



Committee investigating
intercountry adoption

Summary

Consideration, Analysis, Conclusions, Recommendations and Summary

Committee investigating intercountry adoption

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The Committee investigating intercountry adoption was established by Minister Dekker (Legal Protection) when information arose pointing to possible abuse concerning the adoption of babies in the 1970s and 1980s in which Dutch government officials might have been involved.

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Consideration

“Even if you only save one” (“*Al red je er maar één*”): these words, spoken by Dutch writer Jan de Hartog in a television interview in 1967, marked the start of large-scale intercountry adoption in the Netherlands. Many people were concerned about the fate of children in developing countries that were ravaged by wars and natural disasters, and some felt they had a moral duty to adopt a child from another country. Public opinion about foreign adoptions was positive. More than 40,000 children from around 80 different countries would ultimately come to the Netherlands.

But there was a downside. Already at the end of the 1960s reports of adoption abuses began to appear in the media: reports of forged documents, intermediaries taking advantage of birth mothers’ poverty, and parents being paid or even forced to give up their children. Still, despite their harrowing nature, these reports failed to introduce a note of critical reflection into the public and political debate, let alone lead to a rethinking of the system of intercountry adoption.

The present attention for past abuses is primarily due to grown-up adoptees, who have begun to speak out. More and more of them have been starting to search for their roots, sometimes because they now have children of their own, and sometimes due to the realisation that their birth parents are getting older and time is not on their side. When they search for information about their adoption, adoptees sometimes find that the available information is inaccurate, or even that the adoption was conducted illegally. They cannot find answers to their existential questions about their origins and identity. Some blame the Dutch government. One adoptee’s experience revealed to the Ministry of Justice and Security that Dutch government officials may have been involved in abuses, prompting the Minister for Legal Protection to establish an independent committee on 18 April 2019. This document contains the committee’s report on its investigation into the system of intercountry adoption.

The overarching impression based on this investigation is that, throughout the entire period of intercountry adoption and in all countries, there were serious structural abuses and that the government and intermediaries were aware of those abuses as early as the 1960s. In the light of the committee’s assignment, the passiveness of the Dutch government and the Dutch political establishment’s focus on the interests of adoptive parents are notable. The government neglected to intervene even though it had good reason to do so.

Perception in society

The committee has established that Dutch public opinion was crucial to initiating, perpetuating and legitimising intercountry adoption. The prevailing view was that both the child in an emergency situation and the prospective adoptive parents would benefit from adoption; it was seen as ‘doing good’. This perception was so deep-rooted that abuses such as lying about children’s ages were simply accepted, or even seen as normal. It also depicted everyone who helped with adoptions as good people and even caused politicians to support increased and accelerated intercountry adoption. The investigation has exposed engrained patterns of passiveness and of minimising the facts. The view that any adoption, even an unauthorised one, was better than no adoption at all was unshakeable.

The best interests of the child

The committee finds it striking that the argument that certain actions were ‘in the best interests of the child’ was used – often emphatically – in all discussions about intercountry adoption. This argument was then put into practice by meeting basic needs such as health, education and opportunities for economic development. However, the basic right to autonomy played no role in determining what were the best interests of the child.

Young children are not considered capable of thinking and acting autonomously, so they cannot give autonomous consent to their own adoption. However, this does not make it legitimate to view children as commodities. Quite the contrary: the greatest possible care must be taken *because* children do not yet have that autonomy. Precisely because young children are not yet autonomous and cannot under any circumstances be considered to have consented to decisions made for them, it is essential that the people who make those decisions are kept under close scrutiny.

The committee has established that, in practice, this was not done with sufficient care. In many cases, decisions about putting children up for adoption were not taken in a responsible way, but rather under compulsion or based on inadequate information, thereby neglecting the interest of the child. A great many adoptees struggle with the fact that they do not know their own origins and identity. This can hinder their further development as autonomous individuals.

The consequences for the people involved

The investigation has shown that – fortunately – most adoptees are doing well: they say that adoption offered them many opportunities. On the other hand, adoption also caused them to lose a great deal: the chance to grow up in their own family and culture, and in many cases the chance to understand their origins. Several adoptees who spoke to the committee described their life as being split: it is a daily task for them to connect the reality in their country of birth with the reality here, and sometimes that task is an impossible one because they lack information about their origins. For the committee, the fact that adoptees are doing well despite their circumstances is a sign of their resilience. Unfortunately, there are also adoptees for whom things are not going well. The investigation conducted by the committee has shown that adoptees have an above-average instance of psychological issues and other problems, and that they sometimes need to seek professional help.

The committee acknowledges that some adoptive parents adopted a child with good intentions, in good faith and in accordance with the rules. Other parents were driven primarily by their own desire to have children and did everything they could to fulfil that desire, including pushing – and sometimes crossing – the boundaries. Some adoptive parents feel guilty because the adoption now turns out to have been associated with abuses, or because their adoptive child’s transition to a new culture caused serious problems. They also feel like victims.

The group who were the most difficult for the committee to investigate were the birth mothers and families. In many cases they are also victims, and they have had to deal with the loss of their child. They were sometimes put under pressure to give up their child, the common Western concept of ‘adoption’ was unknown to them, and in the most serious cases their child was stolen from them.

Still a current issue

The abuses and their consequences are not a thing of the past; they are still relevant today. It is true that the number of adoptions has fallen significantly and that a lot of energy has been put into preventing abuses, but that has not removed the system's financial incentives, and there is still a demand for children. This gives rise to a 'water bed effect': the channels for adoption shift to countries – at the moment, primarily African countries – which do not have controls in place.

The committee urgently recommends that the lessons learned from the investigation into adoption abuses be applied to new family formation methods, such as surrogacy. Here, too, issues surrounding autonomy and knowledge of one's origins are just as significant a feature.

The committee is calling on the minister and the political establishment, in their decision-making process, to prioritise the interests of children in other countries who need protection, precisely because those children cannot consent to the decisions that are made for them.

Finally

The spirit of the times and the prevailing view of 'doing good' explain why it was possible for adoption abuses to arise and be perpetuated. However, they in no way legitimise the actions of the government and intermediaries. Recognition by the government and the intermediaries that they fell short when it came to tackling adoption abuses is both desirable and necessary for almost everyone concerned. This will create an opportunity to start a new discussion, about how best to help those affected by adoption abuses. The committee is calling for follow-up care to be offered to these people, and for adoptees to be helped in their search for their birth families by facilitating access to adoption files both within and outside the Netherlands.

Whereas adoptive parents were able to rely on a supportive, helpful government, adoptees experience closed doors and reluctance from that same government when they call attention to the consequences of their adoption. The abuses that have been identified cannot be reversed, but the committee expects the government to do the best it can to ameliorate the consequences of those abuses as much as possible.



Analysis

Causes of abuses

The committee has established that the structural and systematic abuses identified were caused by a complex of factors, both in the countries of origin and in the Netherlands.

Adoptive parents acted with a range of different motives. Some wished to give an underprivileged child a better future or help children living in appalling humanitarian crisis situations as a result of war or natural disasters. Many of the latter group of idealistic adoptive parents already had children of their own. Childless couples wanted to bring a child into their family to fulfil their desire to have children. The fact that, compared to living standards in many countries of origin, adoptive parents were affluent contributed to the creation of an unequal relationship between the birth family and the adoptive parents.

In the countries of origin, factors such as underdevelopment, poverty, inequality, war and natural disasters – together with local customs, values and taboos – caused children to be orphaned or displaced; their families either no longer existed or could not care for them. For the local children's homes where these children lived, intercountry adoption was often a way to relieve the pressure of growing numbers of children on the available capacity. Although these children were often offered for adoption as *orphans*, many of them were not orphans at all, as one or both of their parents were still alive.

In most countries of origin, unmarried pregnancy and motherhood were not socially accepted and the mother and the child were stigmatised or repudiated. The mothers, most of them young, experienced significant social pressure to give up their children. This raises doubts about whether the decision to give up the child was made voluntarily, even if the mother signed the paperwork to confirm the decision.

Many countries of origin were fragile states with government institutions that were sometimes corrupt and that were unable or unwilling to root out abuses. Brokers were often members of the local elite and were able to use their connections to avoid criminal prosecution. Investigations into abuses were begun in some countries, but the abuses were hard to prove and the investigations seldom led to convictions. The investigations even served as lightning rods for criticism, and some were hushed up. In a small number of countries of origin, the furore around abuses put a temporary or permanent stop to intercountry adoptions.

Factors of supply and demand led to the creation of an international 'adoption market' motivated by financial incentives. The large sums paid out as compensation for adoptions had a corrupting effect, especially considering the standard of living in the countries of origin. In some cases, the intercountry adoption system itself served as a kind of 'child-laundering' mechanism, as children who were put up for adoption under suspect circumstances could be transformed into legitimately adopted children.

The creation of an adoption market and the conversion of children into tradeable goods ('commodification') – including market terms such as 'supply and demand', 'channels', 'brokers' and 'permits' – can themselves be categorised as an abuse. Due to these factors, the interests of the adoptees and their family did not receive sufficient protection in the countries of

origin, which were often characterised by missing or deficient laws and regulations, weak oversight and endemic corruption. Those interests also received insufficient protection in the Netherlands, where intercountry adoption was initially hardly regulated at all in national or international legislation and conventions, or was left to individual initiatives. Partly due to the slow development of legislation, in the Netherlands there was almost no consideration of any interests other than those of adoptive parents.

In many countries, adoption implied a complete legal separation between the birth parents and family and the adoptees: all bonds in family law were broken. Children were given a new identity, nationality and name when they were registered. Although this practice sometimes corresponded with the prevailing national law, it complicates adoptees' search for their origins and identity and is at odds with international law and conventions.

For a long time, these circumstances gave organisations and DIY actors carte blanche to arrange adoptions themselves or through intermediaries. Tighter legislation and conventions have not been able to root out abuses; some observers suggest that they have in fact increased the abuses by driving the supply of children 'underground'. The committee has established that many of the explanatory factors, both in the countries of origin and in the Netherlands, continue unabated and form a lasting trigger for potential abuses.

The prevailing view of intercountry adoption

The positive image of intercountry adoption, which was sustained for a long time, had a significant influence on the development of the practice of intercountry adoption. In spite of growing evidence to the contrary, this image caused intercountry adoption to be identified as the best solution for children who could not be cared for at home. The emphasis was placed on the fact that these children were in an emergency situation, for which there were no good solutions locally. There was an unquestioned assumption that these children would in any case be better off in the richer Western world.

The dominant impression was one of 'needy orphans' and adoptive parents who wanted to help. Adoption was identified with 'doing good' by benefactors and aid providers. The situation was not examined critically, despite the fact that there were already abuses at that time. This view was also embraced in the Netherlands by the adoptive parents, intermediaries and other people concerned, including the Dutch government. It also suited the existing desire to have children or the idealistic motivations of the prospective adoptive parents.

This philosophy left no room for conflicting or unwelcome views that could disrupt the positive image. Prospective adoptive parents benefited from a fast, irrevocable adoption that offered them a secure family. In general, this view of intercountry adoption completely ignored the feelings and interests of the birth families, who were often completely absent from the process. Neither was much attention, if any, paid to the negative effects on the children themselves (matters of identity, cognitive problems or trouble with development or behaviour), which had been documented as early as the late 1970s. It was only in the late 1980s that views about intercountry adoption gradually began to shift from being overly positive to being realistic and pragmatic, and ultimately to a critical and even dismissive approach in recent times.

The idea that ‘everyone wins’ with adoption was an important factor in the decision by government and intermediaries not to intervene, not to investigate reported abuses and not to correct abuses when they were clearly demonstrated. Any adoption – even an unlawful or criminal one – was seen as being better than no adoption at all. Because the children were adopted ‘for their own good’, in most cases there was no significant investigation into unlawful or suspect adoptions. The committee views these prevailing ideas as an explanation for the abuses that have been established – but not as a legitimisation. These ideas have enabled violations of human rights and the rights of the child to be perpetuated and condoned.

Intercountry adoption as a system

The intercountry adoption system as it exists in the Netherlands can be described as a combination of government organisations and private organisations that work in the field of intercountry adoptions under the relevant laws and regulations. From that perspective, the committee investigated questions such as: How can the attitude of the government be explained? What were and are the relative weaknesses in the system? Why did the system not prevent abuses? Can the current system be significantly improved to ensure that it is capable of guaranteeing ethical intercountry adoption? The committee’s answers are set out below.

The role of the Dutch government

For a long time, the Dutch government saw adoption as a purely private matter, relying on Dutch intermediaries and overseas authorities despite frequent reports of abuses. The Dutch authorities regularly hid behind ongoing investigations in the countries of origin, investigations which were rarely followed up. This policy area received too little attention within the Dutch government bodies responsible, particularly the Ministries of Justice and Foreign Affairs, and the diplomatic missions. Within those bodies, the policy area was dominated by the demand for children and the interests of the adoptive parents. If any problems did become apparent, years would often pass before new policies or extra rules were introduced.

Internationally, the government was afraid of jeopardising its good relationships with the countries of origin by raising questions about matters such as abuses or inaccurate documentation. The Dutch government bodies concerned accepted the local authorisations and seals as authentic, even when the opposite was true. The Dutch government failed to take action, partly so as not to frustrate the adoption process and partly out of a desire not to damage diplomatic relations with the countries of origin. When the government did act, it was in cases when the adoptive parents’ interests were at stake. In some cases, representatives of the Dutch government were also involved in individual adoptions, in which their conduct broke the rules.

The adoption system had almost no structure of checks and balances. The government itself was both operator and inspector, it maintained a close relationship with intermediaries who often also had political connections, the monitoring was inadequate, there was insufficient oversight, and, due to a lack of capacity, the government barely enforced the rules. Officials could make no headway against the prevailing positive opinion. They lacked both the necessary knowledge and a clear picture of the situation in the countries of origin. Dutch officials had just as little knowledge of how the adoption market worked when it came to intercountry adoptions. The government did not tackle the problematic aspects of ‘DIY’ adoptions until those adoptions were ultimately banned. Even when unlawful practices were identified in relation to these adoptions, prosecutions were rare and cases were dismissed

on the grounds of the supposed 'interest of the child'. In terms of intercountry adoption, therefore, the government was a passive follower and did not take action. This created a sense of impunity around abuses related to intercountry adoptions, both in the Netherlands and in the countries of origin.

The role of the intermediaries

In the 1970s, the number of intermediary organisations began to increase. These organisations offered varying levels of professionalism and expertise. The cost of adoption procedures rose, and adoptive parents could increasingly state specific wishes – for example as regards the child's age, origin, medical condition, sex and skin colour. The committee has established that Dutch intermediaries were aware of abuses right from the start of the rise in intercountry adoption. Some intermediaries were themselves involved in abuses, for example by deliberately ignoring the regulations, wrongly drafting documents or getting involved with local contacts who were known to be corrupt and guilty of fraud. Some Dutch organisations also arranged project-based aid in countries of origin, as well as acting as intermediaries for adoptions. Other organisations consciously avoided such actions, as they did not wish to give the impression that the aid served as compensation for supplying children for adoption or that the money for these projects would go towards intercountry adoption.

The intermediaries saw their primary task as satisfying the demand for children. It was difficult to combine this priority with a critical attitude towards the countries of origin. Although some intermediaries did report abuses, in general they preferred to look the other way. In practice, this meant that the intermediaries were an enabling factor in permitting abuses to continue. If the intermediaries were too critical in their approach, they would run the risk of reducing adoption opportunities, which would go against their own institutional interests and those of the influential adoptive parents.

The intermediaries were partly dependent on the number of adoptions they facilitated. They competed with each other, for instance by promising faster procedures and shorter waiting times. The fact that, since 2008, only a limited number of intermediaries have been allowed to operate in each country of origin has reinforced this dynamic. Discussions known as 'cross-sectoral consultations', which were designed as an opportunity to discuss both the developments in the adoption procedure and potential problems between the intermediaries, ultimately created more tensions between the intermediaries than they resolved.

The pressure from adoptive parents was high, the waiting lists were long and the competition was fierce – the intermediary organisations worked on the principle of 'the faster, the better'. In some cases, this caused them to view the adoption procedures too uncritically and to have too much faith in overseas brokers whose actions were frequently driven by personal financial gain. The Dutch intermediaries did not effectively monitor the procedures in the countries of origin.

Intermediaries' documentation and archiving of adoption files often left a lot to be desired. Although the situation improved somewhat in the 1990s, files from the 1970s and 1980s are often incomplete, which makes it difficult to search for adoptees' origins. The transfer of records and files belonging to intermediaries that have since ceased operating means that it is not clear who adoptees can approach to ask questions about their origins.

The role of the Dutch political establishment

Politicians have shown an interest in intercountry adoption since the 1960s. The interests of adoptive parents were key to setting the political agenda. Debates and Parliamentary Papers were regularly organised around the promotion and acceleration of adoption procedures until the turn of this century. Members of the Dutch parliament were also aware of abuses: as long ago as the early 1960s, critical parliamentary questions had been asked about them and they had been debated in parliament.

The committee has established that, although politicians did raise reports of abuses, they primarily served the interests of adoptive parents and not those of adoptees or their birth families. When it came to abuses, politicians only minimally fulfilled their monitoring role.

The influence of the HAC

The Hague Adoption Convention (HAC) entered into force in 1998, leading the Dutch government to establish a Central Authority. However, this Central Authority was not able to achieve a strong position either in Dutch relationships with the intermediaries or overseas. Its embedding within the Ministry of Justice changed repeatedly and it gained virtually no institutional standing.

Outside the Netherlands, the Dutch Central Authority was unable to play a formal role in relation to countries that had not signed up to the HAC. In matters that did involve the signatory countries, trust was a key principle and the Central Authority found it difficult to intervene. When carrying out its duties, the Central Authority regularly experienced tension between the principle of trust and its role as a monitor and regulatory body. This principle of trust also limited the Central Authority's power to raise critical questions during inspection visits. The same was true for the intermediaries who held accreditations. The committee considers that, as a result, the Central Authority did not sufficiently fulfil its role as a regulatory body and a protector of the best interests of the child.

All in all, the government and intermediaries did not set adequate boundaries as regards abuses, either through procedural regulations or through oversight and monitoring. Even today, the interests of the child are still not the top priority, because the system is not robust enough to protect them.

The consequences for the people involved

What effect has intercountry adoption had on the people involved? What are the consequences of the reported abuses for the birth families, the adoptive parents and the adoptees? Many investigations, both in the Netherlands and internationally, have attempted to answer those questions. The committee commissioned Statistics Netherlands (CBS) to conduct a representative study among adoptees in the Netherlands.

Birth families

Among all the people concerned, the birth families (often a single mother with several children) are the group who are least seen and least heard. The decision to put a child up for adoption was often made under social pressure or through coercion. In addition to extreme actions such as kidnapping, children were also given up as a result of false promises made to the birth families or by convincing those families to sign documents they did not understand. In other cases, birth parents were unaware of the extent, the implications and the finality of intercountry adoption.

Some birth parents suffer feelings of loss, sadness and isolation, and some are searching for their children. The same is true for other relatives. Only a small proportion are able to find their adopted relatives, because the local organisations or intermediaries concerned deny any responsibility and offer no support or access to information. In some countries, birth parents or families are not legally entitled to read the adoption papers relating to their child or relative. Although volunteer organisations have been founded for birth parents in some countries, relatively little has been done for this group.

Adoptive parents

A very large group of adoptive parents have legally adopted the children according to Dutch law. They trusted that the adoption was in order – an assumption which fit with the prevailing public opinion. However, whether deliberately or not, they, too, have contributed to the creation of an adoption market. There is also a group of potential adoptive parents whose involuntary childlessness and genuine desire to have children were exploited for commercial gain. Adoptive parents may be affected by the publicity surrounding the reported abuses, and they may have doubts about the procedures that were in place when they adopted their children. The general view of intercountry adoption was positive at that time; it was only years later that public opinion about adoption would change and ultimately become much more critical. This can be difficult for adoptive parents, because they do not feel that they deserve the criticism around their adoptions and because they are convinced that they acted in good faith and in the best interest of the child.

There were also some potential adoptive parents who wanted to adopt a child by any means necessary: their own desire to start a family was paramount. For these people, the crucial point was that adoption would bring them family security; they did not consider fostering children, because that did not meet their need for that security. Some people within this category deliberately pushed the boundaries and acted illegally (such as falsifying documents, smuggling children out under a false identity and paying extreme sums of money to corrupt 'brokers'). Some adoptive parents also actively helped to create an adoption market through political mobilisation and by organising adoptions for other prospective adoptive parents.

Until the late 1980s, not much information was provided about intercountry adoption and adoptive parents were less prepared for the potential problems adoptees could face. These problems are caused by the traumatic experiences, disadvantages or neglect suffered by these children at an early age, which can lead to a wide range of disorders, particularly in the case of adoptions of older children. Sometimes these problems are a direct result of the adoption itself. Not all adoptees experience these problems, and some have learned to deal with them. It is painful and sad for adoptive parents to be confronted with the sometimes severe problems their children experience.

Adoptees

People resort to adoption for many reasons. Sometimes a child had lost both parents, or the primary carer parent had died. There were also children who were not accepted due to sociocultural reasons; some of these children were unwanted either by the mother or by both parents. Some of these children were born as a result of rape, or they were illegitimate in situations in which pregnancy and motherhood outside the marriage were taboo. Other children were born to parents who could not care for them because of poverty or other extreme circumstances and who wanted to give their child a better life, while another group were special-needs children who needed specific care that was either unavailable or too expensive in their countries of origin. Finally, there were children who were neglected or abused and were removed from the home, and others who were kidnapped.

Although adoptees were often presented as orphans, most of them still had parents. For most of the children, the necessity of intercountry adoption was not black and white and there was a real danger of abuses, such as parents being pressured into giving up a child.

The CBS survey shows that, on average, adoptees themselves are moderately positive about intercountry adoption. Eighty-four percent say that adoption has given them more opportunities, and 70% believe that adoption should continue to be an option. At the same time, many adoptees are aware of contradictions and sources of friction within themselves. Both academic research and the CBS survey have shown that adoptees are more likely to experience a wide range of problems in their youth than are a comparable group of non-adoptees. Some adoptees' problems are permanent, while for others they are temporary.

Many adoptees confront existential questions about the how and the why of their adoption, as well as questions about their dual origins, identity and sense of belonging. Different adoptees deal with that in different ways: some can live with it comfortably, while others may be traumatised.

The CBS survey shows that more than four-fifths of the adoptees believe they should be able to discover their background, while half have already begun looking for information about their adoption and their background. Of the people who had not made such a search, more than one third indicated a wish to do so in the future. However, many searches fail to produce the desired result, as the available documents or information are not accurate. Access to files – both in the Netherlands and overseas – is difficult and costly, and the intermediary organisations that are still operating lack the capacity and expertise to facilitate that access. There is no central location where all the information can be found. The adoptees surveyed indicate that they feel the lack of a central information point, and that they expect the Dutch government to offer them more support in their search.

When adoptees discover that their adoption involved abuses, this often triggers emotions such as feelings of anger, sadness or betrayal. They may feel 'trafficked' or 'bought', and this can have an impact on their self-esteem. In turn, this fuels distrust and anger, directed not only at their birth parents or adoptive parents, but also towards the Dutch and overseas governments and intermediaries from whom adoptees receive little support or understanding.



Conclusions

The committee investigated abuses related to intercountry adoption and the way in which the Dutch government and intermediaries acted toward those adoptions. The overarching impression based on this investigation is that, during the period under investigation, there were serious abuses and that the government and intermediaries did not effectively tackle those abuses. They prioritised the interests of adoptive parents, and thereby failed to protect the interests of either the adoptees or their birth parents.

1. Structural abuses related to intercountry adoption

In the five countries investigated – Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka – serious abuses surrounding intercountry adoption took place in the period from 1967 to 1998. Adoption abuses also took place before 1967, after 1998 and in other countries.

- Abuses were found in all five of the above countries in the period from 1967 to 1998. Although the nature and extent of the abuses varied both in time and between countries, abuses have been shown to be a near-permanent, structural problem.
- The abuses that have been established relate both to activities that took place in conflict with applicable laws and regulations and to unethical acts.
 - Examples of illegal activities include: corruption; making it difficult or impossible to establish the origins and identity of adoptees by falsifying documents; deliberately stating inaccurate information, such as age, in documents; causing children to be given up in return for payment or through coercion; child trafficking and kidnapping; baby farming and obscuring a child's identity (*verduistering van staat*).
 - Examples of unethical acts include: causing children to be given up under false pretexts or moral pressure; taking advantage of mothers' poverty or other social and cultural circumstances such as war, natural disasters and social taboos; inadequate archiving, a lack of care when recording information and a lack of transparency in documentation.
- The committee has established that similar abuses also took place before 1967, after 1998 and in other countries. The pattern of adoption abuses in those countries shares distinctive similarities with the five countries which have been investigated in depth. Regardless of the different contexts, it has been shown that abuses related to intercountry adoption continue to occur to this day, all over the world. The most important factors that maintain this situation are the demand for children and the international adoption market, which is driven by financial incentives and where socioeconomic inequality, poverty and the act of transforming children into commodities come together.

2. Awareness and involvement of the Dutch government

The Dutch government was aware of adoption abuses as early as the late 1960s. The government failed to fulfil its responsibilities and obligations and neglected to intervene when there was reason to do so.

- Since the 1960s, there has been a persistent flow of reports about adoption abuses both within the Netherlands and overseas. Intermediaries also reported abuses. Between 1961 and today, more than 130 Dutch parliamentary questions have been asked about intercountry adoption. A few countries unilaterally terminated their adoption relationship with the Netherlands as a result of abuses.
- The reports were known to the Dutch government. This has been proven through countless documents and the internal correspondence of relevant bodies within the Ministry of Justice, which was responsible for this matter. In correspondence between the Ministry of Foreign Affairs and embassies in other countries, there are regular discussions about the issue of how to deal with adoption abuses; information on this matter was also exchanged in the interdepartmental correspondence between the Ministry of Justice and the Ministry of Foreign Affairs.
- In some cases, representatives of the Dutch government were also involved in adoption abuses; their conduct broke the rules.

3. Awareness and involvement of Dutch intermediaries

Dutch intermediaries were aware of adoption abuses. The level of involvement varies between different intermediaries, DIY intermediaries and other private actors.

- Dutch intermediaries had been aware of abuses related to intercountry adoption. Before the accreditation system was introduced in 1989, this group also included the DIY actors.
- Intermediaries' involvement in abuses varies. Although much of the intermediaries' documentation has been destroyed, it has been demonstrated that they were aware of abuses and that some of them were involved in those abuses, either directly or through their staff on the ground. The abuses in question included self-enrichment, bypassing regulations such as for provisional residence permits in the Netherlands (MVV), altering information, and using fraudulent lawyers and other individuals who were known to have a dubious reputation. Intermediaries occasionally reported their suspicions of abuses to the Ministry of Justice.
- There are indications that employees of intermediary organisations were directly involved in abuses. The committee has not been able to establish whether these employees were acting alone, or whether networks were in place.

4. The government did not act effectively to tackle abuses

Despite having been in a position to do so, the Dutch government failed to take timely measures, such as introducing legislation with tighter conditions, improving oversight of adoptions in practice, monitoring compliance with laws and regulations and investigating reports. This enabled abuses to be perpetuated.

Background

- The Dutch government realised too little and too late that intercountry adoption had rapidly developed into a market of supply and demand, and that a situation in which the demand exceeded the supply contributed to abuses. Financial motives among intermediaries, overseas bodies and local contacts played a significant role.
- For a long time, the prevailing view of intercountry adoption was positive. Insufficient attention was paid to the disadvantages and problems of intercountry adoption, even though the ministry which had policy responsibility, the Ministry of Justice, was aware of these negative aspects from a relatively early stage.

Laws and regulations

- The Dutch government failed to take timely measures despite having been in a position to do so. For too long, it viewed intercountry adoption as a matter for private actors, namely adoptive parents and intermediaries, in which government should play only a limited regulatory role.
- The government did not prioritise either policy on or oversight of intercountry adoption, and took no responsibility for the system as a whole. Partly for this reason, the Ministry of Justice was not in a good position to implement the policy. Officials were neither sufficiently able to challenge intermediaries and governments in other countries when necessary nor sufficiently equipped to effectively tackle adoption abuses.
- Adoptive parents, intermediaries and politicians put pressure on the government to facilitate adoptions and to expedite proceedings. In taking a facilitating attitude, the government believed it was doing a good deed for these prospective adoptive parents and for the children in other countries who – it was alleged – had no parents who could care for them. Information that suggested the contrary was ignored or overruled.
- The government was too reluctant to intervene when it came to abuses in the countries of origin, laying the blame for adoption abuses outside the Netherlands on intermediaries and on the governments of the countries in question. It was the view of the Dutch government that active interference would violate the sovereignty of other states, and the government did not wish to jeopardise its good relations with other countries. In summary, the government responded to abuses by distancing itself, looking the other way and not taking action.

Oversight and enforcement

- The Dutch government did not adequately fulfil its supervisory role; it failed to monitor the situation even though it could and should have done so. Occasionally, based on concrete reports of abuses, the Dutch government did exert a certain amount of oversight and enforcement, but the overall attitude was one of condoning what happened and looking the other way.

- When documents such as principle approvals were issued, it was supposed to be the case that an adoption would only be permitted if the parents had given the child up for adoption 'in such a way as to be valid in the local context and to be acceptable according to Dutch standards'. It was the responsibility of the intermediaries to be 'diligent' on this point. However, it has not been demonstrated that the Dutch government checked this.
- When issuing relevant documents, such as visas, MVVs, civil registration and court rulings on adoption, the Dutch government relied on previous actors in the procedural chain and did not conduct its own review, even when it was clear that all was not as it should be. Border control agents also assumed that the documents were genuine.
- When the accreditation system was introduced in 1989, intermediaries were able to continue their activities, receiving licenses without proper checks having been carried out to ensure that they satisfied the conditions.
- After 1989, confirmed abuses under adoption intermediaries never led to an accreditation being permanently withdrawn, although the Dutch government did temporarily suspend adoptions from specific countries.

Investigation of reports

- Although the Dutch government was in general well aware of abuses, it either did not take action at all or its actions were too little or too late. Sometimes, reports were trivialised or treated as not concrete enough to be investigated.
- The Public Prosecution Service (PPS) conducted various investigations in the Netherlands into DIY actors and identified illegal adoptions, but without leading to any prosecutions. The PPS concluded that the parents' actions were not based on profit-seeking motives, and it was not considered to be in the interest of the children to send them back.

5. Public and political opinion was crucial to the emergence and perpetuation of the abuses

For too long, the social and political view of intercountry adoption was that it was a laudable way to rescue children in need. It also satisfied the desire for children among parents in the Netherlands who wanted family security and who either could not have children themselves or idealistically wanted to bring a child into their family. This prevailing view of 'doing good' meant that abuses were not tackled timely enough.

- Intercountry adoption was seen as the best solution for a child who was in need and who would, by definition, be better off in the richer Western world.

6. The consequences of adoption abuses for the people involved

Many people experience serious consequences as a result of their adoption. Because of the way in which their adoption was conducted, many adoptees cannot discover their identity. Not understanding their origins and having to live with unanswered questions causes them anger, pain and sadness, notwithstanding how they experience their life in the Netherlands. The birth parents and families and the adoptive parents are also affected by the serious consequences of the adoption abuses.

Birth families

- Among all the people concerned, the birth families (often single mothers with several children) are the group who are least seen and least heard. The birth mothers are the first people to fall victim to intercountry adoption, and the loss of their child causes them feelings of loss, sadness and isolation. They were sometimes put under pressure to give up their child, the common Western concept of 'adoption' was unknown to them, and in the most serious cases their child was stolen from them.

Adoptive parents

- Some adoptive parents who adopted a child in good faith and in accordance with the regulations, either based on good intentions or out of a deep desire to have children, now feel guilty because the adoption has been shown to have involved abuses or because the transition from a different culture has caused serious problems. Some adoptive parents also feel like victims.

Adoptees

- Adoptees are more likely to experience a wide range of problems in their youth than are a comparable group of non-adoptees. Some adoptees' problems are permanent, while for others they are temporary.
- A majority of the adoptees have a generally positive view of their own adoption. Adoptees feel a strong sense of connection with the Netherlands. More than three-quarters say that adoption has given them more opportunities.
- Approximately half of the adoptees say that they have searched for more information about their adoption and/or their background. Of the half of respondents who have not made such a search, more than one-third either may or definitely will do so in the future.
- The search for information about their adoption or background can be a slow and difficult process, and the information they find often turns out not to be accurate.
- Many adoptees either cannot uncover their identity at all or can only reveal part of it. Not understanding their origins and having to live with unanswered questions causes some to feel anger, pain and sadness.
- A significant majority of the adoptees would like the Dutch government to acknowledge the loss which was partly caused by the government's actions and its failure to act, and which has damaged their faith in the government.
- In addition to this recognition, adoptees need more specialist psychological help and support in their efforts to identify their origins, such as access to archives, DNA testing and help facilitating their search.



Recommendations

The committee has identified serious shortcomings in the way in which the Dutch government and intermediaries dealt with adoption abuses. This has damaged the faith of many adoptees, and other people concerned, in the Dutch government and intermediaries.

The abuses that have been identified cannot be reversed. The committee primarily wishes to ensure that the consequences of the abuses receive proper attention, and that future abuses are prevented. These specific abuses concern intercountry adoption, but it is also important to prevent abuses emerging around new methods of family formation, such as commercial surrogacy.

The committee urges the effective implementation of the following recommendations and is keen for no precious time to be wasted, in view of the fact that many adoptees' birth parents are now elderly.

The committee makes the following recommendations to the Minister for Legal Protection:

1. Government recognition

Acknowledge that the government failed to adequately tackle adoption abuses.

Explanation

The committee stresses the need for the government to restore its damaged relationship with adoptees, adoptive parents, birth parents and birth families. This is conditional on the government and the intermediaries acknowledging that they fell short when it came to tackling adoption abuses. An attitude of openness and transparency towards those people who wish to uncover information about the past should be part of that recognition.

2. Suspension of intercountry adoption

The system of intercountry adoption with private elements cannot be maintained in its current form. The committee has serious doubts about whether it is possible to design a realistic public-law system under which the abuses identified would no longer occur. Pending the outcome of the decision-making process, the committee recommends suspending intercountry adoptions.

Explanation

The committee has established that the system of intercountry adoption with its private elements, such as private intermediaries, is open to fraud and continues to enable abuses to this day. The decision-making process must examine whether and how oversight can be maintained from within the Netherlands over the process of intercountry adoption both within and outside the Dutch borders. In the meantime, the committee recommends

suspending adoptions in order to gain breathing room. Transitional law must also receive sufficient attention.

The committee has doubts about whether it is possible to design a realistic alternative system, in view of the failure, to date, of the many attempts which have been made to tackle abuses through tighter regulation of the current system.

Finally, the committee stresses the importance of learning lessons from the past. The inability to tackle abuses related to intercountry adoption in recent decades demonstrates the need for measures that cover future family formation methods, such as surrogacy, that share features in common with intercountry adoption.

3. National Centre of Expertise

Set up an independent National Centre of Expertise which combines knowledge about matters of identity, searching and follow-up care. This in order to facilitate adoptees in gaining access to their files, searching for their birth parents and finding the right psychosocial and legal support.

Explanation

With this recommendation, the committee aims to ensure that the consequences of the adoption receive proper attention, offering adoptees support with questions about their origins and providing follow-up care. This objective can be achieved by making the right expertise and infrastructure available, for instance by facilitating adoptees' access to the adoption files both within and outside the Netherlands to aid the search for their birth families, including parents and other family members such as brothers, sisters and half-siblings.

The Centre of Expertise would also facilitate accessible routes for adoptees and adoptive parents to find good-quality follow-up care and guidance. This facilitation could include providing professional psychological help, or assisting the people concerned to find their own help, as they deal with the deep questions that specifically relate to adoption. Legal support may include aspects such as changing name or age, plural nationality or revoking adoption.

It is important for the government to ensure that the existing associations, foundations and other organisational structures for adoptees and other people concerned work together to make the best possible use of the knowledge that is already available.

Summary

On 18 April 2019, the Minister for Legal Protection established an independent committee to investigate potential abuses related to intercountry adoptions in the past. The assignment set by the minister focused primarily on the period 1967-1998 and on the countries Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka.

Purpose of the investigation and the approach taken

The committee formulated three principal questions based on the assignment set by the minister:

- 1) What was the extent of abuses related to intercountry adoptions in which adoptees were brought to the Netherlands?
- 2) To what extent were the Dutch government and intermediaries aware of and involved in potential abuses, and how did they respond to signals of abuses?
- 3) What lessons can be learned from the past, and how can the Dutch government and intermediaries support adoptees who experience problems due to the way in which their adoption was conducted?

To clarify the roles and responsibilities of the government and intermediaries, the committee focused on the *system* of intercountry adoption. In view of the assignment and the decision to focus on the system, the committee did not investigate individual cases or make statements on personal matters. The investigation focused on 1967–1998, the period specified in the minister's order establishing the committee, but it also took the prior history into account and included a description of signals of abuse in other countries and in the period after 1998. 1998 is the year in which the Hague Adoption Convention (HAC) came into force in the Netherlands.

The term 'abuse' is used in many different contexts and with many different meanings, determined in part by the era in which it is used. The committee defines 'abuse' as: *acting, or failing to act, in a way contrary to applicable national and international laws and regulations, as well as acting, or failing to act, in a way which is formally not in conflict with applicable national and international laws and regulations but which, from an ethical viewpoint, is irresponsible.* The committee encountered various abuses, from inaccurate documentation to child trafficking and baby farms.

Adult adoptees' welfare and search behaviour

The committee asked Statistics Netherlands (CBS) to conduct a representative study of the issues affecting intercountry adoptees in the Netherlands. Approximately half of the adoptees indicated that they had searched for more information about their adoption. Of the persons who had not made such a search, more than one third indicated a wish to do so in the future. However, many searches fail to produce the desired result, as the available documents or information are not accurate.

The five countries named in the order establishing the committee

The report reconstructs the actual course of events surrounding intercountry adoption in, successively, Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka. The political, economic and sociocultural malaise in the countries of origin influenced intercountry adoptions from

the 1960s onwards. For example, there was a social taboo surrounding unmarried pregnancy and motherhood. There was little relevant legislation: for a long time, intercountry adoption took place privately, without government oversight. Individual intermediaries, such as lawyers and doctors, and even criminal networks were able to take advantage of this situation. This encouraged abuses.

Intercountry adoptions were characterised by large-scale, systematic abuses. Every imaginable form of abuse was reported, from missing archives to child trafficking. Although instances of abuse were known to several Dutch government bodies and to politicians, for a long time the organisations and people concerned took no action. Reports of abuse were ignored and not followed up by the Dutch government.

Despite this awareness of abuse and a desire to take a stricter approach, the Netherlands continued to assign responsibility for solutions to the authorities in other countries. The adoption papers were not subjected to strict controls. It has been shown that two Dutch government officials were involved in two separate illegal Brazilian adoptions. There are no indications that this involvement was motivated by self-enrichment. The intermediaries were subject to only minimal oversight, and the large proportion of 'DIY' adoptions took place with no oversight at all. Dutch intermediaries were also aware of abuses; some intermediaries – both 'DIY' individuals and larger organisations – were involved in abuses.

Adoption-related abuses in other countries

In addition to the five countries named in the order establishing the committee, the committee screened a further 18 countries for abuses both before and after 1998. In total, the committee studied 23 countries. The two most important findings from the screening were that abuses either were or are reported in all the countries screened, and that abuses continued to take place after the HAC came into force in the Netherlands in 1998.

After 1998

The committee also described the development of intercountry adoption in the period following the Netherlands' introduction of the HAC in 1998 and the founding of the Central Authority. The committee's investigation shows that abuses did not disappear after 1998. Even after that time, many abuses continued to make the news and be discussed in parliament. The Dutch government was aware of the situation. In most cases, the response to reports of abuses involved either referring to investigations by the authorities in the countries in question or expressing trust in those authorities. The Dutch government did act in some cases, when the adoptive parents' interests were at stake or when adoptive parents demanded government action.

Analysis of the adoption system

The committee established that the structural and systematic abuses identified are caused by a complex of factors, both in the countries of origin and in the Netherlands. The committee asserted that many of these explanatory factors continue unabated to this day and form a lasting trigger for potential abuses.

Adoptive parents had a range of different motives. Some were idealistic and wished to give an underprivileged child a better future, while others wanted to bring a child into their family to fulfil their desire to have children. In the countries of origin, factors such as poverty, war and disasters caused children to be orphaned or displaced; their families either no longer existed or could not care for them. In most countries of origin, unmarried pregnancy and motherhood were not socially accepted and the mother and the child were stigmatised or repudiated.

Factors of 'supply and demand' led to the creation of an international 'adoption market' motivated by financial incentives. The large sums paid out as compensation for adoptions had a corrupting effect, especially considering the standard of living in the countries of origin.

The positive image of intercountry adoption, which was sustained for a long time, was very influential. In spite of growing evidence to the contrary, this image caused intercountry adoption to be identified as the best solution for a child who could not be cared for at home. The dominant impression was one of 'needy orphans' and adoptive parents who wanted to help. Adoption was identified with 'doing good' by benefactors and aid providers.

For a long time, the Dutch government saw adoption as a purely private matter, relying on Dutch intermediaries and overseas authorities despite frequent reports of abuses. The Dutch government failed to take action internationally, partly so as not to frustrate the adoption process and partly out of a desire not to damage diplomatic relations with the countries of origin.

The adoption system had almost no structure of checks and balances. The Dutch government itself was both operator and inspector, it maintained a close relationship with intermediaries who often also had political connections, the monitoring was inadequate, there was insufficient oversight, and the government barely enforced the rules. In terms of intercountry adoption, therefore, the government was a passive follower and did not act even when it had good reason to take action. This created a sense of impunity around abuses, both in the Netherlands and in the countries of origin.

The Dutch intermediaries saw their primary task as satisfying the demand for children. It was difficult to combine this priority with a critical attitude towards the countries of origin. Although some intermediaries reported abuses, in general they – like the government – preferred to look the other way. In practice, this meant that the intermediaries were a factor in permitting abuses to continue. The pressure from adoptive parents was high, the waiting lists were long and the competition was fierce. Intermediaries' documentation and archiving of adoption files often left a lot to be desired.

Dutch politics has shown an interest in intercountry adoption since the 1960s. The committee established that, although politicians did raise reports of abuses, they primarily served the interests of adoptive parents and not those of adoptees or their birth families. Politicians barely exercised control when it came to abuses.

All in all, the government and intermediaries did not set sufficient boundaries for abuses, either through procedural regulations or through oversight and control. Even today, the interests of the child are still subservient, because the system is not robust enough to protect them.

Consequences for the people involved

The analysis of the consequences of the abuses identified by the committee, whether for the birth parents and family, the adoptive parents or the adoptees, reveals a 'history of loss'. Some birth parents suffer feelings of loss, sadness and isolation, and some are searching for their child. The same is true for other relatives.

A very large group of adoptive parents have legally adopted the children according to Dutch law. They trusted that the adoption was in order – an assumption which fits with the dominant social view. However, whether deliberately or not, they, too, have contributed to the creation of an adoption market. There is also a group of potential adoptive parents whose involuntary childlessness and genuine desire to have children have been exploited for commercial gain. There were also some potential adoptive parents who wanted to adopt a child by any means necessary; their own desire to start a family was paramount. They deliberately pushed the boundaries, and in some cases they acted illegally.

Although adoptees were often presented as orphans, many of them still had parents. Adoptees are often confronted with existential questions about the how and the why of their adoption, as well as questions about their double origins, identity and belonging. Different adoptees deal with that in different ways: some can live with it comfortably, while others may be traumatised.

When adoptees discover that their adoption involved abuses, this often triggers emotions such as anger or sadness. They may feel 'trafficked' or 'bought', and this can have an impact on their self-esteem. In turn, this fuels distrust and anger, directed not only at their birth parents or adoptive parents, but also towards the involved Dutch and overseas governments and intermediaries from whom adoptees receive little support or understanding.

At the end of the report, the committee shares its conclusions and recommendations.

