des actes etc). Cela engendrerait une perte des droits conférés par l'adoption plénière telle que la succession mais également une décharge complète des obligations qui y sont inhérentes.

2. Que devraient faire les autorités et les organisations pour prévenir les schémas de pratiques illégales et y répondre ?

Nous sommes en réflexion quant à l'adoption internationale. Les multiples scandales autour des adoptions tous pays confondus qui éclatent à travers le monde nous montre que les lois ne suffisent pas pour prévenir ces crimes.

Le déracinement, le changement culturel, linguistique et raciale est source de questionnement de la part des adoptés. Il serait intéressant de privilégier les adoptions au sein du pays même, voir le même continent. Et in fine avoir recours à l'adoption internationale. Sensibiliser et orienter tous les candidats adoptants à des actions de soutien et la préservation de l'enfance dans les pays d'origines est important. Un point qui nous semble essentiel est de légiférer la vérification de la filiation entre l'enfant adopté et sa mère biologique en utilisant l'ADN. L'analyse génétique doit être prise en charge par le pays des parents candidat à l'adoption afin d'éviter toute forme de tentative de fraude ou de fraude avérée. Cela s'est déjà passé au Guatemala : le sang de la mère biologique (morte ou vivante) était prélevé et la tierce personne qui donnait l'enfant en adoption donnait une fiole de sang comme si ce dernier était le sien. La corruption de certains pays ne peut pas garantir la certitude du bon déroulement de l'adoption.

- Nous sollicitons la création d'une loi internationale empêcher toutes les associations humanitaires de pratiquer l'adoption ou même d'apporter quelque aide pour faciliter les adoptions
- Nous demandons de légiférer une interdiction quant à la possibilité de s'adresser à une agence d'adoption autre que pays que le pays de la nationalité des

adoptants pour des raisons plus favorables telles que des souplesses législatives ou procédurales, des raisons économiques attractives quant aux frais de dossier. De telle situation doivent être condamnable en ce sens tant pour les personnes qui ont recours à ces méthodes que pour les personnes qui les proposent.

De manière générale nous rappelons l'importance de la prise en charge globale des parents adoptants ne pouvant pas avoir d'enfant. La souffrance de ne pas pouvoir avoir d'enfant doit être entendue, soutenue, guidée et résiliée.

- Nous sollicitons une loi afin que l'adoption plénière puisse être révoquée de manière effective et immédiate à partir de la majorité de l'enfant adopté et uniquement à sa demande si l'adoption s'avère être illégale.
- Nous demandons une meilleure formation des autorités gestionnaires du contrôle des adoptions, une prévention auprès des parents adoptants sur les signes qui doivent alerter quant à une possibilité de fraude. Par exemple, un changement de sexe de l'enfant en dernière minute, un changement de prénom ou de date de naissance en cours de procédure, une chronologie à vérifier entre les documents d'adoption et les demandes réellement faites pour reconnaître les documents anti datés etc. Il pourrait être utile de nommer dans le processus d'adoption un observateur externe, n'ayant aucun lien avec le pays concerné et n'ayant aucun lien politique avec l'état pour ajouter un degré de certification neutre.

Nous rappelons que ces conclusions interviennent dans des situations où des personnes adoptées sont issues de trafics d'enfants, d'adoptions illégales et irrégulières.

RACINES PERDUES – GUATEMALA

Appendix C

Original submission in French from Esteban Orlando Fleurant; born in Dominican Republic, raised in Canada; Co-Director of [RAIS - Ressource Adoption](#)

Nous croyons qu'une plus grande attention doit être portée aux orphelinats ainsi qu'aux agences d'adoption. Un réel encadrement et contrôle est essentiel pour le bien-être des enfants. Une meilleure supervision permettra de prévenir et d'éviter davantage les dérives. Les enfants abandonnés ont autant de valeur que tout autre enfant et méritent que leur sécurité soit assurée.

- Vérification systématique des antécédents judiciaires du personnel travaillant dans les orphelinats et agences d'adoption
 - Peines sévères à toutes personnes reconnues coupables d'avoir participé à une adoption illégale
 - Favoriser l'adoption interne
 - Interdire les adoptions privées (comme celles qui ont encore lieu aux États-Unis par exemple)
 - Porter attention aux « machines d'adoptions » américaines
 - Uniformiser les dossiers d'adoption
 - Augmenter les inspections
 - Procéder à des visites post-adoption sur une période à déterminer (minimum 3 mois). Ceci, afin de s'assurer que l'enfant est toujours avec les parents qui l'ont adopté (et non vendu ou autre).

Appendix D

*Original submission in German by Melanie Kleintz; born in Peru, raised in Germany;
Founder of Adoptierte aus aller Welt.*

1. Was sollten Behörden und Stellen tun, um auf bestimmte Fälle illegaler Praktiken zu reagieren?

2. Was sollten Behörden und Stellen tun, um Muster illegaler Praktiken zu verhindern und darauf zu reagieren?

Sehr geehrte Damen und Herren,

Meine Name ist Melanie Kleintz. Geboren wurde ich 1979 in Peru. Adoptiert wurde ich 1980. Ich berate und coache erwachsene Adoptierte und Adoptiveltern in Deutschland seit 2010. Seit 2017 arbeite ich für ICAV. Ich habe folgende Vorschläge:

Meiner Meinung nach sollten Bedingungen geschaffen werden, die von Anfang an illegale Praktiken verhindern und durch diese Präventionsmaßnahmen die illegalen Wege gar nicht mehr beschritten werden können.

Ich sehe Präventionsarbeit als den wichtigsten Teil an, damit Kinder gar nicht erst in den „Adoptionsprozess“ mit involviert werden.

Mein Grundsatz gilt weltweit für alle Paare oder Elternteile, die adoptieren möchten. Es sollen geeignete Eltern für ein Kind gesucht werden und kein Kind für ein Paar oder ein Elternteil, damit diese sich „Familie“ nennen können.

Sobald die Adoption illegal verläuft und das wird irgendwann immer rauskommen, ist die Adoption nicht gelungen. Dann kippt die „Wunschfamilie“ in den Abgrund und es ist durch „Nichts wieder gut zu machen. Die „Adoptivkinder“ sollen gesund und kraftvoll wachsen und gute „Bürger“ für das Adoptionsland werden. Mit illegalen und falschen Voraussetzungen ist dies nicht von Beginn an nicht möglich. Daher ist es mein persönlicher Wunsch, dass die nächsten Generationen von Adoptivkinder von Beginn an gestärkt und gesund in einer liebevollen Familie aufwachsen dürfen, in der sie alle

Informationen ihrer Herkunft und die absolute Hingabe, Liebe und Unterstützung der Adoptiveltern erhalten. Dann kann ich darauf hoffen, dass es mehr selbstbewusste und gestärkte erwachsene Adoptierte gibt. Denn so, wie ich es hier erlebe, kann es nicht weiter gehen.

Adoptiveltern fordern Kindern („Ihr Glück“) für sich ein und die erwachsenen Adoptierten sind ein Leben unglücklich.

Meine Forderung sind:

Eine einheitliche Eignungsprüfung sollte für Adoptiveltern weltweit gelten.

Sollte dagegen verstoßen werden oder diese nicht zu 100% eingehalten werden, sollten Adoptiv- und Pflegeeltern von Adoption oder Pflegschaft eines Kindes ausgeschlossen werden.

1. Adoptionsorganisationen sollten keine Gebühren für die Vermittlung von Adoptivkindern erhalten. Weder staatlich noch von den angehenden Adoptiveltern.

2. Adoptionsvermittler sollten nur einen angemessenen Stundenlohn für die Büroarbeit (maximal 10 Stunden pro ADOPTION) erhalten:

Bei Zuwiderhandlung ist von „**Menschenhandel**“ auszugehen und die Adoptionsagentur muss geschlossen werden.

3. Es sollten wie bei Inlandsadoptionen (hier in Deutschland) nur die Notargebühren anfallen, die dann von den Adoptiveltern direkt an den Notar zu zahlen sind). Der Notar sollte nicht immer der Gleiche sein und auch nicht von der Adoptionsagenturen empfohlen werden.

Bei Zuwiderhandlungen und unklaren Verhältnissen oder Verstoß, sollte die Adoption schon im Herkunftsland des Kindes nicht anerkannt werden und die Eltern sowie der Notar von weiteren Adoptionen ausgeschlossen werden.

4. Es müssen von beiden leiblichen Elternteilen (auch wenn nicht verheiratet) die Abgabeerklärungen mit verpflichtender Beratung (von mindestens 5 Beratungseinheiten) bei der Adoption vorliegen. Beide leiblichen Elternteile müssen bei der Notariellen

Beurkundung sowie der „Verhandlung beim Familiengericht“ der Adoption anwesend sein.

Werden diese Bestimmungen und Vorgaben nicht erfüllt oder ist ein Elternteil dagegen, kann die Adoption nicht anerkannt werden.

5. Altersbeschränkungen der Adoptiveltern sollten für alle Länder gelten!

Die Inlandsadoptionen sind streng an eine Altersbeschränkung gehalten.

Begründung:

Dadurch, dass im Ausland die Altersbeschränkung nicht gilt, stellt sich erst den „älteren Adoptiveltern“ der Gedanke und die Möglichkeit Ihr „Wunschkind“ aus dem Ausland zu holen.

6. Eine 3 jährige Psychotherapie für alle werdenden Adoptiveltern!

In der Psychotherapie sollten Trauerarbeit, Genogrammarbeit bei der Elternteile getrennt voneinander therapiert werden. Aus dieser Psychotherapie sollte hervorgehen, dass sie sich als Eltern für ein Kind anbieten und nicht ein Kind für Ihre Partnerschaft und Beziehung brauchen. Die Therapie sollte von unabhängigen Psychotherapeuten im Wohnort der Adoptiveltern durchgeführt werden.

Begründung:

Der sehnliche und meist mögliche schnelle und dringende Wunsch nach einem Kind führt leicht in die illegalen Wege!

Meistens ist nur ein Elternteil der dringend adoptieren möchte und überzeugt den anderer Partner von der Adoption. Dies muss durch eine getrennt Therapie ausgeschlossen werden.

Die meisten erwachsenen Adoptierten müssen feststellen, dass sie als Ersatz für verstorbene „eigene“ Kinder waren.

Diese Ideen sind von *Tim Hanstein (Vorsitzender der koreanisch Adoptierten in Deutschland)*.

7. Eigentlich sollte in jedem der großen Adoptionsländer eine externe Kommission eingesetzt werden, die als erstes prüft, ob die stattgefundenen Adoptionen überhaupt legitim waren.

Herkunftseltern müssen das recht auf Information über das Kind bis zum 21. Lebensjahr haben. Entwicklungsberichte.....

Diese Vorraussetzungen für Adoptionen sollten weltweit für alle Adoptiveltern gelten!

Appendix E

Human Rights Working Group of the Ministry of Justice Taiwan

The Proposal for the 18th Meeting

Proposer: Lai, Yueh-Mi
(Committee member)

Discussion

"To assist the adoptees who were trafficked could be able to return to Taiwan for family reunion, so as to stand up for their rights of searching biological relatives and protect the victims of crime."

I. How do the victims of human trafficking find their way home?

■ We sometimes see news about those adoptees overseas returned to Taiwan for searching their birth families. During their growth, they were told about their background by their adoptive parents. Adoptees knew that they were coming from Taiwan. By the eager of self-identity, many of them decided to take the journey back. But there were only a few of them to achieve their dreams of reunion with the birth families by the help from police and media. The fact is, there are more of them did not reach the dreams due to the huge amount of the difficulties, and there is no responsible sections in Taiwan which are able to provide them enough assistances and services.

■ In 2013, for completing the service of adoption issues, the government defined in The Children and Youth Welfare and Rights Act: *The central authorised agency shall keep the relevant information on the identity and health of adoption givers, adopters and adopted children and youth.* Since then, there is the official center which keeps the adoption information. After adoptees grow up, if they want to reconnect with their biological parents, know the reasons and progress of their adoption, heredity, medical records, and backgrounds of birth parents, the adoption center could help adoptees and birth families to check the information or search biological relatives.

In 2019, the law defines the helping of seeking biological relatives as the Article 21-1: *"Authority shall provide adopted children and youth, adoption givers, adopters and interested*

parties in finding service and may ask the household registration, police, or other related agencies for assistance if necessary. Agencies and organizations that are asked to provide any assistance shall cooperate. Authority shall offer consultation transfer service for psychology, medical care and law, etc. as per the request from adopted children and youth, adoption givers, adopters or interested parties."

■ Nowadays, the Child and Juvenile Adoption Information Center is functional for adoptees who have their information being kept by the center. They would have the bigger chance to find their birth families through the help from those adoption agencies and workers from the center. Especially now in Taiwan emphasis the "public adoption," so after adoptees be overseas, the local adoption agencies will send reports of the adoptees' adjustments and living situations regularly back to the Taiwanese adoption agencies.

■ Now I (the proposer) am doing researches here in Sweden. I've met adoptees who were trafficked to north Europe about 40-50 years ago. Some of them have started to find their identities in their teenage age. Some of them have the intentions to go back to Taiwan when they are in their middle-age. Some of them try to seek biological parents by connecting legislators to have the press conference with local media. Some have found their birth parents. Some have been traveling back to Taiwan several times, but they haven't reached with birth families yet. They still have hopes and always feel excited when going to Taiwan. For trafficked adoptees, there are huge difficulties for them to reconnect with their birth families. The lack and mistakes of their original documents and information, and language barriers and cultural difference those all need with the professional intervention. I accompany them talking about the path about their intentions and searching the birth families. Talked about how to start the journey and how they knew that they could be trafficked. Some of them track the trafficker related to their cases, but once the trafficker say that the files was burned, or the trafficker already died. It makes those trafficked adoptees has no way to find out the truth of their background. The true story and lost childhood of themselves are like puzzles which will never be done and completed. Some of the adoptees have no choices but forgive. But even the traffickers were suit and put in jail for several years, those still a small piece compare with trafficked adoptees' whole life. How do the social justice and judicial justice manifest in them? And how could we make the social justice and judicial justice become true on them?

II. Taking example by South Korea- the sorrow and voices of the international adoptees from South Korea advocated and pushed the Korean government reformed the adoption system.

■ From 1860, due to the famine and the Korean War, there had been more than 200,000 children were adopted to America, Europe, and Australia. In 1988, when South Korea hosted the Olympic Games in Seoul, South Korea garbed the attention from the world. Meanwhile, the international media also observed South Korea's cross-border adoption issues, and even criticised South Korea as the "sending country of the world". Then in 1991, there were a firm called "Susanne Brink Arirang." In the firm described the story of Susanne Brink. She was adopted to Sweden, and she was suffered abuse and racism in her adoptive family and country. This made the Korean people get more attention and feel shamed about the "sending our Korean kids overseas" issues(Wikipedia, 2013). After, there were more and more Korean kids who were sent to overseas in early years went back to Korea. They came back to their original country to search their roots, biological relatives, and their identities, but they were just like normal tourist without the Korean nationality. Since there were more and more of them went back to Korea, the Korean government had to face the history of sending kids away from home. The Korean public also take this history as the guilt. In 1998, considering the Korean government was not able to take care of those kids which caused them were sent away, the Korean President apologized officially to those Korean adoptees. After the several actions and protests from the adoptees also forced the Korean Government recognize those Korean adoptees have the right and help them to return and get their nationality.

■ In 2012, the Korean government set up the Korea Adoption Services (KAS) to meet the requirements of the Hague Adoption Convention. The KAS strengthens post-adoption services, establishes a comprehensive support system, and reaches biological relatives of adoptees. Therefore, provide short-term or long-term residence for the adoptee during their stay in Korea to find biological relatives, and provide various information, such as Korean language education, Korean cultural experience, Korean culture and employment consulting services, work information, etc. In 2012, the "Special Adoption Law" was revised and implemented. In 2013 Korea signed the Hague Adoption Convention.

■ The debates of international adoption: There have been a lot of discuss and criticise about the international adoption issues from the positive and negative prospective. With the positive prospective thinking, for those poor or countries in wars, the international adoption give the children chances to have stable homes. Those children in poor have the right to be taking care properly (Bartholet, 2011). The people who against, they state that international adoptions are included with too many criminal issues under the table, even commercialised those children (Graff, 2011). Riben(2007) even uses the word “The Stork Market” to describe the market of international adoption in the United States. Therefore, international adoptions have become as a kind of trading in between. No matter what, those international adoptees have been though different cultures and races during their growth. Many of them already have the stress come from the straggle of self-identity and social discrimination. For those trafficked adoptees, they even have the pain from difficulties of searching their roots.

■ The criticism of South Korean cross-border adoption pointed partly fact that South Korea is dominated by patriarchy. Korean traditional lineage family philosophy made domestic adoption was not common, and the vigorous development of cross-border adoption was also regarded as one of the domestic economic sources. Then could send out children and orphans who were not accepted by the society abroad. At that time, especially for these children whose fathers were foreigners, they were eager to send them out, which did solve the economic problems at that time and reduced the expenditure on social welfare. Subsequent debates on Korean cross-border adoption also consisted of raising children abroad to earn considerable expenses for the organization and the Korean government, but it also caused problems for the identity of the adoptees. This part was quite controversial by Korean adoptees and even prompted some of them returned to South Korea to call for an end to cross-border adoptions, which also prompted the revision and implementation of the Special Adoption Law in 2012 to improve the adoption welfare system, increase domestic adoption willingness, and eliminate the stigma of baby exporters (Choe, 2013).

III. Searching for roots and biological relatives are the basic human right for adoptees.

■ The Hague Adoption Convention 1993, and Convention on the Rights of the Child (CRC) 1989 are both the Conventions to protect Children’s right being cared in

family in their original countries. If the family is lacking with caring, then it will be the foster care system for replacement. Instead of, if the birth family is not able to improve their parenting, then it will be the adoption plan for children after the government take the custody. Even the adoption plans will consider the domestic adoption firstly, in case to reduce the harm from placing children in totally different cultures and races. The international adoption should be considerate at the last, if there is no more chance for adoption in the original country. Meanwhile, the international adoption should be done under the proper procedure with the legal agencies. When Child and Juvenile Welfare and Rights Protection Law 2011 was amended in Taiwan, it also complied with the above-mentioned rights to maintain the growth of birth families and the principle of domestic adoption priority.

■ The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993 and the Convention on the Rights of the Child (CRC) both protect the rights and interests of survival status, search roots, and find the relative safety of adoptees. In the Article 7 of the Convention on the Rights of the Child 1989 defines: *“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”* In the Article 8 of The Convention on the Rights of the Child 1989 defines: *“States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.”*

■ Although the adoptees from Korean say, even adoptees are growing up in loving families, they still have the identities, physiological and other issues. It's not those adoptees are not gratitude with their adoptive families, but the stress and issues of adoptees who are growing under other different cultures and society are only those insiders would know. The need of adoptees who want to search for their roots is the need to complete a person. It is the basic human right.

■ The Article 1 of Crime Victim Protection Act says: *“This Act is enacted for the purposes of protecting the family members of deceased victims, seriously injured victims of criminal acts and victims of sexual assault crimes, safeguarding the rights and interests of the people as a whole, and enhancing the security of society.”* For those trafficked adoptees, they are the actual victims of the human traffickers’ crime. But in the reality now, how to compensate for their lost after the crime is still not included as subjects in the above content of Crime Victim Protection Act.

IV. The needs of adoptees who were trafficked.

■ Taiwan has been passively assisting the adoptees who want to search for their biological relatives. There have been news reported that adoptees have gone across the ocean for the searching roots in Taiwan. Some of them tried to reach their biological parents by connecting legislators to have the press conference with local media. They had all experienced hardships. Even with the help of the adoption information center mentioned above. It is still mainly for the adoptees adopted by legal adoption agencies, and the adoption information center would have their information to query. With those who do not have their records, the center can only provide website assistance. The current use of the website is sporadic. From the perspective of the victim, the adopted child who was trafficked overseas is under-protected obviously.

■ After Taiwan announced Implement of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights 2009, and Implement of the Convention on the Rights of the Child 2014, it is meaningful for protecting the trafficked adoptees’ human right. Just like as South Korea grabbed the attention in the world by holding the Olympic, Taiwan also has attracted international attention and recognized by the world by the contribution of against the COVID-19. For those adoptees, this is also something to be proud of being a Taiwanese. Recent years, Taiwan has been transforming at the economic development, democratic progress, social justice and judicial justice issues. For those trafficked adoptees in early years, Taiwan government should defend their human right and help them to search their biological families, and their roots.

■ Those trafficked adoptees I have met by the research, some of them were emotional when they talked about their childhood. Some of them have never been hugged by their adoptive parents, because they did not receive nice care from adoptive

families. Some of them have been seeking for their background for more than 30 years. Although they could not really speak Mandarin Chinese, but their performances and postures just are alike the local Taiwanese totally! After they are grown up, they are able to get on their way home. Do things they couldn't imagine when they were young and refill their imaginations about birth families. But since they were trafficked to international adoption as infants, their way of retuning and searching for birth families need lots assistances. For the victims of human trafficked crime, the government should take the responsibility and initiative to actively compensate for their losses, so it comprehensively safeguards the rights of adoptees.

The difficult situations and needs would be included: 1. The help for the languages barriers and cultural differences; 2. The long-distance return requires assistance in residential arrangement; 3. For the issues of being trafficked as in the infant age, and searching for birth families, the adoptees' emotions need to be assisted; 4. The status inquiry process requires professional assistance from relevant departments of government, such as diplomacy, justice, household, police and so on; 5. If necessary, assistance from the media is required.

Suggestions:

1. In order to assist the trafficked adoptees to return Taiwan and to find their biological relatives, it is recommended to give the trafficked adoptees rights from the Crime Victims Protection Act.

2. The feasibility of establishing an inter-ministerial family-searching system which should be discussed at the level of the Executive Yuan.

The above literatures are mainly abstracted from the research:

Lai, Yueh-Mi (2018). *The Study of Causes and Strategies of International Adoption*. Research commissioned by the Ministry of Health and Welfare Taiwan.

Lai, Yueh-Mi(2020). *Faraway Home : International Adoption Research of Taiwanese Adoptees in Sweden*, sponsored by the Ministry of Science and Technology Taiwan.

Human Rights Working Group of the Ministry of Justice Taiwan

The 18th Meeting Minutes

Date: 25th May 2020

Time: pm 2:00

Venue: 2F conference room, the Ministry of Justice

Chairperson: Chen, Ming-Tang (The Deputy Minister)

Minutes taker: Tsai, Meng-Hua (Department of Legal System)

Attendees: Details as the check-in form

1. Chairperson's remark: Skip
2. Approval of previous the 17th meeting minutes.
3. Staffs' working report (Reporting unit: Legal Department)
4. Discussion/ topics

"To assist the adoptees who were trafficked could be able to return to Taiwan for family reunion, so as to stand up for their right of searching biological relatives and protect the victims of crime", please discuss. (Proposer: Committee member Lai, Yueh-Mi)

Committee member Lai, Yueh-Mi 賴委員月蜜

I am doing the visiting research in Sweden now relying on the support of the Ministry of Science and Technology Taiwan. In order to understand the situation of children who were adopted through institutions in recent years and to learn the positive parenting experience of adoptive families. I hope I could bring some inspirations to adoptive families in Taiwan. During the research period, I met some adoptees who were trafficked to Sweden in early years. They did not know how to find their way home.

In 2003, The Protection of Children and Youth Welfare and Rights Act established the Adoption Information Center. In 2019, the The Protection of Children and Youth Welfare and Rights Act was amended with Article 21-1 to assist family searching services. But the the Child and Juvenile Adoption Information Center only keep adoption documents from recent years, which makes it more difficult and no possible for adoptees from early years to find biological relatives through inter-departmental helps.

In order to assist the trafficked adoptees returning to Taiwan and finding their biological relatives, it is recommended to give the trafficked adoptees due to rights from the Crime Victims Protection Act, and the feasibility of establishing an inter-ministerial searching roots system which should be discussed and organised at the level of the Executive Yuan.

Committee member: Chen, Li-Ju 陳委員麗如

The Child Welfare League Foundation (CWLF) hosts the Child and Juvenile Adoption Information Center of the Ministry of Health and Welfare, which also provides searching family and reunion services. However, finding biological relatives of the victims of transnational infants trafficking from early years is involved with a wide range of issues, which are beyond the capabilities of the center. Therefore, it is recommended that this bill should refer to higher-level discussions and invest in inter-ministerial resources.

The Vice Minister: Chang, Tou-Hui 張常務次長斗輝

This is an inter-ministerial meeting topic, and it also involves the collaboration between the public and private sectors. It requires horizontal contact and integration of resources to facilitate the adoptees returning to Taiwan and finding biological relatives.

And some of the adoptees were sent to overseas by human trafficking crime. When the adoptees grow up, our country should assist them to return to the country to find their roots. This is very meaningful.

The Vice Director of Department of Prevention, Rehabilitation and Protection
Lin, Che-Hui 保護司副司長林嘉慧

Commissioner Lai proposed to amend the Criminal Victims Protection Act to protect the rights of the trafficked adoptees, which will cause several issues. For example, the adoptees are already adults when they know the fact they were trafficked. It would be more difficult for them to collect the facts and evidence of the crimes of the infant traffickers from the long-term past in order to prove the adoptees themselves are the victims of the crime. And it is not that international adoptee are all trafficked by crime, so we could not just list all the adoptees as the applicable objects of the Criminal Victims Protection Act. Furthermore, if the adoptees are listed as applicable objects in the Criminal Victims Protection Act, it will limit the rights of adoptees' needs in biological relatives searching and related protection. The reason is that the consortium's Crime Victims Protection Association only provides services for crime victims in the country (Taiwan). If the adoptees want to find their biological relatives across countries, it will involve diplomacy, police, household registration, and other government resources. Therefore, it is recommended the Ministry of Health and Welfare which is responsible for the children's right to take the integrated management.

In addition, the research and studies project team of Crime Victim Protection Act is scheduled to undergo a comprehensive amendment by the end of this year. If the team considers that the rights of trafficked adoptees returning to their home country and

reunion with biological relatives should be included, the Ministry of Justice is also optimistic about the law revision.

Resolution:

1. The Ministry of Justice fully recognises that searching roots and finding biological relatives are the basic human rights of the adoptees. If we say from the standpoint of "serving" the adoptees, they are not necessarily limited to the status of "criminal victims", which could better meet the needs of the adoptees. The issue also involves how the police and household administration system provide assistance, so please refer this proposal to the Ministry of the Interior and the Protection Department of the Ministry of Justice for reference.

2. In addition, the Social and Family Affairs Administration of the Ministry of Health and Welfare has commissioned to study the causes and strategies of international adoption, and it related to child welfare and rights protection. Therefore, the Ministry of Health and Welfare is recommended to evaluate the feasibility of setting up an inter-ministerial working group and provide relevant information to the relevant agencies (such as the Ministry of Foreign Affairs, the Ministry of Interior, Dept. Household Registration and National Police Agency, etc.) in order to facilitate subsequent discussions.

3. Regarding the establishment of contacts and notification mechanisms for inter-ministerial meetings, the Department of Protection of the Ministry of Justice should invite the relevant departments, non-governmental organisations, and committee member of this proposal to fully discuss the issue, and send it to the Ministry of Foreign Affairs, the Ministry of the Interior, and the Ministry of Health and Welfare for reference.

The website of 18th Meeting Minutes, Human Rights Working Group of the Ministry of Justice Taiwan: <http://www.humanrights.moj.gov.tw/cp-503-31647-8bcad-200.html>