



Commissie onderzoek
interlandelijke adoptie

Unofficial translation

Report

Committee on the Investigation of Intercountry Adoption



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The appendices accompanying this research have been published in a separate report.



Consideration

The statement “Even if you only save one” by the writer Jan de Hartog in a television interview in 1967 marks the beginning of large-scale intercountry adoption in the Netherlands. Many people care about the fate of the children in developing countries ravaged by wars and natural disasters. Some feel it is a moral obligation to adopt a foreign child. There is a positive feeling about intercountry adoptions. In total, more than 40,000 children from about eighty different countries will come to the Netherlands.

But there is also a downside. The first reports of adoption abuse appeared in the media in the late 1960s, such as document forging, the abuse of the birth mothers' poverty and the relinquishment of children for payment or under duress. However poignant the signs may be, they do not lead to a critical reflection in the public and political debate, let alone a rethink of the system of intercountry adoption.

The fact that there is now attention for abuses from the past is mainly because the adult adoptees have started to speak out for themselves. They are increasingly looking for their background. Sometimes because they had children themselves, sometimes also from the realisation that time is pressing because their birth parents are elderly. Adoptees discover in their search that data are sometimes incorrect, or the adoption has even been illegal. As a result, they are unable to find the answers to the existential questions about their origin and identity. Some hold the Dutch government responsible for this. When answering a question from an adoptee, the Ministry of Justice and Security discovered that Dutch government officials may have been involved in abuses. This is why the Minister for Legal Protection wanted to set up an independent Committee on 18 April 2019. In this report, the Committee reports on its research into the system of intercountry adoption.

The general picture emerged from this research is that throughout the period of intercountry adoption, and in all countries, serious structural abuses occurred and that the government and intermediaries were aware of this from the 1960s onwards. In light of the Committee's assignment, the passivity of the Dutch government and the focus of Dutch politics on the interests of adoptive parents are striking. The government failed to intervene where there was reason to do so.

Social image

The Committee has established that social perception has been crucial in establishing, maintaining and legitimising intercountry adoption. The dominant idea was that both the child in an emergency situation and the prospective adoptive parents benefited from an adoption, adoption was seen as “doing good”. Because of the deep roots of this image, abuses such as age falsification were accepted or even considered normal. Also, anyone who helped promote adoption was seen as a benefactor, and politicians fought for (rapid) intercountry adoption. Research has uncovered repeated patterns of passivity and whitewashing. The view that any adoption, even an illicit one, is better than no adoption at all was indisputable.

The best interests of the child

The Committee finds it striking that the term “in the best interest of the child” is always - and often emphatically - used as an argument in all discussions about intercountry adoption. This interest is often fulfilled in a practical way, based on necessities such as health, education and economic development opportunities. However, the fundamental right of *autonomy* did not play a role in assessing the best interests of the child.

Young children are considered incapable of thinking and acting autonomously. They cannot therefore give autonomous consent for their own adoption. However, this is no justification for seeing children as commodities. On the contrary, precisely because children do not yet have this ability, the greatest possible care must be exercised in adoption procedures. Precisely because young children are not yet autonomous and cannot under any circumstances be expected to agree with decisions taken about them, all attention must be devoted to those who do.

The Committee has established that this has not been done sufficiently in practice. In many cases, decisions about release for adoption have not been made in a responsible manner. Too often, they were made under duress or under the influence of inadequate information. The interests of the child have thus been neglected. A large proportion of the adoptees struggle with not knowing their own origin and identity. This can hinder their further development as autonomous individuals.

Impact on the parties involved

The research shows that most of the adoptees are fortunately doing well. The adoption, they say, has offered them many opportunities. On the other hand, they have also lost a lot through adoption, such as growing up with their own family, their own culture and in many cases knowing their origins. Several adoptees who the Committee spoke to describe their lives as split. Connecting the reality in their native country with the reality here is a daily task for many, and sometimes impossible because the information about origin is lacking. The Committee sees the fact that they are doing well provided the circumstances as a sign of their resilience. Unfortunately, there are also adoptees who are not doing well. The research carried out by the Committee shows that the above average of adoptees have psychological and other complaints and sometimes have to resort to assistance for this.

The Committee recognises that there were adoptive parents who adopted a child out of good intentions, in good faith and according to the rules. There were also adoptive parents who were mainly driven by their own desire to have children and made every effort to fulfil this desire, pushing the boundaries and sometimes going beyond them. Some adoptive parents feel guilty because the adoption now appears to be surrounded by abuse, or because the transition from a different culture has led to major problems in their adopted child. They also feel like victims.

The group that was most difficult for the Committee to investigate are the birth mothers and with them, the birth families. In many cases, they are also victims and experience the loss of their child. They were sometimes pressured to give up their child, the concept of “adoption” as used in the Western world was unknown to them, and in the worst case, their child was stolen.

The issue is still topical

The abuses described and their consequences are not a thing of the past, they are still topical. The number of adoptions has fallen sharply, and many efforts have been made to prevent abuses. This does not alter the fact that the financial incentives in the system have not been removed and the demand for children still exists. This involves a waterbed effect: adoption channels are shifting to countries where there is no control over the supply, currently mainly African countries.

The Committee recommends that the lessons from the research into adoption abuses should also be taken to heart in new forms of family formation, such as with the help of surrogacy. Questions about autonomy and knowing one's origin are also present here.

The Committee appeals to the Minister and politicians to put the interests of children abroad who need protection first in decision-making. Precisely and above all because they are unable to agree to decisions taken about them.

A final note

The zeitgeist and the prevailing notion of "doing good" explain why adoption abuses could arise and continue. However, they in no way legitimise the actions of the government and the intermediaries. Recognition by the government and the intermediary that they have failed to combat adoption abuses appears to be as desirable as it is necessary for almost all involved. After all, this creates room to initiate a new discussion, namely about the question of how best to help victims of adoption abuses. The Committee advocates to provide care and aftercare and to facilitate access to domestic and foreign adoption files and the search for the birth family.

Where adoptive parents could count on a benevolent and facilitating government, adoptees experience closeness and reticence from the same government when they draw attention to the consequences of their adoption. The established abuses cannot be reversed, but the Committee expects the government to make every effort to mitigate the consequences of the abuses as much as possible.

1 Introduction

1.1 Reason

In August 2017, the Ministry of Justice and Security received an information request based on the Government Information (Public Access) Act (“Wob request”) from an adoptee who wanted to find out more about his illegal adoption from Brazil. In answering the question¹, the Ministry found archival documents that contained indications that one or more persons associated with the Dutch government were involved in illegal adoptions from Brazil in the 1970s and 1980s.

The adoptee's question is not an isolated one. In the period 2017-2018, the Ministry of Justice and Security received fourteen Wob requests relating to adoption abuses. There are also regular reports in the media about abuses that have taken place in the past. Many adoptees who search for their origin discover that genealogical data in their file is missing, is incorrect or falsified, so that the birth parents cannot be traced. In some cases, the birth mother appears not to have relinquished their child voluntarily. In addition, adoptees have many questions about the involvement of intermediaries and the government in adoption abuses. Some adoptees hold the Dutch State liable for their unlawful adoption.

The fact that the Dutch government may have been aware of and involved in the abuses was a reason for the Minister for Legal Protection to set up an independent Committee on 18 April 2019. The Committee must investigate the possible abuses that took place in the past through intercountry adoptions, and examine the role of the Dutch government in this regard.²

In addition to Brazil, the research assignment also focuses on four other countries: Bangladesh, Colombia, Indonesia and Sri Lanka. The Ministry of Justice and Security also received signs from adoptees about possible adoption abuses in these countries.

This report contains the results of the research.

1 Initially, a limited number of the requested documents was released. In September 2018, with a first decision on the submitted objection, it was decided to transfer the requested documents.

2 This issue is also an issue in other countries. For example, in January 2020, the Swiss government published a research report in which Sri Lankan adoption abuses were discussed. See: S. Bitter, A. Bangarter and N. Ramsauer, “Adoptionen von Kindern aus Sri Lanka in der Schweiz 1973-1997. Zur Praxis der Privaten Vermittlungsstellen und der Behörden” (January 2020). The Swiss government acknowledged the abuses in December 2020 and admitted its negligence. The Swiss government has expressed regret to adoptees and their families. See press release: “Adoptions from Sri Lanka: the Federal Council regrets the negligence of the authorities”, 14-12-2020, <https://www.bj.admin.ch/bj/en/home/aktuell/mm.msg-id-81577.html>.

12 Objective and research questions

The Committee's assignment, as laid down in the order establishing the Committee³ of the Minister for Legal Protection, is as follows:

The Committee's assignment is to investigate:

- the role and responsibility of the Dutch government with regard to the intercountry adoption of children during at least the period 1967-1998;
- the existence of possible abuses with regard to the intercountry adoption of children during at least the period 1967-1998, whereby at least the countries Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka are investigated;
- the Dutch government's awareness of the aforementioned possible abuses;
- the involvement of the Dutch government in the aforementioned possible abuses;
- the awareness of Dutch intermediaries or other bodies/individuals of the aforementioned possible abuses;
- the involvement of Dutch intermediaries or other bodies/individuals in the aforementioned possible abuses;
- the extent to which possible involvement of the Dutch government and Dutch intermediaries or other bodies/individuals was incidental or structural in nature;
- the way in which the Dutch government has responded to signs of the aforementioned possible abuses; and
- whether the manner of response was adequate/sufficient, in the light of the role and responsibility of the Dutch government with regard to the intercountry adoption of children during at least the period 1967-1998.

The Committee is headed by Mr. Tjibbe Joustra, LL.D., and further consists of the members Mrs. Prof. Dr. Beatrice de Graaf and Mr. Bert-Jan Houtzagers.

Research objective

The aim of the research is to map the knowledge and involvement of the Dutch government and intermediaries in possible abuses in intercountry adoption.

The Committee has formulated three main questions based on the Minister's question:

1. To what extent was there abuse in intercountry adoptions to the Netherlands?
2. To what extent were the Dutch government and intermediaries aware of possible abuses and were they involved, and how have they responded to signs of abuses?
3. What lessons can be learned from the past and in what way can the Dutch government and intermediaries support adoptees who experience problems because of the way in which their adoption took place?

³ See Appendix B to the order establishing the Committee.

1.3 Approach of the research

To answer the research questions, the Committee collected information by conducting interviews, conducting document and literature research and conducting a questionnaire survey. Researchers from the Committee have visited Sri Lanka and Colombia to conduct on-site research.⁴

Interviews

The Committee and researchers from the Committee together held more than 160 interviews with more than 190 persons and officials involved in intercountry adoption.⁵ Almost all persons the Committee wished to speak to accept the invitation. The reports of the interviews were submitted to the interviewees for verification. Inaccuracies in the report or additions were incorporated in the report, after which it was sent again for signature. In this report, no names are mentioned of the persons involved in order to protect the privacy of the interviewees. When referring to specific persons, only their position is mentioned. An exception are public functions and persons whose cases have already been discussed frequently in the media and are therefore publicly known. In a few cases, the Committee contacted the interviewees to ask for permission to list their names in the report.

Document examination

In addition to conducting interviews, the Committee has analysed thousands of documents. The Committee used the following sources⁶:

- archives of involved Dutch government organisations;
- archives of intermediaries;
- Sri Lanka National Archive;
- documents and reports submitted by adoptees and other involved parties;
- newspaper archives;
- Parliamentary questions, Parliamentary Papers, Proceedings and election programmes;
- Secondary literature, (research) reports and other publications.

The Committee received good cooperation in the document examination and was given unconditional access to all files it wished to investigate.

Questionnaire survey

The Committee spoke to many adoptees during the research. In addition to questions about abuses, adoptees were asked about their welfare, how they experienced their adoption, to what extent they are looking for their origins and what problems they encountered in doing so. In order to obtain as complete a picture as possible of intercountry adoptees in the Netherlands, the Committee asked the Statistics Netherlands (CBS) to investigate to what extent the image that emerged from the interviews is also relevant to other adoptees. The aim of the research was to collect data from a minimum of 3,000 adoptees. A total of 3,454 adoptees completed the questionnaire.

4 See Appendix A "Research justification" for further explanation of this choice.

5 An overview of the interviews conducted is included in Appendix A to the Research justification.

6 A complete overview of the sources and archives used is included in the Sources List.

1.4 Scope of the research

Central role of Dutch government and intermediaries

As described in the research assignment, the research focuses on the policy and actions of the Dutch government with regard to intercountry adoption. This includes the Ministries of Justice and Foreign Affairs and bodies such as the Child Care and Protection Board, the (Aliens') Police, the Dutch Immigration and Naturalisation Service (IND), the Public Prosecution Service, the judiciary and municipalities. The intermediaries also fall within the scope of this research.

Emphasis on the adoption system

In order to define the roles and responsibilities of the government and intermediaries in the adoption process, the Committee focuses on the *system* of intercountry adoption: the mechanisms and visible actions of the government and intermediaries in intercountry adoption. The task of the minister and the choice of the system approach mean that the Committee does not investigate individual case histories and does not make any statements in personal matters. The Committee does make use of anonymous individual case histories to illustrate how the system works in practice. The Committee realises that many adoptees are looking for answers in their specific situation, but can only contribute to the solution of their individual questions by means of generic recommendations.

Core years 1967-1998

The research focuses on the years 1967–1998 as referred to in the order establishing the Committee, but will be preceded with a description of the prior history, followed by a description of the period from 1998 to the present day. The prior history cannot be overlooked, because the basis for the intercountry adoption practice was laid with the Dutch Adoption Act of 1956. In 1998, the Netherlands ratified the Hague Adoption Convention with the aim of better regulating intercountry adoption practice. Abuses were regularly reported after 1998, which is reason for the Committee to devote attention to the development of intercountry adoption after 1998.

Countries

The Committee primarily examines the role of the Dutch government and intermediaries in adoptions from Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka. The Committee has also spoken with adoptees from countries other than the five mentioned and has also received a lot of information about adoptions from other countries. The choice was ultimately made not to actively search for archive material and files from other countries, as was the case for the five countries mentioned. However, all the material that emerged during the file review of the five countries as well as all the material provided by interested parties, regardless of which country this material related to, was assessed. De facto, this research was therefore not limited to the period 1967-1998 nor to five countries.

The concept of abuses

In the order establishing the Committee, the term abuses is frequently used without a further definition. In the explanatory notes to the order establishing the Committee, only brief mention is made of "illegal adoption of children", but in the Committee's opinion this definition is too limited. The Committee has devoted a great deal of attention to what it understands under abuses, because the

concept is used in many contexts and meanings and is partly determined by the time frame. The Committee understands abuses as:

acts or omissions in violation of applicable national and international laws and regulations, as well as acts or omissions that are not formally in violation of applicable national and international laws and regulations, but are ethically irresponsible.

Explanation:

From the point of view of the adoption process, it is obvious to regard acts or omissions in violation of agreed laws and regulations of that time as abuse. This may concern violations of international law, the law of the State of origin or Dutch law. Deliberately making it impossible or making it more difficult to trace the origin and identity of adoptees is contrary to the provisions of the 1989 International Convention on the Rights of the Child (UNCRC).⁷

It is more complicated when acts or omissions, although not explicitly prohibited by applicable national or international laws and regulations of the time, are ethically irresponsible. This is the case, for example, in adoptions where the relinquishment of children was effected under false pretences or moral pressure; the abuse of poverty or other social and cultural circumstances of the birth mothers such as war, disasters and social taboos. Inadequate archiving, inaccuracies in recording data and a lack of transparency in documentation are also among these. In chapter 10, the Committee provides an overview of eight types of abuse it found in the countries studied, based on the empirical research material.

No statements about guilt and liability

In the report, the Committee does not express any judgment on legal culpability and legal liability.

The Research justification (Appendix A) provides a more detailed description of the scope and approach of the research.

1.5 Reading guide

This report consists of thirteen chapters. Chapter 2 describes the adoption process, the legal framework and the development of intercountry adoption in the Netherlands. It also summarises the most important insights from the scientific literature on intercountry adoption. This is intended as background information for the remaining chapters. Chapter 3 deals with the results of the questionnaire survey that was conducted among adoptees. Chapters 4 to 8 discuss in detail the adoptions from Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka, respectively. Chapter 9 describes the development of intercountry adoption in the period after the signing of the Hague Adoption Convention in 1998 and chapter 10 deals with the question of whether the abuses identified are also visible in other countries. Chapter 11 contains the analysis. The conclusions are drawn in chapter 12, followed by the recommendations in chapter 13.

7 United Nations Convention on the Rights of the Child.

2 Background of intercountry adoption

The system of intercountry adoption is complex. In order to properly understand the actions of the government and intermediaries, this chapter explains the relevant elements of the system.

Over the years, intercountry adoption has changed a lot. The motives for adopting children, the profile of the children, the States and the adoption patterns changed over time. This chapter therefore begins with a brief consideration of the way in which intercountry adoption practice has developed in the Netherlands since 1945. This is followed by a further explanation of the relevant legislation and regulations, the adoption process and the parties involved and insights from science and practice.

2.1 Origin and development of intercountry adoption

Adoptions after World War II

Initially, adoption mainly took place within the family sphere and concerned Dutch children. Just after the Second World War, many (mostly Jewish) war foster children came to the Netherlands. In those years, adoption was not yet regulated by law in the Netherlands. The legal bond between the foster child and the birth parents was not irrevocably broken in foster care. As a result, a foster child could still be returned to the birth parents after years of care by foster parents.

Foster parent organisations, such as the Dutch Foster Care Association (*Nederlandse Vereniging voor Pleeggezinnen, NVP*) and the Dutch Single Mother Association for the Federal Territory (*Federatie van Instellingen voor de Ongehuwde Moeder, Fiom*), founded in 1950, were putting pressure on the Dutch government to better regulate this. This partly led to the introduction of the Dutch Foster Child Act (*Pleegkindwet*) in 1951 and the first Dutch Adoption Act in 1956.⁸ The core of the Dutch Adoption Act is that the adopted child becomes a legal child of the adoptive parents and the legal ties between the child and the original parents are broken. The Dutch Adoption Act of 1956 was tailored to the situation of children who were already in a foster family.

In the second half of the 1950s, the first foreign adopted children came to the Netherlands. This mainly concerned children from Greece, Austria and Germany. Some Dutch prospective adoptive parents would rather adopt a foreign child than a Dutch child during this period. They wanted to reduce the chance that the birth mother would claim the child later on. The phenomenon of adoption was still taboo in this period.⁹

8 A. Wermuller, "De geschiedenis van afstand ter adoptie in Nederland" *Jeugdbeleid* 11:1 (2017), p. 65-70.

9 B. Slot, "Adoptie en Welvaart. Een Analyse van Vraag en Aanbod van Adoptiekinderen", *Justitiële verkenningen: Adoptie onder Vuur*, 34:7 (2008) p. 11-24, p. 19.

The 1960s and 1970s

Views on sexuality, single motherhood and marriage were changing radically in the Netherlands and elsewhere in the Western world. In 1969, the Dutch Intercountry Adoption Foundation (*Stichting Interlandelijke Adoptie, SIA*) was established as the first official Dutch adoption agency that deals with intercountry adoptions. The establishment was in line with the trend of increasing openness about adoption.

The development of contraceptives, such as the contraceptive pill, decreased the number of unwanted pregnancies, which in turn led to a sharp decrease in the number of Dutch adopted children. From the 1960s, thinking about family as an institution also changed. Single motherhood, divorces and unmarried cohabitation were increasingly accepted. This was made possible in part by the introduction of the Dutch Social Assistance Act (*Bijstandswet*) in 1963, which provides single young mothers with social security and makes it possible for them to independently care for their children. All these developments contributed to the emergence and wider acceptance of intercountry adoption around 1970.¹⁰

Intercountry adoption was on the rise from the early 1970s. Dutch couples were also adopting non-European children. With the advent of television, wars such as in Vietnam and Bangladesh, natural disasters and emergencies in developing countries were visible in everyone's living room. Many people care about the fate of the children in these countries.

The generation of adoptive parents of the 1970s was mainly characterised by idealism.¹¹ Many prospective adoptive parents had children of their own, but felt it is their moral obligation to adopt a foreign child. Helping a child in need was central to them, and to a lesser extent, to fulfil their own desire to have children.¹² Adoptive parents and agencies still lacked knowledge of the social-psychological consequences of intercountry adoption. Various interest groups were putting pressure on the Dutch government to facilitate adoptions and speed up procedures. The result was a tenfold increase in the number of intercountry adoptions, from approximately 160 children in the year 1971 to almost 1,600 in 1980.¹³

The 1980s to date

From the 1980s, the annual number of intercountry adoptions gradually decreased. Firstly, this had to do with the economic crisis in the first half of the 1980s, which caused unemployment to rise and general prosperity in the Netherlands to decline. Secondly, more and more critical voices about adoption were appearing in the media. For example, newspapers and television reports frequently reported on abuses in States of origin and the role of intermediaries in this. Thirdly, more scientific publications were published on identity, behaviour and adjustment problems in adoptees. Together, these developments led to a decrease in the number of intercountry adoptions in the 1980s. In the 1990s, there was a growth in intercountry adoptions again due to the growing optimism after the end of the Cold War and the better economic conditions. After the turn of the century, there has been a sharp decrease in the number of intercountry adoptees. International adoptions often

10 R. Hoksbergen, *Kinderen die niet konden blijven. Zestig jaar adoptie in beeld* (2011), p. 37-42.

11 According to Hoksbergen, "people were over the moon about adoption" in the 1970s.

12 E. Loibl, *The Transnational Illegal Adoption Market: A Criminological Study of the German and Dutch Intercountry Adoption Systems* (The Hague, 2019), p. 276.

13 Hoksbergen, *Kinderen die niet konden blijven*, p. 43-44.

involved children with a so-called *special need*, older children or several children from one family. Of the 145 children who came to the Netherlands in 2019, 95% had a special need, while in 2009, that percentage was 54%.

2.2 Legal framework for intercountry adoption¹⁴

The legal framework of intercountry adoption, in the form of legislation and regulations and the associated procedures, has been established over the course of several decades. This is done in response to social developments or the introduction of international treaties. This section examines the Dutch legal framework. In chapters 4 to 8, the specific adoption legislation in the States of origin concerned is discussed (see also overview table, Appendix D).

Dutch Adoption Act 1956

Adoption was first regulated in the Netherlands in the Dutch Adoption Act of 1956, and was introduced as a measure of child protection. The Dutch Adoption Act was tailored to children who are already in a foster family and therefore focuses entirely on domestic adoption. In the early years, there was no question of intercountry adoption. In the case of adoption, unlike foster care, there was no uncertainty for both the child and the foster parents that the birth parents can claim the child. The adoption was therefore irrevocable and thus provides "family security".

Adoption must be in the best interests of the child under the Dutch Adoption Act of 1956 and be concluded by a court decision. As a result of the adoption, the child and the adoptive parents had a family relationship with each other, and the legal ties between the child and the birth parents were thereby broken. The Dutch Adoption Act of 1956 set a number of conditions: the adoptive parents must be of different sex, they must have already taken care of the child as a guardian for a certain period and they must not have more than two children in their family. The children themselves must not yet be of compulsory school age. Further provisions were also made with regard to the procedure to be followed.

The Dutch Adoption Act of 1956 also added two penal provisions to the Dutch Criminal Code. The placement of a child younger than six months as a foster child without the prior written consent of the Dutch Child Care and Protection Board (*Raad voor kindbescherming*) (Article 442a) and the promotion of the placement of children for profit (Article 151a) are punishable.

The Dutch Adoption Act made no explicit distinction between domestic and intercountry adoption, partly because intercountry adoption was virtually non-existent in 1956. The question whether an adoption undertaken abroad was also legally valid in the Netherlands is in those years considered part of the field of private international law and left to the judgment of the judge.

In the years that followed, for compelling humanitarian reasons, guidelines were drawn up for the placement of foreign foster children. This happened for example to

¹⁴ Appendix C contains a detailed description of the legal framework for intercountry adoption.

children born in war situations and who were not accepted in their birth country due to their mixed origin. The age and number criteria for these children were being eased. This way, two types of directives were drawn up: the general *guidelines for the placement of foreign foster children* of 1967 and the special guidelines of 1968. The special guidelines only applied to certain categories of children; initially, it concerned children from South Korea and South Vietnam and from 1973, children from Bangladesh and Indonesia as well.

Changes from 1974

The strong increase in intercountry adoption created the need for clear and more specific rules. Placement in the Netherlands is the first step for the placement of foreign children. The requirements of immigration law, especially with regard to the granting of the residence permit, are important in this respect.

The Aliens Act (*Vreemdelingenwet*) of 1965 stipulates as a main rule that a foreign national who wants to stay in the Netherlands for a longer period must be in possession of a Dutch long-stay visa (*mvv*). A long-stay visa is a national visa that is applied for at the Dutch diplomatic or consular representation in the birth country of the child and is issued by the Dutch Minister of Foreign Affairs. Adoptive parents are then responsible for applying for a residence permit with the head of the local police. This must be submitted within eight days of the child's arrival in the Netherlands. The Dutch Minister of Justice decides on the application.

With the introduction of part G-7 of the Aliens Act Implementation Guidelines (*Vreemdelingencirculaire*) on 1 March 1974, a uniform policy applies to the placement of foreign children. The role of the government in this is twofold: on the one hand, assessing the suitability of the prospective adoptive parents, and on the other hand, allowing and arranging the stay of the children in the Netherlands. When assessing requests for the placement of a foster child, the placement must be in the best interests of the child. Furthermore, the general criterion is that there is no acceptable future for the child in their circumstances in their State of origin. Only married couples who have a prior declaration of approval in principle (*beginseltoestemming*) from the Dutch Minister of Justice are eligible for the placement of a foreign foster child with a view to adoption. The declaration of approval in principle is a general statement that in principle there is no objection to the placement of an as yet unknown foreign foster child by the prospective adoptive parents.

In the case of intercountry adoption, the question of which legal system is leading must be answered. For example, if the adoption has already been pronounced in the State of origin. This can be either the Dutch and the foreign system (the cumulative system) or one of them (the distributive system). Over time, the distributive system has become common.

Introduction of Wobp and Wobka

On 15 July 1989, the Placement of Foreign Foster Children Act (*Wet opnemng buitenlandse pleegkinderen, Wobp*) came into effect, which in 1998 was renamed the Placement of Foreign Children for Adoption Act (*Wet opnemng buitenlandse kinderen ter adoptie, Wobka*). The principal objectives are:

1. To legally regulate the requirement of a prior declaration of approval in principle. Placement of a foreign child without a prior declaration of approval in principle is no longer permitted. A period of validity is attached to the declaration of approval in principle and is valid for one child;

2. To regulate adoption intermediaries by means of a licensing system. It is prohibited to mediate in adoptions without a license from the Ministry of Justice. Only legal entities can qualify for a license. Various conditions are attached to the license holders, including a prohibition on making a profit and adequate equipment for a careful and effective execution of the activities. It also stipulates that license holders may not pay unreasonable fees to third parties in order to prevent the involvement of financially motivated persons. The license granted can be withdrawn if the license holder does not meet or does not comply with the requirements.
3. To provide supervision and control. Until 1998, supervision of compliance with the law rested with officials of the Ministry of Justice. In 1998 this responsibility was transferred to the Youth Assistance Inspectorate (*Jeugdhulpverlening*).¹⁵
4. To set out a careful relinquishment procedure. Article 8 of the Wobka stipulates as a condition for the placement of an adopted child in the Netherlands, that the prospective adoptive parents must demonstrate by means of documents that the relinquishment of the child has been properly regulated by the parent(s) of the child; and the authorities in the State of origin agree to the placement of the child.

The new procedures are not very different from the practice followed from 1974, except that prospective adoptive parents must attend mandatory information meetings prior to the home study and a lawyer must submit the application for the declaration of approval in principle. Private adoption mediation, also known as “DIY adoption”, was allowed until 1995. From 1995, prospective adoptive parents who have their own contact abroad must engage a license holder to assess this contact. This is known as a so-called partial adoption mediation.

In addition to national laws and regulations, intercountry adoption practice is also strongly influenced by international treaties. Of particular importance are the International Convention on the Rights of the Child 1989 (UNCRC) and the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993 (*Verdrag inzake de bescherming van kinderen en de samenwerking op het gebied van interlandelijke adoptie*), also referred to as the Hague Adoption Convention (1993 HC).

International Convention on the Rights of the Child (UNCRC)

The UNCRC, drawn up by the United Nations, was adopted on 20 November 1989 and entered into force in the Netherlands on 8 March 1995. The UNCRC consists of 54 articles with agreements on the rights of children and persons under the age of eighteen. Article 21 in the convention is specifically devoted to adoption. An important provision in Article 21 is that the state must ensure that the best interests of the child are the paramount consideration in adoption. The UNCRC emphasises that State Parties must respect the right of the child to preserve their identity, including nationality, name and family relationships.

Intercountry adoption is only permissible if no other suitable domestic alternatives are available, and is therefore a measure of last resort. This so-called subsidiarity principle is the subject of wider debate. The question here is what should be understood by suitable domestic alternatives:
is

¹⁵ From 2005 Inspectorate for Youth Care (*Inspectie Jeugdzorg, IJZ*) and since 2018, the Inspectorate for Healthcare and Youth (*Inspectie Gezondheidszorg en Jeugd, IGJ*).

This exclusively about local alternatives such as placement in the family or extended family, foster families and the like, or are all kinds of institutional care options such as orphanages also understood by suitable domestic alternatives? There are no clear indications about this in legal or treaty texts.

The 1993 Hague Convention (1993 HC)

The 1993 HC was established in May 1993. The Netherlands signed the 1993 HC in 1993, but the Convention did not enter into force in the Netherlands until 1998. From that moment on, Dutch prospective adoptive parents who want to adopt a child from a State Party need to observe both the rules of the 1993 HC and the Wobka.

The 1993 HC intends to implement the relevant provisions of the UNCRC for intercountry adoption. The objectives of the 1993 HC are formulated in Article 1. The Convention aims to ensure that intercountry adoption only takes place if it serves the best interests of the child and respects their fundamental rights. Furthermore, the 1993 HC aims to promote cooperation between the State Parties to prevent abuses and to ensure the recognition of adoptions made in accordance with the Convention. In this respect, the 1993 HC stipulates that when the competent authorities of the state where the adoption took place have declared in writing that the adoption took place in accordance with the Convention, it will be legally recognised in the other State Parties. Article 30 of the 1993 HC instructs the State Parties to ensure that the information in their possession about the origin of the child is kept and to facilitate access to this information by the child. The 1993 HC specifically mentions information about the identity of the parents and information about the medical history of the child and their family.

For the implementation and enforcement of the Convention's provisions, the 1993 HC provides for the establishment of a Central Authority.¹⁶ The Central Authority is charged with the fulfilment of the obligations imposed by the Convention. There is a clear division of responsibility between the state of origin and the state of reception. The Central Authorities of the State Parties are expected to cooperate with each other, to inform each other and to take appropriate measures to prevent practices contrary to the Convention. The basic principle is that State Parties can trust that each State will perform its duties and responsibilities properly. As a state of reception, the Netherlands must therefore be able to rely on the outcome of the assessment carried out by the state of origin. A State Party only has the option of not agreeing to the adoption as a last resort.

2.3 Adoption process and parties involved

This section describes the adoption process with the respective Dutch parties involved. There are six steps in total: preparation, permission, adoption mediation, placement, recognition and aftercare. For each process step, a distinction is made between the situation before the implementation of the 1993 HC in 1998 and the situation afterwards.¹⁷

¹⁶ In the Netherlands, it is called Central Authority for International Children's Affairs (*Centrale autoriteit Internationale Kinderangelegenheden, Ca*).

¹⁷ See also Appendix D.

Step 1: Preparation

Until 1989, there were no specific courses or compulsory information sessions for prospective adoptive parents. The Information on Intercountry Adoption Foundation (*Stichting Bureau Voorlichting Interlandelijke Adoptie, VIA*) was appointed in 1989 to provide the information task required by the Wobp.

After 1998

In 1998, a legally required adoption preparation came into play. Today, the Adoption Services Foundation (*Stichting Adoptievoorzieningen, SAV*)¹⁸ organises the information meeting about the adoption procedure and the five compulsory information meetings.

Step 2: Permission

After the implementation of the Dutch Adoption Act of 1956, the Ministry of Justice was responsible for checking the suitability of Dutch couples to adopt a child.

Under the new adoption procedure from 1974 onwards, the prospective adoptive parents submit a request for declaration of approval in principle to the Ministry of Justice. The Child Care and Protection Board (*Raad voor de Kinderbescherming, RvdK*) conducts a home study to assess the motives and suitability of the prospective adoptive parents and reports on this to the Minister of Justice, who ultimately decides on the issue of the declaration of approval in principle.

After 1998

The registration of the prospective adoptive parents is now done through the Adoption Services Foundation (*Stichting Adoptievoorzieningen*), which checks whether the conditions for admission to the procedure are met. The Child Care and Protection Board (*Raad voor de Kinderbescherming, RvdK*) carries out the home study and advises on the suitability of the prospective parents. The Central Authority decides on behalf of the Minister on the issue of the declaration of approval in principle. This is done in accordance with the conditions of Article 5 of the 1993 HC. If the prospective adoptive parents meet the requirements, a report on them is made and sent to the Central Authority of the state of origin through the Dutch intermediary.

Step 3: Adoption Mediation

In the early years of intercountry adoption, the intermediaries established contacts for the prospective adoptive parents in the States of origin and arranged the adoption locally. They also proposed possible matching of parents with an adopted child. In the 1960s and 1970s, this was done through the Dutch Bureau for Intercountry Adoption and Youth Welfare (*Stichting Nederlands Bureau voor Interlandelijke Adoptie en Jeugdwelzijn, BIA*) or other private intermediaries. Until 1989, prospective adoptive parents are also allowed to adopt through their own foreign contact, these so-called "DIY individuals" must be in possession of a declaration of approval in principle.

Until the Wobp entered into force in 1989, there were few rules for intermediaries in intercountry adoption. This changed in 1989 with the introduction of the license holder system. After 1995, the so-called DIY individuals can only adopt through their own contact in the State of origin (partial adoption mediation) if a license holder has assessed the contact positively on purity and due care.

18 The Adoption Services Foundation (*Stichting Adoptievoorzieningen, SAV*) was created after a merger between VIA and the Adoption Aftercare Foundation (*Stichting Werkverband Adoptie Nazorg, WAN*). The SAV merged with Fiom on 1 January 2020.

After 1998

For adoptions from State Parties to the 1993 HC, on the basis of Article 17 of the 1993 HC, both the Central Authority in the State of origin and the Central Authority in the country of reception must approve the matching between the child to be adopted and the intended adoptive parents (*approval*). The Central Authority of the state of origin is responsible for examining whether a child is actually eligible for adoption, which is done on the basis of the conditions of Article 4 of the 1993 HC. For adoptions from non-State Parties, no formal statement of approval by the Dutch Central Authority is required, but in practice this does happen.

Step 4: Placement

Since the Aliens Act entered into force in 1965, a Dutch long-stay visa (*mvv*) is required for entry of a foreign national to the Netherlands. The approval for the issue of a Dutch long-stay visa (*mvv*) is done by the Department of Immigration Affairs (*Directie Vreemdelingenzaken*), later named the Dutch Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst, IND*), which sends it to the Dutch diplomatic or consular representation in the State of origin of the child. This authorisation is placed in the (replacement) travel document of the child by the foreign diplomatic mission.

Since the implementation of the Wobp in 1989, the Dutch embassy in the State of origin has been responsible for verifying whether the child has been relinquished in an acceptable manner and the authorities in the State of origin agree to the placement of the child. In any case, a declaration of relinquishment signed by the birth parent(s) must be present, but an acceptable manner of relinquishment may also be assumed in case of a judicial adoption decision in the State of origin.

Adoptive parents must apply for a residence permit from the head of the local police or the Immigration Services within eight days of the child's arrival in the Netherlands. In the case of adopted children, this can only be granted if there is also a valid Dutch long-stay visa (*mvv*).

After 1998

In the event of an adoption that has been undertaken in accordance with the 1993 HC, the child acquires Dutch nationality through the adoption. In the case of adoptions from non-State Parties, a Dutch long-stay visa (*mvv*) must be issued followed by a residence permit. The following conditions apply, among other things: declaration of approval in principle in the name of the adopted child, declaration of relinquishment by birth parents and proof that authorities in the State of origin consent to the adoption.

Step 5: Recognition

After the implementation of the Dutch Adoption Act of 1956, parents must submit a request for adoption to the Court. This request cannot be made until the child has been cared for and raised by the prospective adoptive parents for the prescribed period. The judge decides on the adoption. The RvdK initiates a home study and reports with advice to the Dutch Central Adoption Council (*Centrale Adoptieraad*). The Dutch Central Adoption Council then issues an advice to the judge who ultimately takes a decision. The Dutch Central Adoption Council was disbanded in 1974. From 1995, the RvdK's advice prior to adoption is no longer mandatory. The judge who decides on the adoption must ask itself for this advice from the RvdK, or the RvdK must advise on an adoption of its own accord.

After 1998

In the case of children from State Parties to the 1993 HC, the child will immediately acquire Dutch nationality through the adoption approval. In non-State Parties, the adoption under Dutch law can be applied for after one year.

Step 6: Aftercare

Until the implementation of the Wobp in 1989, aftercare was not a legally required part of the adoption process. Until 1989, there was little guidance after adoptees acquire Dutch nationality. Interest groups for adoptive parents and license holders offered small-scale assistance in the period before 1998.

After 1998

After 1998, aftercare mainly focuses on adoptive parents and not on adoptees. The SAV offers aftercare. Adoptees can contact Fiom or intermediaries for access to their adoption file. In addition, Fiom offers guidance on searches in States of origin. Article 9 of the 1993 HC states which measures Central Authorities of State Parties must take. For example, they must "promote the development of adoption counselling and post-adoption services in their States" (Article 9c). In addition, a retention period for adoption files of 50 years applies.¹⁹

2.4 Insights from science and practice

Much has been written on the subject of intercountry adoption by both Dutch and international scientists and parties involved in practice. The Committee has taken note of this literature. Appendix E contains a comprehensive overview of the literature, and can be read as a standalone part of this report.

Below follows a brief description of three aspects that were important to the Committee: first, the structural aspects of the adoption system; second, its consequences for the adoptees and birth parents; and third, the transformation of the system towards commercial surrogacy. Although strictly speaking, the latter falls outside the assignment of the Committee, it considers it appropriate to identify this recent development, particularly, in view of striking parallels with intercountry adoption.

With regard to the first point, the structural aspects of the adoption system, it can be stated that since the 1970s, abuses in intercountry adoption have been highlighted in (inter)national literature. The tenor of the literature is that a demand-driven "adoption market" has emerged, combined with a so-called "commodification"²⁰ of children, involving large sums of money. All this in a context of inequality, poverty and exclusion in the countries from which the adoptions take place. The literature describes how the intercountry adoption system worked and works, unintentionally or otherwise, as a "laundering operation" for children, where adoptive parents may not have been aware of this. Some scientists argue that illegal

¹⁹ Parliamentary Papers 2009/10, 32365, no. A/1.

²⁰ Commodification: turning something into a tradable commodity.

practices cannot be prevented as long as abuses go unpunished, as abuse can then continue in an endless cycle of impunity.

This has led to more critical views on intercountry adoption and more recently to a call for a moratorium (suspension), as long as international standards cannot be met, and a remedy has been found for past rule violations. Such a moratorium is described in the literature as a first possible or necessary step in a process of evaluation, reform or reconsideration of intercountry adoption.

Regarding the second aspect, the consequences for adoptees and the birth parents, it is described in the literature that intercountry adoption can pose problems for some of these children. In this context, there are doubts about the concept of the so-called *clean break*, which implies that after adoption, a problem-free assimilation can take place in the new situation. In intercountry adoption, there are all kinds of contradictions and ambivalences that can lead to identity issues.

The literature also describes how adoptees can suffer from problems of a social, educational and psychological nature. This is reflected, for example, in problematic behaviour, which is more common than among comparable groups of non-adoptees. Some studies report that adoptees also show delays in their development in their youth, but later partly overcome this.

Less is known in the literature about the birth parents, often single mothers. The difference between voluntary and forced relinquishment is difficult to draw and can also differ from a formal legal or emotional-personal perspective. Birth mothers often feel compelled to give up their child and sometimes experience lifelong feelings of sadness, loss, depression, guilt, and trauma. The birth parents are the least visible and heard group of those involved.

Because of the parallels with abuses in the system of intercountry adoption, the literature consulted indicates that they also critically review the development of the more recent system of commercial surrogacy. As with intercountry adoption, according to the authors, legislation and supervision are insufficiently regulated in commercial surrogacy, there are financial excesses, and social and political pressure creates a system where the interests of the child are secondary.

2.5 Intercountry adoption in figures

2.5.1 Adoptions in the Netherlands

This section describes the number of intercountry adoptions in the Netherlands from the 1950s to the present.²¹ Figure 1 shows the number of domestic and foreign adoptees in the period of 1957-2019.

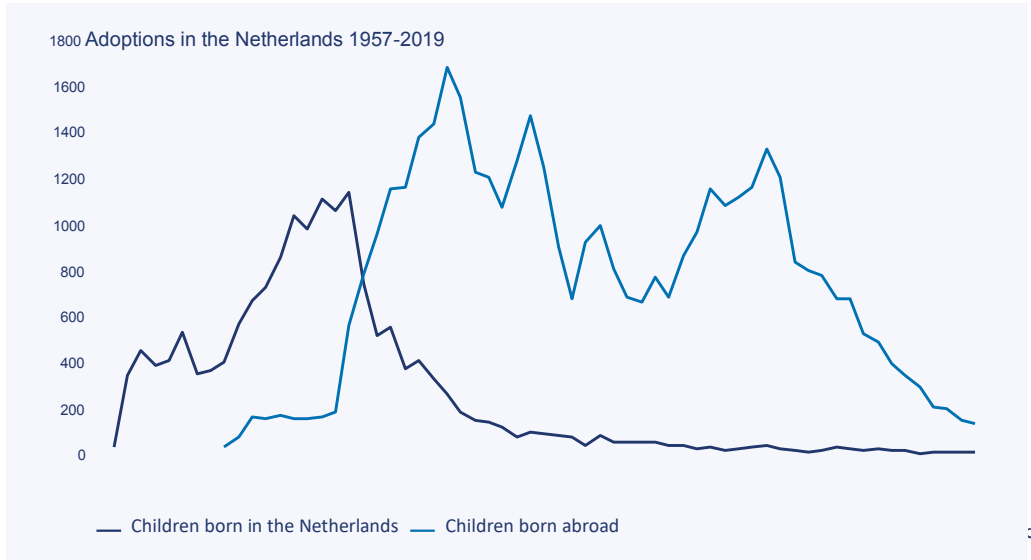


Figure 1: Domestic and intercountry adoptions 1957-2019

In 1957, the first two adoptions of non-Dutch children were decided by a judge. In 1975, there were more children adopted internationally than domestically for the first time. The strong growth resulted in nearly 1,600 intercountry adoptees in 1980. In the period of 1981-1992, the annual number of adoptions varies between nearly 1,700 in 1981 and 680 in 1990. From 1995, the number of intercountry adoptions increased mainly due to adoptions from China. In 2004, more than 1,300 children came to the Netherlands, 800 of them from China. From 2004, the number of intercountry adoptions decreased to 145 in 2019, with a very slight increase in 2010 due to the adoption of children from Haiti after the earthquake there.

2.5.2 States of origin

In the period of 1957-2019, a total of more than 40,000 children came to the Netherlands from more than eighty different countries, most of them from China, Colombia, South Korea, Sri Lanka and Indonesia. Figure 2 shows the ten most important States of origin for the Netherlands.

²¹ For the period of 1957-2002, use was mainly made of government statistics from the Statistics Netherlands (CBS) and adoption figures from various scientific publications. The data from 2002 have been supplemented with data from the Ministry of Justice and publications from Fiom. The missing value "children born in the Netherlands" in 2013 has been extrapolated on the basis of the previous years.

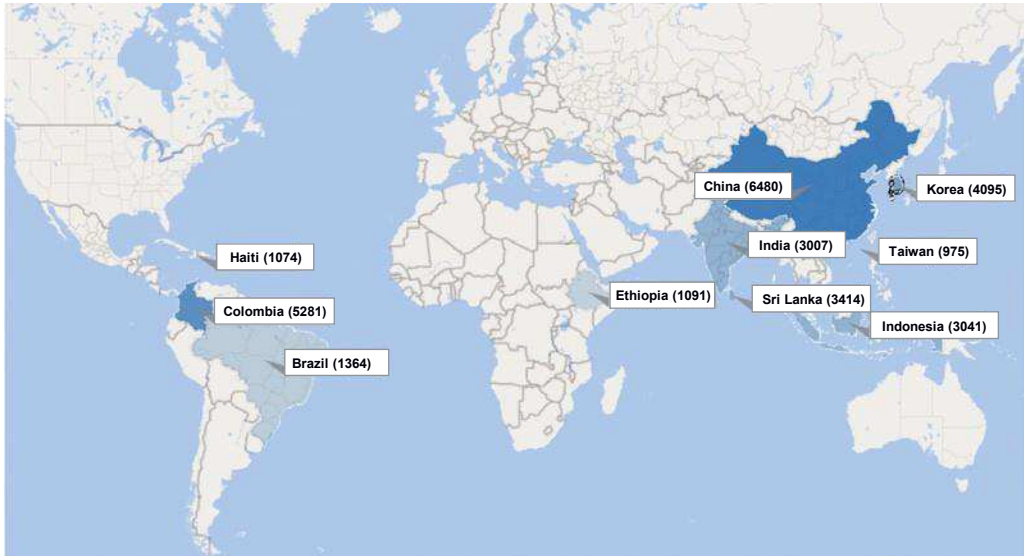


Figure 2: Top 10 States of origin from 1957 to 2019
(The number of adoptees is stated after the name of the country)

The main States of origin are not the same over the years, but change over time (see table 1). Until 1970, intercountry adoptees mainly came from Greece, Austria and Germany. More than 100 children came to the Netherlands from South Korea during this period. Exact figures for the period of 1957-1970 are missing.²²

In the 1970s and 1980s, most adoptees came from Asia, and in the 1990s, from Colombia and Brazil. Since 1998, China has been the largest State of origin. In recent years, most children have come from China, the US, South Africa and Taiwan.

1970-1979	1980-1989	1990-1999	2000-2009	2010-2019
South Korea	Sri Lanka	Colombia	China	China
Indonesia	Indonesia	China	Colombia	US
Colombia	Colombia	Sri Lanka	Haiti	South Africa
India	South Korea	Brazil	Ethiopia	Taiwan
Bangladesh	India	India	Taiwan	Haiti
Austria	Brazil	Ethiopia	South Africa	Hungary
Lebanon	Haiti	Taiwan	US	Nigeria
Germany	Chile	South Korea	Poland	Bulgaria
Yugoslavia	Peru	Thailand	India	Congo
Brazil	Thailand	Poland	Brazil	Kenya

Table 1: Top 10 States of origin for the Netherlands per ten-year period

22 Hoksbergen, "Vijftig jaar adoptie in Nederland", Table 1, p. 6. According to the Statistics Netherlands (CBS), there were no children adopted from abroad in the Netherlands until 1965. The Statistics Netherlands (CBS) did not record the first intercountry adoptees until 1965 and states that there were 45 children. See: the Statistics Netherlands (CBS), "Adoptions from 1957-2012".

2.5.3 Intercountry adoption in the Netherlands compared to other receiving countries²³

In order to compare the number of intercountry adoptions in the Netherlands with other countries, Figures 3 and 4 show the number of adoptions in 1998 and 2004 per 100,000 inhabitants. Relatively speaking, Norway has the most intercountry adoptions. In this standardised top 10 of receiving countries, the Netherlands ranks eighth (1998) and seventh (2004) respectively.²⁴

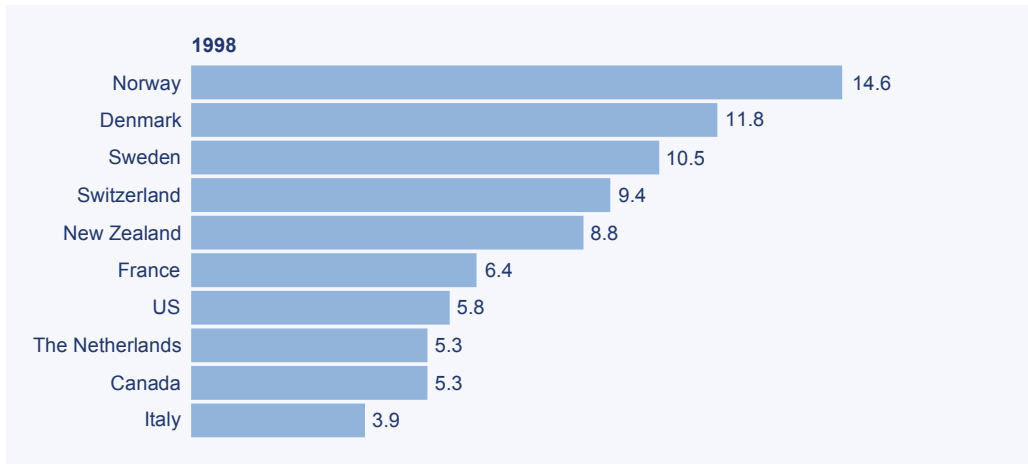


Figure 3: Standardised top 10 receiving countries. Number of adoptions per 100,000 inhabitants in 1998.

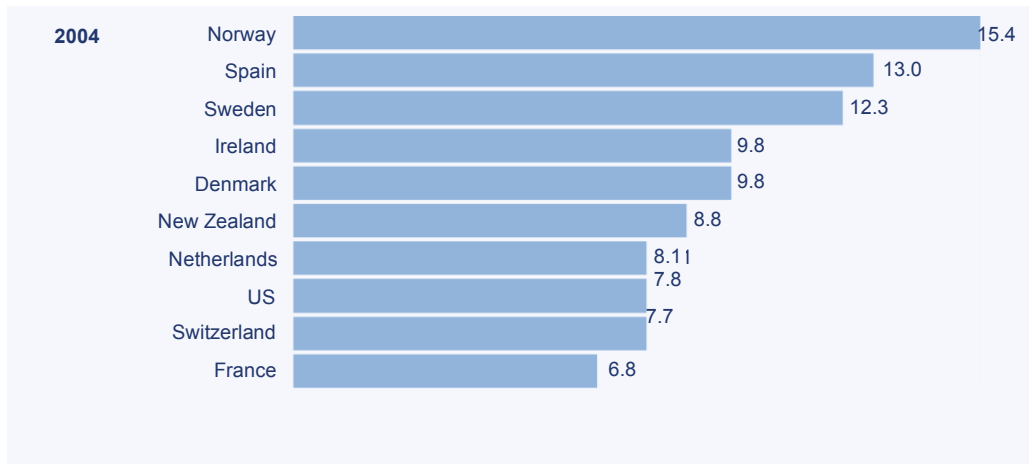


Figure 4: Standardised top 10 receiving countries. Number of adoptions per 100,000 inhabitants in 2004.

²³ This comparison is for 1998 and 2004 due to the availability of data.

²⁴ P. Selman, "Trends in intercountry adoption: Analysis of data from 20 receiving countries, 1998-2004", *Journal of Population Research* (2006).

3 Welfare and search behaviour of adopted adults

3.1 Introduction

In the investigation into the actual state of affairs regarding adoptions from abroad and the role of the Dutch government in this regard, the Committee spoke to dozens of adoptees in 2019 and 2020. In addition to questions about abuses, adoptees were asked about their welfare, how they experienced their adoption, to what extent they are looking for their origins and what problems they encountered in doing so. The Committee also asked what would help them progress.

The Committee considers it essential to have as complete a picture as possible of intercountry adoptees in the Netherlands, but is unable to speak to all adoptees in the given time. It has therefore asked the Statistics Netherlands (CBS) to conduct additional research. With this research, the Committee wants to find out to what extent the image that emerged from the interviews is also relevant to other adoptees. It helps the Committee to draw responsible conclusions and make recommendations. The purpose of this additional research is to provide a representative picture of what is going on among intercountry adoptees in the Netherlands.

This chapter contains a summary of the elements that are relevant to this research from the Statistics Netherlands (CBS) report "Intercountry adoption in the Netherlands. Living situation, welfare and search behaviour of adopted adults" (Appendix H). The research justification of the Statistics Netherlands (CBS) research, including technical aspects such as the quality of the survey data and its representativeness, is included in Appendix I.

3.2 Research design

Target population, sample and response

The research focuses on people who live in the Netherlands, born in the period 1970²⁵ - 1998 and adopted from abroad. There is no register of adoptees in the Netherlands. The Statistics Netherlands (CBS) therefore has no direct information about which persons have been adopted in the Netherlands. In order to be able to approach adoptees for research, a so-called derived framework was used. This framework contains the data of people who were born in countries from which many people were adopted to the Netherlands while at least one of the parents was born in the Netherlands.²⁶ Subsequently, a random sample was drawn from this framework. This means that whether or not a person is selected for the research

25 The Committee's research assignment is to investigate intercountry adoption between 1967-1998. The Statistics Netherlands (CBS) has been asked by the Committee to investigate intercountry adoptees from the period of 1970-1998. This is because the numbers were small(er) in previous years, which made reliable analyses more difficult.

26 These are Bangladesh, Brazil, Bolivia, Chile, China, Colombia, Costa Rica, Dominican Republic, Ecuador, Ethiopia, Philippines, Haiti, Honduras, India, Indonesia, Israel, Korea, Lebanon, Mauritius, Nepal, Pakistan, Peru, Sierra Leone, Sri Lanka, Taiwan, Thailand and Vietnam. For a detailed description of the sampling framework, see the research documentation (Appendix I).

is determined by chance, which is essential to draw a representative sample. For example, if people (can) register themselves for an investigation, there is a chance that a distorted picture will arise.

The goal was to collect the data of at least 3,000 adoptees. Ultimately, the response was higher than expected and 3,454 people participated in the research. In order to better interpret the answers of adoptees, non-adoptees were also questioned for this research. 436 non-adoptees cooperated. Because the focus of the research is on adoptees, the sample of potential adoptees was larger than the sample of potential non-adoptees. Adoptees were also examined in more detail in this research than non-adoptees. For example, for adoptees, breakdowns have been made by State of origin. This is the reason that more adoptees were approached for this research than non-adoptees.

Questionnaire

The following themes were addressed in the research:

- *Youth* (actual living situation during childhood, relationship with parents, the experience of youth in general and school time).
- *Adult life* (current relationship with parents, current family composition, and health and welfare).
- *Attitude towards adoption* (attitudes towards intercountry adoption in general and attitudes towards own adoption plus solidarity with the Netherlands and the State of origin).
- *Search* (for more information about the adoption and background).

Respondents were able to complete the questionnaire over the internet. At the end of the questionnaire, they were given the opportunity to further elaborate on the answers given and to present any comments about their adoption.²⁷

The Statistics Netherlands (CBS) report only shows differences that are “statistically significant”. Statistically significant means that it can be assumed that the difference found in the samples/data is not based on chance. If differences between adopted and non-adopted adults are reported, background characteristics (age, gender, marital status, education, income, urbanity and education and socio-economic status of the parents) have always been taken into account by using a weighting.²⁸

27 Some of the comments were specifically about the research and/or the questionnaire. Some of these comments were negative (for example, complaints about only having closed questions with no room for explanation, that the questions could be confrontational or difficult, or comments about the layout) and other comments were positive (grateful that the research was carried out and/or that they were allowed to collaborate, good research and interest in the results of the research). There were also several respondents who left their contact details because they were eager to participate in any follow-up surveys or were available for further details. Substantive comments and explanations given several times by the respondents have been incorporated into the report.

28 A detailed description of the response analysis, the applied weighting and the representativeness of the survey are described in the research justification of the Statistics Netherlands (CBS) (Appendix I).

Privacy

The privacy of the respondents has always been central to the entire research process. For example, all traceable personal data, such as names and addresses, were immediately disconnected after the questionnaire had been submitted by the respondents. Other personal data, such as email addresses, which were provided in the open answers, were also deleted before the file was submitted to the researchers for analysis. Furthermore, the Statistics Netherlands (CBS) never publishes information in which individual persons who participated in the survey are recognisable or traceable. The Statistics Netherlands (CBS) also never discloses identifiable personal data to third parties. The Committee has therefore not received these data.

3.3 Results

This section contains a summary of the results of the components most relevant to the Committee: health and welfare, attitude towards adoption and the search for the past. A detailed description of the results of these and the other themes can be found in Appendix H.

3.3.1 Health and welfare of adult adoptees

Eighty-one percent of the adoptees experience their general health as (very) good. This is four percentage points lower than for non-adoptees (85%).

Furthermore, 64% of the adoptees indicate that they have had contact with a psychologist, psychiatrist or psychotherapist, compared to 48% of the non-adoptees.

The explanations highlight the need for more specialised psychological help for adoptees. It is indicated that it would be better to be able to get help from adoption experts rather than the regular psychological caregivers. Finally, it appears that on a five-point scale, adoptees more often experience feelings of loneliness (mean 1.48 versus 1.35) and depression (mean 2.50 versus 2.38) than non-adoptees. This is linked by some respondents to the fact that they have been adopted.

3.3.2 Attitude towards adoption

In order to investigate the general attitude towards intercountry adoption, adoptees and non-adoptees were presented with seven statements. Adoptees are on average predominantly positive about intercountry adoption. For example, 84% indicate that adoption has given them more opportunities and 70% say that they are happy that they have been adopted.

More than 30% indicate that they look back on their adoption with mixed feelings and 25% sometimes feel that they have been abandoned by their biological mother/father. More than 40% of the adoptees indicate that the fact that they come from another country plays an important role in their life. Fifty-seven percent of adoptees think that the Dutch government should offer more help in tracing their origins (Figure 5).

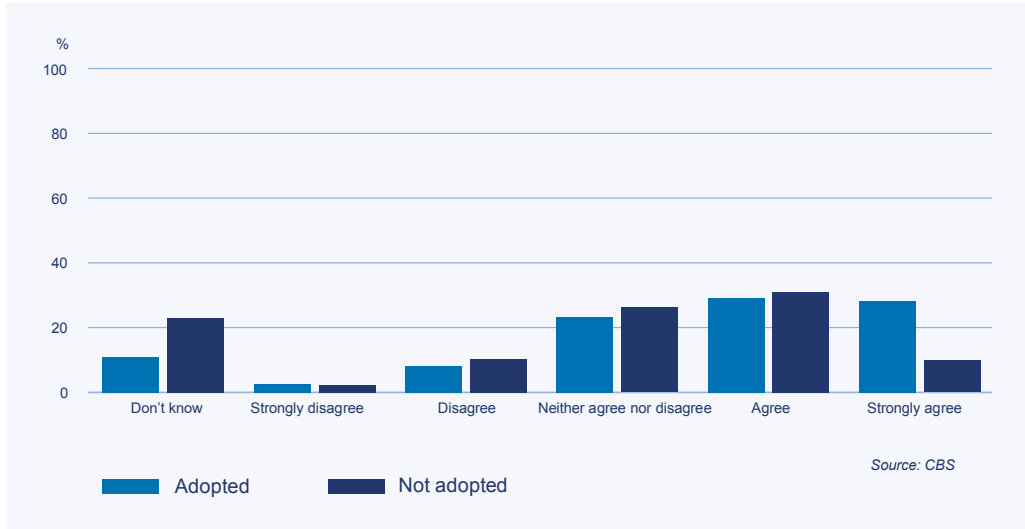


Figure 5: Percentage that agree or disagree with the statement: "The Dutch government should offer more help in tracing the origins of adoptees."

Furthermore, both 82% of the adopted adults and non-adopted adults think that a person should always be able to find out their background and almost 70% of both groups think that intercountry adoption should always be possible (Figure 6).

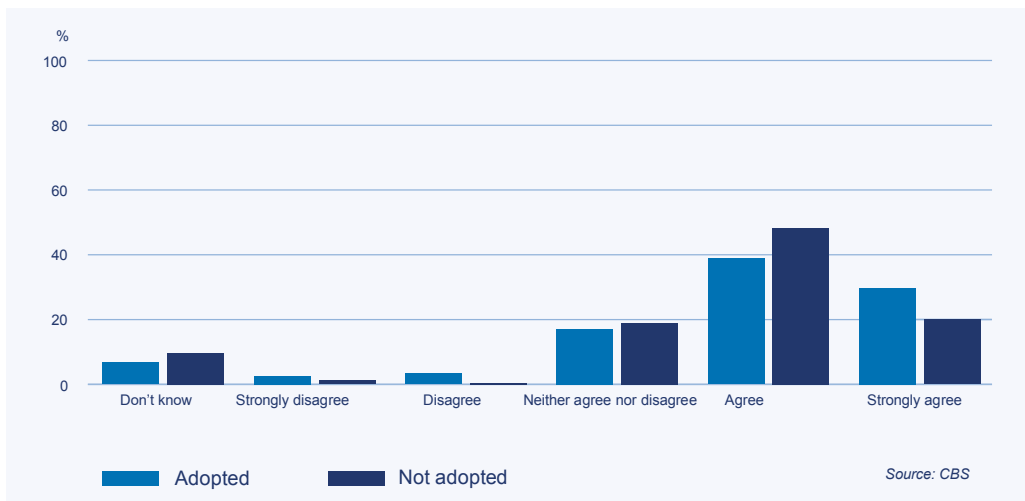


Figure 6: Percentage that agree or disagree with the statement: "intercountry adoption should always be possible."

Adoptees indicate more often than non-adoptees that the media write too negatively about intercountry adoption (30% versus 13%). Nevertheless, 26% of the adoptees would never adopt a child themselves (versus 24%).

Of the adopted adults, 45% indicate that it makes no difference to a child whether they are raised by an adoptive parent or by a biological parent. Twenty-eight percent of non-adopted adults (strongly) agree with this. Finally, it appears that adoptees feel a stronger bond with the Netherlands than with the State of origin. Eighty-five percent of the adoptees indicate that they feel (very) strongly connected with the Netherlands, and less than 5% indicate that they do not (at all) feel connected with the Netherlands. Twenty-eight percent of the adopted adults indicate that they feel (very) strongly connected with their State of origin. Sixty percent are interested in the language and culture of their native country and 56% indicate that their character has characteristics of the culture of their native country.

3.3.3 Search for more information about the adoption and background

Nearly nine out of ten adopted adults indicate that the adoptive parents have been open about the adoption. Most adopted adults (70%) report that the adoptive parents have shared information about their adoption of their own accord, and another nearly 20% report that the parents shared such information when they asked for it.

Information or documents that adoptees have received relatively often from their parents are the name of the children's home or hospital where they were born (69%) and the passport of the State of origin (67%). Half of the adoptees went in search of more information about their adoption and background (51%). Of the people who have not done this, 35% indicate that they (perhaps or certainly) will do so in the future. The most common reasons for searching are: wanting to know more about where one comes from (82%), wanting to know more about the biological family (69%), whether one resembles family in appearance and character (61%) and whether they have brothers or sisters (56%). Of the adoptees who indicate that they have not searched for information themselves, 73% indicate that they have no need for this.

Adoptees received the most help in their search from their adoptive parents (61%). This help was also found to be very useful and often more useful than the help of various organisations. However, the search for more information can be a tedious process. About a fifth of the people who have been searching indicate that they have found all the information they were looking for and also almost a fifth indicate that they have not (yet) found anything or that they had to stop the search because they could not proceed with it (Figure 7).

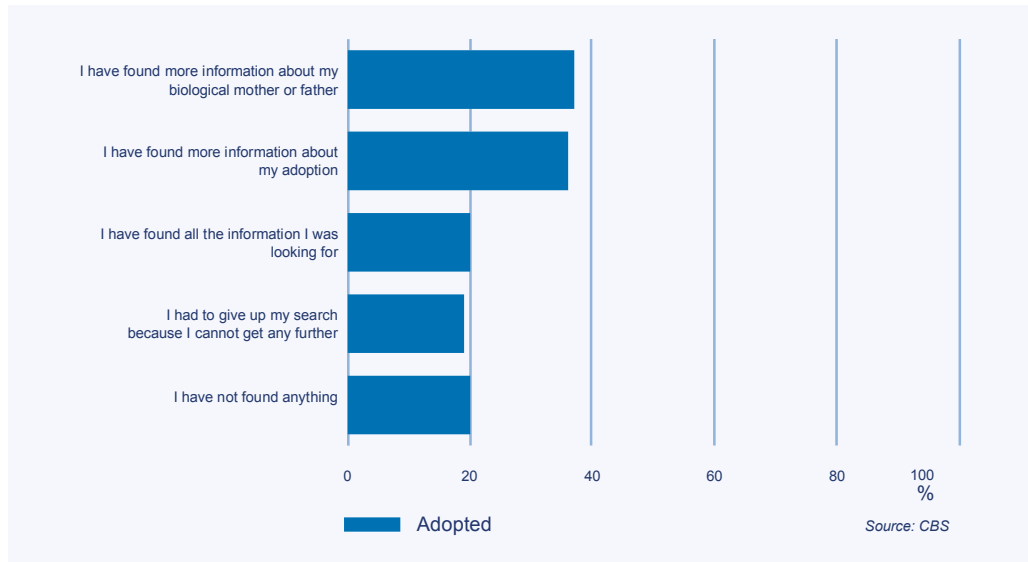


Figure 7: Percentage that indicates that they have (not) found more information.

Moreover, it turns out that during the search, incorrect information or documents come up relatively often. About a third of all adoptees who have been searching indicate that all the information they came across was correct. For everybody else, information emerged that turned out to be incorrect. The type of information that turns out to be incorrect is very diverse, for example the birth certificate and the name of the biological parents. The explanatory remarks show that the reason that persons were offered for adoption on several occasions turned out to be incorrect. More than 70% of the adoptees whose information turned out to be incorrect during the search, indicated that the adoptive parents were also not aware that any information or documents were incorrect.

People who were looking for more information about their background were asked whether they ever donated DNA for a relationship test. Most people (82%) indicate that they never did this. Thirteen percent indicated that they did this to find (more) family members via international DNA databases and 7% indicated that they did this to check whether biological family members were indeed related.

The explanations provided make a call for the establishment of a single information point for adoptees to answer questions and provide support in their search. It is also stated that the government has the responsibility to financially support adoptees in their search.

3.3.4 Search by adoption country

There appear to be differences between countries with regard to the extent to which people search and the outcome of this search. More than a quarter of the adoptees from China indicate that they have searched for more information about their adoption and background, while for the other countries surveyed, this percentage is between 48% and 56% (Figure 8).

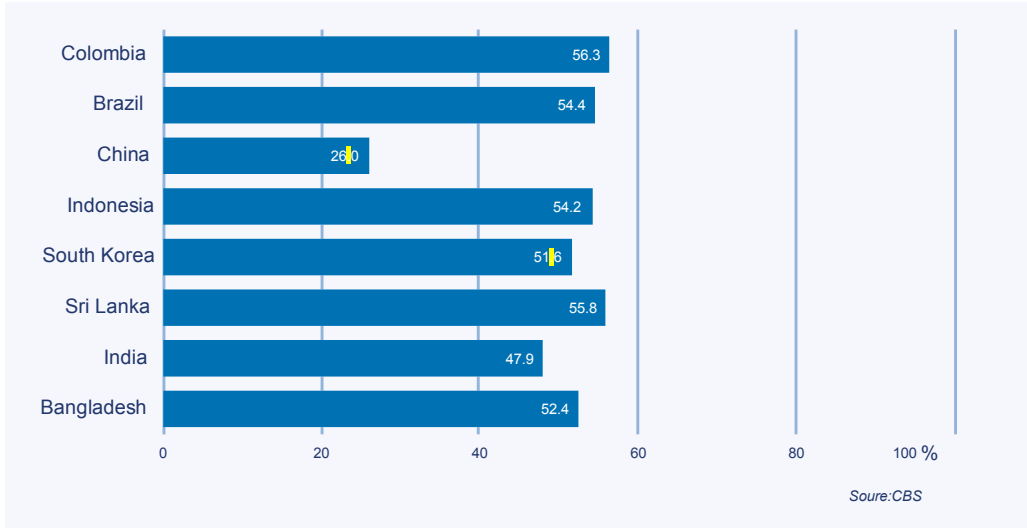


Figure 8: Percentage that went in search of more information about their background, broken down by State of origin.

People who have been adopted from China appear more often to have not found anything (almost half) compared to the other adoptive countries. Adoptees from Bangladesh also relatively often indicate that they have not found anything yet (Figure 9).

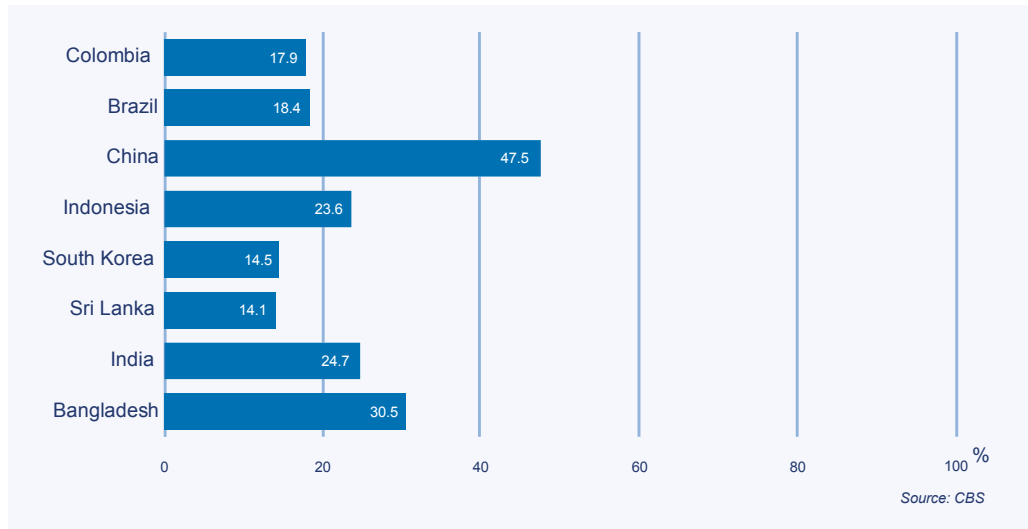


Figure 9: Percentage that indicates that they have not found any information yet, broken down by State of origin.

On average, 5% of the adoptees indicate that they have been opposed by institutions in the Netherlands during their search. Adoptees from India or Bangladesh indicate more often that they have been opposed by institutions in the Netherlands (10% and 20% respectively). Of those adopted from Bangladesh, South Korea or India, 10%, 11% and 20% respectively indicate that they have been opposed by institutions in the State of origin. For the other countries surveyed, these percentages were between 2% and 4%.

It was also checked whether there are differences between the adoption countries with regard to the extent to which documents are incorrect (figure 10). Adoptees from Brazil or Colombia most often (44% and 34% respectively) indicate that all the information they found during their search is correct. People adopted from Bangladesh are the least likely to report that all the information they have found was correct (3%).

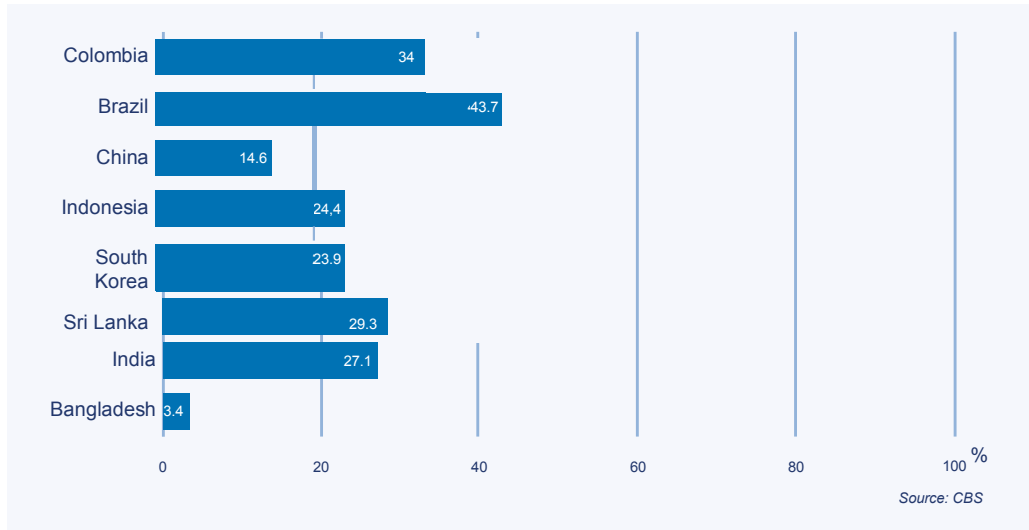


Figure 10: Percentage that indicates that all information that they found or received during the search is correct, broken down by State of origin.

If looked at what incorrect information adoptees have encountered during their search per country of adoption, the differences between countries are quite large (Figure 11).²⁹

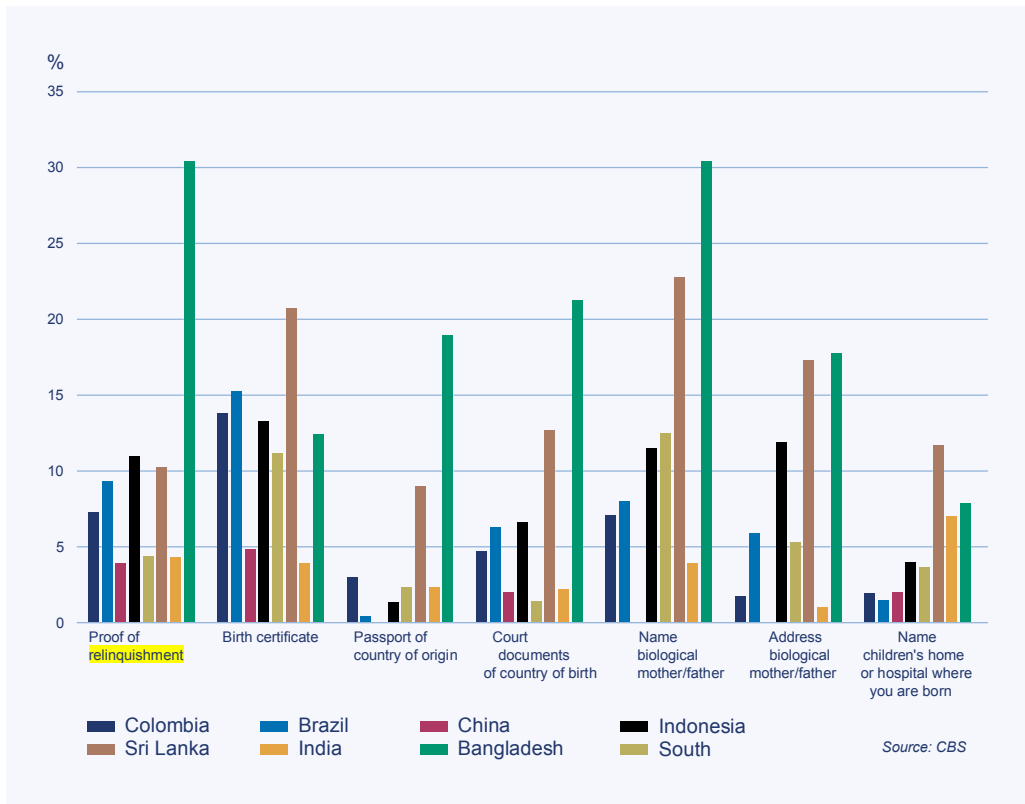


Figure 11: What incorrect information, broken down by country of adoption, have people come across?

The figure shows that adoptees from Bangladesh in particular indicate relatively often that various documents and information that they came across during their search turned out to be incorrect. More than 30% of these persons indicate that the proof of relinquishment turned out to be incorrect. The name of the biological parents also appears to be incorrect for 1 in 3 people. In Sri Lanka, documents found during the search relatively often turn out to be incorrect. For example, about 1 in 5 adoptees from Sri Lanka indicate that the birth certificate turns out to be incorrect. The name of the biological parents and the address of the biological parents are also relatively often incorrect.

29 Different scales due to the legibility of the figure.

Introduction on the five countries from the order establishing the Committee

Introduction

The next five chapters reconstruct the actual course of events of intercountry adoption in Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka, respectively. These are the countries that are explicitly mentioned in the order establishing the Committee. The chapters are based on archival research, interviews with involved parties, analysis of parliamentary papers (including Proceedings and Parliamentary questions) and field research in Sri Lanka and Colombia.

More than three thousand documents (letters, memoranda, code messages and policy notes) were consulted for the preparation of the chapters. These come from more than two hundred different archive files from a dozen archives, including the Ministry of Justice and Security, the Ministry of Foreign Affairs, the post archives of embassies and consulates, the archives of the Dutch Immigration and Naturalisation Service (IND) and private archives of relevant authorities and persons from home and abroad, such as those of the adoption intermediary Wereldkinderen.

In addition to the primary sources and documents to which the Committee had access, the actual reconstructions are also based on media coverage. To find out what public information was known in society at the time and how intercountry adoption was approached publicly, more than a thousand media reports were analysed.

Reading guide

Chapters 4 to 8 first outline the adoption numbers per country and the historical, cultural and socio-economic context. Subsequently, the laws and regulations and the adoption procedures are explained. The case studies are then described, in which concrete abuses are reported. These cases were chosen because they provide a typical example of the abuses in the adoption practice or because they are striking in the research that has been carried out. Together, this case study provides insight into the knowledge and involvement of the Dutch government and intermediaries in the adoption practice with the countries. The case studies contribute to, and are also illustrative of, the broader picture of identified abuses and the responses to them from the parties involved. Finally, the aftermath of the adoption practice with the concerned country is outlined. Each chapter concludes with the main findings.

4 Bangladesh

4.1 Key figures and context

The first formally placed Bangladeshi adopted child arrives in the Netherlands in 1973. The Dutch Ministry of Justice does not keep statistics before 1973. According to the Ministry of Justice, a total of 495 Bangladeshi children were adopted by the Dutch between 1973 and 1982.³⁰ In 1982, the Bangladesh government announces a complete cessation of adoption.

1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	total
0	1	0	69	88	124	141	32	34	5	1	0	0	495

Table 2: Number of placed adopted children from Bangladesh, 1972-1984.

In March 1971, a civil war broke out between Pakistan and the then so-called Bengal region. This war has claimed the lives of one to three million civilians out of a population of about 75 million. About 10 million people were displaced. The Pakistan army used systematic rape as a weapon of war. It is estimated that around 300,000 Bangladeshi women were raped, leading to tens of thousands of unwanted pregnancies. After interference from India, the Pakistani army withdrew in December 1971 and the independent State of Bangladesh was proclaimed.

The war devastated Bangladesh and the economy collapsed. More than eighty percent of the population lived below the poverty line. Famine broke out in 1974 due to floods, ineffective government action and a food boycott instituted by the United States. Hundreds of thousands of Bengalis fled, creating new refugee camps and growing existing ones. International organisations such as the Red Cross, Salvation Army and Terre des Hommes took care of the aid in the camps.

Worldwide media coverage of the malaise and high death rates in the camps reached households around the world and led some people to adopt a Bangladeshi child. Since 1972, a number of Dutch organisations, including the Dutch Intercountry Adoption Foundation (*Stichting Interlandelijke Adoptie, SIA*), wanted to set up an adoption channel with Bangladesh, and contacted the Bangladesh authorities to this end.³¹

30 Data from Hoksbergen, *Kinderen die niet konden blijven*, p. 8 (Table 2B) and 10 (Table 3B); Memorandum to the Dutch House of Representatives 1979-1980, "Praktische gang van zaken rond adoptie en adoptievoorbereiding", Appendix XI, p. 5.

31 In 1975, the SIA became part of the Dutch Bureau for Intercountry Adoption and Youth Welfare (BIA), a predecessor of Wereldkinderen).

4.2 Laws, regulations and adoption procedure in Bangladesh

The Bangladesh government wanted to solve the problem of women who had become pregnant by rape and to combat the social exclusion of these women. There were heavy social taboos around single motherhood. The Bangladesh government saw the worldwide attention to the situation in the country as an opportunity and therefore wanted to take action quickly.³²

Due to the social exclusion of the unwanted pregnant women, the Bangladesh government decided to allow abortion and intercountry adoption, although these were against the country's Islamic law and customs. To this end, it passed an adoption law in October 1972: the Abandoned Children Order. This law stipulated that "abandoned children" could be made available for intercountry adoption and that the Bangladesh Ministry of Social Affairs would fulfil the role of statutory guardian for these children. The definition of "abandoned child" was: "*a child which, in the opinion of the Government, is deserted or unclaimed or born out of wedlock.*" In other words, Bangladeshi children conceived out of wedlock could, by definition, be classified as "abandoned" and thus be adopted.³³

This adoption law was strengthened in 1978: only *actual* orphans or abandoned children could from now on be adopted by foreigners. In 1982, the Bangladesh government decided to completely repeal the adoption law of 1972. The strict Islamic political party *Jamaat-e-Islami* turned against the law of 1972, the party did not want the adopted children to be converted to other religions or a Western lifestyle. The adoption law was replaced in June 1982 by an old British colonial law from 1890 that prohibited intercountry adoption. After 1982, there have been no official intercountry adoptions from Bangladesh. Archival material shows, however, that Dutch couples adopted Bangladeshi children in 2002, 2006 and 2008. This was possible because the prospective adoptive parents were themselves adopted from Bangladesh.³⁴

The Bangladesh adoption procedure³⁵

Below follow the legal adoption procedure steps from Bangladesh to the Netherlands in the period of 1973-1982. The required documents are printed in *italics*.

1. *Parents relinquish the child*

When Bangladeshi parents took their children to a children's home, they had to sign a *declaration of relinquishment* before a court. Signing this affidavit meant that parents relinquished their rights as caregivers. The document was written in English and was the same for all adopted children. Only the first part contained personal information about the person who relinquished the child (name, religion, profession and place of residence).

2. *The child is transferred to a children's home*

After signing, statutory guardianship was placed with the Bangladesh Ministry of Social Affairs. The care of *the child was left to a children's home*.

32 N. Mookherjee, "Available Motherhood: Legal Technologies, "State of Exception", and the Dekinning of "War- Babies" in Bangladesh", *Childhood* 14:3 (2007), p. 340. See also: Wereldkinderen, *Adopties uit Bangladesh tussen 1970 en 1983*, Project Historie & Roots (The Hague, 2019).

33 Mookherjee, "Available Motherhood", p. 347.

34 In addition, foreigners were no longer allowed to be guardians of underage Bengalis. However, intercountry adoption still happened informally.

35 The procedural, factual enumeration and explanation in this section is largely based on: Wereldkinderen, *Adopties uit Bangladesh*, p. 12-14. Wereldkinderen relies on interviews and written sources from their own archives for this explanation.

In almost all declarations of relinquishment of Bangladeshi children who have been adopted by the Dutch, the BIA children's home in the capital Dhaka is mentioned as the authority to which the care for the child was transferred. The BIA was the only intermediary with permission from the Bangladesh government to mediate in adoptions to the Netherlands.

3. *Child and adoptive parents are linked*

The BIA in the Netherlands presented prospective adoptive parents to the Bangladesh authorities and then arranged the matching between the child and the Dutch couples.

4. *The Bangladesh government approves the custody transfer*

The Bangladesh Ministry of Social Affairs had to approve the matching. It drew up a transfer slip, the so-called *Transfer of Guardianship* or *Blue Paper*. This arranged the custody transfer from the Bangladesh government to the adoptive parents or BIA.

5. *The child undergoes a medical examination*

The BIA in Dhaka had the adopted children medically examined, often by doctors from Terre des Hommes. The age of the child was estimated and recorded during the check. The reasons for this were that there was no central birth register in Bangladesh, that the age of children was often unknown or that children were mentally or physically disadvantaged.

6. *The children's home draws up a background report*

Social workers at the BIA children's home then drew up a short *background report*, often no longer than one page. This report described the reason why the child was put up for adoption.³⁶

7. *Application for passport and visa*

BIA then applied for a *Bangladesh passport* for the child to be allowed to travel. This passport was sent to the Dutch consulate in Dhaka. Subsequently, the consulate arranged the *Dutch visas* for the children. Visas were issued on the basis of the Bangladesh declaration of relinquishment, passport and Dutch declaration of approval in principle.

8. *Departure to the Netherlands and legal confirmation*

The children left for the Netherlands accompanied by escorts, usually BIA employees. A year after arrival, the adoption was legally confirmed by a Dutch court, based on the above documents.

4.3 Case studies

This section describes two cases of intercountry adoptions between Bangladesh and the Netherlands. The first case concerns the role of Major Eva den Hartog of the Salvation Army, who was involved in the first hundred Bangladeshi adoptions to the Netherlands. The second case describes allegations of abuse by the British physician Jack Preger and others.³⁷

36 The background stories were similar in scope, they often contain references to hunger, war, poverty and natural disasters. Stories could also be exaggerated or made up. The background report followed a standard format. See Wereldkinderen, *Adopties uit Bangladesh*, p. 12-14.

37 See also Terre des Hommes Netherlands, "Terre des Hommes Nederland en Adopties uit Bangladesh in de Jaren '70." (unpublished report, 2020).

4.3.1 The role of Eva den Hartog in Bangladesh

Eva den Hartog, also referred to in the media as "the Dutch mother Teresa", left for Bangladesh in early 1974. During the civil war in the years before, she had already worked in a refugee camp. From May 1974, Den Hartog was in charge of all current projects of the Salvation Army in Bangladesh, including a maternity hospital and a home for handicapped children. From mid-1974, Den Hartog, her employee Samson and the Bangladeshi contact person Moslem Ali Khan³⁸, the director of Terre des Hommes Netherlands in Bangladesh, started working together with the SIA intermediary to facilitate adoption from Bangladesh.³⁹

Den Hartog and Samson became the representatives of SIA/BIA. In a small clinic, the two took care of the potential adopted children. They were assisted by Khan, who was later appointed by BIA as their local contact person. In December 1974, *Trouw* newspaper reported on efforts to facilitate adoption from Bangladesh. It was reported that it would not be long in coming. SIA/BIA aimed to speed up the adoption process in order to shorten the waiting list that consisted of 1,500 couples at the time.⁴⁰

At the beginning of April 1975, Den Hartog left for the Netherlands with the first group of seven Bangladeshi adopted children. Their arrival was picked up by all media. Den Hartog gave interviews in which she emphasised the seriousness of the situation in Bangladesh. Although she saw adoption as a "last resort" and felt that children should grow up in their own country, she saw no possibility here in Bangladesh. The media attention led to an increase in the number of Dutch couples who wanted to adopt Bangladeshi children.⁴¹

At the end of 1975, Den Hartog ended her adoption programme because, she stated: "there had been too many problems with the waiting lists of potential adoptive parents and with the authorities in Bangladesh."⁴² Nevertheless, Den Hartog arrived in May 1976, about a year after her first visit to the Netherlands, again with a group of adopted children. In total, she took care of more than a hundred Bangladeshi adoptions to the Netherlands.

In an interview, a former BIA/Wereldkinderen board member says that Den Hartog herself adjusted the date of birth of his Bangladeshi adopted daughter. This happened during the inspection of the travel documents upon arrival at an airport. In his travelogue, the board member wrote:

38 Also known under the name Manzur.

39 H. Maule, *Geen tijd om te Bidden* (Bussum, 1977), p. 209. See also "Eva den Hartog: "Als ik mijn ziel wilde bevredigen, zat ik thuis in Alphen aan den Rijn"", *Trouw*, 10/7/1974.

40 Wereldkinderen brochure, "Geboren in Bangladesh" (February 1992), p. 8; "Teleurstelling voor honderden. Bangladesj stuurt voorlopig geen adoptiekinderen", *Trouw*, 5/12/1974.

41 See the articles that show the "media storm" surrounding Den Hartog's arrival: "Eva uit Bangladesh even terug in Nederland", *NRC Handelsblad*, 8 April 1975; "Het land waar er zeventig miljoen teveel zijn", *Trouw*, 15 April 1975; "Adoptie-stichting overstroomd met telefoontjes", *Leeuwarder Courant*, 16 April 1975; "Adoptieverenigingen bundelen zich", *NRC Handelsblad*, 18 April 1975; "Eva den Hartog: adoptie is laatste redmiddel", *Leeuwarder Courant*, 19 April 1975.

42 Den Hartog, *Rebel voor het Leger: memoires* (Baarn, 1985), p. 84; "Eva den Hartog", *Trouw*, 06/01/1976.

"Eva de[n] Hartog, the well-known Major of the Salvation Army, changes [the] date of birth in her passport. Laughs. I have done this before. Talks about [the] mother who died of cholera, like so many mothers in Bangla Desh. "No, you will probably never find anything back."⁴³

Looking back on this event, the board member said in 2019: "This can be called forgery in theory. But at the time, if you were driven to change certain things in a country, in such chaos... that's how you do things like that." He ended by stating: "Eva den Hartog, Grace Samson, and Manzur [Khan] - those were people who were really involved with those children. They weren't looking for profit or higher positions... that didn't matter at all." He disagreed with recent allegations of abuse by Bangladeshi adoptees: "That's not how you treat people who did things like this with a lot of courage and daring - and out of their own pocket - at the time."⁴⁴

The BIA board therefore knew that birth dates of adoptees were not always correct or were falsified; for example, with the aim of lowering the age of the child, because the maximum age of a child to be adopted in the Netherlands was six years. At the time, this practice was said to be understandable by the parties involved with reference to the circumstances in Bangladesh, the good intentions and the commitment of the people involved. Sometimes the exact date of birth was not known due to a missing birth register.

In February 1977, a quarrel broke out between Den Hartog and BIA, which was fought in the media. Den Hartog accused BIA of striving for a "monopoly position" for adoptions. BIA would have "thwarted" Bangladeshi adoptions and asked prospective adoptive parents to pay higher rates than the actual costs. BIA was furious about Den Hartog's allegations. Contact was broken, although it remains unclear by whom. BIA stated that they broke contact with Den Hartog because Den Hartog regularly offered Bangladeshi children for adoption to friends and acquaintances, ignoring the official adoption waiting lists. Despite this quarrel and the allegations of adoption abuses, the media attention led to a further increase in Dutch people wanting to adopt children from Bangladesh.⁴⁵

4.3.2 Allegations made by the British physician Preger

This case is about possible abuses in Bangladeshi adoptions between 1977 and 1983 that were brought to light by the British doctor and whistle-blower Jack Preger. In mid-1975, Preger worked for Terre des Hommes Netherlands in Bangladesh. After a few months, Preger left Terre des Hommes. Later he set up his own clinic in Dhaka with the support of Terre des Hommes Netherlands.⁴⁶

43 Travelogue of BIA board member to Bangladesh (1983, exact date unknown).

44 Interview by Committee.

45 "Radio en tv. Ter attentie", *Nederlands Dagblad*, 2231977; "Omroep zegt rectificaties toe. Adoptiebureau woedend over film van NCRV", *Trouw*, 23 February 1977; "Eva den Hartog en de adoptie", *Trouw*, 26 March 1977.

46 Letter from Khan (on Terre des Hommes stationery), 4 March 1976.

In the spring of 1977, two Bangladeshi mothers came to Preger's clinic. They knew he had worked for Terre des Hommes (TdH). The mothers claimed their children had been taken away. Khan and other TdH employees are said to have convinced them to send their children to the BIA children's home, with the promise that they would receive food, clothing and education. When the mothers wanted to visit their children, they were found to have disappeared.⁴⁷

After several weeks, Preger began an investigation into the allegations, which led to three persons: the head of TdH Denmark, the head of the Bangladesh Directorate of Social Welfare and the aforementioned Khan. According to Preger, all three of them would have been involved in illegal adoptions from a refugee camp where at least a hundred children would have disappeared. He informed the Bangladesh authorities of his suspicions around June 1977.⁴⁸ Over the next five years, through December 1982, many allegations followed, investigations of the charges were launched, and the exact truth remained unclear. See the timeline below.

Table 3: Allegations of abuse and reactions from the government and parties involved, July 1977 - December 1982.

Date	Event and/or allegation of abuse	Response from the government and parties involved	Ref.
Spring 1977	Two Bangladeshi mothers raise the issue of adoption abuses with Preger.	Preger investigates the allegations of abuse and raises them with the American consulate.	49
May 1978	Weekly magazine <i>Panorama</i> publishes article "Even een kindje kopen in Bangladesh", containing allegations of abuse against Khan about age falsification.	Khan is summoned by TdH in The Hague after <i>Panorama's</i> publication. He is asked to give up his position as director of the BIA children's home.	50
Autumn 1978	French newspaper <i>Le Monde</i> publishes twice about Preger's allegations of child trafficking.	The Dutch government was currently aware of the allegations.	51-52
Jan-Apr 1979	Preger informs the Dutch embassy in London of alleged abuses. Preger expresses his accusations against BIA, TdH NL and Khan in the international press. <i>The Daily Telegraph</i> publishes an article.	The Dutch government, embassies in London and Dhaka, and BIA are not taking any action. TdH is conducting an internal investigation into allegations and sees no reason to believe that Preger's accusations are well-founded.	53-54

47 In English, the BIA children's home was known as NICWO Baby Home. See also Copy of letter from Preger to "The Political Secretary of the US Consulate", National Archive (NA), MinFA, access no. 2.05.330, inv. no. 9990.

48 Ibid.

49 See documents in the MinJus Archive, access no 2.09.105, inv. no. 5013; Copy of letter from Preger to The Political Secretary of the US Consulate, National Archive, MinFA, access no. 2.05.330, inv. no. 9990.

50 "Even een kindje kopen in Bangladesh", *Panorama*, May 1978; Letter of the BIA director to Khan, 23/09/1978, in which the chairman responded to Khan's dismissal.

51 "Bangladesh: une mise au point de Terre Des Hommes", *Le Monde*, 6 September 1978; "Bangladesh: Le Témoignage D'un Médecin Britannique. Traffic d'enfants, mouroirs public et bêtête social.", *Le Monde*, 4 October 1978, both articles in National Archive, MinFA, access no. 2.05.330. inv. no. 9990.

52 Letter from the Head of the Child Protection Department to the Ministry of Foreign Affairs, 9 May 1979; Internal letter from the Ministry of Foreign Affairs (DTH/CP to DOA), 3 or 4 October 1978, NA, MinFA, access no. 2.05.330, inv. no. 9990.

53 "I found adoption racket" claims deported doctor," *The Daily Telegraph*, 12 March 1979; Dhaka Embassy Officer to the Ministry of Foreign Affairs, 15 March 1979; Jack Preger at the Dutch Embassy in London, 15 March 1979; Preger to BIA Director, 18 May 1979; Received Telex message from the Dutch Embassy in Dhaka to the Ministry of Foreign Affairs (cc to the Embassy in London), 9 April 1979. All sources in National Archive, MinFA, access no. 2.05.330, inv. no. 9990.

54 Letter from Preger to the Dutch Embassy in London, 22 May 1979, National Archive, MinFA, access no. 2.05.330, inv. no. 9990. Preger described his list of names as a: "*List of families in Dattapara Camp, Tongi, near Dacca, Bangladesh who claim they were fraudulently deprived of their children by the staff of Terre des Hommes-Netherlands under the direction of Mr. Moslem Ali Khan, acting in association with the adoption home of the Netherlands Inter-country Child Welfare organisation at Road 32, Dhanmondi, Dacca.*"

Date	Event and/or allegation of abuse	Response from government and parties involved	Ref.
9 May 1979	Preger sends a list of the names of the 25 mothers to the Dutch government.	The Dutch government takes note of the list.	55
June 1979	Preger writes letters to BIA expressing his allegations.	BIA responds to letters and claims never to have received negative information about Khan. BIA checks Preger's list and concludes that there is no indication of children who ended up with Dutch couples via BIA.	56
4 Jul 1979	Bangladeshi investigation committee publishes report on Preger's allegations. His accusations would be "false and baseless". Preger is deported from Bangladesh.	The Dutch government takes note of the results of the Bangladeshi investigation report and decides that it has sufficient reason not to investigate Preger's allegations further.	57
Jul-Aug 1979	Media attention in Dutch newspapers for allegations: suspected involvement of TdH and BIA in child trafficking.	Dutch consulate in Dhaka informs the Ministry of Foreign Affairs about the allegations.	58
7 Sep 1979	Justice officials have expressed doubts about the reliability of the Bangladeshi investigation commission report.	Despite internal doubts about reliability, the Ministry of Justice does not decide to take follow-up action.	59
20 Sep 1979	The Justice Department reports to the Ministry of Foreign Affairs that independent government investigation is not necessary.	The Dutch embassy in London informs Preger that the Ministry of Justice, Foreign Affairs and the embassy are not conducting their own investigation.	60
Nov 1979- Jun 1980	Preger repeats his allegations against Dutch politicians and diplomats and emphasises direct involvement of Dutch adoption intermediaries.	No follow-up action taken by the Dutch government or intermediaries.	61

- 30 Head of the Child Care and Protection Department at the Ministry of Foreign Affairs, 9 May 1979; Letter from Section Officer Ministry of Manpower Development, Labour & Social Welfare of Bangladesh, 7 April 1979, National Archive, MinFA, access no. 2.05.330, inv. no. 9990.
- 31 Letter from BIA Director to Khan. CC. to "The Director of Social Welfare Government of Bangladesh", concerns "Termination from NICWO's Representativenesship", 23/09/1978.
- 32 See Bangladeshi Investigation Report concerning allegations of Preger, 4 July 1997, MinJus, access no. 2.09.105, inv. no. 5013. The Bangladeshi Commission of Inquiry consists of: the *Deputy Secretary, Ministry of Manpower Development and Social Welfare*; and the *Senior Scale Section Officer, Ministry of Manpower Development*. Khan and a European employee of TdH NL were also involved in the investigation. Letter from Bangladesh "Deputy Secretary" to "The High Commissioner" of the British Government, concerns: "Protest against [...] actions and nefarious design of Dr. Jack Preger a British national", 27 July 1979; letter from the Directorate of Child Care and Protection to the Ministry of Foreign Affairs, 20/09/1979; Dutch Embassy in London to Jack Preger, 8/10/1979, all letters in: National Archive, MinFA, no. 2.05.330, inv. no. 9990.
- 33 "Britse arts spreekt van handel in kinderen", *Leeuwarder Courant*, 1/5/1979; Embassy in Dhaka to Ministry of Foreign Affairs, 9/8/1979, National Archive, MinFA, access no. 2.05.330, inv. no. 9990.
- 34 Letter from Foreign Affairs, concerns: "Request for message and advice regarding Mrs. Moslem Ali Khan from Bangladesh", 7 September 1982, MinJus Archive, access no. 2.09.105, inv. no. 5013. This was a response to a letter from Khan's wife.
- 35 The Ministry of Justice wrote: "In response to your above-mentioned letters, I inform you that, partly on the basis of the report of the official Commission of Inquiry of the Bengal Government, I have found sufficient cause with regard to the accusations of the British Dr. J. Preger not to take any further steps." See Directorate Child Care and Protection at Ministry of Foreign Affairs, 20 September 1979; Embassy in London to Preger, 8/10/1979. Both letters in: NA, MinFA, 2.05.330. inv. no. 9990.
- 36 Preger to the Dutch embassy in London, concerns: "The Dutch adoption racket in Bangladesh", 20/11/1979; Preger to Deputy High Commission of Bangladesh, Subject: "Dutch Adoption Racket", 19/12/1979. Both letters in: NA, MinFA, access no. 2.05.330, inv. no. 9990; On 11 June 1980, Preger wrote a letter to a Dutch Member of Parliament and member of the Permanent Parliamentary Committee for OSW. Preger asked whether the Member of Parliament was prepared to start an independent investigation or have it carried out. Preger also contacted the Dutch ambassador in New Delhi around July. See: letter from Preger to Member of Parliament, concerns: "Traffic in Bangladeshi children", 11061980, NA, MinFA, access 2.05.330, inv. no. 9990.

Date	Event and/or allegation of abuse	Response from government and parties involved	Ref.
8 Dec 1980	A Bangladeshi police report shows that one of the birth mothers who allegedly testified to Preger may have made an incorrect statement. According to the investigation, TdH is wrongly accused of being involved in illegal adoption. TdH NL would have nothing to do with adoption.	No response or follow-up.	62
5 Mar 1982	Bengali magazine <i>Bichitra</i> publishes about abuses. Children were given up under false pretences and smuggled abroad. Puts Bengali report of July 1979 into question. Calls for an adoption ban.	The Dutch government takes note of the article.	63
May-Oct 1982	Bangladeshi authorities arrest Khan on suspicion of child trafficking.	Khan has left employment with TdH NL. The Consulate in Dhaka notifies Foreign Affairs.	64
Jul-Dec 1982	Discussion between BIA, RvdK and Ministry of Justice about how to deal with negative publicity.	BIA and RvdK prepare reports on the good living conditions of Bangladeshi adoptees in the Netherlands and send them in December 1982 to Bangladeshi authorities. This would have resulted in a more positive press in Bangladesh. Khan is acquitted of all charges in March 1983.	65

Table 3 shows that governments, individuals and other parties involved have been informed of possible adoption abuses in Bangladesh for years. This was done through letters, interviews and visits to a wide range of involved parties, from embassies and government agencies to the media.⁶⁶ The Dutch authorities and the intermediaries were also repeatedly informed of the suspicions from different sides. After an investigation was carried out by the Bangladeshi Commission of Inquiry, the relevant Dutch ministries and diplomats did not investigate the matter further themselves. No internal investigation was started, according to interviews conducted by the Committee. The Dutch authorities have relied on the conclusions of the Bangladeshi report. A possible explanation for this is that the allegations of abuse and allegations generally came from Preger and that no other authorities or persons made a negative statement about, among other things, Khan's activities.

- 37 Investigation report from "circle Officer" to "The Sub-Divisional Officer, Gezipur, Dacca", "Enquiry report relating the allegation petition filed by Samina Begum and 11 others of Dattapara Rehabilitation Centre," 08121980.
- 38 "Bengali Children in Foreign Brothel", *Bichitra*, 5 March 1982, found in MinJus, access 2.09.105, inv. no. 5013. See also Interview report between BIA and Ministry of Justice, 29/07/1982, MinJus, access 2.09.105, inv. no. 5013.
- 39 Foreign Affairs to Ministry of Justice, 15 September 1982, MinJus, no. 2.09.105, inv. no. 5013; Embassy Secretary in Dhaka to MinFA, 23 February 1983. MinJus, inv. no. 5013. Letter from BIA Director to Khan. CC. to the Director of Social Welfare Government of Bangladesh and Field Officer, Nicwo, Dacca, "Resignation from NICWO's Representativenesship", 23/09/1978.
- 40 BIA and Ministry of Justice interview report on "press publications in Bangladesh", 29/07/1982; Letter from the Directorate of Child Care and Protection to SIA/BIA, 6/12/1982; BIA Chairman to RvdK secretaries, 13/08/1982; Letter from SIA/BIA to "the parents of a Bangladeshi child", 21 July 1982 MinJus, no. 2.09.105, inv. no. 5013; "BIA newsletter", *Wereldkinderen Magazine*, 1982, no. 4, pp. 12-13.
- 41 Letter from the Head of the Child Care and Protection Department to the Ministry of Foreign Affairs, 9 May 1979; Telex message received from Embassy in Dhaka, cc to Embassy London, 9 April 1979, NA, MinFA, access: 2.05.330, inv. no. 9990.

In August 1982, the chairman of the BIA intermediary wrote a letter to the Ministry of Justice and (prospective) adoptive parents. This in response to self-proclaimed: "sensational articles (...) on abuses surrounding Bangladeshi children who have gone abroad for adoption." The chairman wrote that this "widely reported affair [had] brought the name of the Netherlands, in general and as a reliable adoption country, into question." BIA, in consultation with the Ministries of Justice, Foreign Affairs and the relevant diplomatic missions, wanted to mobilise families with Bangladeshi adopted children. This with the aim of debunking the negative reporting. In doing so, they tried to protect the reputation of the Netherlands with regard to adoptions from Bangladesh in order to continue to make future adoption opportunities possible.⁶⁷

To accomplish this, the BIA chairman suggested that the adoptive parents prepare statements in which they emphasised that their Bangladeshi adopted child(ren) was (were) doing well and that they were in good health. These statements, together with official statements from the Child Care and Protection Services and Ministry of Justice, would be sent to the Bangladeshi authorities. The BIA chairman concluded his letter with the comment:

*"We are currently in discussion with the Ministry of Foreign Affairs - which feels closely involved in the case from the point of view of maintaining the good name of the Netherlands - about the proposal to make this offer not by the BIA but by the Minister of Foreign Affairs. "*⁶⁸

The Dutch government later also did not independently investigate the allegations and it has not been established whether they were justified. Khan was acquitted of the charges by a Bangladeshi judge in 1983. After 2000, testimonies came up that again linked Khan to child trafficking. Whether those allegations are correct cannot be established unequivocally on the basis of the research material consulted by the Committee.⁶⁹

The Committee has spoken extensively with both parties involved and has heard both sides of the argument. The Committee has received large quantities of documents from both Khan and Preger. These documents have been extensively studied and analysed.⁷⁰ The above representation is a detailed account of the research material received by the Committee, in which an attempt was made to paint as complete a picture as possible of the social, political and societal context in which the abuses occurred.

42 Letter from the BIA chairman to the Secretaries of the RvdK with cc to the juvenile judge and secretary of the National Federation of Child Care and Protection, 13 August 1982, MinJus Archive, access 2.09.105, inv. no. 5013.

43 Ibid.

44 Internal letter from Foreign Affairs, 5 August 2002, MinFA, access. 3200.183 19481.23, inv. no. 7403; Letter to the Dutch embassy in Bangladesh. Subject: "Intimidation by Mr. Khan", 17 October 2006; Interview report concerns: "Harassment of [...] by Mr. M.A. Khan", 18 October 2006, MinFA Archive, Archives of the Dutch diplomatic representation in Bangladesh, access no. 3200.199, inv. no. 437.

45 In 2020, it is no longer possible to determine the exact course of events, partly due to contradictory documentation and reporting, which may also involve falsified documents. It can be established, for example, that a number of allegations about Preger - both then and today - cannot be substantiated with facts or are clearly incorrect. An example of this is the claim that Preger is not a real doctor. This claim has been proven to be factually incorrect.

On top of this material, the Committee received many documents from two Dutch people involved. The two worked in Bangladesh in mid-1976. Their documents reinforce the picture already outlined in this chapter. In 1976, there were complaints about Khan and his actions. Several volunteers disagreed with him. In several letters and reports, they point out that Khan was tampering with adoption papers. He would take beggars off the street to put thumbprints on adoption papers. In addition, children would receive vaccination booklets with stamps, even though they had not received these vaccinations. TdH NL did not respond to hardly any of these complaints. In December 1976, they decided that they no longer wanted to work for TdH like this. They left.⁷¹

The documents show that Khan would argue with volunteers, tolerate no contradiction and acted authoritarian. TdH relied on Khan and continued to do so, even after complaints and negative signs from volunteers. TdH covered for Khan. The documents also show that he was considered too strategically important as an intermediary in Bangladesh to be fired. Finally, the documentation shows the interrelationship between TdH and BIA in Bangladesh: BIA volunteers are sometimes said to work for TdH and vice versa.⁷²

4.1 Aftermath: adoptions from Bangladesh, 1982-present

In 1982, Bangladesh passed a law reform banning intercountry adoption. The Bangladeshi adoption stop in 1982 did not prevent Dutch adoption agencies from exploring a reopening of the adoption channel. In January 1986, the chairman of BIA/Wereldkinderen visited Bangladesh. The purpose of this, in his own words, “treasure hunt”, was to make Bangladeshi adoptions to the Netherlands possible again.⁷³

Since December 1990, Dutch adoptive parents and adoptees have been trying to organise roots trips to Bangladesh. Khan was often called upon to do so. Roots trips turned out to be difficult and time consuming, especially because the Bangladeshi population register was not in order. The Dutch Ministry of Foreign Affairs was asked to help with this, but indicated that it was unable to do so due to a lack of capacity.⁷⁴

A 1993 manual by BIA successor Wereldkinderen on a roots trip for Bangladeshi adoptees advised them not to search for their original family, and emphasised that their documents and data such as addresses and dates of birth were probably incorrect. The reason for this would be that such data did not exist in Bangladesh at that time because there were no birth registers, for example. In addition, the manual stated: “No one was there to check (...) It was only legal cover for the government and the court.”⁷⁵

46 Received documents from two Dutch involved parties.

47 Ibid.

48 To achieve this, he spoke with, among others, the Dutch ambassador, the Bangladeshi Ministry of Social Affairs, aid organisations, and Khan. See Travelogue BIA, “t resultaat telt, niet de moeite: verslag van een speurtocht in Dhaka, Bangladesh; 19-27 January 1986”.

49 Two letters from adoptive parents to the Dutch embassy, December 1990 and January 1992, MinFA Archive, access no. 3200.199, inv. no. 437.

50 “Geboren in Bangladesh”, p. 13-14. Although the leaflet did not encourage roots trips, it described how adoptees could look for family. This was possible by writing a letter to Khan and transferring NLG 75 to Wereldkinderen.

In the period of 2017-2019, Terre des Hommes Netherlands investigated its own role and its actions in the 1970s with regard to the Bangladeshi adoption practice. The organisation shared its source material and findings with the Committee in 2020. This also showed the complicated, interwoven state of affairs at the time.⁷⁶ Looking back, a TdH board member stated: "The irony is that Terre des Hommes, an organisation that advocates against intercountry adoption, got involved in this after all, by an employee [Khan] with a double role." A then BIA board member was positive about Khan in 2019: "I can only say: he is a warm man. A Rotarian, as a rule, are people who want to do something for society. They are certainly not interested in things like child trafficking."⁷⁷

In 2019, Wereldkinderen - the successor of BIA - admitted in a published report that the adoption practice from Bangladesh left something to be desired in the past. According to Wereldkinderen, a paper reality was created at the time to ensure that Bangladeshi children could be adopted by the Dutch. For example, children were made younger on paper to enable adoption abroad. Wereldkinderen recognised that individual adoption records of adoptees were incomplete.⁷⁸

The aftermath of the Bangladesh adoptions and the handling of these practices by the Dutch government and intermediaries at the time still has consequences today. Painful and unexplained issues remain for those involved in relation to the abuses that have arisen. A number of adoptees from Bangladesh have also actively sought out the media in recent years. They have indicated that their adoption papers are incorrect, so that they cannot trace their origins. They are also critical of the procedures followed.⁷⁹

Signs in the media after 2007

From 2008, articles appeared in the media in which Bangladeshi adoptees have their say. In 2010, there was attention for an adoptee who found out that her mother never knew she would be put up for adoption: "At the children's home, it was said that I would have a better future and go to another country."⁸⁰ The adoptee also turned out to be two years older than the date of birth on her passport.

In June 2017, *Nieuwsuur* reported about abuses in adoptions from Bangladesh. The personal family quest of a Bangladeshi adoptee was outlined.⁸¹ Following *Nieuwsuur*, more articles followed about abuses in Bangladeshi adoptions. Children are said to have been orphaned on paper and biological siblings were "regularly separated and placed with different families."⁸² After 2017, several Bangladeshi adoptees shared their personal stories in which similar abuses

51 Terre des Hommes Netherlands, "Terre des Hommes Nederland en Adopties uit Bangladesh in de Jaren '70." (unpublished report, 2020).

52 Based on interviews by the Committee.

53 Wereldkinderen, *Adopties uit Bangladesh*, pp. 12-14. In their own words, "most of the declarations of relinquishment had neither a signature nor a thumbprint."

54 Based on interviews by the Committee.

55 "Weerzien met dochter na 31 jaar bidden", *Noordhollands Dagblad*, 27-03-2010.

56 "Adoptiekinderen Bangladesh zonder medeweten van ouders naar NL gebracht", *Nieuwsuur*, 03-06-2017.

57 Sigrid Deters, "Bengaalse kinderen zoeken hun ouders", *Trouw*, 06062017; Hans Knijff, "Wereld op de kop voor adoptiekinderen uit Bangladesh", *Dagblad van het Noorden*, 08-07-2017; "Broers en zussen na adoptie in Nederland gescheiden", *Trouw*, 14-10-2017.

arose.⁸³ One Bangladeshi adoptee sued the Dutch state in November 2019. In an article, the adoptee said, "I think they [the government] are to blame for this whole thing, if our government knowingly pushed through all those files knowing it was wrong."⁸⁴

4.2 Main findings from Bangladesh

Bangladesh was ravaged by political, economic and sociocultural malaise in the 1970s. The civil war resulted in hundreds of thousands of deaths, millions of displaced people and tens of thousands of rapes. The economy collapsed completely and starved the vast majority of the population. All of this was exacerbated by politically inadequate behaviour and corruption. This historical context influenced how adoptions from Bangladesh would unfold in subsequent years.

As of at least September 1978, alleged abuses have been reported in the media and elsewhere. Those signs were ignored and not followed up by action from the Dutch government. The Dutch government did make inquiries with the local authorities, but it did not conduct an investigation itself. There was little control over the adoptions from Bangladesh. After, among other things, the allegations of abuses as expressed by various parties, the Dutch government has not opened an investigation. It did, however, check with the Dutch organisations BIA and TdH. The latter two organisations had conducted internal investigations, but concluded at the time that no adoption abuses took place.

The involved parties spoken to by the Committee indicate that the activities of aid organisations in Bangladesh were interwoven as a result of the chaos that ravaged the country in the 1970s. Tasks were unclear, and those involved, including Khan, operated with double roles. Personal interests and mutual contradictions clouded the adoption practice. The government took no action.

58 "Adoptie of kinderhandel?", *Limburgs Dagblad*, 11-11-2017; "You know everything, we know nothing. Wij hebben alleen maar leugens!", *Dagblad van het Noorden*, 15-12-2017; "Muiderbergse klaagt Staat aan voor adoptie", *De Gooi- en Eemlander*, 12-11-2019; "Voor de poen is mijn leven stukgemaakt", *Trouw*, 08-12-2018; "Rowena (43) werd als baby afgepakt van haar moeder - nu vliegt ze terug naar Bangladesh voor een ontmoeting", *PZC.nl*, 08-02-2020.

59 "Opnieuw klaagt geadopteerde Nederlandse Staat aan", *Nieuwsuur*, 10-11-2019.

5 Brazil

5.1 Key figures and context

Officially, the first two Brazilian adopted children came to the Netherlands in 1973. The years before, some adoptions from Brazil already occurred, but this was not registered by the Dutch Ministry of Justice. From 1973, on average, dozens of children came every year. In total there are currently about 1,400 Brazilian adoptees in the Netherlands.⁸⁵

1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	
0	2	9	10	22	17	22	18	10	4	0	9	25	
1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	total
78	56	63	68	70	91	111	57	72	67	68	83	69	1,101

Table 4: Number of officially placed adopted children from Brazil, 1972-1997.⁸⁶

Wereldkinderen was the largest Dutch intermediary. For example, between 1985 and 1991, the organisation operated in an average of thirty Brazilian adoptions per year. In total, Wereldkinderen mediated in more than 300 Brazilian adoptions, more than 21% of the total.⁸⁷ Other prominent Dutch intermediaries were Flash (100+) and BANND (50+). As in many other States of origin, many DIY individuals were also active in Brazil who mediated on a private basis.

Brazil is the largest country on the South American continent, both geographically and in terms of population (with over 120 million inhabitants in the 1970s, and more than 210 million today). The population composition is diverse, with descendants of immigrants from Europe, Africa and native inhabitants. The influence of the Catholic faith on the country was and is considerable. Abortion is disapproved by both the church and the Brazilian government.

From the 1970s, when the intercountry adoption practice got underway, poverty, the young age of mothers and the status of illegitimate children also played an important role in the relinquishment of children in addition to faith. In Brazil, illegitimate children could not legally be adopted by the birth father if he did not marry the mother. It has been shown that many children usually did not end up in orphanages because they were orphans, but as a result of their parents' living conditions.⁸⁸

85 Data from 1971 to 2014 from Fiom, https://fiom.nl/kenniscollectie/zoeken/familie/cijfers/cijfers_adoptiekinderen-land-herkomst. 2015 to 2019 from the Ministry of Justice, "Adoptie. Trends en analyse" (April 2020).

86 Hoksbergen, "Vijftig jaar adoptie in Nederland", p. 9 (table 2C) and p. 11 (table 3C). Data after 2002 comes from JenV.

87 According to Wereldkinderen's own data.

88 D. Carvalho da Silva, "The Legal Procedures for Adopting Children in Brazil by Citizens and Foreign Nationals", p. 122, in: E. Jaffe (red.) *Intercountry Adoption. Laws and Perspectives of "Sending" Countries* (Dordrecht: Nijhoff, 1995).

This led to young mothers or poor families feeling forced - or were forced - to give up a child.⁸⁹ Recent studies show that many Brazilian birth mothers did not understand that adoption was final and irreversible.⁹⁰

5.2 Laws, regulations and adoption procedure in Brazil

The phenomenon of adoption was first mentioned in Brazilian law in 1916, with an addition in 1928. This legislation stipulated that adoptees had no inheritance rights, which made them legally not equal to biological children. This changed with a law change in 1965, which also provided for the bond between the birth parents and the child to be broken when the child was adopted. From the very beginning, adoption policy was decentralised within the individual, autonomous states of the country.⁹¹

Until 1979, Brazilian law only regulated *domestic* adoption; intercountry adoption took place in the private sphere, outside the law and public authorities. In 1979, the possibility of intercountry adoption was first included in the legislation. The new Brazilian Children's Act of 1979 established guidelines and restrictions for this. The law also made a distinction between "simple" and "full" adoptions (in Portuguese respectively *adoção simples* and *adoção plena*). In simple adoptions, only a local notarial deed and registration in a personal register were required to adopt a child. No court intervention was necessary. Full adoption did require a court order and more documentation, see below. Foreigners were only allowed to adopt officially declared foundlings according to the 1979 law.⁹²

Older legislation was not repealed in 1979, causing many Brazilian lawyers to continue to see private, simple adoptions as a legitimate option for foreigners. Lawyers received an average of \$ 10,000 per child for intervening in these intercountry adoptions.⁹³ This changed with the Rio de Janeiro Decree of 1982, which

89 See C. Fonseca, "Orphanages, Foundlings, and Foster Mothers: The System of Child Circulation in a Brazilian Squatter Settlement", *Anthropological Quarterly*, 59.1 (1986), 15-27; Fonseca, "Inequality near and far: Adoption as seen from the Brazilian favelas", *Law & Society Review* 36.2 (2002), 397-432; Fonseca, "An unexpected reversal. Charting the course of international adoption in Brazil", *Adoption & Fostering* 26.3 (2002), 28-39; A. Cardarelo, "Legal Child Trafficking: Adoption and Poverty in Brazil", *Journal of Latin American and Caribbean Anthropology*, (2009) 14.1, 140-161; Cardarelo, "The Right to have a Family: 'Legal Trafficking of Children'", *Anthropology & Medicine*, 19.2 (2012), 225-240.

90 The biological mothers did not realise that the (legal) ties with their child were being cut. See: R. Högbäck, *Working Paper No. 598 Intercountry Adoption, States of origin, and Biological Families* (The Hague 2014), 5; C. Fonseca "Patterns of Shared Parenthood among the Brazilian Poor", *Social Text* 74, 21.1(2003) 111-127, 123; A. Cardarelo, "The Movement of the Mothers of the Courthouse Square: 'Legal Child Trafficking,' Adoption and Poverty in Brazil." *Journal of Latin American*, 1 (2009): 140-161, 144-45; A. Cardoso Siqueira, D. Dalla Porta, M. Peripolli Antoniazzi and S. Pastoriza Faraj, "Ensuring the Rights of Birthmothers to Place Their Children for Adoption." In Dell'Aglío and Koller (red.), *Vulnerable Children and Youth in Brazil* (Cham, 2017) pp. 169-188, 171-74; C. Annate, "Psychological problems of late adoption as observed in Brazil through a cultural-historical approach" *Psychology in Russia*, 6.4 (2013) 176-184, 176-177.

91 J. C. Moreira Alves, "A Panorama of Brazilian Civil Law From its Origins to the Present", 108-120.

92 The law was entitled: *Estatuto da Criança e do Adolescente* (no. 8.069), 13 July 1990. C. Fonseca, "The Politics of Adoption: Child Rights in the Brazilian Setting." *Law & Policy* 24, no. 3 (2002): 199-227, 207; Fonseca, "An unexpected reversal: the 'demise' of international adoption in Brazil", *Dados* 3 (2007), p. 12. pp. 9-10; p. 32.

93 For the role of lawyers in the Brazilian intercountry adoption practice, see D. Abreu, "Baby-Bearing Storks: An Analysis of Brazilian Intermediaries in the Adoption Process". In *International Adoption: Global Inequalities and the Circulation of Children*, red. Diana Marre and Laura Briggs (New York, NY: New York University Press, 2009), p. 148-150. See also A. Cardarelo, "The Movement of the Mothers of the Courthouse Square", p. 142. The Committee also received a cost breakdown for a 1988 Brazilian adopted child from Flash. The intermediary charged 2,750 guilders for own costs, while the total costs amounted to 12,524 guilders. The difference was not specified.

prohibited adoption procedures for foreigners. The Decree required parents to obtain written consent from responsible authorities before adopting a Brazilian child.⁹⁴

In 1990, Brazil joined the United Nations Convention on the Rights of the Child (UNCRC) and translated it into national law. Unlike in 1979, the old legislation was repealed in 1990. As a result, private, simple adoptions were prohibited and adoptions could only be carried out through the courts, whereby a declaration of relinquishment of the birth mother was required. Foreign prospective adoptive parents had to be physically present at the court decision. With the implementation of the UNCRC, there was also a ban on private intermediaries.⁹⁵

In 1999, Brazil ratified the 1993 HC and established a Central Authority there called the *Autoridade Central Administrativa Federal* (ACAF). Brazil retained the option of decentralising adoption policy to individual provinces before the central government's ACAF could give a final judgment. After the introduction of the 1993 HC, private children's homes were closed, and only government-funded homes were allowed.⁹⁶

The Brazilian adoption procedure

Unlike the adoption procedure in the other States of origin, the Brazilian procedure cannot be explained step-by-step. This was also emphasised around 1989-1990 by Wereldkinderen, the largest Dutch intermediary in Brazil: "The changing requirements, rules and procedures of the Brazilian authorities make it very difficult to provide precise information about the state of affairs regarding adoption in Brazil." Wereldkinderen informed the prospective adoptive parents that they had to have their required documentation (such as the declaration of approval in principle) in order in the Netherlands, and that they had to follow the ever-changing instructions of local contact persons in Brazil.⁹⁷

Until at least the late 1980s, Brazilian intercountry adoptions proceeded without formal procedure. It usually concerned the aforementioned simple adoptions. For a long time, having a notarial deed signed by, for example, a doctor or lawyer, was sufficient to arrange the adoption on the Brazilian side. Background research or a matching procedure was not performed. Recording the names of birth parents was not mandatory if they were already known. This form of adoption was most common until at least 1990. After that, the adoptions had to proceed according to the stricter, more comprehensive procedures of the full adoption.

The Brazilian procedures to be followed were characterised by their decentralised character, resulting from the federal state structure of the country. Until at least 1990, adoption practice was regional and not regulated by central government. Brazil has 26 autonomous states, in which every major city has its own juvenile court. These courts had far-reaching autonomous powers. As a result, the adoption policy could differ per state or

94 Fonseca, "An Unexpected Reversal", p. 32.

95 Ibid.

96 "International Adoption", Ministry of Justice and Public Security, Federal Government. The Brazilian parliament recognised the 1993 HC in 1995, see: Fonseca, "An Unexpected Reversal", p. 33.

97 Wereldkinderen brochure, "Adoption of a child from Brazil", MinJus Archive, "OBP" 7, folder 10.

per city. It was a hallmark of federal states that diversity in legal systems could facilitate the displacement of certain practices, including adoption procedures.⁹⁸

Many states also had an autonomous branch of the Brazilian Child Care and Protection, called *Fundação Estadual para o Bem Estar do Menor* (FEBEM). The aforementioned law of 1990 proposed to establish state committees that would introduce more uniform standards in order to streamline the changing state policy. The establishment of these committees, the so-called *Comissão Estadual Judiciária de Adoção* (CEJA), started slowly in the 1990s.⁹⁹

5.3 Case studies

Since the early 1970s, Dutch and international media have been reporting suspicions of abuse in adoptions from Brazil. Some of the headlines include: “Baby smuggling discovered in Brazil” (1973), “More than half of Brazilian adopted children illegal” (1984) and “Brazil: trafficking in frozen children?” (1990).¹⁰⁰ Particularly from the late 1980s onwards, Brazilian politics and society increasingly signalled abuses themselves.

Several interviewees by the Committee called the Brazilian adoption practice exceptional. According to these parties, there was an extreme form of systematic mismanagement.¹⁰¹ These insights were also confirmed by the Committee's (archival) investigation. To illustrate the systematic nature of the adoption abuses, she reconstructed three cases, which are set out in detail below.

5.3.1 Couple from Emmen, 1971-1972

The first case of a documented adoption abuse involved a Dutch couple from Emmen. The couple adopted a child in 1971, at the beginning of Brazil's intercountry adoption practice. In June 1971, the couple corresponded with friends living in Brazil about plans to adopt a child. The child would be registered with the registry office in Brazil as the “own” child of the Dutch couple, after which it would appear on the birth certificate as if they were the birth parents. The letters showed that this was done with the knowledge and direct involvement of a Brazilian official of Dutch descent and a Dutch diplomatic representative.¹⁰²

98 Carvalho da Silva, “The Legal Procedures for Adopting Children in Brazil”, pp. 128-29. The Brazilian Federal Police estimated in 1994 that for every legally adopted child, two would be illegally adopted from the country. This “traffic” is a direct result of the different laws and regulations in the individual states. See Carvalho da Silva, p. 129.

99 Fonseca, “An Unexpected Reversal”, pp. 33-34.

100 Respectively in *De Telegraaf*, 12 April 1973, *NRC Handelsblad*, 6 February 1984 and *Het Vrije Volk*, 27 September 1990. The Committee has listed and commented on nearly 200 newspaper reports on Brazilian adoption practice. The first article was from April 1967, the last from June 2019. In total, several Brazilian abuses have been identified. In the vast majority of the reports, the tone was negative.

101 Interviews by the Committee.

102 Personal letters in possession of the Ministry of Justice, 8 June 1971 and 21 June 1971; Letter from consul, 08-07-1971, MinJus Archive, access 5000.017, inv. no. 3984

The couple left for Brazil in December 1971 to pick up the child.¹⁰³ The adoption took place in the Brazilian state of Paraná, in the region around the towns of Curitiba, Carambeí and Castro. These were places where many Dutch emigrants lived.¹⁰⁴

After a report, the Dutch authorities got wind of the case. In September 1972, the Dutch Public Prosecution Service in Arnhem opened an investigation into the possible illegal adoption. The Dutch Public Prosecution Service investigated what the actual course of events had been, and what role the Dutch consul and Brazilian-Dutch civil servant played in this.¹⁰⁵ In the official report drawn up as a result of the illegal adoption, the couple stated that they had acted in good faith. They had relied on the expertise of the Dutch consul in Curitiba and the civil servant in Carambeí, neither of whom had objected to the course of events.¹⁰⁶

In October 1972, the Public Prosecution Service informed the Ministry of Justice about the case. It was emphasised that the best interests of the child should come first. In the following weeks, the relevant government agencies (Ministry of Justice, Ministry of Foreign Affairs and the diplomatic missions) corresponded frequently about this, in particular about the literally quoted "strange attitude" of the Dutch consul. The parties increasingly suspected that this was a criminal practice, specifically *concealment of status*.¹⁰⁷ That meant: deliberately making a person's descent or actual descent unclear or ambiguous. The government authorities wondered whether the couple's actions were punishable in both Brazil and the Netherlands.

A month later, in November, the Ministry of Foreign Affairs and the embassy in the capital Brasilia concluded that the couple could only be prosecuted if their actions were punishable in *both* countries.¹⁰⁸ In July 1973, the Ministry of Justice and the Public Prosecution Service decided that there was no reason to prosecute the couple or the consul, because they had acted in good faith and the procedure followed was legal in their opinion under Brazilian law. This was not the case in the Netherlands.¹⁰⁹

As mentioned earlier, the couple's case was the first documented case of an adoption abuse from Brazil. However, there was no attention for it in the Dutch media, politics or society, as was the case with other adoption abuses.¹¹⁰

103 Report and letter from the Immigration Services of the Emmen Municipal Police to the Commissioner of the Emmen police, 06-09-1972, MinJus Archive, access 5000.017, inv. no. 3984.

104 Carambeí was founded in 1911 by Dutch emigrants. Until the 1930s, it was a closed agricultural colony over which the Brazilian central government had little control. This changed in the years that followed. The nearby villages of Castro(landa) and Holambra were also founded by the Dutch.

105 Translation of birth certificate and personal letter in possession of the Ministry of Justice, 21-06-1971, MinJus Archive, access 5000.017, inv. no. 3984.

106 Official report of Emmen Municipal Police, 19-09-1972, MinJus Archive, access 5000.017, inv. no. 3984.

107 Letter from Chief Public Prosecutor in Assen to Head of the Private Law Department MinJus, 10101972; Minute Legal Affairs Office of Ministry of Foreign Affairs at the embassy in Brasilia and the MinJus, MinJus Archive, access 5000.017, inv. no. 3984.

108 Legal Affairs Office, Ministry of Foreign Affairs to the ambassador in Brasilia, 20-11-1972, MinJus Archive, access 5000.017, inv. no. 3984.

109 Official report by Emmen Municipal Police, 19 September 1972, Wob request regarding information about illegal adoption from Brazil; see further correspondence between the Ministry of Justice, the Public Prosecution Service and the Ministry of Foreign Affairs in: MinJus Archive, access 5000.017, inv. no. 3984.

110 In April 1973, newspapers wrote about illegal adoptions from Brazil to Sweden in particular. See "Babysmokkel ontdekt in Brazilië", *De Telegraaf*, 12-04-1973; "Schandaal in Brazilië om "export" van baby's", 13-04-1973; "America Latina", *Amigoe*, 17-04-1973.

The Netherlands did not inform the Brazilian authorities of the incident. The Dutch ambassador on location considered this unnecessary.¹¹¹

Upon subsequent alerts (see below), the press and relevant officials referred to the case as an example and precedent. Five years after the end of the case, from 1978, rumours regularly surfaced about illegal adoptions to the Netherlands from Brazil, in particular about fraud at the registry office.¹¹² Both the Dutch Ministries of Justice and Foreign Affairs and the diplomatic posts in Brazil indicated that they could do little about this.¹¹³

5.32 National Police investigation into illegal adoptions, autumn 1981-March 1984

In December 1981, the Dutch Public Prosecution Service launched a large-scale, nationwide investigation into illegal adoptions from South America, especially Brazil. The Amsterdam National Police carried it out. The investigation was prompted by information received about Dutch organisations that would supply Brazilian children to Dutch and West German couples. The intermediary Flash was associated with this.¹¹⁴ The case came to light when a couple from Wormer registered the birth of their child after a stay in Brazil, when it was known that the woman could not have children. The purpose of the police investigation was, according to the Dutch Public Prosecution Service, to “dismantle the organisation” and to stop any illegal affairs.¹¹⁵ According to the then research leader, it was *not* the intention to remove the children in question from the adoptive parents. This was explicitly reported to the Justice Department - and insured to the adoptive parents themselves.¹¹⁶

At the start of the investigation, the Dutch Public Prosecution Service suspected that the Brazilian adoptions involved multiple offenses:

“Concealment of status (art. 236 Criminal Code), Making a false statement in an authentic instrument (art. 227 Criminal Code), trafficking in minors (art. 250 Criminal Code) to promote the illegal placement of a child younger than six months as a foster child for profit (art. 151 a Criminal Code) and illegally taking in a child under six months as a foster child (art. 442 a Criminal Code)”¹¹⁷

111 Main Department of Private Law to Attorney General of the Public Prosecution Service Leeuwarden, 11 July 1973, MinJus Archive, 5000.017, inv. no. 3984.

112 “Jarenlang in dure verwachting”, *NRC Handelsblad*, 01-07-1978.

113 Letter from the embassy in Brasilia to the Ministry of Foreign Affairs, 24 April 1978, from: Wob-verzoek illegale adoptie uit Brazilië, 20-11-2017 no. 1; Ministry of Foreign Affairs Legal Affairs Office to the ambassador in Brasilia, 02-06-1978, MinJus Archive, 5000.017, inv. 3984.

114 On 10 November 1981, *De Telegraaf* wrote that the West German authorities had asked the Netherlands to investigate a “Dutch mediation agency” that helped West German adoptive parents have a Brazilian adopted child. See “Westduitse justitie vraagt onderzoek: Nederlands bureau slaat munt uit handel in baby’s”, *De Telegraaf*, 10 November 1981. See also: letter of the Public Prosecutor to the Attorney General Public Prosecutor Amsterdam, 5 April 1982, MinJus, Public Prosecution Service Archive, access number: 2.09.132, inv. no. 356.

115 Letter from the Public Prosecutor of Amsterdam to the Attorney General Court of Amsterdam, “Braziliaanse adoptiekinderen”, 07-12-1981; “Weergave van de belangrijkste besproken onderwerpen in de vergadering van Procureursgeneraal”, 9 December 1981, MinJus, Public Prosecution Service Archive, access no. 2.09.132, inv. no. 349 and 350.

116 Interview by the Committee.

117 Minutes of the meeting of attorneys general, 9 December 1981, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 350.

In total, the Dutch Public Prosecution Service suspected it would concern "a hundred cases" of Brazilian children who entered the Netherlands illegally. The Dutch Public Prosecution Service found it striking that many of the babies reported in the Netherlands were born in the municipality of Castro (Paraná district) and that many birth certificates were signed there by a civil servant with a Dutch-sounding name. Finally, the Dutch Public Prosecution Service stated that there were indications that "someone from the Dutch embassy in Brazil" was involved in the event.¹¹⁸

The Ministry of Justice, the Public Prosecution Service and the responsible State Secretary indicated that they were "alarmed about the massiveness of the phenomenon." For the time being, the judiciary did not want to move the children out of custody "in view of the many emotions that this would be expected to evoke". In order to counteract the progress of the illegal practice, the civil registry, Schiphol and the Dutch diplomatic missions were asked to be extra vigilant about this.¹¹⁹

The Board of Procurators General, the highest decision-making body of the Dutch Public Prosecution Service, held regular meetings between December 1981 and March 1984 to discuss the investigation.¹²⁰ International importance was also emphasised. For example, the Dutch Public Prosecution Service emphasised the good cooperation with the West German authorities, where similar illegal adoptions occurred. Interpol was asked to conduct an investigation in other European countries, "so that structural action can be taken against the illegal adoption practices from third world countries through a European police investigation".¹²¹ The Committee has not found any investigative material showing that this has been followed up.

In anticipation of the results of the police investigation, the responsible State Secretary of Justice emphasised that the Dutch government "did not intend to limit the (legal) adoption of foreign children". The State Secretary communicated this in December 1982, one year after the investigation had started.¹²²

Police investigation results, autumn 1983

In September 1983, two years after the start, the National Police completed the investigation. An observation from the investigation report stated that the interrogations of the couples showed that in most cases, large amounts of money in the form of "donations" played an important role. Hospitals, children's homes, and registry office officers received substantial sums from the prospective adoptive parents. Usually, they could not provide a receipt for this. According to the investigation leader, all parents who adopted a child via this illegal route had the same motivation, namely frustration about the adoption waiting lists and slow procedures that were found to be too long.¹²³

118 Nothing more was mentioned about this in the final report of the police investigation. Letter from the Public Prosecutor to the Attorney General of the Amsterdam Public Prosecutor's Office, 7 December 1981, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 349.

119 Minutes of the meeting of Attorney General, 9 December 1981, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 350.

120 For example, on 5 April 1982, it was reported that 31 couples had admitted to having committed concealment of status in order to circumvent the (in their eyes) slow adoption procedures. According to the Ministry of Justice, the adoptive parents' mistrust of the authorities was "particularly deeply rooted". Public Prosecutor to the Attorney General Public Prosecutor Amsterdam, 5 April 1982, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 356.

121 Letter from the Public Prosecutor to the Attorney General of the Public Prosecution Service Amsterdam, 5 April 1982, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 356.

122 "Onderzoek naar onwettige adopties", *Nederlands Dagblad*, 8 December 1982.

123 Interview by the Committee.

The investigation report concluded that with regard to 43 children (42 Brazilian, 1 Colombian), the parents admitted concealment of status. The report left open whether the couples would be prosecuted. The report did not mention the involvement of Dutch government officials, although there were concrete indications for this. The investigation concluded that there was no large-scale criminal complicity by the parents. The then investigator stated to the Committee that those words had been carefully weighed and chosen. There was indeed a suspicion that there was a question of criminal complicity on a large scale, but this could not be proven.¹²⁴

In the following months, various parties involved, including the Ministry of Justice, Foreign Affairs, diplomatic missions, the Child Care and Protection Board and the Public Prosecution Service corresponded with each other about the next steps to be taken.¹²⁵

In February-March 1984, the Public Prosecution Service issued the final judgment on the case. It was decided to proceed with a "general dismissal" in which all 43 cases were dropped unconditionally: in other words, there was no prosecution.¹²⁶ Finally, the Public Prosecution Service stated that the police investigation had shown:

*"how powerless the judicial authorities are (...). The problem is not so much in the procedures, but in the fact that the number of applications for adoption far exceeds the number of children available for that purpose. This automatically results in long waiting times for issues such as declaration of approval in principle. It is pointless to provide couples with this promptly, long before a candidate foster child is found. By then, the declaration of approval in principle has lost its meaning."*¹²⁷

This view was shared by other responsible government officials within the Ministry of Justice.¹²⁸

Aftermath and measures, spring 1984

The police investigation was front page news in the Dutch media. Newspapers reported extensively on its progress and results between 1981 and 1984.¹²⁹ It also affected politics. For example, a Member of Parliament questioned the cabinet about, in his words, "illegal growth of the Dutch population as a result of forgery."¹³⁰

124 Interview by the Committee.

125 See in particular the following letters and notes: Directorate of Child Care and Protection to the Secretaries of the RvdK, subject: "illegale adoptiekinderen", 17-10-1983; letter to all attorneys general, 16 January 1984; memo secretary PGs to the Child Care and Protection Department, 17 January 1984; Agenda Meeting PGs, 15 February 1984; note to PGs, 10 February 1984, all documents in MinJus, Public Prosecution Service Archive, access no. 2.09.132, inv. no. 396.

126 Minutes of Attorney General Meeting, 7-3-1984, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. no. 396.

127 Minutes of Attorney General Meeting, 15-2-1984, MinJus, Public Prosecution Service Archive, access 2.09.132, inv. No. 396.

128 Note from the Directorate of Child Care and Protection to the Minister and State Secretary of Justice, "Illegale adoptie. Besluitvorming inzake afdoeening n.a.v. politieel onderzoek", 19-03-1984.

129 "Politie op spoor van enorme handel in baby's", *De Telegraaf*, 23-01-1982, "Babyhandel Schokkender", *Algemeen Dagblad*, 13-02-1982 and "Illegale adoptie uit Zuid-Amerika. Justitie ontdekt baby-smokkel", *Het Parool*, 25-01-1982; "Ministens vijftig adopties baby's Brazilië illegaal", *Het Parool*, 06-02-1984 and "Uitkomst politieonderzoek. Braziliaanse kinderen illegaal geadopteerd", *De Volkskrant*, 06-02-1984.

130 Parliamentary question Janmaat (Centrumpartij) to the Minister of Justice, answered by the State Secretary, 09-11-1982/06-12-1982.

After publication of the police investigation report, the head of the Child Care and Protection Department proposed to the Minister and State Secretary of Justice to take measures. It was proposed to implement new legislation, in order to be able to implement stricter preventive policies to combat illegal adoptions.¹³¹

The then leader of the police investigation told the Committee that *off-the-record* talks were held with the adoptive parents involved. They stated that a contact person was a spider in the web of the illegal adoptions. She was a familiar face within the local Dutch migrant community around Curitiba and Carambei. Because of her fame, she was probably able to facilitate the illegal adoptions. The contact person was born in the Netherlands, but had Brazilian and Swiss nationality. She acted formally as a witness, translator and interpreter on adoption cases in the region.

Ultimately, the contact person at Schiphol was arrested on suspicion of giving false testimonials. She was questioned, but the case was not brought to court. The Committee has not found any documents in the archives that can provide a definite answer about the exact role of the contact person.¹³² In a conversation with the Committee, the person concerned stated that she was only involved in adoptions as an interpreter. In that capacity, her name is on some adoption papers.

The then investigator leader further stated to the Committee that he found it shocking that the investigation came across at least a hundred fraudulently adopted children. He stated, "The research team estimated that in the 1980s and 1981 about 6% of adoptions were illegal."¹³³ It is not clear whether this estimate applied to adoptions from Brazil or to *all* intercountry adoptions.

At the time, the investigation team was unable to find out how the couples involved managed to find the illegal adoption channels. The investigator leader suspected that one person played an important role. However, he has never been able to prove this. This person from the village of Tuitjenhorn is said to have been involved in approximately 50 illegal adoptions. A criminal case was later started against him, which was eventually dropped.¹³⁴ Further details about this case are unknown. The Committee has not found any investigative material that can provide a complete definitive answer about the further criminal proceedings surrounding this person.

The police investigation into illegal adoptions from South America was conducted during a period (1981-84) when there were also signs of large-scale abuse in other countries. This was true for Sri Lanka, Bangladesh and Indonesia. Why South America was under the magnifying glass of the Dutch authorities, but not the other countries, remains unclear.

131 Note from the Head of the Directorate of Child Care and Protection to the Minister and State Secretary of Justice, concerning: "Illegale adoptie. Besluitvorming inzake afdoenig n.a.v. politieeel onderzoek", 19 March 1984, Min.Jus Archive.

132 Interview by the Committee. See also broadcast "Achter het nieuws", 22 February 1982 and National Police final report, p. 7.

133 In consultation with specialists in the field of the Personal Records Database [Basisregistratie Personen] (BRP) and the Municipal Personal Records Database [Gemeentelijke Basisadministratie] (GBA) investigated the possibilities of gaining an impression of the number of children who came to the Netherlands illegally in the manner described in the investigation report. This proved impossible, partly because the Municipal Personal Records Database was only integrated in 1995. Until then, there was a paper card system per municipality with large differences in the method of recording and the quality of the data.

134 Interview by the Committee.

After completion of the police investigation and the judgment of the Dutch Public Prosecution Service in March 1984, no structural measures were taken by the government to prevent or combat illegal adoptions in the future. In 1981, however, a number of supervisory authorities such as Schiphol, the embassy and the registry office were addressed to better control the papers of incoming adopted children. How to do this was left open.¹³⁵

The National Police investigation had no further consequences for adoptive parents who illegally adopted a child. Some of the interrogated parents adopted another child after the investigation was completed.

5.3.3 Suspicions of child and organ trafficking, 1985-1994

From the later 1980s, and especially in 1991-92, there were widespread rumours in international and Dutch media about large-scale child trafficking from Brazil. Children would be kidnapped to be put up for adoption, or become involved in prostitution or organ trade.¹³⁶

Earlier, in February 1985, Dutch media reported on three Dutch employees of the adoption intermediary BANND. They had been arrested in the port city of Santos by the Brazilian authorities on suspicion of child trafficking. However, according to the media, this turned out to be a misunderstanding. The three were released a day after their arrest. The Dutch Ministry of Foreign Affairs asked the consulate in Santos to investigate the state of affairs. The Committee was unable to determine whether this investigation was carried out.¹³⁷ The BANND employees themselves concluded that their arrest could be seen as positive: "It proves how eager people are in Brazil to combat child trafficking."¹³⁸

During 1988-94, Dutch and international media repeatedly wrote about Brazilian adoption-related abuses. In the autumn of 1991, a Brazilian parliamentary committee investigated media allegations of illegal adoptions linked to organ trafficking.¹³⁹

Later, in September 1992, parliamentary questions were asked about the possible Dutch involvement in Brazilian criminal organisations that abducted "tens of thousands" of children. According to media reports, the Netherlands is said to be a point of support for the child theft syndicates. The children would be kidnapped to become available

135 Attorney General Meeting, agenda item 11: "Rapport over illegale adoptie", 15 February 1984, MinJus, Public Prosecution Service Archive, access no. 2.09.132, inv. no. 396.

136 "Kind Koopwaar", *Algemeen Dagblad*, 10 September 1992. And also see various documents in the MinJus Archive file, 2.09., inv. no. 2663 (2831).

137 "Babyhandel opgerold in Brazilië", *Het Vrije Volk*, 13-02-1985 and "Nederlandse consul stelt onderzoek in. Drie Nederlanders in Brazilië dag vastgehouden voor handel in baby's", *De Volkskrant*, 14-02-1985; "Nederlanders niet in babyhandel", *Het Vrije Volk*, 14-02-1985.

138 "Adoptievereniging ten onrechte verdacht van kinderhandel in Brazilië" and "Onderzoek bewijst hoe gevoelig adoptie ligt", *Leeuwarder Courant*, 19-02-1985.

139 "Lively trade in children in Brazil. Ontvoeringen voor adoptie zaaien angst onder bevolking", *Trouw*, 23-09-1988 and "Twijfels over alarm kinder- en orgaanhandel in Italië", *Nieuwsblad van het Noorden*, 23-09-1994 and "Kind koopwaar; Politie wil actie tegen Braziliaanse misdadigers", *Algemeen Dagblad*, 10-09-1992; "Brazilië onderzoekt handel in kinderen", *Het Parool*, 28-03-1991.

for adoption, or even organ transplants. The Minister of Justice replied that he had no indications that the Dutch were involved in any way. The Minister did emphasise that improved monitoring of adoption practice was "desirable".¹⁴⁰ The Committee did not find any evidence of an improved control in the research material consulted.

At the end of 1994, the court of the Brazilian state of Pernambuco imposed a stop on all intercountry adoptions (for an indefinite period). The immediate cause for this was new suspicions of adoptions resulting in organ trade. The responsible judge stated that he had no conclusive evidence, but found the suspicions substantial enough to trigger an adoption ban. The judge would only lift the stop if it were shown that all intercountry adoptees within his jurisdiction were healthy.¹⁴¹

Following the adoption stop, the Dutch Ministry of Justice launched a short-term investigation into the status of Dutch adopted children from Pernambuco. The Ministry of Justice concluded that the children were in "good health" and grew up with their adoptive parents. The good news was also reported to the Brazilian authorities. This was partly done with the aim of allowing the adoptions to proceed, which happened in the following years.¹⁴²

5.4 Aftermath: adoptions from Brazil, 1998-present

Unlike in the countries of Bangladesh, Indonesia and Sri Lanka, the adoption practice from Brazil largely continued after 1998. In the period of 1998-2008, almost 350 children came to the Netherlands. After 2001, the annual numbers declined to four adoptees in 2008. After that year, no more Brazilian children were adopted in the Netherlands.¹⁴³

There are four explanations for the decrease in the total number of adoptions from Brazil to abroad since the 1990s. The decrease was not only a result of the improvement of local living conditions and reduction of poverty, but also of the increase in domestic adoptions. A third explanation can be found in new, stricter legislation and government regulation in Brazil that restricted intercountry adoption practice. Finally, there was the changing public opinion in Brazil, especially following signs of abuse and scandals in the media.¹⁴⁴

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	total
50	45	38	69	20	25	30	28	14	9	4	332

Table 5: Number of officially placed adopted children from Brazil, 1998-2008.¹⁴⁵

140 Parliamentary question of Dijkstal to Minister of Justice, "over de Nederlandse betrokkenheid bij Braziliaanse misdaadorganisaties, die kinderen ontvoeren", 11-09-1992/08-10-1992.

141 Fonseca, "Transnational Connections and Dissenting Views", p. 157; Fonseca, "An Unexpected Reversal", p. 35.

142 Letters from Justice to Consulate General Brazil in The Hague, 10 November 1994 and 24 February 1995, MinJus Archive, "Bewerkte C-Dossiers", access no. 5000.016, inv. no. 60.

143 Ministry of Justice, "Adoptie. Trends en Analyse. Statistisch overzicht interlandelijke adoptie", (March 2012).

144 Fonseca, "An Unexpected Reversal", pp. 28-30.

145 Data originating from Hoksbergen, "Vijftig jaar adoptie in Nederland", p. 9 (table 2C) and p. 11 (table 3C). Data from 2002 onwards come from JenV statistics reports.

Like adoptees from other States of origin, many Brazilian adoptees are looking for their origins. Organisations such as ISS International and Fiom have been organising searches in Brazil since 2013, with moderate success. An interviewed Fiom researcher stated that the procedures take too long, sometimes keeping adoptees on a leash for up to two years. One explanation lies in the inadequate documentation and unknown (personal) data of birth parents, since the recording thereof was not legally required in Brazil until at least 1990.¹⁴⁶

After 1998, abuses also occurred in the adoption practice between Brazil and the Netherlands. For example, a documented case from 2001 is known, in which a Dutch woman adopted a Brazilian child under false pretences. The Brazilian court assumed that it had carried out a domestic adoption because the child and the woman would remain in Brazil. The woman did not intend to do that, and she took the child to the Netherlands. The Dutch court also disagreed with the adoption, but allowed the woman to become guardian of the child, because it was in their best interest. The child had been in the Netherlands for so long that it would be irresponsible to return them.¹⁴⁷

Implementation of the Brazilian Adoption Law in 1990 was difficult until at least 2008. Reasons for this were the autonomy of individual states and the decentralisation of foster care in Brazil.¹⁴⁸ Globally, Brazil was one of the largest States of origin after 1998. For example, in the period of 2003-2011, more than 4,100 children were adopted by foreigners. Domestic adoption has been the preferred choice since 2008.¹⁴⁹

Since 2006, all kinds of abuses have come to light in Brazil, ranging from fraud and corruption to the removal of children from their parents by local authorities for no apparent reason.¹⁵⁰ The Ministries of Justice and Foreign Affairs also had indications that some of the Brazilian adopted children were registered by their adoptive parents as their own children. The cases of the 1970s and 1980s thus demonstrably continued in the decades that followed.¹⁵¹

5.4.1 Patrick Noordoven

The case of the Brazilian adopted Patrick Noordoven has caused quite a stir. Noordoven was one of the first adoptees to come out to the media about his illegal adoption.¹⁵² In 2011, he submitted a Wob request to the Ministry of Justice and Foreign Affairs to find out the actual state of affairs at the time. The case was one of the reasons for the Minister for Legal Protection to appoint the Committee in 2018-19

146 Interview by the Committee.

147 Loibl, *The Transnational Illegal Adoption Market*, p. 298.

148 Fonseca, "An Unexpected Reversal", p. 32.

149 K. Cheney, "Giving Children a Better Life?" Reconsidering Social Reproduction Humanitarianism and Development in Intercountry Adoption' *European Journal of Development Research* (2014) 26, pp. 247-263, table 3, p. 254.

150 Cardarello, "The right to have a family: legal trafficking of children", p. 237.

151 Letter from the Department of Consular Legal Affairs (Ministry of Foreign Affairs) to the Department of Legal and International Affairs (the Ministry of Justice), 10-09-2007, MinFA Archive, access no. 3200.183, 19481.25, inv. no. 7402.

152 "Wensouders omzeilden wachtlijsten", *De Volkskrant*, 08-12-2018, "Mondje dicht bij illegale adoptie", *Brabants Dagblad*, 08-12-2018 and "Nederlandse justitie stopte illegale adoptie in doofpot", *De Stentor*, 04-01-2019.

and to conduct research into intercountry adoption practice. The case generated a lot of media attention and became a symbol for the broader problems surrounding intercountry adoptions in the past.

Patrick Noordoven was adopted from Brazil in the early 1980s. As a new-born, he stayed for a short time in the children's home *La Jumbinho*, in Sao Paulo. The children's home was run by a woman of Dutch origin. His adoptive parents chose to illegally adopt Noordoven from the children's home, to avoid the waiting lists. They indicated that they had done this out of fear of being left out because of their relatively advanced age (towards the age of forty). The Noordoven couple registered Patrick in Brazil as their own child. His date of birth was adjusted on the spot, because otherwise the timeline of arrival and birth would not match. Whether the adoptive parents had to sign a confidentiality agreement at the time to ratify the adoption remains unclear. An involved contact confirmed this, while Noordoven's adoptive father denied it.¹⁵³

Noordoven's adoption did not go through an official intermediary, but through an acquaintance of the family, who was a civil servant at the Dutch government.¹⁵⁴ This civil servant was a former colleague of Noordoven's adoptive grandfather and was also familiar with the aforementioned director of the children's home where Noordoven stayed.¹⁵⁵ The exact position of the civil servant was unclear for a long time. An official reported that he worked at the Ministry of Social Affairs (Emigration Department) and was seconded to the Dutch diplomatic representation in Brazil in the early 1980s. It was later clarified that he was deputy emigration attaché at the Dutch consulate-general in Sao Paulo in 1980.¹⁵⁶

In 1982, the Noordoven couple was interrogated for the National Police investigation into illegal adoptions. The police concluded that the adoption had not taken place according to the rules, but saw no reason to take further steps. After the investigation, the couple was advised to register their adopted child in the birth register in The Hague. They did. They did not follow the advice to have the adoption officially pronounced by a Dutch judge.¹⁵⁷ In early 1985, the couple learned that they were not being prosecuted. The couple later decided to adopt a second child from Brazil, this time following official procedures.

153 Interviews by the Committee.

154 The civil servant was friends with Patrick Noordoven's (adoptive) grandfather. The grandfather and the civil servant were former colleagues, see: letter from law firm Prakken d'Oliviera to Minister for Legal Protection, 09-09-2019 and letter from the official concerned to adoptive grandfather Noordoven, 20-02-1980.

155 Letter from adoptive mother Noordoven, 30 January 2001. Cited in Judgment of the District Court of The Hague 05-07-2017.

156 Letter from Ministry of Justice to Prakken d'Oliveira, "Wob-verzoek met betrekking tot illegale adoptie uit Brazilië en de Brazil Baby Affair, 20112017"; Letter Prakken d'Oliviera to Minister for Legal Protection, "Aansprakelijkstelling | P. Noordoven/ staat", 09-09-2019.

157 Interview by the Committee.

In April 2011, Patrick Noordoven asked the Ministry of Foreign Affairs for help (consular assistance) in the search for his origins. Even before he received an answer from the Ministry, he found his birth family. In May, the Ministry of Foreign Affairs replied that they could not do anything for him because they did not have information about his adoption. However, interim internal mail exchanges within the Ministry of Foreign Affairs showed that they did have information: they were familiar with the position of the civil servant involved at the time.¹⁵⁸

Via the consulate-general in Sao Paulo, the Dutch Ministry of Foreign Affairs also heard in May 2011 that Noordoven had found his birth family, but officials from this Ministry did not indicate this in their messages to him. It was emphasised that the consulate-general and the Ministry of Foreign Affairs were not yet formally informed of this news. The consulate general advised the Ministry of Foreign Affairs to refer Noordoven to the relevant authorities. In the words of the Deputy Consul General in Sao Paulo:

“Again: FORMALLY the CG does not know that he has already found his family, so it is important that DCM does not reveal anything about this in the answer to him. So just refer to the relevant authorities, and indicate that neither The Hague nor CG can do more for him than that.”¹⁵⁹

In 2013, Noordoven found out through a newspaper article from 1983 that a Dutch diplomatic mission in Brazil was aware of the illegal adoptions. He then again contacted the mission, and later with the Ministry of Foreign Affairs, the Ministry of Justice and Social Affairs, but said he was sent “from pillar to post”.¹⁶⁰

In 2016, Noordoven filed a lawsuit against his adoptive parents for withholding information. He was found to be in the right. Noordoven had previously filed a lawsuit in 2011 against the then director and treasurer of the children's home *La Jumbinho* where he came from. He is claiming damages of EUR 1.7 million.¹⁶¹ This lawsuit continues to this day, despite the death of the two children's home employees.

Noordoven submitted several Wob requests in recent years because he had become convinced of the involvement of Dutch government officials in the illegal adoptions from Brazil. In 2019, he held the Dutch government liable for abuses in intercountry adoption practice, and for the involvement of Dutch officials. This case is also ongoing. Noordoven claimed that one of the officials was involved in multiple illegal adoptions. His adoptive family denied this. The official concerned can no longer explain his role because he has died.

158 E-mail from Patrick Noordoven to the Department of Consular Affairs and Migration Policy, “Verzoek tot consulaire bijstand”, 21-04-2011; E-mail from DCM/RL to Patrick Noordoven, 23-05-2011; Email from Consulate General Sao Paulo to DCM/RL, 28-04-2011, MinFA Archive, BZ-2018.491362 access 3200.175, inv. no. 43483.

159 E-mail from Consulate General in Sao Paulo to DCM/RL, 05/12/2011, MinFA Archive, BZ-2018.491362, 3200.175,i inv. no. 43483.

160 Interview by the Committee.

161 Interview by the Committee. After the death of the treasurer, Noordoven tried to obtain access to his estate through the Brazilian court, in order to gain insight into his finances for the benefit of the claim to the heirs.

5.4.2 Individual case

In addition to the previous case, the Committee has another documented case from 1980-81 in which a couple brought a Brazilian child to the Netherlands under the apparent reason that it was their biological child. This case was also part of the overarching National Police investigation. This adoptee, like the child of the couple from Emmen from the case from 1971-1972, came from the region around Castro.¹⁶² In this adoption, it was suspected that the aforementioned man from Tuitjenhorn and the Brazilian-Dutch contact person would have played a role. The parents of the adoptee rectified the case in 1985, five years after he came to the Netherlands. Then they submitted a formal request for adoption.¹⁶³

5.5 Main findings from Brazil

The intercountry adoption practice between Brazil and the Netherlands was characterised by large-scale, systematic abuses. There is concrete and documented evidence of document forgery, concealment of status, fraud and corruption. Child theft and trafficking also occurred.¹⁶⁴

Since the early 1970s, DIY individuals have illegally placed Brazilian adopted children in the Netherlands. Dozens of adoptees were registered as biological children at the registry office in the Netherlands. Incorrect birth certificates were drawn up, which encouraged fraud and corruption in Brazil. Effectively, this meant concealment of status according to Dutch law. In addition, there were many indications of child theft and trafficking.

From at least the spring of 1971, the Dutch government was increasingly aware of the above abuses. In December 1981, a large-scale National Police investigation was opened against the illegal placement of foreign adopted children. The investigation eventually revealed that dozens of Dutch couples had registered Brazilian children at the registry office as their own. The investigation showed that 42 couples had illegally adopted their child(ren). The results of the police investigation did not lead to concrete measures. The couples concerned have not been prosecuted, the cases were dropped. Some of them later adopted a second (or third) child.

162 As in the case from 1970-71, the name of the Brazilian civil servant with the Dutch name appeared in the documents of this adoptee. This is evident from, among other things, birth certificates from March 1980 received by the Committee.

163 Letter from the Attorney General to the Almelo District Prosecutor's Office, 18 February 1985.

164 National Police Report, "Landelijk onderzoek betreffende illegale adoptiepraktijken", September 1983, MinJus, Public Prosecution Service Archive, access no. 2.09.132, inv. no. 396.

Two government officials have been shown to be involved in two individual illegal adoptions. It concerned a Dutch consul in Brazil and an official. No indications were found that indicate self-enrichment. Whether Dutch government officials and intermediaries were systematically involved in abuses in Brazilian adoption practice cannot be determined on the basis of the research material studied. The Committee has conducted targeted research to determine whether or not the involvement of officials in abuses is systematic. No systematic involvement with Brazil can be established from this research effort.

6 Colombia

6.1 Key figures and context

Since 1973, more than 5,400 children have been adopted by the Dutch from Colombia. This is a fraction of the total number of intercountry adoptees from Colombia: between 1984 and 1994, an average of 2,700 children from Colombia were adopted abroad per year, with a peak in 1993 of more than 3,800 children.¹⁶⁵

1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	
0	3	32	72	124	186	151	197	214	129	146	251	159	
1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	total
210	151	191	165	172	208	169	181	146	125	163	150	152	3,847

Table 6: Number of officially placed adopted children from Colombia, 1972-1997.¹⁶⁶

The Dutch intermediary BIA/Wereldkinderen and Hogar Foundation facilitated the adoptions from Colombia to the Netherlands. BIA/Wereldkinderen has been active in Colombia since 1973. It is estimated that BIA/Wereldkinderen mediated in approximately 4,900 adoptions of children from Colombia between 1973 and 2016. It collaborated with homes of the *Instituto Colombiano de Bienestar y Familiar* (ICBF) and with the *Instituciones Autorizadas para desarrollar el Programa de Adopción* (IAPAs), see below.

The Hogar Foundation was founded in 1978 and focused specifically on South America. Hogar facilitated an estimated 1,300 adoptions from Colombia. Hogar worked with volunteers, all adoptive parents, and had no office space. The organisation claimed to be able to work much cheaper than BIA/Wereldkinderen. In addition to BIA/Wereldkinderen and Hogar, adoptions also took place on a DIY basis.

The adoption practice in Colombia was not separate from the socio-economic and cultural-religious context. In more conservative Catholic families, pregnancy of an unmarried woman was surrounded by taboos and stigmas. This also applied to children from an extramarital relationship. To prevent their pregnancy from becoming known, these women often went to homes to give birth. This sometimes happened under pressure from parents or family. The baby was then admitted to the home and then sent to a foster family or to a children's home. Many of these mothers came from weaker socio-economic backgrounds and were often illiterate. According to one interviewee, because of the prevailing "*machismo*" and patriarchy in Colombian society, men hardly took responsibility for the children they fathered.¹⁶⁷

¹⁶⁵ 1973-2010 figures taken from Hoksbergen, *Kinderen die niet konden blijven*, Table 3C, p. 142; Table 4C., p. 248; Table 5C, p. 372, and Table 6C, p. 519; S. Hoelgaard "Cultural determinants of adoption policy: A Colombian case study", *International Journal of Law, Policy and the Family* 12, (1998), pp. 202-241. Until 2004, the average number of adoptions was 170 per year. After 2004, the number of adoptions declined rapidly due to changing views on intercountry adoption.

¹⁶⁶ Hoksbergen, "Vijftig jaar adoptie in Nederland", p. 9 (Table 2C), p. 11 (Table 3C) and p. 14 (Table 4C).

¹⁶⁷ Interviews in Colombia by the Committee.

Decades of armed conflict also affected adoption practice. Children became orphans and people were forced to flee their homes. Female guerrillas sometimes became unwittingly pregnant, while they were unable or unwilling to take care of a child. In the 1970s and 1980s, there was little enthusiasm among the Colombian population for domestic adoption. Differences in class and skin colour between prospective adoptive parents and adopted children played a role in the lack of enthusiasm.¹⁶⁸ In these circumstances, room was created for large-scale intercountry adoption.

6.2 Laws, regulations and adoption procedure in Colombia

The phenomenon of adoption was first mentioned in an 1887 Colombian law. The limited adoption provisions in Law 140 of 1960 concerned private-law arrangements between the two families involved and the child, without any reference to intercountry adoption. In 1968, the *Instituto Colombiano de Bienestar y Familiar* (ICBF), comparable to the Dutch Child Care and Protection Board, was founded.¹⁶⁹ From 1975, adoption thus became a public affair under the direct authority of the Colombian state.

Before 1975

Before 1975, adopting a child from Colombia was easy for foreign adoptive parents. The adoption could be handled administratively by the parties involved through a notary, with or without the help of an intermediary lawyer. This also enabled DIY adoptions from the Netherlands, with no government control from either Colombia or the Netherlands. If parents wanted to relinquish their child, this could be arranged by a notary, after which the child could be registered under a new name at the registry office. Adoptions were not centrally documented, because in those years, they were still subject to private law and there was no central government intervention. Relevant documentation was stored in notary offices all over Colombia. From 1975, children were only allowed to be placed for adoption through the ICBF, whereby the necessary documentation was prescribed.¹⁷⁰

Legally and practically, there was a difference in Colombia between “simple adoptions” and “full adoptions”. Full adoption severed all ties with the birth parents. In the simple adoptions, the child retained one of the two surnames of the birth parents in some cases, and had fewer inheritance rights compared to the adoptive parents.¹⁷¹ This difference persisted until 1989, when simple adoption was abolished and only full adoption was still possible.

For foundlings with missing data, the age was estimated by the Office of legal medicine based on the physical characteristics of the child. They chose an estimated date of birth as “1 January” or “1 July” of a given year.¹⁷² The responsible ICBF employee

168 Interviews in Colombia by the Committee.

169 *Colombian Civil Code 1887*, Law 140. The ICBF was established after Law 75 (1968), Law 5 (1975) and Decree No. 2388 (1979).

170 Interviews in Colombia by the Committee. See also: BIA report, MinJus Archive, access 2.09.52, inv. no. 247; L. McKinney, “International Adoption and the Hague Convention: Does Implementation of the Convention Protect the Best Interests of Children”, 6 *Whittier Journal of Child & Family Advocacy*, 2007, p. 398.

171 Interviews in Colombia by the Committee.

172 Some adoptees consider the fictitious data (which was common in practice) as evidence of wrongdoing. In fact, this was common practice at the ICBF to solve the problem of absent birth records.

(*defensora de familia*) gave the child a name if it was unknown. The date of birth and name were then added to the new birth certificate. If the child was old enough to say their own name, that name was kept.¹⁷³

From 1975

From 1975, a legal distinction was made between the administrative and the legal process of adoption. From that moment on, a court decision was required before an adoption could take place. The administrative process through the ICBF involved the so-called declaration of relinquishment if the parents were unknown or if the parental rights were forfeited, or the declaration of consent of the birth parents if they were known. Due to the increased administrative and legal requirements, the adoption files at the ICBF had to consist at least of: name and a copy of the identity document of the birth parent(s); registration at the registry office; the decision of the judge; and the declaration of consent or relinquishment. Adoptees who were able to view their files reported that, despite these rules, one or more of these required documents were often missing.¹⁷⁴

From 1985

From 1985, the ICBF determined that adoptive parents had to travel to Colombia themselves. Escorts from intermediaries such as the BIA or Colombian homes were no longer allowed.¹⁷⁵ With Decree 2737 of 1989, the focus in adoption legislation shifted from the rights of the original family to the rights of the child.¹⁷⁶ The administrative process prior to possible adoption became stricter. The Decree obliged the ICBF to look for solutions to protect the child and to thoroughly investigate the home situation and the immediate family. Return to the birth family was preferred. Only if it was better for the protection of the child could the child be adopted. The legal regulations regarding the archiving of adoption files also became stricter.

Colombia signed the 1993 HC and ratified it in national law in 1998. In 2006, Law 1098 came into effect, which further tightened domestic and intercountry adoption requirements. For example, from 2006, it is no longer possible for adoptive parents to make a donation to the home where the child comes from.¹⁷⁷

Review and supervision of adoption

The ICBF determines whether a child is eligible for adoption. An adoption Committee with a broad professional background evaluates the progress per child and assesses whether they can be placed with the birth family, a foster family, or are eligible for adoption. These Committees operate not only within the homes of the ICBF, but also at the so-called IAPAs, where a representative of the ICBF holds a seat in the

rice: Interviews in Colombia by the Committee.

173 S. Branco, "The Colombian Adoption House: A Case Study", *Adoption Quarterly* (2020), pp. 1-23.

174 "CRANtje" December 1985, 4th year, No. 2. Via: http://phg-cran.nl/attachments/File/CRANtjes/Jr4_1985-nr2.pdf.

175 Decree 2737 of 1989 (27 November). See: https://www.oas.org/dil/esp/Decreto_2737_de_1989_Colombia.pdf; and interviews by the Committee in Colombia.

176 By means of Law 265, the Colombian state ratified the 1993 Hague Convention on Intercountry Adoption in 1996. LAW 265 OF 1996 (25 January). See: <http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Leyes/1657160>; Law 1098 (2006): LAW 1098 OF 2006 (8 November). See: http://www.secretariasenado.gov.co/senado/basedoc/ley_1098_2006.html; Art. 74. LAW 1098 OF 2006 (8 November). See: http://www.secretariasenado.gov.co/senado/basedoc/ley_1098_2006.html.

Committee. IAPAs are authorised adoption homes. Prior to the establishment of the ICBF, only private homes and churches were active in the field of adoption in Colombia and there was no government supervision of these private institutions.¹⁷⁸

The last step in the procedure was the journey of the adopted child to the Netherlands. To this end, the Dutch embassy issues a temporary emergency travel document or *laissez-passer* for the adopted child. In addition, a Dutch long-stay visa (*mvv*) was issued in most cases. In order to have these documents issued, certain documents had to be present: a declaration of approval in principle from the Ministry of Justice, a Colombian birth certificate and documents from the ICBF. The embassy confined itself to ascertaining that these documents were there, but did not check or review the content of them.

Under the Apostille Convention, the formal signatures and stamps of the parties to this Convention, including Colombia, are recognised as legal. Before the Apostille Convention, there was the so-called legalisation chain, in which a final signature from an authorised official at the Colombian Ministry of Foreign Affairs was sufficient to legalise all signatures and stamps placed before. In practice, therefore, no further checks took place. The Dutch honorary consulates in Colombia could also issue travel documents, but this was only allowed after approval from the embassy on the basis of the same control process.

In addition to issuing travel documents and Dutch long-stay visas (*mvv*'s) through the embassy and consulates in Colombia, the Ministry of Foreign Affairs has also set out the rules for adoptions for adoptive parents and intermediaries.¹⁷⁹ The Dutch government was generally well aware of the changing laws and regulations in Colombia through consistent reporting from the embassy to the Dutch Ministry of Foreign Affairs and intermediaries. The Ministry of Foreign Affairs also forwarded decisions by the Ministry of Justice, for example about the permitted number of adoptions per couple or a deviation from the age criterion, to the embassies. The Ministry of Justice regularly granted such requests to adopt an additional (related) adoptive child or to deviate from the usual age limits.¹⁸⁰

6.3 Case studies

Several cases related to adoptions from Colombia are discussed below. A number of cases deal with problematic aspects in Colombia itself, while other cases deal with the knowledge and involvement of the Dutch government and adoption intermediaries. The cases are arranged chronologically.

177 Source: interviews by the Committee in Colombia. The ICBF functioned in the Colombian government as a child protection institute and also had the function of regulating adoptions. The ICBF managed (and still manages) children's homes itself, but also supervises the IAPAs. This supervision runs through a system of two-year permits with inspections and checks before a permit is renewed. Currently, 85 percent of adoptions go through the ICBF, and 15 percent through the IAPAs. Some of these IAPAs already existed before the ICBF was established. The IAPAs were: CRAN, FANA, Chiquitines, Casita de Nicolás, Casa de la Madre y el Niño and Fundación Los Pisingos; see Interviews in Colombia by the Committee; CRANtje, June 1983, 2nd year, No. 1.

178 Adoption files, 1975-1979 in MinFA Archive, access 3200.343, inv. no. 3816.

179 FA Archive, access 3200.343, inv. no. 565.

6.3.1 DIY adoptions, theft and kidnapping of babies

Because of the long waiting lists at the intermediary BIA, DIY adoptions became very common in the early 1970s, where abuses could easily arise. A couple from Utrecht mediated for several couples in adoptions in Colombia without the home study being completed in the Netherlands, a declaration of approval in principle being issued or having the family composition taken into account.¹⁸¹

In 1978, *De Telegraaf* reported that DIY individuals regularly did business with shady lawyers involved in child trafficking. An example of this was a lawyer called the “black father of adoption”.¹⁸² The lawyer was known to visit hospitals looking for children. DIY individuals often failed to apply for a Dutch long-stay visa (*mvv*) for their adopted child and regularly experienced problems upon arrival at Schiphol.¹⁸³

The theft of babies immediately after birth has occurred repeatedly. New-born children were taken from the mother in hospital and sold to intermediaries for intercountry adoption. The mother was told that the baby had died or was so mutilated that they would not show them to her. In other cases, pregnant women were approached to sell the baby after delivery. Child hunters also went to illegal abortion clinics in Bogotá and tried to persuade women to have their children born and donate them against payment.¹⁸⁴ To cite one example, the BIA contact person in Colombia warned against the children’s home *Casa de la Madre y el Niño* in Bogotá where “children are given up for adoption in a completely arbitrary and irregular way”.¹⁸⁵

181 BIA Report, NA, MinJus, access 2.09.52, inv. no. 247. Colombian adoptions to Curaçao were reported in 1973. Adoptions from Colombia would be quick and easy via the Antilles, but stricter guidelines from 1975 no longer made such “emergency adoptions” possible. Nevertheless, several children had been adopted via this route. The then ICBF director filed complaints against the alleged illegal activities of the involved Dutch couple and their lawyer. What has been done with these complaints has not emerged from the research material. “Spoed-adopties vanuit Colombia naar Nederland uitgesloten”, *Amigoe*, 18-04-1979.

182 R. Kagie, article in *Vrij Nederland*, 03-06-1978.

183 “Nederlands echtpaar steekt handen uit naar zwervertjes van Bogota”, *Telegraaf*, 23-09-1978; Newspaper article by Kagie, *Vrij Nederland* from 1978; Letter from the Dutch embassy in Bogotá to the Department of Child Care and Protection [Justice] with cc to the Visa Service and Foreign Affairs, 28-09-1984, NA, MinJus, IND Policy Archive, access 2.09.5027, inv. no. 1810.

184 Source: interviews by the Committee, both in Colombia and in the Netherlands.

185 Overview (Appendix 1) of BIA, undated (probably mid-1970s), NA, MinJus, Inv. 2.09.52, inv. no. 247.

Between 1981 and 1986, the Dutch and international press regularly wrote about widespread child trafficking and “baby hunters” in South America, and specifically in Colombia.¹⁸⁶ The Dutch press also paid a lot of attention to adoption abuse from Colombia. According to several respondents, there were networks of shady lawyers who arranged the required papers. Doctors and police officers were also involved in these networks. For example, an adoptee said that her birth mother had a babysitter report her missing child to the police, who had given her the choice of either signing the relinquishment declaration or going to prison.¹⁸⁷

Various birth parents have accused the ICBF of offering their children for adoption without their consent or that the ICBF did not want to speak to them when they were looking for their missing child (as in the Armero disaster, see after this). According to some respondents, the ICBF has, over time, become a very bureaucratic organisation from which the humanity has disappeared. Birth mothers and adoptees who have dealt with the ICBF are often very critical of the institute.¹⁸⁸

With reports of abuses or problems, the Dutch Ministry of Justice repeatedly stated that it could do nothing because these cases took place in another country and were subject to foreign law. The intermediaries repeatedly called for a stricter policy, but this received little or no follow-up, which increased the criticism from these intermediaries, especially from Hogar. In the 1970s and 1980s, there were a number of reports in the press saying that adoption organisations were urging the Ministry of Justice for stricter rules, but without any success.¹⁸⁹

6.3.2 Former Minister Veldkamp

In 1981, a fuss arose about the involvement of former Minister of Social Affairs Gerard Veldkamp in the illegal adoption of a child from Colombia for a business friend in whose company he was a supervisory director. The child stayed at the leprosy centre *Agua de Dios*, to which Veldkamp twice transferred \$ 25,000. The BIA contact person had pointed out to Veldkamp and his business friend the conditions that applied to adoption, but they seem to have ignored his advice. The director of BIA had informed the Dutch Ministry of Justice of the state of affairs. The embassy in Bogotá also informed the Ministry and pointed out to the prospective adoptive parent that he had acted incorrectly. The embassy did not cooperate with the adoption. The child eventually flew to France with a Colombian passport without a Dutch long-stay visa (*mvv*) and entered the Netherlands via Belgium, where the child was allowed to enter for tourism purposes with a Colombian passport.¹⁹⁰

186 Interview in Colombia by the Committee; see also “Ring in Colombia Kidnaps Children for Sale Abroad”, *New York Times*, 16/08/1981; *Der Spiegel* (1982); “Baby’s worden in Zuid-Amerika verhandeld of ze koopwaar zijn”, *Volkskrant*, 30/12/1986.

187 Source: interviews by the Committee, both in Colombia and in the Netherlands.

188 Source: Interviews in Colombia by the Committee.

189 “Gewetenloze kinderhandel”, *De Telegraaf*, 12 November 1979.

190 “Justitie blijft buiten zaak illegale adoptie”, *Volkskrant*, 23-06-1981; “Veldkamp voogd voor vriend: Justitie onderzoekt illegale adoptie”, *Volkskrant*, 19-06-1981; Answers to parliamentary questions, 1981, MinJus Archive, inv. no. 4458.

This affair led to various parliamentary questions. In the answer from the Ministry of Justice, it was stated that in the Veldkamp case, no action had been taken in accordance with the existing guidelines with regard to adoption and that the procedure showed little respect for the rules. In the further answer, the Dutch Minister of Justice stated that the parties involved had acted contrary to existing guidelines, but that there were no criminal offenses. The Ministry of Justice indicated that there were no grounds for a criminal investigation. The Child Care and Protection Board also indicated that it was not in the best interest of the child to take the child away from the adoptive parents.¹⁹¹

6.3.3 Armero

The city of Armero was buried under a massive mudslide on 13 November 1985 caused by the eruption of the Nevado del Ruiz volcano. This disaster caused more than 23,000 fatalities. There are strong indications that more than 400 children separated from their parents by the disaster were subsequently offered for intercountry adoption to different countries.¹⁹²

These children were taken to reception centres across the country and offered for adoption through legal and potentially illegal channels, both in Colombia and abroad. This was partly possible because the records of the registry office were lost in the disaster. With three witnesses at the registry office, people could register themselves, but also any child as their own child. This opened up the possibility of creating fictional identities and offering children who survived the disaster for adoption. Birth mothers reported that on video footage of the disaster, which had been widely in the news, they had seen how their child had been rescued by emergency workers, but that the child had since disappeared. After the disaster, more and more such statements were made.¹⁹³

In 2006, the *Armando Armero* Foundation was established to keep the memory of the disaster alive. Since 2012, the Foundation has focused on reuniting lost children with their parents. The Foundation has so far created profiles of nearly 500 children who are looking for their original family and of 300 parents or relatives who are looking for a child. A local forensic laboratory performs DNA tests free of charge.

So far, Armando Armero has been able to establish that more than 60 of the approximately 500 missing children have been offered for intercountry adoption - while their parents were still alive. The Foundation believes it has indications of wrongdoing within the authorities, because pages and photos have been removed from the relevant ICBF documentation drawn up after the disaster. Two mothers who lost their children after the disaster but who, according to video footage or testimonials from rescue workers, had survived the disaster, said they had lost all faith in the involved Colombian government organisations due to the lack of cooperation in their search.¹⁹⁴

191 Answers to parliamentary questions 1981, MinJus Archive, inv. no. 4458; "Justitie blijft buiten zaak illegale adoptie", *Volkscrant*, 23 June 1981.

192 Based on www.armandoarmero.org, and an interview by the Committee in Colombia, 9 January 2020.

193 Source: Interviews in Colombia by the Committee.

194 Source: Interviews in Colombia by the Committee.

6.3.4 Irregularities at Dutch intermediaries

In the mid-1980s, a discussion arose between the Ministry of Foreign Affairs, Justice and Hogar about Dutch long-stay visas (*mvv*'s) for adopted children. Despite a contrary advice, Hogar did not apply for a Dutch long-stay visa (*mvv*) for adoptions, as Colombia did not formally have a visa requirement. This sometimes caused problems for the adoptive parents at Schiphol.¹⁹⁵ An inspection report of the Ministry of Justice of December 1994 shows that Hogar's Dutch contact person in Colombia had set up a network in the preceding years in which her personal, financial interests were leading. According to the inspection, this person therefore had to be replaced. Hogar confirmed this state of affairs in their annual report. Moreover, the cooperation with the Dutch embassy in Bogotá turned out to be problematic due to the actions of this contact person, which gave Hogar a bad name.¹⁹⁶

In conversations and documents, various adoptees also accused other contact persons of Dutch intermediaries of involvement in abuses or personal financial gain.¹⁹⁷ Names of other Dutch nationals and Colombian intermediaries living in Colombia were also mentioned. Except in the above cases, this has never led to reports, formal complaints or investigations. No indications of this were found in the archives either.

6.3.5 Concealment of status in Colombia

Concealment of status means deliberately making a person's descent or actual origin unclear or ambiguous. This can be done, for example, by - incorrectly - stating that birth parents are unknown. In Colombia, a new birth certificate can be drawn up at the time of adoption, whereby the child is given the names of the adoptive parents and sometimes a Dutch first name. If the original papers are not properly preserved, this new certificate will not provide sufficient leads to find the birth family.¹⁹⁸

Concealment of status and the production of incorrect documents has often involved bribery and corruption. These were common phenomena in Colombia, which is described by several Dutch and Colombian informants as an endemic corrupt country. In this way, declarations of relinquishment and birth certificates with false names, places of birth and fictitious parents could be fabricated for a fee.

This was particularly simple before 1975, because there was little regulation and no supervision by the government. The birth parents themselves often also provided a false name and address in order to hide the stigmatising unmarried or illegitimate pregnancy. According to the ICBF, this happened out of fear of criminal or social sanctions. After all, only the notary had to believe what the birth mothers said. It is almost impossible to find the real name of the mother, according to the ICBF.¹⁹⁹ Within the current Colombian

195 Memorandum from Embassy in Bogotá to Ministry of Foreign Affairs, 20 June 1988. NA, MinJus, IND Policy Archive, access 2.09.5027, inv. no. 1814; Letter from the Ministry of Justice to Hogar Foundation, 27 June 1984, MinJus, IND Policy Archive, access 2.09.5027, inv. no. 1810.

196 Inspection report, 7-12-1994, and Hogar Annual Report, 1994, in MinJus Archive, OBP 12, Hogar Foundation, inv. no. 20.

197 Interviews in Colombia and the Netherlands by the Committee.

198 Interviews in Colombia by the Committee.

199 Interviews in Colombia by the Committee.

proceedings, foundlings are given a fictitious name and date of birth that is specified by the *defensora de familia* of the ICBF. Although this is not forgery, it does make it impossible to use the name to trace the birth parents.

6.3.6 Inadequate archiving at ICBF

In the 1970s and 1980s, there was limited and incomplete archiving of adoption files and underlying documents. Archives from these years have also been destroyed on the basis of limitation rules or have been lost due to natural disasters and conflict. Searches by some adoptees regularly show that their ICBF files were missing the declaration of relinquishment and that personal data had been falsified.²⁰⁰

A second complication for adoptees' searches may be that the ICBF has more extensive files over the 1980s and later, but only provides part of the documentation to the adoptive parents. It has been established by law that the ICBF should assist adoptees who are looking for their roots. However, this search process can take years because the capacity at the ICBF is limited, and the documents sometimes have to be obtained from the regional archives or from a notary elsewhere in the country.

A third complication concerns the inadequate digitisation and archiving. This makes searching the immense ICBF archives difficult and time-consuming. Adoptees are dissatisfied with ICBF's actions, which are described as unhelpful. The birth family has no legal right to information once the adoption has taken place, even if it took place under suspicious circumstances. This is difficult to process for a number of birth mothers.²⁰¹

Taking into account the entire period, the parties involved make a distinction between a "weak" and "hard" period in Colombian legislation and regulations. The first term refers to the lack of adoption legislation and regulations that have long characterised Colombian adoption practice. During the hard period, which gradually set in from the 1980s, stricter requirements were imposed on adoption procedures and archiving. In particular, a large part of the adoption files from the 1970s and 1980s turned out to be incomplete or (partly) destroyed, sometimes by the ICBF itself, partly as a result of limitation rules. According to interviewees, such as scientific legal experts, later adoption files were often more complete. Particularly from 1989, and all the way after 2006, it became - at least on paper - more difficult to forge documents.²⁰²

200 Interviews in Colombia by the Committee.

201 Interviews in Colombia by the Committee.

202 Interviews by the Committee in Colombia. See also recent scientific work: S. Branco, "The Colombian Adoption House: A Case Study", *Adoption Quarterly* (2020), pp. 1-23. Branco illustrates the process of four adult Colombian adoptees in which they find their adoption documents turned out to be incorrect. In addition, Branco describes their attempts to find out correct information about their origins. Finally, the adoptees present advocacy recommendations to support Colombian adoptees in provenance searches.

6.4 Aftermath: adoptions from Colombia, 1998-present

After the introduction of the 1993 HC in the Netherlands in 1998, the intercountry adoption practice between Colombia and the Netherlands continued. This is evident from the table below with adoption figures.

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	
178	196	226	208	197	171	104	89	80	49	51	
2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	total
28	19	18	8	5	6	2	3	3	1	0	1,642

Table 7: Number of officially placed adopted children from Colombia, 1998-present.

Between 1998 and 2018, more than 1,600 Colombian children were adopted by the Dutch. From 2002, the number of adopted children fell from just under two hundred in 2002 and 2003 to a few dozen per year in the years 2005-2011. A handful of children have come to the Netherlands every year since 2012, and none in 2019-2020.

As in the period before 1998, abuses in adoptions from Colombia were also reported after 1998. From 2009 onwards, articles were published telling about the perspective of Colombian adoptees.²⁰³ Below are some examples of this that are illustrative of the signs of abuse.

Reports from 2005 reported on the arrest of a Dutch couple who wanted to commit concealment of status by leaving Colombia with a Colombian child registered as their biological child.²⁰⁴ In October 2005, the Inspectorate for Youth Care (*Inspectie Jeugdzorg*) also established that the Dutch licensed intermediary Hogar was inadequate on certain points: for example, the intermediary did not work with professional employees and the matching procedure was not in order. The report of the Inspectorate for Youth Care showed a lack of professionalism. Hogar's intermediary work stopped in 2010.²⁰⁵

In March 2012, there was a fuss in various Dutch media about a boy from Dokkum who turned out to have been given away by the ICBF (the Child Care and Protection and the Central Authority of Colombia) to the adoptive parents without the approval of his parents. The case received a lot of attention in Colombia through the TV programme *Séptimo Día*, after which three hundred Colombian parents reported that they had lost their child in the same way. It led to an investigation by the Colombian judicial authorities into the ICBF. In response to this report, the Dutch government responded with the observation that intercountry adoption is based on trust and that only a relatively small number of adoptions are known to be illegal each year: eight to nine out of more than 705 cases in 2010.²⁰⁶

203 "Ik ben geen boos adoptiekind", *Eindhovens Dagblad*, 10-10-2009; "Adoptie blijkt kinderroof, Colombiaantje naar Dokkum zonder akkoord van zijn ouders", *De Telegraaf*, 19-04-2012; "Fiona vindt zus na 37 jaar terug", *Dagblad van het Noorden*, 13-03-2014; "Inès weet niet meer of zij die baby wel is", *De Volkskrant*, 08-08-2018.

204 "Nederlands stel in cel wegens smokkelen baby; arrestatie colombia", *Trouw*, 22-10-2005; "Kopers kind opgepakt in Colombia - Nederlands echtpaar probeerde baby land uit te smokkelen", *Algemeen Dagblad*, 22-10-2005.

205 Inspectorate for Youth Care, "Onderzoek naar de werkwijze bij matching door de Stichting Hogar bij interlandelijke adoptie", October 2005, MinJus Archive, "OBP 12, Stichting Hogar", inv. no. 20.

206 "Adoptie blijkt kinderroof", *De Telegraaf*, 19-04-2012; "Emotionele ramp in Colombia", *De Telegraaf*, 20-04-2012; "Herkomst onduidelijk", *Spits*, 20-04-2012.

The Committee received reports of other abuses. For example, a Dutch organisation that offers help with origin searches found a mother who had given up her son in 1999 at the children's home *Los Pisingos* in Bogotá. The mother did not believe her son was looking for her at first, as she inquired about him at *Los Pisingos* in 2010, and was then told that he was never adopted because he died shortly after birth. This had such a negative effect on the mother that she is no longer open to contact with her son.²⁰⁷

Los Pisingos has been the subject of adverse headlines in 2013 due to established financial malpractice and improper management. The ICBF withdrew the license. The children's home had to close for six months and the adoption programme was shut down. Pre-existing suspicions of private payments in intercountry adoptions were confirmed and an amount of \$ 2.3 million had gone to bank accounts in Panama and the Cayman Islands, among others. The Colombian Attorney General found that several of the foundation's offices had operated without any oversight. It turned out that there were all kinds of unpaid bills and fictitious expenses had been entered. The director had transferred monthly amounts to a private account in London for seven years.²⁰⁸

6.5 Main findings from Colombia

Intercountry adoption from Colombia started in the 1970s. The country faced political violence and interstate conflict, poverty, unemployment and inequality. From a legal point of view, little was arranged, intercountry adoption took place for a long time in the private law sphere without government supervision. Individual intermediaries, such as lawyers and doctors, as well as criminal networks, were able to take advantage of this situation. This encouraged adoption abuses. These abuses mainly occurred among the so-called DIY individuals, whose activities took place largely outside the official channels, but there is also evidence of the involvement of official Colombian authorities and homes. The ubiquitous corruption in Colombia contributed to this.

Intercountry adoption abuses between Colombia and the Netherlands ranged from document falsification, incorrect payments, bribery, corruption and fraud to child trafficking for profit, theft and kidnapping of children and having children relinquished under duress.

The Dutch government was aware of the abuses in Colombia, but has not used its own powers as supervisor and license issuer to take action against it. Moreover, the Dutch government did not see it as its task to check the content of the documents stamped by the Colombian government.

207 Interviews by the Committee.

208 Interviews by the Committee.

7 Indonesia

7.1 Key figures and context

In 1973, the first official Indonesian adoptee came to the Netherlands.²⁰⁹ In the following ten years, nearly 3,100 adoptees followed. The years of 1979-1981 were a peak, with an average of more than 500 Indonesian children a year coming to the Netherlands. The organisation BIA/Wereldkinderen operated more than 1,700 adoptions, more than half of the total. In 1981, BIA stopped operating because of self-reported unreliable channels and lack of understanding of adoption costs. Unlike in other States of origin, a wide variety of Dutch intermediaries was active in Indonesia: among others, the foundations Flash (150+ children), SOC (150+), Mulia (150), Melatti (about 130), Immanuel (100), Heerebout. (50), Teman Anak (40+) and SBA (40). Dozens of DIY individuals were also active in Indonesia. One example of this was a certain Indonesian “uncle” who was single-handedly involved in nearly 100 adoptions.²¹⁰

The Indonesian government introduced a temporary adoption stop for the Netherlands in 1981, which explained the decline in numbers in 1982. Delay in the process explains why that the numbers did not go to zero. On 1 January 1984, a formal, permanent adoption ban took effect.²¹¹ The adoptions that had been initiated before that were still going ahead.

1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	Total
1	22	68	110	154	249	515	669	535	279	438	32	3,072

Table 8: Number of officially placed adopted children from Indonesia, 1973-1984.²¹²

Indonesia is a country made up of hundreds of islands. It has many different ethnicities, religions, languages and cultures. The intercountry adoption practice between Indonesia and the Netherlands cannot be seen in isolation from previous political, socio-economic and cultural ties. One reason for the Dutch to adopt an Indonesian child was the historical and cultural familiarity with the country. In the 1970s and 1980s, geopolitical aspects and diplomatic struggles between the two countries played a role in adoption practice.²¹³

209 It is likely that a small number of Indonesian children were adopted in the Netherlands before 1973. The Dutch Child Care and Protection Board in Roermond reported in December 1967 that documents of some Indonesian adoptees were not “identical”. See Letter to the Department of Private Law Justice, 28-12-1967, MinJus Archive, access no. 2.09.105, inv. no. 5210. Applications for adoption were also submitted in 1956, see documents in: National Archive (NA), FA Archive, Dutch Directorate in Bandung, access no. 2.05.61.03, inv. no. 361.

210 Letter to the Department of Immigration Affairs, “Toelating statenloos adoptiekind”, 07-10-1979, NA, IND Policy Archive, access 2.09.5027, inv. no. 2712.

211 Wereldkinderen, “Adopties uit Indonesië. Project Historie & Roots” (2019), pp. 10-11. After 1984, it was possible in exceptional cases for non-Indonesians to adopt a child. A requirement is that the prospective adoptive parents must have resided in Indonesia for at least two years, *Ibid.*, p. 16.

212 Data on 1972-1983 from Hoksbergen, “Vijftig jaar adoptie in Nederland”, p. 8 (Table 2A) and pp. 10-11 (Table 3A). Data on 1984 from Wereldkinderen, “Adopties uit Indonesië” (2019), p. 5.

213 “Afgifte reispapieren voorlopig halt toegeroepen: Indonesië wil adoptie gaan beperken”, *Trouw*, 04-08-1981; Wereldkinderen, “Adopties uit Indonesië”, p. 10.

7.2 Laws, regulations and adoption procedure in Indonesia

The Indonesian adoption legislation from the 1950s onwards partly arose from the Dutch East Indies legislation from the colonial period. Like the Dutch Adoption Act in 1956, the Indonesian Act focused on domestic adoption and not intercountry adoption.²¹⁴ An influence on the general Indonesian law was that inheritance law could run through different lines (father, mother or both), which was determined by different religious and local customs.²¹⁵ A unique aspect of Indonesian legislation up to at least 1979 concerned the *Adat* principle. These were local Indonesian customs and habits that became intertwined with formal laws and regulations.²¹⁶

In 1979, Indonesia implemented a new Child Protection Law (no. 4). The law focused on the welfare of Indonesian children in general, and did not provide any formal guidelines for (intercountry) adoption procedures. The Supplementary Circular (no. 2) of the Indonesian Supreme Court of 7 April 1979 determined that the adoption of an Indonesian child can only be carried out after the intervention and approval of a court.²¹⁷

On 1 January 1984, Indonesia formally halted the general intercountry adoption practice. This happened as a result of unsuccessful attempts to regulate the course of events in the years before (especially 1981-82), and out of public dissatisfaction with suspicions of wrongdoing, corruption, child trafficking and other abuses. In addition, the influence of Islamic movements in Indonesian politics grew, which by definition disapproved of intercountry adoption.

The Indonesian adoption procedure

The Indonesian adoption procedure was influenced by the frequent lack of central registration shortly after birth. Registration of a child usually took place when it was legally required, usually when the child started attending education. Local laws and regulations were considered to be of greater importance than obligations imposed from above by central government. That is the reason that central registration was rare. Today, a quarter of all children are still not registered upon birth. It was also not always customary in Indonesia to have a surname or last name. On official documents, this was sometimes resolved by entering the same name for first and last name, or leaving it blank.²¹⁸

The formal legal adoption procedure from Indonesia to the Netherlands in the period 1973-84 had the following steps (the required documents are *in italics*):

214 Dutch law stated that the child to be adopted was given legal child status, completely severing legal ties with the biological parents. Indonesian legislation was less stringent; the adopted child retained the Indonesian nationality and name. Indonesian law was formally less far-reaching. See: adoptie-indonesie.nl.

215 Even before Indonesian independence, adoption laws and mechanisms existed in the country. However, this was not formally arranged and mainly concerned domestic adoptions. See A. Cahyono, "Cross-Border Child Adoption: Protection and Challenges in Indonesia." In: Harkrisnowo, Juwana and Oppusunggu (ed.), *Law and Justice in a Globalized World* (London, 2017), pp. 241-248.

216 Wereldkinderen, "Adopties uit Indonesië", p. 12.

217 Cahyono, "Cross-Border Child Adoption", p. 243.

218 Wereldkinderen, "Adopties uit Indonesië", pp. 11-14.

1 *Parents relinquish their child*

If Indonesian parents were unable or unwilling to take care of their child, they could submit a request to an Indonesian civil-law notary to relinquish with their child. After that, the guardianship was legally transferred to a home or foundation. In addition, a declaration of relinquishment was drawn up, confirmed by witnesses (usually personnel of the notary or a contact person of the relevant authority). The *declaration of relinquishment* contained personal details of the birth parents and was signed by the village chief.²¹⁹

2 *The home draws up a file of the child*

In the Indonesian home it was examined whether a child could be put up for adoption. It was desirable for such a child to have a birth certificate (*Sulat Kelahiran*), but this was not always the case. In the home, a small file was drawn up about the child, in order to achieve a matching with a potential adoptive family. Intermediaries and homes contacted each other about this to coordinate the possibilities for adoption.

3 *Intermediaries matched the child and adoptive parents*

Dutch prospective adoptive parents who had received a *declaration of approval in principle* through the Ministry of Justice could contact Dutch adoption intermediaries, such as BIA/Wereldkinderen or private intermediaries. They had contacts with Indonesian children's homes and were familiar with the local procedure.

4 *The Indonesian embassy arranged the necessary documents*

After the positive matching between a child and prospective adoptive parents, the Indonesian embassy in The Hague was contacted. It sent the documents required in the Netherlands to the Indonesian authorities.

5 *The home transfers the child to the adoptive parents*

From 1978 onwards, prospective adoptive parents in particular travelled to Indonesia themselves. This was usually done under the guidance and organisation of intermediaries. There, the Indonesian authority handed the child over to the parents and a *notary's statement* was handed over. The Dutch parents paid the authority for the transfer.

6 *An Indonesian judge authorises the adoption*

In 1978, in Indonesia, a decision was required through a hearing at the central court, the *Dewan Nasional*. At least the relevant Indonesian foundation was present. The birth parents were never present; the adoptive parents sometimes. From 1981, it was legally clarified that at least one prospective adoptive parent had to be present. After the hearing, the custody transfer was formally settled.

7 *The child could then travel to the Netherlands*

After a positive court decision, the Indonesian Migration Service arranged an Indonesian *outbound travel document*. Finally, all the above documents were submitted to the Dutch embassy in the capital Jakarta. After that, a Dutch long-stay visa (*mvv*) was issued and the child was allowed to travel to the Netherlands. Before 1978, this was usually done with escorts, after 1978, it was done by the adoptive parents themselves. However, there was also at least one documented case in which a child entered the Netherlands on the basis of an entry visa issued at Schiphol.²²⁰ Whether this occurred incidentally or structurally is unknown.

219 The signature by the village chief was legally recognised, which indicated the importance of the aforementioned informal legal principle of *Adat*.

220 E-mail from adoptee, Attachment: Letter dated 17 April 1979. From this enclosed letter it appeared that the Kasih Bunda home requested the Immigration Services at Schiphol to grant an entry visa, instead of the Dutch embassy in Jakarta. This was done by relying on crowds during the holiday season.

8 Adoption is ratified in the Netherlands

Upon arrival in the Netherlands, the child was immediately medically examined. In the days that followed, a *residence permit* was applied for at Immigration Services. Guardianship was arranged through the Subdistrict Court. One year later, the child could be formally adopted under Dutch law, which gave the child a legal child status and Dutch nationality.

7.3 Case studies

The Committee's investigation shows that large-scale abuses occurred in the adoption practice between Indonesia and the Netherlands. There are concrete indications of child trafficking, kidnapping and theft. Signs of document falsification, concealment of status, fraud and corruption by intermediaries and malicious homes also emerged repeatedly. The Dutch government was aware of the signs of abuse from at least November 1977. In any case, the suspicions had been raised by the Indonesian authorities themselves since 1979. There have also been many publications about abuses in international, Indonesian and Dutch media. As an example, six cases, documented in detail, are discussed below that follow each other over time. Together, they are exemplary for the detection and occurrence of abuses in the Indonesian-Dutch adoption practice. The cases also show the role of the Dutch government and intermediaries.

7.3.1 Dual role of intermediary, December 1976-October 1978

In December 1976, the director of the BIA paid a working visit to Indonesia. The Dutch Association of Foster Families (*Nederlandse Vereniging van Pleeggezinnen, NVP*), one of the predecessors of BIA, had a local contact person there who assisted with adoptions proceedings. At the same time, she worked at the Dutch embassy in Jakarta. However, BIA suspected that her actions were not pure. After several conversations with her, BIA wished to stop working together in early 1977. It was suspected that she was operating in a dubious way and that she did not disclose the adoption costs charged by her. BIA suggested to the Dutch Child Care and Protection Board that there was a direct reason to restrict her intermediary activities.²²¹

In April 1978, the Ministry of Foreign Affairs discussed the role of the contact person with the embassy in Jakarta. Both questioned her dual role of both embassy assistant and adoption intermediary. The embassy then opened an investigation that led to the conclusion that there were no substantiated indications for her to be fired. The necessary adoption documents had been checked and were found to be correct.²²² In October 1978, BIA warned the Dutch Child Care and Protection that the contact person was working for other intermediaries. She has also been repeatedly associated with child trafficking.²²³

221 Letter from the Director of BIA to the Dutch Child Care and Protection Board, 28-11-1977, NA, Policy Archive IND, 2.09.5027, inv. no. 1810.

222 Memorandum from the Department of Immigration Affairs, Ministry of Justice to Head of the Residence Arrangements Department, 04-04- 1978, NA, IND Policy Archive, access no. 2.09.5027, inv. no. 1810.

223 <https://www.adoptie-indonesie.nl/adoptie-organisaties-indonesie/>; Letter from the Flash board to the Ministry of Justice, 21-06-1979, MinJus Archive, access 5000.017, inv. no. 5302.

The Committee was unable to determine how this case proceeded and whether measures were taken against her actions on the basis of the research material.

7.3.2 Abuse suspicions in the media, August 1979

At the beginning of August 1979, there was much talk in the Dutch media about adoption abuses in Indonesia. During that period, the Indonesian police arrested suspects of child trafficking, including a registrar and a midwife. The cooperating suspects would have approached poor families to give up their child for money. The children would then have been resold to homes, where they were put up for intercountry adoption. This allegedly involved document forgery, fraud, corruption and child trafficking. The Dutch media reported that at least thirty children had ended up in the Netherlands via this route. *De Telegraaf* subsequently reported that the Ministry of Justice would not attempt to trace the children in question, because the Ministry assumed that Dutch adoptive parents had not deliberately worked illegally to have a child adopted. Moreover, the children present today would already be used to their new homeland.²²⁴

From September 1978, the Dutch intermediary *Overzeese Contacten Foundation* (SOC) encountered problems with the Indonesian authorities for unclear reasons. The authorities made it difficult to provide the outbound travel documents to the adopted children mediated through SOC.²²⁵ Around August 1979, J.S. Nasution (head of the Indonesian Social Welfare Council) advised the Indonesian government to end cooperation with SOC. SOC was disbanded in 1980, after which those involved founded a new organisation, the *Kind en Toekomst Foundation*. It is not clear from the research material whether SOC was involved in abuses or the victim of a general measure from Indonesia. However, the case does show that the Indonesian government attempted to limit the multitude of Dutch intermediaries and to limit the associated possible abuses.²²⁶

224 See the following newspaper articles: "adoptieschandaal in Indonesië"; "Babyhandel opgerold: „Weesjes" duur verkocht", *De Volkskrant*, 08-08-1979; "Handel in kinderen op Java", *De Waarheid*, 09-08-1979; "Geruchten over adoptieschandalen in Bangladesh en Indonesië", *Nederlands Dagblad*, 09-08-1979; "Bende koopt baby's op voor adoptie", *Nieuwsblad van het Noorden*, 08-08-1979; "Illegale baby's uit Indonesië mogen blijven", *De Telegraaf*, 09-08-1979.

225 Letter from the Overzeese Contacten Foundation to the Ministry of Justice, Department of Immigration Affairs, 27-09-1978, NA, IND Policy Archive, 1956-1985, access 2.09.5027, inv. no. 2712.

226 Interview report Head of the Child Care and Protection Department with BIA director, 28-8-1979, MinJus, access, 5000.017, inv. no. 5302.

7.3.3 Actions of Flash on the island of Biak in West Irian, 1979

From the end of August 1979, media attention arose about alleged child trafficking from Indonesia, in particular about an adoption scandal on the island of Biak. The intermediary Flash was suspected of having played a leading role in this scandal, in which preparations were made to illegally adopt more than three hundred children to the Netherlands. The children would be put up for adoption because they were orphans, which turned out not to be true. Among other things, a Dutch development worker on the spot warned the Dutch Public Prosecution Service about the plans of Flash.²²⁷

The Dutch Ministries of Foreign Affairs and Justice, as well as the Embassy in Jakarta, spoke and corresponded extensively on the Biak case during August-September 1979. There were extensive discussions between the Directorate of Child Care and Protection and Flash in response to the signs on Biak.²²⁸ Judicial Authorities then opened a brief investigation. Internal correspondence eventually showed that Judicial Authorities had doubts about the punishability of Flash's actions. Initially, it was noted that:

*"Someone who intentionally "recruits" a child abroad for the purpose of adoption, all this covered by a false adoption session that is organised with the help of bribes and/or with documents obtained through corruption, and brings or has brought them to the Netherlands is guilty of the crime of Art. 279 of the Dutch Criminal Code."*²²⁹

However, an involved official concluded: "Perhaps FLASH does not work as it should, but I do not think the article in *Trouw* is well-founded, given the available data. There is no evidence of any criminal offense."²³⁰

Parliamentary questions were also asked about Flash's actions in Biak. The responsible State Secretary of Justice was asked to share the investigation results with the Lower House. The State Secretary later replied that she saw no reason for an extensive investigation, because, according to Judicial Authorities, it had not been shown that Flash had disregarded the adoption guidelines.²³¹ She finally stated in the media that Flash "had not brought children from West Irian to the Netherlands in an inadmissible manner for adoption". With that, the case was closed. In the following years, until the adoption stop in 1984, Flash continued to operate in Indonesian adoptions.²³²

227 "Verwarring over Vakantiereisje" "Kinderen Nieuw-Guinea dupe adoptieschandaal", *Trouw*, 24-08-1979; "Onderzoek naar adoptie van Papoea-kinderen", *Trouw*, 24-09-1979; "Kinderbescherming onderzoek praktijken van adoptiebureau", *Nederlands Dagblad*, 25-08-1979; Letter development worker from Reformed Churches to the Public Prosecution Service, 25-08-1979, MinJus, access: 5000.017, inv. no. 5302.

228 Conversation report of Head of the Child Care and Protection Department with chairman of Flash, 30 August 1979, MinJus Archive, access 5000.017, inv. no. 5302.

229 Internal Justice memorandum for parliamentary question Nijpels about Flash, 20-09-1979, MinJus, access no. 5000.017, inv. no. 5302.

230 Ibid.

231 Parliamentary question from Nijpels (VVD), to State Secretary of Justice, concerns: "Research into the activities in the field of adoption mediation by the Flash Foundation", 30-08-1979 / 02-10-1979.

232 "Staatssecretaris Haars na onderzoek: Adoptiekinderen Irian toelaatbaar", *Trouw*, 03-10-1979.

7.3.4 Baby farm of Indonesian midwife, December 1980

In December 1980, a large-scale fraud came to light: an Indonesian midwife was arrested after eighteen babies were found in her attic. The babies were intended to be put up for adoption to Western couples, mainly Dutch. The midwife would receive a thousand guilders per child for this; and the birth parents would receive two hundred guilders. The midwife worked for an unknown Dutch intermediary. The Indonesian authorities closed the so-called *baby farm*.²³³ It is unknown what happened to the children.

Suspensions of the existence of such *baby farms* were quite common.²³⁴ These concerns were also frequently voiced in the Dutch media, with explicit attention to the role of midwives in shady networks.²³⁵ The Dutch authorities corresponded frequently about the case. Both Foreign Affairs and the embassy stressed that Indonesia should take stricter measures against such excesses. The Netherlands itself took no further action, as the research material shows.²³⁶

233 Baby farms were places where women gave birth (whether or not against their will, and/or for a fee), after which the child was given up for adoption.

234 Wereldkinderen, "Adopties uit Indonesië", p. 15; D. Deijle *Postpakketjes van overzee: Gelegaliseerde kinderhandel in adoptie van kinderen uit Indonesië* (Brónsgreun: Steyl, 2020), p. 69 See also: Wereldkinderen Tijdschrift, 1979 volume, number 3, "Kinderhandel in Indonesië". It says: "Many of you will be startled by the reports in the press, radio and TV about the child trafficking in Indonesia for adoption in the Netherlands. According to the messages, a few people from Central Java were arrested for buying babies from mostly poor, unmarried mothers, which then provided them with forged papers, after which they were offered for adoption in the Netherlands through intermediaries with "some" profit. Despite many rumours, the correct Dutch channel is still not exactly known. By the way, the case is not very recent, as this issue has been going on for several months. Whatever way the system may exactly work, this clearly shows that not all channels are reliable and the BIA and the associations must proceed with the utmost care in establishing their contacts."

235 "Weer arrestaties Kinderhandel Indonesië", *Het Vrije Volk*, 20-11-1979; "Gevonden op vliering van vroedvrouw Baby's in Jakarta, voor adoptie-ouders in Nederland bestemd", *Leeuwarder Courant*, 30-12-1980; "adoptieschandaal in Indonesië: Babyhandel opgerold, „Weesjes” duur verkocht", *De Volkskrant*, 08-08-1979; "Weer arrestaties Kinderhandel Indonesië", *Het Vrije Volk*, 20-11-1978; "Baby's ontvoerd in Indonesië voor adoptie", *Nieuwsblad van het Noorden*, 09-06-1981; "Indonesische baby's vooral in Nederland verkocht", *De Waarheid*, 30-12-1981; "Gevonden op vliering van vroedvrouw Baby's in Jakarta, voor adoptie-ouders in Nederland bestemd" (*Leeuwarder Courant*, 30-12-1980).

236 Report from Persspiegel, "opvangcentrum van babies in Jakarta-oost ontdekt. Politie onderzoekt een syndicaat voor de verkoop van Babies naar het buitenland." 29/12/1980; Code message from Embassy Jakarta to FA "Kinderhandel" 30/12/1980, NA, FA Archive, access no. 2.05.330, inv. no. 6427.

7.3.5 Kurniawati, June 1981-July 1982

After the kidnapping of a girl named Kurniawati in the autumn of 1980, she ended up with incorrect papers with a Dutch couple in Friesland. Her birth father filed a lawsuit against the adoption in Indonesia.²³⁷ The case is discussed below, because the case was an important reason for the Indonesian authorities to introduce an adoption stop (a temporary stop in July 1981; a permanent one from 1984). The case received a lot of attention in both Indonesian and Dutch media and led to intensive public discussions and parliamentary questions.²³⁸ Partly because of this case, social criticism of adoptions from Indonesia to the Netherlands grew in both countries.

After being kidnapped from her hometown, Kurniawati was sold through intermediaries, after which she ended up in the children's home Kasih Bunda. From there, she was adopted by a Dutch couple. That couple later indicated that they were not aware of the fact that Kurniawati still had birth parents and promised to bring her back to them.²³⁹

Both the Dutch and Indonesian media reported extensively on the case.²⁴⁰ The case resulted in a long-drawn-out lawsuit in which Kurniawati's birth parents contested the adoption. The lawsuit ultimately turned out to be unsuccessful. The demand was declared inadmissible, after which the Indonesian government called in a diplomatic means to put the Netherlands under pressure: the Indonesian migration service temporarily stopped issuing travel visas for children to be adopted to the Netherlands. In practice, this effectively meant a temporary adoption stop.²⁴¹

Several Dutch parties subsequently became involved in the case. The Ministry of Justice, Foreign Affairs and the Embassy in Jakarta corresponded extensively on the case in the autumn of 1981. They argued that general relations between the Netherlands and Indonesia were at stake. The situation around Kurniawati thus became strongly politicised.²⁴²

The Dutch embassy and Foreign Affairs feared that the Kurniawati case would seriously damage diplomatic relations with Indonesia. They therefore emphasised that the case should be separated from the broader adoption practice. Research material shows that the Dutch government at first held back, but that political pressure from Indonesia forced it to cooperate in finding a solution.²⁴³

From the end of July 1981, the Dutch embassy in Jakarta was aware of the matter, but did nothing. This is evident from correspondence about the Kurniawati case between the embassy and

237 Report from Perspiegel, "Reeds 100 Indonesische geadopteerde kinderen in Nederland?", 17-07-1981, NA, FA Archive, access no. 2.05.330, inv. no. 6427. See also Wereldkinderen, "Adopties uit Indonesië", p. 16.

238 Parliamentary questions from Haas-Berger (PvdA) to State Secretary of Justice, also to the Minister of Foreign Affairs, concerns: "The transfer of Indonesian prospective adopted children to the Netherlands", 15-10-1981 / 04-12-1981.

239 Letter of adopted couple to the birth parents, 4-06-1981, NA, FA Archive, access 2.05.330, inv. no. 6427.

240 "Pleegkind uit Indonesië zou zijn ontvoerd", *NRC Handelsblad*, 23-07-1981 en "Kind uit Fries gezin wellicht opgeëist: Adoptie uit Indonesië soms illegaal", *Volkscrant*, 24-07-1981.

241 "Voorlopig geen uitreisvisa adoptiekinderen in Djakarta", *Leeuwarder courant*, 25-07-1981. Received Telex message on behalf of the Jakarta Embassy to the Ministry of BuZa, "visa voor geadopteerde kinderen", 23-07-1981, NA, FA Archive, access no. 2.05.330, inv. no. 6427. See also Internal Note of the Ministry of Justice, 09-11-1981, MinJus Archive, inv. 5387.

242 "Parlementslid Indonesië vraagt regering om bemiddeling terugkeer Kurniawati naar ouders", *Leeuwarder Courant*, 14-07-1982.

243 Memo FA, concerns: "Adoptie Indonesische kinderen", 11-12-1981, NA, FA Archive, access no. 2.05.330, inv. no. 6427.

the Ministry of Foreign Affairs.²⁴⁴ According to these parties, it was intended that the girl would return to her birth parents at the end of July 1981, but for reasons that are unclear, this did not happen. In November, officials from Ministry of Foreign Affairs corresponded internally about the possibility of giving Kurniawati's adoptive parents a new adopted child should Kurniawati return to Indonesia.²⁴⁵

Ultimately, the Ministry of Foreign Affairs concluded: "However, it turned out afterwards that when the child was given up, it was a matter of incorrect actions, of which neither the judge nor the foster parents were aware."²⁴⁶ Kurniawati was never returned to her original parents. The Indonesian government did make several calls for this, and even declared the adoption in its own country legally invalid, but to no avail.²⁴⁷

7.3.6 Children's home Kasih Bunda

The media revelations surrounding Kurniawati created a knock-on effect, revealing more potential kidnapping cases of Indonesian children and illegal adoptions. Indonesian public opinion increasingly turned against intercountry adoption, and in particular against the Indonesian foundations involved.²⁴⁸

Kurniawati had been brought to the children's home *Kasih Bunda* after her kidnapping. In 1980, a few months earlier, the director of the home had been sentenced to six months in prison for document forgery and complicity in child theft.²⁴⁹ For many years, she was a key figure in the adoption practice between Indonesia and the Netherlands. She was already involved in the "first" child adopted to the Netherlands in 1973. After the abuses of 1980-81, Kasih Bunda was blacklisted by the Indonesian authorities. This did not prevent the home from restarting under the name Yayasan Bina S(e) jahtera.²⁵⁰

244 Telex message on behalf of the Jakarta Embassy to the Ministry of Foreign Affairs, "Adoptie ontvoerd meisje", 22 July 1981; Telex message from the Embassy of Jakarta to the Ministry of Foreign Affairs, "visa voor geadopteerde kinderen", 23-07-1981; Code message on behalf of FA to the Dutch embassy in Jakarta, "Adoption of Indonesian children" 17-09-1981; Concept memorandum from [DAZ/JZ] to Minister of Foreign Affairs, 19-11-1981, all documents in: NA, MinFA Archive, access no. 2.05.330, inv. no. 6427.

245 Urgent Memorandum FA, "Indonesië; adoptiekwestie", 11-10-1981, NA, FA Archive, access no. 2.05.330, inv. no. 6427.

246 Memorandum concept to the Minister of Foreign Affairs, 19-11-1981, NA, MinFA Archive, access no. 2.05.330, inv. no. 6427.

247 M. Schrover, "Parenting, citizenship and belonging in Dutch adoption debates 1900-1995", *Identities*, 11 (2020), pp. 119.

248 Report from the Perspiegel, "Reeds 100 Indonesische geadopteerde kinderen in Nederland?" (17 July 1981); "Vele kinderontvoeringen achter adopties" 17-7-1981, 20-07-1981; received Telex message from Jakarta Embassy to Ministry of Foreign Affairs, 22-07-1981; message from Perspiegel, "1. Een ander ontvoerd kind in Nederland terechtgekomen (zie PS. dated 27-7-81 sub 1)" 28-07-1981. All Perspiegel articles in: NA, FA Archive, access no. 2.05.330, inv. no. 6427. In the following Dutch articles, it was assumed that child trafficking took place in Indonesia: "Baby's ontvoerd in Indonesië voor adoptie", *Nieuwsblad van het Noorden*, 09-06-1981; "Onrust in Indonesië over 'kinderhandel' neemt toe: weer ontvoering adoptiekind gemeld", *Trouw*, 28-07-1981; "Gezin Bloemendaal te goeder trouw: 'die adoptiebaby werd ontvoerd'", *Het vrije volk*, 28-07-1981; "Onrust in Indonesië over kinderhandel", *De Waarheid*, 29-07-1981; "Controle nodig op bemiddeling", *NRC Handelsblad*, 31-07-1981. Message from Perspiegel, "Regering verzocht adoptiepraktijken te onderzoeken (Zie PS dated 24-7-1981)", 27-07-1981, NA, FA Archive, access no. 2.05.330, inv. no. 6427.

249 Wereldkinderen, "Adopties uit Indonesië" (2019), p. 15.

250 Deijle, *Postpakketjes van overzee*, p. 93 and p. 265.

Interviewees recently stated that there was a lot wrong with Kasih Bunda. For example, the orphanage would have functioned as a distribution centre for intercountry adoption. Children who ended up with Kasih Bunda had been taken from their parents under false pretences. They were promised that the children in the wealthy West would receive a good education and return at the age of 18. However, that never happened.

The Committee received incorrect documents from several Indonesian adoptees.²⁵¹ Some of them came from Kasih Bunda. For example, two adopted sisters have doubts as to whether they are actually biological sisters. These doubts stem from mismatched data in their adoption files. The signature of their birth father was not the same on several documents and there are indications that the signature of their birth mother has been forged. This indicated fraud. The file of another adoptee was incomplete: the mandatory background reporting in Indonesia, the medical certificate and the custody transfer were missing.²⁵²

7.4 Aftermath: adoptions from Indonesia, 1984-present

BIA ended adoptions from Indonesia in 1981. The mediation division of Wereldkinderen had already ended earlier. Both organisations found the Indonesian adoption practice unreliable. This was especially true for the financial aspects: adoption costs in Indonesia could amount to more than 5,000 guilders per child, while BIA/Wereldkinderen could only gain insight into half of that amount. The relentless flow of reports about suspicions of *baby farms*, child theft and the like led to a negative reputation for Indonesia as a State of origin.²⁵³ This did not stop others, including Flash and Kind en Toekomst, from continuing operating adoptions until the permanent adoption stop in 1984.

Looking back at the time when adoption from Indonesia was possible, a critical Wereldkinderen board member in 1987 wrote sarcastically:

"It was the same with Indonesia a few years ago. Anyone who wanted to get out quickly and relatively cheaply left for our ex-colony. The children left the country by the truckload. Government officials looked the other way as if on command. The money just kept rolling. Until it was no longer possible because the thought took hold that Indonesia was another word for child trafficking. Then from one day to the next, the borders closed, even for the single intermediary who did not have to be ashamed. Since then no child has come out, although of course a lot of children would benefit from adoption."²⁵⁴

Indonesia has been reluctant in its adoption policy since the adoption stop in 1984. From a formal and legal point of view, international adoption is not prohibited by law, but it is so complicated for prospective adoptive parents to adopt a child from abroad that it is in fact impossible.²⁵⁵

251 Interview by the Committee and documents of adoptees sent to the Committee.

252 Report received by Committee on the adoption of two adoptees.

253 Wereldkinderen, "Adopties uit Indonesië", p. 15.

254 Wereldkinderen magazine, "Rekel. Brood met beleg", year 1987, number 4, p. 14.

255 Indonesia has never signed the 1993 HC. L. Bakarbessy and D. Purnama Anugerah, "Implementation of the best interest of the child principles in Intercountry Adoption in Indonesia", *Yuridika* 33: 1 (2018), pp. 74-92.

Media coverage of Indonesian adoption abuses resumed after the turn of the century, particularly after 2004. This was partly due to the fact that adult adoptees made their personal stories known in the press.²⁵⁶ Rumours about child trafficking have also surfaced recently. In October 2018, for example, four Indonesians were arrested trying to sell babies to Western couples via social media.²⁵⁷

Despite the adoption stop, a few adoptions from Indonesia to the Netherlands have occurred since the 1990s, with sometimes suspicions of abuses. For example, two documented, separate cases are known in which Indonesian babies came to the Netherlands with an incorrect birth certificate. The official procedures were circumvented. Both cases took place between 2004 and 2011.²⁵⁸

7.5 Main findings from Indonesia

All conceivable forms of abuse - from incorrect documents to child trafficking and *baby farms* - occurred in adoptions from Indonesia. The Dutch government and the embassy in Jakarta were aware of this from at least November 1977. Most of the signs of abuse occurred in 1979-81, according to all media reports, government correspondence (mainly within the Ministries of Justice and Foreign Affairs and the embassy), parliamentary questions and recent interviews.

The Dutch government has never actively intervened to combat abuses. For example, the Netherlands did not investigate the role and responsibilities of the suspected Dutch intermediaries in Indonesia, such as SOC. After the temporary adoption stop in 1981, the Netherlands did not improve the adoption procedures, despite diplomatic struggles with Indonesia. After political and diplomatic pressure from Indonesia and media attention, especially regarding the Kurniawati case, the Dutch government has been actively involved behind the scenes. At the time, this did not lead to any significant policy changes.

There was little or no supervision and control of the adoption practice with Indonesia from the Dutch government. Required documents were only checked for completeness, but not substantively for authenticity. Supervision of the many small and larger intermediaries was minimal and was lacking among the many DIY individuals.

256 See in particular the newspaper articles: "Donkere kindjes zijn goedkoper dan lichte", *De Stentor*, 16-12-2003; "Smokkel kinderen uit Atjeh", *De Stentor*, 04-01-2005; "Criminelen misbruiken zeebeving", *Dagblad van het Noorden*, 04-01-2005; "Unicef: 29 procent slachtoffers jeugd – Tsunami treft kinderen zwaar", *De Stentor*, 05-01-2005; "Adoptieel Indonesië topje van de ijsberg", *Telegraaf*, 16-03-2006; "Ik besef nu dat mijn leven hier in Nederland is", *Algemeen Dagblad*, 02-06-2006; "Ziekenhuis verkoopt baby om rekening keizerssnede", *Algemeen Dagblad*, 03-02-2009; "Salomonsoordeel over de kleine Yosi", *Algemeen Dagblad*, 20-02-2009; "Een kleurling in Staphorster klederdracht", *Reformatisch Dagblad*, 06-01-2011; "De geuren, de mensen, ik kwam thuis", *Reformatisch Dagblad*, 13-01-2011; "Uitgekozen; vermist", *Leeuwarder Courant*, 10-02-2012; "Sporloos", *de Volkskrant*, 16-09-2013; "Baby ontfoetseld", *Telegraaf*, 19-04-2014.

257 "Babies for sale: ASEAN's insidious underground baby market", 19-10-2018.

258 Chronological overview of the course of the case and documents supplied and e-mail from the Jakarta embassy, 23-09-2011 in FA Archive, FA-2018.495956, DCM, access: 3200.175, inv. no. 43510.

Some intermediaries, including SOC and Flash, were suspected of being involved in adoption abuses. However, this cannot be established unambiguously on the basis of the research material studied by the Committee. As far as is known, Dutch government officials themselves were not involved, although the dual role of an Indonesian employee at the Dutch embassy was questioned.

8 Sri Lanka

8.1 Key figures and context

In 1973, the first adopted child from Sri Lanka came to the Netherlands. In the years that followed, dozens, sometimes hundreds, followed each year. In 1982-1992, this influx to the Netherlands was the highest, in 1986, for example, over five hundred. After 1992, the numbers decreased to about ten per year. In total, more than 3,400 Sri Lankan children came to the Netherlands.²⁵⁹ The largest Dutch adoption intermediaries in Sri Lanka were Kind en Toekomst and Flash. Kind en Toekomst has mediated in more than a thousand Sri Lankan adoptions, Flash more than 2,400. Based on archival research, newspaper analysis and interviews at home and abroad, this chapter sketches a picture of the adoption practice between the Netherlands and Sri Lanka from the 1970s to the present day.

1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	
0	1	1	14	23	13	18	7	81	61	140	204	460	
1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	total
537	565	275	24	118	263	228	97	62	73	17	6	4	3,292

Table 9: Number of officially placed adopted children from Sri Lanka, 1972-1997.²⁶⁰

The adoption practice in Sri Lanka was related to a broader political, socio-economic and cultural context. War, poverty and hunger made it more difficult for (single) parents to care for their children. Therefore, children were sometimes abandoned or offered for adoption. In addition, widespread corruption within Sri Lankan society was (and is) a persistent phenomenon.

Single motherhood was taboo and stigmatised in Sri Lanka. Single pregnant women were not infrequently expelled from their community. This fate awaited not only them, but also their child. Some women therefore felt compelled to give birth in secret and to give up their child. In addition, domestic violence or the loss of a spouse, for example through divorce or war, could lead mothers to give up their child for adoption. Social coercion - or the fear of it - was an ongoing issue.²⁶¹

8.2 Laws, regulations and adoption procedure in Sri Lanka

From 1944, there was a law in Sri Lanka on domestic adoptions that determined how adoption procedures should be conducted. This law was revised in 1960 and 1964.²⁶² In 1979, the adoption law was amended again, allowing intercountry adoption to

259 Hoksbergen, *Kinderen die niet konden blijven*, p. 141.

260 Hoksbergen, "Vijftig jaar adoptie in Nederland", p. 8 (table 2B), p. 11 (table 3B) and p. 14 (table 4B).

261 Insights obtained, among other things, from interviews by the Committee in Sri Lanka.

262 Adoption of Children Ordinance, 1956, revision 1960. Found in FA Archive, inv. no. 000659/6293.

a limited extent.²⁶³ Nevertheless, several dozen Sri Lankan adoptees have been coming to the Netherlands every year since 1973.

Due to the rise of intercountry adoption, in addition to domestic adoption, the law was no longer applicable to the changed situation from the 1970s onwards. This old legislation also left room for fraud and corruption by judges, lawyers and civil servants: payment to such persons was not prohibited until the following years. In addition, there was a lack of adequate supervision of compliance with the law. The malfunctioning of Sri Lankan authorities and agencies (including the children's homes) facilitated fraud, bribery and document forgery.²⁶⁴

In 1992, the Sri Lankan adoption law was tightened.²⁶⁵ This happened partly as a result of signs of structural abuse in adoptions abroad (see below). The tightened 1992 law restricted intercountry adoption with an annual quota; domestic adoption was given priority.²⁶⁶ The Board for Child Care and Protection became responsible for the selection of children for prospective adoptive parents abroad. Only children from registered state homes and private homes were allowed to be adopted. Unregistered homes were allowed to help mothers give birth, but children were not allowed to be put up for adoption.

In addition, the 1992 amendment banned the illegal retention of pregnant women or children. The law also prohibited foreign prospective adoptive parents from paying Sri Lankan contacts for adoption mediation.²⁶⁷ In the decades before that, this was not the case, which made bribery possible. Finally, from 1992, foreign adoptive parents were required to send an annual progress report up to the tenth year of their Sri Lankan child. This points to the mutual, intercountry interaction and relationships.²⁶⁸

The adoption procedure²⁶⁹

After the necessary adoption documents had been arranged in the Netherlands, they had to be legalised. In the Netherlands, this legalisation procedure went through a Dutch civil-law notary, the court, the Ministry of Justice, Foreign Affairs and the Dutch embassy in the Sri Lankan capital Colombo. The embassy then sent the originals to the Sri Lankan adoption authorities. The prospective adoptive parents then had to wait until they were paired with a child, which could take months. After the assignment of a child, the parents had to go to Sri Lanka to continue the procedure.

263 Adoption of Children Ordinance, Law No. 6 of 1977 (Act No. 38 of 1979), Chapter 76, Part 1, Section 3.6.

264 Interviews by the Committee in Sri Lanka.

265 Adoption of Children Ordinance, Adoption of Children (Amendment) Act, no. 15, 1992 (11 March 1992).

266 Intercountry adoption was only made possible when domestic options proved impossible. Sri Lanka thus implemented the principle of subsidiarity before it was enshrined in the 1993 Hague Adoption Convention.

267 Adoption Act 1992, section 27A. This shows that the Sri Lankan authorities wanted to combat *baby farms*.

268 This is also evident from the signing and implementation of international treaties, such as the UNCRC and the 1993 HC.

269 "Adoption in Sri Lanka" [unpublished edition, 27-2-1989] pp. 17-18, MinJus Archive, OBP11 file, folder 3.

Following the amendment of the law in 1979, foreign prospective adoptive parents had to submit their application for adoption to the Commissioner of Probation and Child Care Services. They were also required to provide a declaration of consent from the birth parents and a health report of the child.²⁷⁰

During the procedure in Sri Lanka, the prospective adoptive parents were assisted by a Dutch intermediary. The intermediaries had local intermediaries to help them on the spot. Within ten days of arrival, the prospective adoptive parents received a request from the Sri Lankan Child Care Services for an interview. This was performed by a social worker. This was to determine the social and psychological suitability of the prospective adoptive parents. After this interview, a report was prepared and was submitted to a Sri Lankan court within a month. During the trial, the birth mother had to reconfirm the previously signed declaration of relinquishment. Then the verdict followed, after which adoption documents and a passport were issued. After this, the procedure on the Sri Lankan side was completed.²⁷¹

8.3 Case studies

In theory, the Sri Lankan adoption law, regulations and procedures seemed in order from 1979 onwards. However, the practice was more disorderly, as the files showed: abuses took place. These ranged from *baby farms*, child trafficking and theft, document forgery and concealment of status to other forms of malpractice. Moreover, monitoring the preconditions was systematically inadequate. For example, the registration of children in the birth register was not in order for a long time. Incorrect data such as an incorrect date of birth or place of birth were common. Lack of transparency and poor filing at government agencies and children's homes was the rule rather than the exception. Document forgery and destruction was also common.²⁷² This makes it difficult for adoptees to search for their origins.

Below, a number of cases and phenomena are discussed that provide insight into both the reality on the Sri Lankan side and the role of intermediaries. The first case concerns the working method of the Dutch intermediary Flash. The second case examines the existence of *baby farms* in Sri Lanka. The other three cases concern the role of intermediaries: a Sri Lankan lawyer, the case of two Dutch women who mediated in more than fifty adoptions by DIY individuals, and finally the so-called Sri Lanka-Jordan-Netherlands baby line.

270 Adoption of Children Ordinance, Law No. 6 of 1977 (Act No. 38 of 1979).

271 "Adoption in Sri Lanka" [unpublished edition, 27-2-1989] pp. 17-18, MinJus Archive, OBP11 file, folder 3.

272 In 2001, the Dutch embassy informed the Sri Lankan birth register that: "*it gives the impression that birth registrations of adopted children were erased after the adoption.*" See: letter from the Dutch embassy in Colombo to the Registrar General's Department, 28-02-2001; Memo from the Dutch Embassy Colombo to MinFA, DPC/CJ legalizations, 14-03-2001, FA Archive, inv. no. 00239. The Committee also received documents from an adoptee explaining Flash's practice.

8.3.1 The working method of Flash

Flash was founded in 1979 by a number of dissatisfied (prospective) adoptive parents. They were irritated by the long waiting lists and complicated procedures with other intermediaries, such as BIA/Wereldkinderen. According to policy officials at the Ministries of Justice and Foreign Affairs, Flash did not always follow the applicable rules closely in order to speed up adoption procedures.²⁷³ In 1985, Flash was portrayed as "non-professional" by other intermediaries. Yet Flash also enjoyed confidence: one of the secretaries of the Boards for Child Care and Protection had engaged Flash to mediate with their own adopted child.²⁷⁴

The new Aliens Act Implementation Guidelines (*vreemdelingencirculaire*) came into effect in the Netherlands on 1 February 1983. Chapter B-18 regulated the placement and residence of foreign foster children. In addition, the procedure to be followed changed on 1 July. Intermediaries had to apply for a Dutch long-stay visa (*mvv*) in advance. In the period before that, this was a travel visa. Intermediaries were also required to state the name and date of birth of the child to be adopted.²⁷⁵

Flash declined to report the travels of prospective adoptive parents to the Ministry of Justice. Flash also left personal data on adoption forms blank, which encouraged careless administration. After the amendment of the law, Flash had this pointed out to them several times by various government agencies. Despite the fact that Flash promised to improve, the organisation did not keep this promise. Why Flash did that remains unclear. For a long time, the Ministry of Justice had "no major objections" to this, despite the fact that officials were repeatedly outraged about the missing personal data on the required documents.²⁷⁶

One concrete example in which Flash's actions promoted wrongdoing involved the documented case of a Sri Lankan adoptee. In any case, this concerned incomplete and incorrect documentation. The child stayed with his single mother, who had been abandoned by the father. According to the declaration of relinquishment, the mother was "rejected by society and had to earn a living by begging." That is why the child was adopted by the Dutch in 1984. The Ministry of Justice concluded, however: "in fact the foster parents do not have a valid declaration of approval in principle." Moreover, the personal data on adoption papers and residence permit did not correspond to the child who actually resided in the Netherlands.

273 'Confidential' code message from the Embassy in Colombo to FA, 3 February 1987, MinJus Archive, DECOS, Code messages concerning Sri Lanka/Adoption, a87701/1011790.

274 Memorandum "Statistische gegevens buitenlandse pleegkinderen 1984", 10 January 1985, NA, IND Policy Archive, access: 2.09.5027, inv. no. 1815.

275 Letter from the Department of Immigration Affairs to all intermediary institutions, 2 March 1983; Head of Visa Service at the Dutch representations in Jakarta, New Delhi, Colombo, 4 July 1983; Urgent message from the Embassy in Colombo to the Visa Service in The Hague, 11 July 1983, all documents in: NA, IND Policy Archive, inv. no. 1813.

276 Urgent notice from Visa Service (FA) to Embassy in Colombo, 15 July 1983; Chairman Flash to Justice, 20 June 1984; Justice to chairman Flash, 28 September 1983, NA, IND Policy Archive, inv. no. 1813. Flash also had an arrangement with Sri Lankan airline Air Lanka in the 1980s. If the adoptive parents wore a Flash badge, they were helped faster at the airport and they got better seats. This is evident from a letter in an individual adoption file of an adoptee, inv. no. 85-900030 in the Flash archive managed by Fiom in Utrecht.

Because the correct information was unknown, the adoptive father contacted the Child Care and Protection Department of the Ministry of Justice. Officials would have told him there that "he should contact the intermediary Flash and that they knew a "trick" for such cases." An official reacted indignantly and would take a look at this. This has not been followed up. Such cases were quite common. The Ministry of Justice noted: "It is a factual and political reality that the children concerned in these cases are not or hardly removable after they have been illegally brought into the Netherlands. (...) the 'fait accompli' idea is paramount."²⁷⁷

The attitude and actions of Flash were tolerated by the Dutch government for unclear reasons. No sanctions followed, giving Flash a systematic exemption over a period of at least two years (February 1983 - April 1985). Those were years in which hundreds of Sri Lankan adopted children - initially possibly without personal details - entered the Netherlands via Flash. Officials from the Ministry of Justice then pointed out that "regulatory action by the government should not be delayed too long."²⁷⁸ That eventually happened, regardless of this specific situation, with the introduction of the Wobp in 1989.

Earlier, in 1981, the largest intermediary, BIA, was concerned in the press about "malicious intermediaries". According to BIA, the Ministry of Justice was aware that children were brought to the Netherlands with incorrect papers. BIA complained that the government did nothing about it "for fear of negative press". Such allegations were made more often against the government and certain intermediaries in the following years, but were generally ignored.²⁷⁹

8.3.2 Baby farms and adoption stop

From January 1987, there was a fuss in the Sri Lankan media about alleged illegal trafficking in adopted children. For example, the Dutch embassy received a call from an employee of the intermediary Kind en Toekomst. Ten adoptive couples are said to have been detained by the Sri Lankan police on suspicion of child trafficking. On the spot, a Dutch diplomat came to the conclusion that the police investigation did not focus on the Dutch couples, but on local contact persons. The embassy found the fuss surrounding the adoption abuses exaggerated. This would have been the result of sensational reports in the Sri Lankan media.²⁸⁰

However, a few days later, in February 1987, that same diplomat wrote a confidential code message to the Ministry of Foreign Affairs. He noted several problems surrounding the Sri Lankan adoption practice, such as opaque legislation, a "proliferation of

277 Memorandum from the Department of Immigration Affairs to the Child Care and Protection Department, 11-15-1984, NA, IND Policy Archive, inv. no. 1815.

278 It took three years, until the introduction of the Wobka in 1989, for this to happen. Exemplary for this is: Memorandum, MinJus, 10 January 1985, NA, IND Policy Archive, inv. no. 1815.

279 "Instellingen willen gedragscode ter voorkoming van adoptieschandalen", *NRC Handelsblad*, 16-05-1981; "Controle nodig op bemiddeling", *NRC Handelsblad*, 31-07-1981; "Overheid gaat wantoestanden rond de adoptie legaliseren", *De Telegraaf*, 15 April 1983; "Adoptie vaak niet meer centraal in organisaties", *Trouw*, 17 September 1983; "Illegale adoptie veelal toevallige ontdekking: kinderhandel floreert nog steeds", *De Telegraaf*, 19 February 1986.

280 Code message from the Embassy in Colombo to the Ministry of Foreign Affairs, 26 January 1987; and Code message from the Embassy in Colombo to Foreign Affairs, 29 January 1987, MinJus Archive, DECOS, a87/701/1011790.

malicious counterpart organisations”, and “suspected negative involvement of influential people”. He stated that “serious suspicions about child trafficking through intermediaries were justified.” On the other hand, the diplomat emphasised that the Sri Lankans did not doubt the intentions of Dutch adoptive parents because they themselves became victims of the abuses. The diplomat concluded his letter with a proposal to Foreign Affairs to investigate the local intermediaries in urgent adoption cases and to ensure better control. According to officials involved at the Ministry of Foreign Affairs and the embassy, however, there was a lack of personnel capacity and financial strength for this.²⁸¹

A Sri Lankan Commission of Inquiry published a critical report on abuses in mid-1987. The Commission concluded that most intercountry adoptions were illegal: of the 1,670 cases in 1986, only 37 would have gone through official channels. The Sri Lankan government decided to ban all new intercountry adoption applications as of 3 June 1987. This adoption stop prompted an immediate comment in the Dutch media, which consisted of both positive and negative views.²⁸²

About a year later, from September 1988, Sri Lanka partially allowed intercountry adoptions again. There were conditions attached to this. For example, only children from state homes were allowed to be adopted and the Sri Lankan Child Care Services determined the allocation of a child.²⁸³ In March 1992, these provisions were enshrined in stricter laws and regulations.

Views of the Dutch government and intermediaries

In March 1987, the Board for Child Care and Protection sent an urgent letter to the Parliamentary Standing Committee of Justice. The Board identified serious problems with intercountry adoptions, in particular as a result of reports from Sri Lanka and had therefore requested an investigation. The Board ruled that the adoptions were not only a responsibility of the State of origin, but also of the Dutch government.²⁸⁴ An official at the Ministry of Justice seemed to disagree with the Board. In an interview in *Trouw* from July 1987, he sketched a different picture of intercountry adoption despite the signs of abuse. When asked how procedures could be checked abroad, he stated: “Yes, whatever happens abroad, we are not there.” After all, according to him, the Netherlands did not have a “control device that travels the world”.²⁸⁵

281 'Confidential' code message from Embassy in Colombo to MinFA, 3 February 1987, MinJus Archive, DECOS, Code messages concerning Sri Lanka/Adoption, a87/701/1011790. A similar attitude prevailed at the Ministry of Justice. An official stated that the suspicions of wrongdoing “must nevertheless be attributed to the local sensational press in Sri Lanka. I have never been able to gather any tangible incriminating evidence.” See also Flash, license application, 10 August 1989, Appendix “Points for attention associated with license application (...)”, MinJus Archive, OBP 08, folder 1.

282 “Schokkend rapport over babyhandel Sri Lanka”, *Nederlands Dagblad*, 10 April 1987; ‘Most immediate’ code message from Embassy in Colombo to MinFA, Directorate JZ/DVZ, 4 June 1987, MinJus Archive, DECOS, “Codeberichten inzake Sri Lanka/Adoptie, a87/701/1011790”. Cf. “Babyhandel op grote schaal in Sri Lanka”, *Limburgsch Dagblad*, 29-01-1987 with “Sri Lanka verbiedt adoptie van kinderen door buitenlanders”, *Volkskrant*, 05-06-1987.

283 Flash’s “Extra nieuwsbrief”, September 1988, NA, IND Policy Archive, inv. no. 1813.

284 Letter from RVDK Zutphen to Parliamentary Standing Committee on Justice, 31 March 1987, MinJus Archive.

285 “Soms is adoptie een redmiddel”: situatie van aangenomen buitenlandse kinderen niet somber’, *Trouw*, 15-07-1987.

The position of the Dutch intermediaries with regard to adoptions from Sri Lanka differed. Wereldkinderen repeatedly emphasised that it did not mediate there "because the legal situation in this country leaves much to be desired and there is no control whatsoever."²⁸⁶ Other intermediaries, such as Flash and Kind en Toekomst, denied this criticism. For example, Kind en Toekomst denied in June 1987 that commercial child trafficking took place in Sri Lanka and stated that the stories about *baby farms* and illegal trafficking were made up.²⁸⁷ Wereldkinderen accused competitor Flash of "malicious practices" in Sri Lanka, and that it had suspected this for years. Flash responded that they had nothing to do with *child hunting*.²⁸⁸

In January 1990, the Dutch embassy wrote a memorandum. The Ministry of Foreign Affairs was informed about the phenomenon of *baby farms*. Those were places where women gave birth (whether or not against their will, and/or for a fee), after which the child was given up for intercountry adoption. The embassy reported that Sri Lankans saw the existence of baby farms as "morally reprehensible", but continued: "However, the temptation is great, given the financial attractiveness that cleverly responds to the desire of many in the Western world to adopt children." The embassy issued a similar warning in September 1990.²⁸⁹

In March 1991, the Dutch embassy again signalled adoption abuse. The embassy reported that during the election campaign that month, the Sri Lankan media talked about the active baby trafficking and the upcoming legislative changes that would limit intercountry adoption. This self-proclaimed "tough approach" was welcomed by the embassy. Reference was made to an unnamed Dutch adoption organisation that was directly involved in a *baby farm*. According to the embassy, the Dutch intermediaries active in Sri Lanka were still "in the midst of a haze of secrecy". The embassy also identified falsifications of medical certificates by unregistered, rogue doctors in March 1991.²⁹⁰ From the documents, it does not appear that any follow-up was given to these signs.

8.3.3 Sri Lankan contact person

In August 1991, a Sri Lankan lawyer was suspected of involvement in child trafficking and running *baby farms* by the Dutch and British authorities. She is said to have done this in collaboration with two former employees of the Sri Lankan Care Services.²⁹¹ The lawyer had been active in Sri Lanka for international adoption organisations, including Flash, since the 1970s. From 1986, she was a contact person for International Adoption Services (IAS), an organisation based in Nijmegen, which

286 "Sri Lanka verbiedt adoptie baby's door buitenlanders", *Leeuwarder Courant*, 05-06-1987.

287 "sri Lanka verbiedt adoptie van kinderen door buitenlanders", *De Volkskrant*, 05-06-1987; "Sri Lanka belemmert adoptie in Nederland", *De Volkskrant*, 06-06-1987.

288 "Hoe een olifant en een muis twee tijgers werden: Sri Lanka, nieuwe markt adoptiebureaus?", *Het Vrije Volk*, 18-04-1987.

289 Memorandum from the Colombo embassy to MinFA, 17 January 1990; Code message from Colombo embassy to MinFA, 26 September 1990 FA Archive, access DAZ/JZ/-SZ/ARA/00166, inv. no. 136.

290 Memorandum from CZ/Colombo to DAZ/JZ ('Confidential'), 26 March 1991, FA Archive, inv. no. 136; CZ/Colombo Memorandum to DAZ/JZ, 23 July 1991, FA Archive, inv. no. 137.

291 Inspection visit report by Ministry of Justice at Flash, 12-11-1991, MinJus Archive, OBP 08, folder 1; Memo from CZ/Colombo to DAZ/JZ about "Adoptie/arrestatie medewerkers 'baby farm'", 30 August 1991, FA Archive, inv. no. 136.

did Sri Lankan adoption mediation for British prospective adoptive parents. The director of IAS had been director of Flash in the years prior, but had left that organisation for unclear reasons. The actions of the Sri Lankan lawyer and IAS had caught the attention of both the *British High Commissioner and the Dutch authorities*.²⁹² In 1987, the lawyer was also the subject of the Sri Lankan police investigation (see above).

The British and Dutch authorities suspected that IAS and the lawyer were circumventing adoption procedures and adopting children through *baby farms*. British prospective adoptive parents who had engaged IAS paid \$ 2,250 to the attorney on the spot to settle the proceedings. The Dutch Embassy in Sri Lanka reported in August 1991 that after eight months of pregnancy, Sri Lankan women were taken by "agents" to lawyer-run "homes" in Colombo to give birth and persuaded to give their new-born child up for adoption. The embassy report continued: "In the raids on the six homes, two babies were found (5 and 10 days old) of which the mother was unknown. The possibility was not ruled out that this is a case of child robbery."²⁹³

At the beginning of October 1991, the Ministry of Foreign Affairs asked the Ministry of Justice to have the Public Prosecution Service investigate criminal offenses related to adoptions from Sri Lanka, in particular the actions of IAS and "the possible involvement" of Flash.²⁹⁴ The file does not show that such an investigation took place. The British government reported on 6 November that the Sri Lankan lawyer was in England, was issued a visa, and was out on bail. Neither the Sri Lankan authorities nor the UK objected to this, claiming that "all charges against the person concerned would have been dropped."²⁹⁵

Despite all suspicions of the Sri Lankan lawyer's involvement in wrongdoing, Flash kept her as a contact person. She acted as such until at least 1995. A report of an inspection at Flash by the Ministry of Justice stated: "The cooperation with the foundation's lawyer, Ms. [...] is still going well." In total she is said to have been involved in about three hundred intercountry adoptions to Western countries.²⁹⁶

292 Internal Flash correspondence in adoption file, 17 July 1980, inv. no. 81-2 00197, Flash archive managed by Fiom in Utrecht. The chairman of FLASH reported in July 1980 that he thought it better to keep a certain contact person from now on "only for extreme emergencies. Far too much nagging and I don't like them asking for more money." The chairman thought the cooperation with the other was better: she "does not charge extra money for passports, etc."

293 Memorandum from CZ/Colombo to DAZ/JZ about "Adoptie/arrestatie medewerkers 'baby farm'", 30 August 1991, FA Archive, inv. no. 136. The memorandum further stated: "However, it has now been found that the children have not been properly selected. The aforementioned lawyer has contacts with approx. 20 agents throughout the country. These have the task of tracing young unmarried pregnant women and to persuade them to give up their children for adoption after birth. The agent receives an amount of LKR 10,000 [EUR 200 today] for this mediation. Part of this may or may not be donated to the mother."

294 Head of the Department of Youth Protection MinJus to FA, 2 October 1991, FA Archive, inv. no. 136; Letter from the Department of Youth Protection to the Arnhem District Prosecutor's Office, 2 October 1991, IND Policy Archive, inv. no. 3180.

295 Letter from CZ/Colombo to DAZ/JZ, 6 November 1991, FA Archive, access: DAZ/JZ/-SZ/ARA/00166, inv. no. 136.

296 Ministry of Justice inspection report of Flash, 26 January 1995, MinJus Archive, OBP 07, Flash; "Adoptions of Children from Sri Lanka in Switzerland, 1973-1997: the practices of private adoption agencies and the authorities", p. 4.

8.3.4 The DIY individual 'Mrs. P.'

In addition to organisations such as Flash and Kind en Toekomst, there were also private individuals who mediated, such as the DIY individuals Mrs. P. and Mrs. H. These people had adopted several children themselves in the eighties. Based on their experiences, they helped dozens of prospective adoptive parents with adoption around 1990. In total, P. and H. mediated in more than fifty Sri Lankan adoptions. The two private individuals circumvented official procedures and organisations and were not registered with the Ministry of Justice as official adoption agents. The 'P. Case' for these reasons, symbolises the increasing problems with DIY individuals, as discussed elsewhere in this report.²⁹⁷

After a tip from the director of Wereldkinderen, an article appeared in *Trouw* on 6 February 1991 about the case of Mrs. P. According to the director, the Ministry of Justice was aware of P.'s activity for at least a year, but let the case run its course for fear of negative publicity and the prevailing resistance to the long adoption waiting lists.²⁹⁸ However, this was denied in the media by the Ministry of Justice. Later, an official wrote in an internal note that this director of the largest professional adoption agency had an interest in eliminating DIY adoptions.²⁹⁹

The Ministry of Justice responded with a press release acknowledging the signs about the suspected "illegal intermediaries". The Ministry of Justice also acknowledged that there were more of these parties active. The Public Prosecution Service then opened a criminal investigation and kept the relevant government departments informed. The revelations about the case also sparked investigations into other potentially illegal intermediaries. The responsible State Secretary for Justice took matters seriously.³⁰⁰

The criminal investigation into the illegal intermediation of P. and H. was completed around November 1991. The Public Prosecution Service concluded that the two had not acted illegally or for profit. They had not violated the law or circumvented proceedings. They had mediated without a license, however, and that was a violation. But due to the "limited capacity" of the two and the fact that they themselves had several adopted children, the Public Prosecution Service advised to dismiss the case.³⁰¹ This advice was adopted by the Ministry of Justice at the beginning of 1992.

297 See the official report, including archive file 91-0134, Public Prosecution Service Den Bosch about "illegal mediation".

298 "Illegale adoptie", *Trouw*, 06-02-1991; "Justitie kent illegale adoptie", *Het Parool*, 06-02-1991. "Justitie Brabant gaat illegale adoptiepraktijk van vrouw onderzoeken", *De Telegraaf*, 07-02-1991.

299 To end DIY adoptions, a change in the law was required, which lacked political will. See: Telephone note of J&R, 7 February 1991, MinJus, IND Policy Archive, inv. no. 3180.

300 Note from the head of the Border Guard Unit to the Department of Immigration Affairs, 12 February 1991, MinJus Archive, DECOS, A91/8459; Letter from Chief Public Prosecutor to Department of State and Criminal Law, 15 May 1991; Internal telephone memorandum Ministry of Justice, 24 June 1991, 10:45 am, MinJus, IND Policy Archive, inv. no. 3180.

301 Official report from Chief Public Prosecutor Den Bosch, 8 November 1991, MinJus, IND Policy Archive, inv. no. 3180.

A year after the P. case appeared in the media, the newspaper *Trouw* wrote about the case again. It described how the “illegal intermediary” used copies of home studies to circumvent official procedures. The Ministry of Justice stated that it was very shocked by all of this: “The consequence of this case is that we are going to review the DIY policy. In the interest of children, I hope that politicians want a change in the law, so that people can no longer adopt on their own.” In 1992, the State Secretary submitted a proposal to the House to limit DIY adoption.³⁰² In practice, however, DIY adoption remained possible until at least the introduction of the 1993 Hague Convention in 1998.

8.3.5 Sri Lanka-Jordan-Netherlands "Baby line"

From November 1990, more than thirty Sri Lankan adopted children came to the Netherlands via Jordan.³⁰³ At the time, many Sri Lankan women worked in Jordan as guest workers, some of whom became pregnant unintentionally. A Sri Lankan consulate employee and the honorary consul offered children for adoption for thousands of dollars. In doing so, they legalised incorrect papers and ignored the ban on profiteering.

Since June 1991, the Dutch Ministry of Justice has had doubts about the power of the Sri Lankan consul to ratify adoption papers.³⁰⁴ Six months later, it was clear to both the Ministries of Justice and Foreign Affairs that such adoptions from Jordan were suspicious. Apparently, an employee of the Sri Lankan consulate in the capital Amman asked \$ 12,000 (in cash, in a sealed envelope) from Dutch prospective adoptive parents, after which the adoption procedure was completed in three to four days. A Dutch couple was suspected of being involved in illegal activities. The Ministries of Foreign Affairs and Justice agreed to investigate the “improper practices” and possible Dutch involvement.³⁰⁵

Later it turned out that a Dutch couple from Someren was involved in the case. A Sri Lankan consulate employee actively approached other Dutch prospective adoptive parents. The head of the Legal Affairs department at the Ministry of Justice thought this was all incidental, but noted at the end of 1992 that there was “a certain form of organisation”. The head made a connection with the case of the DIY individuals P. and H., who had mediated in the years before without a license and suggested that the Jordanian-Sri Lankan situation be investigated again, almost one year after the previous investigation.³⁰⁶

One illustrative case concerns a Sri Lankan adoptee who came to the Netherlands via Jordan in early 1991. The proceedings were illegal, which was followed by extensive correspondence between the responsible Dutch and Sri Lankan authorities.

302 “Justitie wil strengere controle op adoptie door zelfdoeners”, *Trouw*, 02/26/1992; Note from the head of the Youth Protection Directorate to the State Secretary of Justice, 15 April 1992, MinJus, IND Policy Archive, inv. no. 3180.

303 As can be seen from: Flash, letter to MinJus Youth Protection Directorate, 6 November 1990, MinJus Archive, OBP 08, folder 1. Data at FA showed that in 1992, for example, fourteen visas had been issued to such children. See: Confidential memorandum from Damascus embassy to Min FA, 27 January 1993, FA Archive, inv. no. 137.

304 Immigration Affairs Department of MinJus to Legal Affairs Office of MinFA, 17 June 1991, FA Archive, inv. no. 138.

305 Code message from FA to Damascus embassy, 12 January 1992, FA Archive, inv. no. 137.

306 Note Head of the Legal Affairs Department, MinJus to Head of the International Cooperation Department of the Central Criminal Investigation Information Service (CRI), 7 December 1992, FA Archive, inv. no. 137.

Two years later, in April 1993, the adoption was decided. As the Sri Lankan honorary consul in Jordan was not authorised to sign these official documents, the adoption was invalid under Sri Lankan law.

The adoption agent involved in this adoption was Flash. The chairman of Flash personally travelled with the prospective parents to the Jordanian capital of Amman. On arrival, he stated that he found it strange that the prospective adoptive parents had to pay five thousand dollars, but agreed to it as an experiment. Neither the chairman nor the prospective adoptive parents received copies of adoption papers. While they found this surprising, it did not stop them from going ahead with the adoption.³⁰⁷

The role of the Dutch government in this case was as follows. The Ministries of Justice and Foreign Affairs and the embassies urged the Sri Lankan authorities to get clarity and certainty about the adoption. In addition, the arrival of the adopted child to the Netherlands was covered by uncertainties. This was also reported at the time. For example, the official Dutch form for obtaining a residence permit stated: "Formally, there is no question of adoption now". The form concluded, "All conditions are NOT [sic] met." Despite this, the placement of the Sri Lankan child by the adoptive parents was formally confirmed by the Ministry of Justice without further justification.³⁰⁸

In the early months of 1993, the chairmen of the major intermediary were asked about their knowledge of possible illegal Sri Lankan adoptions from Jordan. The chairmen of Kind en Toekomst and Flash stated that they knew about it since 1990. Both found the adoption options unreliable, but showed understanding for families who wanted a child in this way. The official procedures were, in the eyes of many, complicated, slow and expensive.³⁰⁹

From May 1993, almost two years after the abuses became known, the Dutch government decided to take concrete measures. From then on, no Dutch long-stay visas (*mvv's*) or other visas were issued to Sri Lankan children adopted from Jordan. The "baby line" was cut. It was emphasised that such adoptions were illegal, as the Sri Lankan consul was not authorised to grant adoption consents.³¹⁰

307 Interview report of the Special Affairs Department (IND) with Flash chairman, 6 April 1993, FA Archive, inv. no. 139.

308 This was evident from an official letter addressed to the adoptive parents, signed by the Head of the Youth Protection Directorate. See: "Staat van inlichtingen", proposal to grant or refuse a residence permit for a foreign foster child, 15 January 1991, FA Archive, inv. no. 138, Mag.Loc.: 46.69.01/4; Access: DAZ/JZ/-SZ/ ARA/00169.

309 Interview report of employees of the Special Affairs Department of the IND with chairman Kind en Toekomst, 18 March 1993, FA Archive, Inv. no. 139.

310 From this, a decision came from the Sri Lankan government. MinJus Press release, 19 May 1993 (FA Archive, inv. no. 137); see also: "Kosto stopt babylijn uit Jordanië", *Telegraaf*, 21-05-1993; "Jordanië pakt consul van Sri Lanka op voor handel kinderen naar Nederland", *Trouw*, 22-03-1996; Confidential memorandum from CZ/Colombo to MinFA (cc MinJus), 22 July 1993, FA Archive, inv. no. 137.

Initially, the Sri Lankan authorities did nothing against their illegal-acting consul. In April 1994, after the Dutch government had notified them several times, Sri Lanka instructed all its consulates around the world that issuing adoption documents was illegal. No specific measures were taken against the honorary consul in Jordan.³¹¹

This case was followed up in mid-1996, when the Sri Lankan consul was arrested by the Jordanian police on suspicion of baby smuggling. The Jordanians accused the Dutch government of cooperating with the illegal adoptions. However, the Netherlands emphasised:

*“There was no question of cooperation by the Dutch government in adoptions of Sri Lankan children from Jordan, after the malicious practices became known. In fact, it was the Dutch government that, back in 1993, informed the Sri Lankan government of the practices of the honorary consul.”*³¹²

8.4 Aftermath: adoptions from Sri Lanka, 1998-present

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	
4	4	2	5	6	8	9	9	10	7	7	
2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	total
16	14	0	0	1	2	2	1	1	0	0	108

Table 10: Number of officially placed adopted children from Sri Lanka, 1998-present.³¹³

Several parties and persons involved seemed to become despondent because of adoption abuses in Sri Lanka in the further course of the nineties. For example, intermediary Adoption Centre Netherlands Sri Lanka (ACNS) stated that it received a letter from a retired Sri Lankan high judge offering adopted children for “US\$ 6,500 each”. ACNS stopped raising such wrongdoing with the Ministry of Justice, because it was not heard there.³¹⁴ In the years that followed, the intermediary did continue to adopt children from Sri Lanka, along with other adoption intermediaries.³¹⁵

In recent years, there has been better supervision and control of adoptions from Sri Lanka. In 1993, the country was one of the first in the world to ratify the Hague Adoption Convention. The Sri Lankan Child Care Services has been also fulfilling its role more carefully. After the tsunami in 2004,

311 Head of the Legal Affairs Department of FA to the MinJus Youth Protection Directorate, 6-04-1994, FA Archive, inv. no. 138.

312 Confidential memo from MinFA to Amman, Colombo and Damascus embassies, 30 May 1996, FA Archive, inv. no. 139.

313 Hoksbergen, “Vijftig jaar adoptie in Nederland”, p. 14 (table 4B). Data from 2002 onwards come from J&S statistics reports.

314 See “Illegale adoptie”, *Trouw*, 06-02-1991 and “Tehuiskind uit Sri Lanka beter uit in liefdevol gezin in Nederland: Tijmen Wierstra uit Grijpskerk ‘Godfather’ van 330 adoptiekinderen”, *Dagblad van het Noorden*, 19-03-2003.

315 Unlike in previous decades, Kind en Toekomst stated in 2007 that they recognised that adoption abuses were taking place. For example, the intermediary acknowledged that adoption papers had been forged. Cf. “De verkeerde moeder”, *Leeuwarder Courant*, 07-04-2007; “Mijn stamboom bleef vrijwel leeg”, *De Gelderlander*, 16-06-2018. Also based on an interview by the Committee.

the Sri Lankan government introduced a *Special Provisions Act*. This law prohibited the intercountry adoption of alleged 'orphans' who lost their parents as a result of the natural disasters. It was clear to the government that child trafficking could flourish after natural disasters. Nevertheless, during this period there were still regular signs of abuse, for example about Sri Lankan scammers who committed fraud in adoptions and root searches.³¹⁶

Attitudes towards adoption in Sri Lankan society have changed in recent years. Domestic adoption is preferred; only a few children are adopted by foreigners each year. Adoption by non-Sri Lankans is seen as the very last option. Only children with *special needs* are still eligible.

Since 2017, there has been regular media attention for adoption abuses in Sri Lanka at home and abroad. In 2017-18, the Dutch research programme Zembla revealed systematic forms of "adoption fraud" from the country. After the Zembla broadcasts, the number of reports of past abuses increased sharply. Media attention continues to this day. For example, in May and November 2020, Zembla again reported on abuses that were known to the Dutch government.³¹⁷ Partly as a result of this, Sri Lankan adoptees have sued the Dutch state.

The Swiss government published an investigation report in early 2020, addressing Sri Lankan adoption abuses. The insights from the Swiss report correspond with what the Committee found in the Dutch archives.³¹⁸

8.5 Main findings from Sri Lanka

In the late 1970s, when intercountry adoption from Sri Lanka to the Netherlands emerged, the situation in Sri Lanka encouraged abuses. The country was in a precarious social and economic situation in which poverty was widespread. In the adoption practice between the Netherlands and Sri Lanka, almost all conceivable forms of abuse occurred. These ranged from the infamous *baby farms*, child trafficking, theft of children, forcibly relinquishing a child, forging documents, to legalising incorrect documents, concealment of status, corruption and bribery and improper payments. These abuses were in violation of Dutch and Sri Lankan laws and regulations applicable at the time.

316 For example, a Sri Lankan man who acted as a contact person for Flash in (at least) the period of 1997-2005. He replaced the former Flash contact in 2005. In 2004, the Dutch embassy already put him on a *blacklist*. In December 2008, the Dutch embassy heard that he had been arrested by the Sri Lankan authorities on suspicion of "giving up children for adoption without the knowledge of their biological parents" and "having women raped and taking the children after birth and giving them up for adoption". See: Internal MinFA e-mail, 09-07-2004; Letter from Flash Foundation to Commissioner of Probation and Child Care Services, 08-06-2005; E-mail from HMA Colombo consular employee to MinFA, 01-12-2008, in: FA Archive, inv. no. 00239.

317 See, among others: <https://www.bnnvara.nl/zembla/artikelen/ministeries-wisten-van-adoptieomstandigheden-en-baby-farms-in-sri-lanka>.

318 S. Bitter, A. Bangerter and N. Ramsauer, „Adoptionen von Kindern aus Sri Lanka in der Schweiz 1973-1997. Zur Praxis der Privaten Vermittlungsstellen und der Behörden“ (January 2020).

From the early 1980s onwards, the Dutch government, specifically the Ministries of Justice and Foreign Affairs, repeatedly learned in detail about abuses from Sri Lanka. The existence of *baby farming* and even “outright child theft” was raised by parties involved. In general, no action was taken against this. Even when Dutch diplomats sounded the alarm on the spot, they were not followed up. Despite this knowledge and the desire for a stricter approach, the Netherlands continued to refer solutions to the Sri Lankan authorities. Dutch intermediaries were also aware of Sri Lankan adoption abuses.

In Sri Lanka, the Dutch government itself was not involved in abuses, but was regularly aware of it. The government did not act, although there was reason to do so. In this chapter, several cases have been discussed that show that both individual DIY individuals and larger organisations - especially Flash - were involved in abuses.

9 The period after 1998

9.1 Introduction

According to the Committee's assignment, the research will focus during at least the period from 1967 up to and including the entry into force of the 1993 Hague Adoption Convention (1993 HC) in 1998. In the explanatory notes to the order establishing the Committee of 18 April 2019, it was noted that the Central Authority was established in 1998 and the supervision of intercountry procedures was tightened. The Netherlands therefore entered a new phase in 1998, with regard to the supervision and general regulation of the intercountry adoption practice.

As indicated in the scope of the research in chapter 1, the Committee has opted to also devote attention to the development of intercountry adoption after 1998. An important question in this regard is whether the ratification of the 1993 HC has actually resulted in better regulation of intercountry adoption practice, and whether abuses as described in the previous chapter have been reduced.

This chapter describes the developments in the intercountry adoption practice between States of origin and the Netherlands after 1998. First, a number of general developments with regard to intercountry adoption are discussed. It is then described how the adoption system was adapted to prevent abuses. Subsequently, the question as to what extent abuses occurred after 1998 and how the Dutch government responded to them is covered. As in the previous chapters, the development of adoption policy and practice is central here. The focus is on the role of the Dutch government and intermediaries and the identification of abuses.

9.2 Developments after 1998

9.2.1 Number of adoptions and shift in States of origin

In the period between 1998 and 2005, the number of intercountry adoptions rose sharply. The reasons for this are that it became possible for single people and couples of the same sex to adopt and the strong rise of China as a State of origin. After 2005, there has been a decline to less than two hundred intercountry adoptions to the Netherlands per year. Between 2005 and 2015, the number of adoptions to the Netherlands dropped by 75%.³¹⁹ This decrease corresponds to a worldwide downward trend.³²⁰

319 E. Loibl, "The Transnational Illegal Adoption Market", p. 36; Hoksbergen, "Kinderen die niet konden blijven", p. 543; Ministry of Justice and Security [J&S] statistics, 2016; "De Toekomst van de keten voor interlandelijke adoptie" (number of adoptions WK 2002-2015).

320 P. Selman, "The Global Decline of Intercountry Adoption: What Lies Ahead?" *Social Policy*, 11:3 (2012), pp. 381-97.

At least four reasons are given by experts in the field of intercountry adoption for the decreasing number of adoptions. First, *the changing views on intercountry adoption*. The general opinion about intercountry adoption - both in the Netherlands and internationally - has changed. The idea that underprivileged children should be rescued through adoption by the “rich West” has been greatly diminished.

Secondly, *the increased attention to the downside of intercountry adoption as a result of abuses*. This is increasingly highlighted by, among others, the adoptees themselves and their birth or adoptive parents. For example, it is increasingly seen as harmful to remove children from their original living environment.

A third reason for the decreasing number of adoptions is *the introduction of modern reproduction techniques*. Reproduction techniques such as in vitro fertilization (IVF), intracytoplasmic sperm injection (ICSI)³²¹ and (commercial) surrogacy have created new possibilities for fulfilling the wish to become parents.³²²

The fourth and final reason is the *effect of the 1993 HC and the International Convention on the Rights of the Child (UNCRC)*. The position that “people have no right to a child, but that a child has the right to parents” is taken into greater consideration. This shift is already explicitly highlighted in the chapters on Brazil, Colombia and Sri Lanka. Since the introduction and implementation of the 1993 HC and the UNCRC, such former prominent States of origin have preferred domestic foster care or adoption, which means that the number of children available for intercountry adoption has been decreasing.³²³

In the period after 1998, shifts occurred in the main States of origin for adoption. China and the United States became important States of origin during this period, and the number of adoptions from African countries such as South Africa, Ethiopia and Congo increased.³²⁴ Celebrity adoptions of children by persons such as Madonna and Angelina Jolie received a lot of media attention and may have contributed to an increased interest in adoption from African countries. Adoptions are also increasingly limited to State Parties to the 1993 HC: in 2015, for example, 77% percent of the children adopted by the Dutch came from these countries.³²⁵

9.2.2 Changing views on intercountry adoption

From the turn of the century, Dutch society and politics have increasingly focused on the right of same-sex couples to adopt. For example, since 1998, parliamentary questions have regularly been asking about the requirement of some States of origin to submit a non-gay statement by intermediaries. Members of the Lower House ask whether this is against the law. The United States has long been the only country from which same-sex couples could adopt. Currently, this is also possible in South Africa and Portugal.

321 ICSI stands for Intra Cytoplasmic Sperm Injection. ICSI is a form of test tube fertilisation.

322 N. Cantwell, “The Best Interests of the Child in Intercountry Adoption” (2014); Hoksbergen “Vijftig jaar adoptie in Nederland”, p. 15.

323 Interview by the Committee; RSJ report, *Bezinning op Interlandelijke Adoptie* (2016), p. 27.

324 RSJ, *Bezinning op Interlandelijke Adoptie* (2016), p. 14. After 2005, the number of adoptees from China declined rapidly.

325 P. Selman, “Trends in Intercountry Adoption: Analysis of Data from 20 Receiving Countries”, 1998-2004, *Journal of Population Research*, 23:2 (2006), pp. 190-191; RSJ, *Bezinning op Interlandelijke Adoptie* (2016), p. 71.

Incidentally, same-sex couples sometimes circumvent the requirements in the relevant countries by having a child adopted by one of the parents.³²⁶ As discussed in Appendix G, this was a reason for Congo not to issue outbound travel documents for intercountry adoptees.

In 2007, the then Minister of Justice appointed the Kalsbeek Committee with the task of advising on intercountry adoption and lesbian parenting. Kalsbeek advises to also apply the rules of the Wobka to the registered partner or life companion of the person who wants to adopt. The Minister also endorses Kalsbeek's view that it explicitly does not consider it the task of the government to facilitate an increase in the number of children eligible for adoption to the Netherlands.³²⁷

After 1998, the average age of adopted children increased, who fall into the *special needs* category more often; in 2011, this was about six out of ten adoptees.³²⁸ The increase in adopted children with psychological, medical, and other conditions³²⁹ is due to the inability to provide adequate care in some countries, making these children eligible for intercountry adoption. Healthy children are also cared for or adopted more quickly in the country itself. In the Netherlands, the Board for Child Care and Protection imposes stricter requirements on parents who want to take in a *special needs* child. There are also more requirements for matching.³³⁰

As described earlier, since the 1960s, the media and politics have been writing and talking about concrete abuses. After 1998, more and more reports came from adoptees themselves about their negative experiences in the search for their families. This provided a more critical view on intercountry adoption in Dutch society.

326 Report "Alles van waarde is weerloos": Committee on Lesbian Parenting and Intercountry Adoption (2008), p. 79.

327 Report "Alles van waarde is weerloos". See also: Regulations on the institution of the lesbian parenthood and intercountry adoption Committee, no. 5507329/07/6.

328 Statistics Netherlands (CBS), "Aantal adopties sinds jaren zestig niet meer zo laag", 20 June 2012, via: <https://www.cbs.nl/nl-nl/nieuws/2012/25/aantal-adopties-sinds-jaren-zestig-niet-meer-zo-laag>.

329 Ministry of Justice and Board for Child Care and Protection, "Categorie indeling special needs", via: <https://adoptie.nl/wp-content/uploads/2017/03/Categorieindeling-special-needs.pdf> [last consulted on 15-9-2020]. The six categories are: Category A; A child with a care intensity that cannot yet be estimated with uncertainties now and in the future; Category B; A child with a medical condition requiring a limited number of operations, therapy and/or medication or a condition requiring no to very limited adjustment; Category C; A child with a complicated medical condition that requires regular surgery, therapy, medication and/or monitoring; Category D; A child with a permanent disorder; Category E; A child with a socially/emotionally stressed background without any expected medical consequences based on the file; Category F; A child who has no additional demand/need for care at the time of the proposal.

330 Youth Care Inspectorate (*Inspectie jeugdzorg*), "Aandacht voor matching" (2009), pp. 9-10.

9.2.3 Attention to the knowledge of identity and the rise of interest groups

The conversations conducted by the Committee show an increasing interest in knowing one's own origins and thus identity. The possibilities of social media and DNA research contribute to this. Important life events, such as having children or being confronted with a serious (genetic) disease, can also be reasons why adoptees search for their origin. Age also plays a role: the desire to know more about family history often becomes stronger as people get older and birth parents age or pass.³³¹

In the period after 1998, various interest groups for adoptees were created. These organisations are often volunteer organisations of adoptees and sometimes focus on one specific States of origin with root searches and information exchange. The publication of books, articles, blogs and also documentaries plays an important role in the process of awareness and activism among adoptees. Many adoptees find support in the organised contacts with other adoptees.³³²

In recent years, a number of these organisations have increasingly held the government responsible for the origin or continuation of abuses caused by intercountry adoption in the past. Some interest groups have sued the government and are demanding public apologies and support, financial or otherwise. In May 2019, at the request of the Minister for Legal Protection, 21 organisations submitted the Joint Interest Organisations Plan (*Gezamenlijk Plan Belangenorganisaties*) for a suitable support offer for adoptees.³³³

9.3 Changes in the adoption system

9.3.1 System changes by the 1993 HC and the role of the Central Authority

The 1993 HC stipulates that each State Party must designate a Central Authority charged with the fulfilment of the obligations imposed by the Convention.³³⁴ The Minister of Justice has been designated as the Central Authority for the Netherlands. The implementation of the adoption process is entrusted to the Ministry of Justice and private adoption organisations. The organisation of the Central Authority within the Ministry has changed regularly since 1998. The Ministry has not been able to provide a definitive answer about the exact organisational embedding in recent years.³³⁵

In 2004, a number of tasks from the Central Authority were transferred to the Adoption Services Foundation (*Stichting Adoptievoorzieningen, SAV*). These transferred tasks include: to submit applications

331 Interviews by the Committee.

332 Interviews by the Committee

333 Interviews by the Committee.

334 Around 2013, the Central Authority merged with the Central Authority for International Child Abduction and International Child Protection (*Centrale autoriteit Internationale Kinderontvoering en Internationale Kinderbescherming*), resulting in the establishment of the Central Authority for International Child Affairs (*Centrale autoriteit Internationale Kinderaangelegenheden*).

335 The Committee has searched the archives of the Ministry of Justice for relevant research material on the institutional embedding and organisational changes of the Central Authority within the Ministry since 1998. No relevant documents were found on this theme.

to obtain permission to place a foreign child for adoption, to inform prospective adoptive parents, to conduct correspondence with the prospective adoptive parents, to forward family details to the Board for Child Care and Protection for the purpose of home study and registration, and administrative processing of mutations. This transfer of tasks has reduced the organisational burden on the Central Authority.³³⁶

The Central Authorities of the State Parties are expected to cooperate with each other, to inform each other and to take appropriate measures to prevent practices contrary to the Convention. For adoptions from State Parties to the 1993 HC, both the Central Authority in the State of origin and the Central Authority in the receiving State must agree to the matching between the child to be adopted and the intended adoptive parents.³³⁷ According to the 1993 HC, the Central Authority of the state of origin is, responsible for examining whether a child is actually eligible for adoption.³³⁸

An important starting point of the 1993 HC is the principle of trust: State Parties must be able to trust that each state will perform its duties and responsibilities properly. As a receiving State, the Netherlands must therefore be able to rely on the outcome of the assessment carried out by the state of origin. The Netherlands only has the option of not agreeing to the adoption as an ultimate remedy.

9.3.2 System changes for intermediaries

Partly due to the fall in the number of adoptions, the number of intermediaries active in the Netherlands has decreased from dozens in the period before 1998 to five in 2020. In 2020, the adoption foundation A New Way took over the activities of the Kind en Toekomst Foundation, so the number of intermediaries is currently of four. The foundation A New Way is investigating which adoption programmes can be taken over and is conducting research in Bulgaria, Slovakia and Lesotho.

Due to the decrease in the number of adoptions, the income of intermediaries has also decreased. This entails two potential risks, according to those involved. First, the complexity of the cases is increasing. Second, some indicate the risk that adoption agencies will increasingly compete with each other for the ever smaller number of children available. The authorities in States of origin would turn a blind eye to such competition - some say under social and political pressure from intermediaries, adoptive parents and other stakeholders.³³⁹

The decline in adoptions is offset by an increase in the requirements that intermediaries must meet: the "Quality framework for license holders for intercountry adoption" (*Kwaliteitskader vergunninghouders interlandelijke adoptie*) has been introduced in 2008 and revised in 2013. It specifies the quality requirements with regard to intercountry adoption and business operations (including ISO certification). Recently,

336 Letter from the Ministry of Justice to the Board of the Adoption Services Foundation (*Stichting Adoptievoorzieningen*), "Overdracht van taken van het Bureau Centrale Autoriteit aan uw Stichting", 19-02-2004, MinJus Archive, "OBP-01" files.

337 For adoptions from non-State Parties, no formal statement of approval by the Dutch Central Authority is required, but in practice this does happen since 2008.

338 On the basis of the conditions of Article 4 of the 1993 HC.

339 Interviews by the Committee.

intermediaries are obliged to use a pool of paediatricians established by the Central Authority for the assessment of medical records. Some intermediaries question the usefulness of these measures.

According to some of the intermediaries interviewed, the Central Authority is afraid of making mistakes, which, in their view, makes it restrained and quick to seek refuge in new control measures. "The Central Authority is struggling with its role as chain manager/director. On the one hand, they have the task of serving the best interests of the child and on the other hand they want to prevent their official from ending up in a difficult position," says one of them. Several intermediaries interviewed emphasise the good contact with the Central Authority, but also point to the many personnel changes.³⁴⁰

9.3.3 Changes in financial and tax aspects

From 2009, adoption costs are no longer tax-deductible as "extraordinary expenses". In the decades before, from 1964 to 2008, they were tax-deductible.³⁴¹ The deductible costs were, for example, travel costs of prospective adoptive parents to lawyers and courts in the Netherlands, and the travel costs of the child from the State of origin to the Netherlands. The tax deduction was originally introduced to remove the existing inequality between two possibilities of family formation. There was also a tax deduction for costs during childbirth. The reason for the abolition was that costs for childbirth were included in the basic health insurance around 2008 and there was therefore no reason to maintain the tax deduction for adoption.³⁴²

To compensate for the loss of the tax benefit, adoptive parents for children who were adopted between 1 January 2009 and 1 January 2013 could claim a one-off income-independent allowance of EUR 3,700. The request had to be made within three years of the child's adoption. In 2011, the House of Representatives approved this scheme, which was discontinued in 2013. The responsible State Secretary said the reason for the termination was the then economic situation in the Netherlands "and the associated cutbacks". According to the State Secretary, these made it impossible to come up with an alternative compensation.^{343,344}

340 Interviews by the Committee.

341 See e.g. question of the member of the Lower House Drees to State Secretary of Finance Van Rooijen, 20-02-1975; "Adoptiekosten en de Fiskus", *Wereldkinderen magazine*, no.4 (1976), p. 11

342 Letter from Adoptie Ouders Overleg (AOO), "Voorstel tot schrappen belastingaftrek adoptiekosten", 11-10-2007; Letter on behalf of the Minister of Justice, "Nieuwe regeling financiële tegemoetkoming adoptiekosten", 2411 2008; Letter on behalf of the Minister of Justice to the Chairman of the TK, "Regeling financiële tegemoetkoming adoptiekosten", 26-04-2010.

343 Parliamentary questions of Van Tongeren to the State Secretary of Security and Justice about the adoption allowance scheme 15-10-2012/30-10-2012.

344 <https://wetten.overheid.nl/BWBR0030483/2015-01-16>; <https://zoek.officielebekendmakingen.nl/stcrt2015868.html>. The health insurers Achmea Zilveren Kruis, Interpolis, OHRA, VGZ and Univé have reimbursement for adoption-related costs in their policies up to and including 2020. This concerns reimbursement of maternity care and/or reimbursement of medical screening by a paediatrician.

9.4 Abuses after 1998

This paragraph covers the question of to what extent abuses occurred after 1998 and how the Dutch government responded to them. In the countries where adoptions to the Netherlands occurred after 1998, several types of signs of abuse have been documented per country. In addition to problems with documents and personal data, it also concerns abuses such as child theft and child trafficking. The signs did not necessarily relate to abuses within the intercountry adoption practice with the Netherlands, but also with other receiving States. See also the table with signs of abuse in chapter 10.

9.4.1 Familiarity with signs

Much of the abuses identified in the past decade relate to African countries. In 2012, for example, the Dutch media paid extensive attention to the provisional suspension by the Netherlands of adoptions from Uganda.³⁴⁵ Intermediaries regularly have their say. In 2012, the Kind en Toekomst Foundation, for example, stated that it disagreed with the decision of the Ministry of Justice to stop adopting from Uganda. According to Kind en Toekomst, there was “no evidence of coercion; the children come from a good Christian home”.³⁴⁶

Later, another African country got in the news. When the government of Congo decided to stop all intercountry adoptions after signs of corruption, document forgery and child trafficking, among other things. In response to the temporary suspension, the then State Secretary of Justice went to Congo to ensure that adoptions pending by Dutch parents could still go ahead.³⁴⁷ After these adoptions had taken place, the Netherlands suspended adoptions from Congo in 2016.³⁴⁸

The fact that abuses have not disappeared is also apparent from the debates that took place on this subject in the Senate and the House of Representatives after 1998. The number of parliamentary questions about intercountry adoption has increased significantly after 1998, and since 2000, parliamentary questions were asked about this every year. Parliamentary questions about adoption after 1998 are posed across the board by the House of Representatives. After 1998, especially since 2007, relatively more parliamentary questions were asked about adoption abuses than in the period before 1998. The questions are mainly about the countries of India, China and Ethiopia.

345 Loibl, *The Transnational Illegal Adoption Market*, pp. 328-29; “Stop adoptie uit Oeganda”, *Leeuwarder Courant*, 12-06-2012; “Voorlopig geen adoptie uit Oeganda”, *Trouw*, 04-10-2012.

346 “Adopties uit Oeganda wél zorgvuldig”, *Trouw*, 04-10-2012.

347 Interview by the Committee.

348 “Nederland schort adopties uit Congo op”, ANP, 13-09-2016.

Since 2012, eight parliamentary questions have been asked about concrete signs of adoption abuse. Three of these questions were about adoptions from Ethiopia and three questions about adoptions from Bulgaria.³⁴⁹ In six parliamentary questions over the past ten years, reference was made to reports in which the abuses were discussed. The parliamentary questions indicate to what extent adoption abuses were on the political agenda of political parties in the Netherlands. In addition, the answer showed how the government dealt with signs of abuse after 1998 (see below).³⁵⁰

9.4.2 Acts of government and intermediaries

An important question is whether the actions of the Dutch authorities and intermediaries have changed compared to the period before 1998. The previous chapters have already briefly discussed the adoption practice after 1998 in the five countries mentioned in the order establishing the Committee. It has been established that the reports of abuses continued after 1998. Appendix G of this report examines a number of cases from after 1998 that emerged in the Committee's research. Here is an account of the actions of the Central Authority after 1998.

According to an interviewed employee of the Central Authority, the principle of trust is a leading factor in intercountry adoption. The Central Authority always inquires about adoption procedures in State Parties. "But that is only possible to a certain extent: because of the principle of trust, one must take for granted that things are going as they are at a certain point." According to the interviewee, many employees of the Central Authority experience this as an obstacle, and the Ministry is said to be developing a new policy to ensure that more certainty about the backgrounds of the adoption is created in adoption procedures abroad. According to the interviewee, this could lead to intercountry adoption to stop, because foreign governments thus receive an advanced sign that they are not trusted.

Investigations, inspections and policy reviews

The dilemma that Central Authority employees experience in the application of the principle of trust emerges in the investigation by the Youth Care Inspectorate in 2009 and in a policy review carried out in 2012 on behalf of the Ministry of Justice. Both studies show that, for a thorough adoption procedure, the Dutch government is highly dependent on the parties involved in the State Parties and the careful performance of the supervision task that Dutch intermediaries have over their foreign partner organisation.

349 Parliamentary questions of Recourt to State Secretary of Security and Justice, concerns: "Adoption in African countries", 15-10-2012/30-11-2012; De Wit to State Secretary of Security and Justice, "Adoptions from Ethiopia and the procedure of the license holder", 28-02-2013/11-04-2013; Recourt to State Secretary of Security and Justice, "Intercountry adoptions from Ethiopia", 28-02-2013/11-04-2013; De Caluwé and Van Oosten, to State Secretary of Security and Justice and to the Minister of Education, Culture and Science "Adoptions from Ethiopia", 01-03-2013/11-04-2013; Van Nispen to the Minister of Security and Justice, "Adopting children from Bulgaria", 20-10-2015/16-11-2015; Arib to Minister of Security and Justice, "Adoption of children from Bulgaria", 20-10-2015/16-11-2015; Segers to the Minister of Security and Justice, "about adoptions from Bulgaria", 27-10-2015/16-11-2016; Arib to Minister of Security and Justice, "The message of "Free play for child traffickers" regarding illegal adoption from Nepal", 25-11-2015/22-12-2015.

350 See also Appendix F of this report, which contains an overview and analysis of all relevant Parliamentary documents.

Moreover, research by the Youth Care Inspectorate in 2009 shows that in some States of origin, there is insufficient control of the relinquishment procedure, the “adoptability” of the child, the subsidiarity principle and suspicions of child trafficking. According to the Inspectorate, this entails risks for the care and purity of the adoption procedure, which does not serve the best interests of the child. In this report, the Inspectorate concludes that the Central Authority must play a more active role in identifying possible adoption abuses and malicious contact persons. The Inspectorate has established that there is a tension between the confidence of the Dutch government in a careful adoption procedure in the State Parties on the one hand and the fact that the responsibility for monitoring this rests with the Dutch intermediaries.

According to the Inspectorate, these license holders are likely to run into difficulties with these responsibilities because they cannot fulfil them. Firstly, in many States of origin (whether or not State Parties), they do not have or will not be able to check the reliability of the data. Secondly, signs from license holders to the Central Authority about potentially unreliable data or partner organisations are being responded to in line with the intention of the 1993 HC, namely that mutual trust is the starting point. The Inspectorate implies that the system is not functioning properly. By outsourcing the practice to private intermediaries, incentives for abuse remain intact.

In its report, the Oosting Committee also states that the possibilities of the Dutch intermediaries to check the reliability of contacts abroad are limited. The Committee emphasises the importance of international contacts between government agencies, both at the level of the Central Authorities and the Ministry of Foreign Affairs.³⁵¹

The 2012 Policy Review shows that information about the child from the State of origin is regularly incomplete and unreliable. According to the audit, the tension between trust on the one hand and control on the other means that intermediaries and the Ministry of Justice could not or insufficiently perform their supervisory task.³⁵²

Supervision of intermediaries and inspection trips

The Central Authority is responsible for supervising the intermediaries; for example, it issues the adoption permits. According to former Central Authority employees, this is not always a pleasant position to be in. “We actually had two roles: we worked with intermediaries, but we also had to check them. Although the Ministry of Justice aims to visit all intermediaries twice a year, this goal is rarely achieved. In practice, the Ministry visits these agencies once every few years - but the Central Authority and the intermediaries often meet outside of these six-monthly visits, for example at conferences and during the consultations of intermediaries, the chain consultation”.

351 See: Report of an investigation into the supervision of the Meiling Foundation in connection with possible abuse regarding adoption from India in the period of 1995-2002 (The Hague, September 2007).

352 P. Vlaardingenbroek, “Beleidsdoorlichting interlandelijke adoptie (2012)” p. 23; Parliamentary papers II, 2006/07, 30552, no. 9. <https://zoek.officielebekendmakingen.nl/kst305519.html>.

One former director of an intermediary recalls the inspections by the Ministry of Justice as thorough. According to him, various subjects were discussed during such a visit, including the flow of money and the internal occupation. The officials checked the completeness of the documentation and the ISO certification of this organisation. Adoption files were also randomly checked to determine whether the procedures were done properly. Today, the financial statements of intermediaries are also scrutinised by the financial department of the Central Authority.

To gain a better insight into adoption practices abroad, the Dutch Central Authority paid seventeen visits to twelve different countries between 2006 and 2019. China was visited five times. Most missions are aimed at fact-finding, sometimes referred to as relationship management (China) or the possibility of establishing a bilateral adoption relationship (Vietnam). In three cases, abuses were the explicitly stated reason (China 2006, Uganda 2012, India 2013), although these have also been raised in some fact-finding missions.

The inspection mission of the Central Authority to Uganda took place in 2012 after the Dutch embassy expressed its reservations about the Ugandan adoption system. During the visit, it appears that the origin and background of the children was not properly investigated by the Ugandan authorities. In addition, birth parents were not correctly informed about the consequences of adoption. As a result of these findings, the Netherlands stopped adopting from Uganda and the Ministry of Justice sent a new delegation in June 2012 to have an investigation carried out into 22 children who had previously been proposed for adoption to Dutch couples. Ultimately, eighteen files were approved.³⁵³

There are doubts among former Central Authority officials about the effectiveness of these visits when it comes to the prevention of adoption abuses. The missions are seen more as courtesy visits. Some suspect never to have gotten a “fair” picture of the local adoption practice: “We were kindly shown around by someone from the government; but of course we couldn’t work there like an investigative journalist.”

Although there are regular indications of weaknesses and problems within the adoption practice of States of origin by embassies, local sources and intermediaries, the internal reports of the Ministry of Justice in response to the missions do not show any critical attitude. Those reports show considerable confidence in the authorities of State of origin and an overly understanding attitude. This attitude is shown, for example, in the report of the working visit to China in 2010:

353 Loibl, *The Transnational Illegal Adoption Market*, pp. 328-329.

“However, the Chinese Central Authority (CCAA) is strongly opposed to the development of looking for the biological parents. It has warned that this can have repercussions for biological parents, especially as it will reveal that these parents have broken the law. If necessary, CCAA will therefore take measures to prevent the search for biological parents. This is met with understanding on the Dutch side, responding that it will not be encouraged and that the message will be conveyed.”³⁵⁴

This commitment by the Netherlands to China is at odds with the Convention on the Rights of the Child and Article 30 of the 1993 HC, which lays down the right to know one's origin. Literal quotations such as the above are representative of the tone in the inspection reports and the proposed courses of action on how to deal with abuses. This is in line with the insights obtained from interviews conducted by the Committee with the civil servants involved.³⁵⁵

The Central Authority now strives to organise a working visit abroad three to four times a year. Interviews conducted by the Committee show that, unlike former Central Authority officials, current officials generally regard these visits as an effective means of managing adoption practices abroad. A framework of standards is being developed that will make it possible to test States of origin for their working methods, for example during working visits. But even then, according to an interviewed employee, the assessment remains complicated: “We have to be careful that the system is not completely shut down. States of origin will not always be able to meet the requirements that we set. Finding a balance in this is very complicated.”³⁵⁶

9.4.3 Signs in the media 1998-2017

Even after 1998, signs about adoption abuses persist in the Dutch media. In 2007-2008, for example, many articles were written about possible adoption abuses from the Indian children's home Malaysian Social Service. In 2010, after the earthquake in Haiti and the temporary adoption stop there, dozens of media reports appeared about adoption abuses from the country. In the years after 2016, television reports of research programmes about abuses caused a wave of articles in the Dutch press. In recent years, more than ten reports and documentaries about adoption abuses have appeared.³⁵⁷ Newspaper articles and parliamentary questions about the reported abuses followed as a result of these broadcasts.

354 Report of a working visit to China from 1 to 4 June 2010 in the context of international adoption, MinJus.

355 Interview by the Committee.

356 Interview by the Committee.

357 *Netwerk*, 22-05-2007; *Netwerk*, “Nieuwe feiten rondom adoptiebemiddelingsbureau Meiling (2/2)”, 23-05-2007; *Brandpunt*, “Adopties uit Ethiopië”, 09-01-2011; *Brandpunt*, 24-02-2013; “De Hongaarse Adoptie-industrie”, 18-10-2015; *Argos*, “Adoptie, markt van corruptie en geluk”, 06-10-2012; *Argos*, “Constructie van een adoptie”, 23-02-2013; *Argos*, “Het leven van klokkenluider Roelie Post”, 05-05-2018; *Zembla*, “Adoptiebedrog”, 17-05-2017; *Zembla*, “Adoptiebedrog 2”, 20-09-2017; *Zembla*, “Adoptiebedrog 3”, 28-03-2018; *Nieuwsuur*, “Zonder medeweten van ouders naar Nederland”, 03-06-2017; *Nieuwsuur*, 02-06-2019; “NieuwLicht, Adoptie in Nederland”, 16-09-2019. *Zembla*, “Adoptiebedrog 4”, 27-11-2020.

A change in media coverage compared to the period before 1998 is that adoptees after 1998 - and in particular from 2007 onwards, increasingly have their voices heard in the media. Adoptees often express themselves positively or negatively about intercountry adoption in the press. The attention for the personal stories of adoptees has contributed to a renewed focus on adoption abuses from before 1998. Negative messages often include stories of an adoptee's personal search. A common aspect in these articles is that data from an adoptee turns out to be incorrect or that it is impossible to find the birth family. In recent years, the media attention for adoptive parents' experiences has increasingly been replaced by the own personal experiences of adoptees.

Since 1998, the Dutch media have frequently referred to the awareness of abuses among the Dutch government and intermediaries. The actions taken by the government are described in articles and measures taken were also followed up in the media. In addition, the Dutch media reported on (temporary) adoption suspensions. These reports addressed the reason for instituting adoption stops and occasionally allowed adoption intermediaries to speak about the decision and the situation in a country.³⁵⁸

From the analysis of Dutch media coverage, an image emerges that shows that the continued existence of abuses is associated with the system of intercountry adoptions. While positive and negative reports about adoption still alternate at the turn of the century, negative reports prevailed in the years that followed.

9.4.4 Government term 2017-present

In the current government term (2017-present), attention to adoption abuses has increased further. This interest is partly due to the fact that several adoptees have brought lawsuits against the Dutch state. All signs of abuse and the desire to investigate the actual state of affairs surrounding intercountry adoption led to the establishment of the Committee in 2019.

Since 2019, intercountry adoption is frequently featured in the media.³⁵⁹ Mostly, it consists of personal stories from adoptees about their experiences. Many reports pay attention to abuses and also to roots searches. Other common themes in recent media reports are lawsuits by adoptees against the Dutch government and intermediaries, and weaknesses in the current adoption system. For example, in the autumn of 2020, there was a lot of discussion about the limitation period for adoption-related matters, partly in response to the court decision in a procedure of

358 "Adoptie kinderen uit Guatemala stilgelegd", *Leeuwarder Courant*, 24-02-2001; "Stop adoptie uit Oeganda", *Leeuwarder Courant*, 12-06-2012; "Adopties uit Oeganda wél zorgvuldig", *Trouw*, 04-10-2012.

359 See for example: "Justitie stopte illegale adoptie in de doofpot", *Brabants Dagblad*, 04-01-2019; "Geadopteerde vrouw (26) slaapt overheid voor de rechter", *Trouw*, 12-01-2019; "Ook legale adopties kunnen illegaal zijn", *Telegraaf*, 15-05-2019; "20.000 gestolen en verpatste Chileense baby's zoeken gerechtigheid", *Parool*, 29-05-2020; "Geadopteerden ontevreden over onderzoek: Commissie lijkt waarheid te verdraaien", 31-07-2020; "Adoptiezaak tegen Nederlandse staat blijkt verjaard", *NRC Handelsblad*, 09-09-2020; "Corona vertraagt adopties: Dat papa en mama niet komen, is zo schrijnend", *NOS*, 31-10-2020.

a Sri Lankan adoptee. Interest groups have started petitions to relax or abolish the limitation period. These issues also generate political attention, as can be seen from parliamentary questions.³⁶⁰

Since the turn of the century, political parties have taken an increasingly critical attitude towards intercountry adoption. Several parties specifically mention the subject in their programmes for the parliamentary elections in March 2021.³⁶¹

Haiti 2019-2020

One illustrative case for thinking about and acting on intercountry adoption is Haiti. The case illustrates that the discussion about intercountry adoption is topical in 2020. In June 2019, the newspaper *Trouw* reported on adoption abuses in the country. Abuses in Haiti have been common in the previous decades, as outlined elsewhere in this report. The *Trouw* article describes that children in Haiti are still taken from their parents under false pretences. In addition, *Trouw* states that only 29 of the 754 orphanages in Haiti are functioning properly.³⁶²

In December 2019, the Dutch Central Authority temporarily suspended adoptions from Haiti. The reason for this was that the safe travel, especially for adoptive parents in the country, could not be guaranteed. This in connection with looting, roadblocks and general socio-political instability. Also, the Central Authority stated, no Haitian government agency, including the Central Authority in the country, was functioning anymore.³⁶³

However, there were some Haitian children who would be adopted by Dutch nationals. The procedure had already started for them. After December 2019, the prospective adoptive parents involved and the Dutch Adoption Foundation (*Nederlandse Adoptie Stichting*) (as a intermediary responsible for adoptions from Haiti) frequently brought the problem to the attention of the Dutch government.³⁶⁴

Very recently, the Dutch Central Authority lifted the temporary suspension of adoptions from Haiti, because safe travel in the country was considered possible again. Those concerned are sceptical about this decision, not so much with regard to the security of the country, but in the light of the proven serious wrongs of child trafficking, deception of birth parents and falsification of documents and files.³⁶⁵ The case shows, on the one hand, the pressure from Dutch prospective adoptive parents and intermediaries on the adoption practice, and on the other hand, the lack of counter pressure from the Dutch government.

360 See, among others: Parliamentary question from Van Nispen and Van der Staaij to the Minister for Legal Protection about the limitation period for adoption and the keeping of adoption files, 11-09-2020. The answer shows that the retention period in the Wobka is currently 30 years, but "in practice license holders adhere to a retention period of at least 50 years". <https://zoek.officielebekendmakingen.nl/kvtk2020Z18941.html>; Parliamentary question from Van Nispen and Van den Berge to the Minister for Legal Protection about the lack of help in searches of adoptees about their past (15-10-2020).

361 See (draft) election programmes of D66, GroenLinks, SGP and VVD, among others.

362 "Het blijft misgaan bij adoptie van Haïtiaanse kinderen", *Trouw*, 03-06-2019. See also Appendix G of this report.

363 Interviews by the Committee.

364 Letter of Plan Kiskeya to Central Authority for International Children's Affairs, 13 November 2020.

365 Ibid.

9.5 Main findings

This chapter outlines the developments regarding intercountry adoption in the period after 1998, when the Netherlands ratified the 1993 HC. For example, the development of the number of adoptions has been explained (first an increase and then a strong decrease). The shifts in States of origin are also shown. Also, more and more special needs children came to the Netherlands. Competition between intermediaries increased as a result of the decline in the number of children to be adopted and the number of prospective adoptive parents.

After the introduction of the 1993 HC in 1998, the Central Authority was established. This chapter described how this body was increasingly embedded within the Ministry of Justice from an organisational point of view. In the performance of its tasks, the Central Authority experienced tensions between the principle of trust and its control and supervision task. This applied not only to the States of origin, but also to the license holders. As a result, the Central Authority could not adequately perform its tasks.

The Committee's research shows that abuses did not disappear after 1998. Even after this year, abuses were frequently in the news and raised in parliament. The government was aware of this. In most cases, signs of abuse were responded to by referring to investigations by the authorities in the countries concerned or by expressing confidence in these authorities. In a number of cases where the interests of the adoptive parents were at stake, or where they insisted on action, the Dutch government took action itself.

10 Signs of abuse in other countries

10.1 Research material

The previous chapters have shown that in the five countries referred to in the order establishing the Committee (Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka), systematic abuses occurred. Later, and in other countries, there was and still is talk of abuse. This chapter consists of a screening of all the research material provided for signs of abuse in eighteen additional countries during the entire period that intercountry adoption was possible.

The Committee did not actively search for research material from other countries, as was the case for the five countries mentioned in the order establishing the Committee. The Committee did study all the material that emerged during the file review of the five countries as well as all the material provided by interested parties, regardless of which country this material related to. The total number of countries looked at by the Committee thus comes to 23. Of the more than 40,000 adoptees in the Netherlands, approximately 34,500 adoptees came from these 23 countries: approximately 14,500 adoptees from the five countries of the order establishing the Committee and 20,500 from eighteen other countries.

The main question in conducting the screening was: to what extent were there signs of abuse with regard to the eighteen other States of origin? The abuses were reported by Dutch or foreign government agencies, parties involved and intermediaries, or by national and international media. The signs did not necessarily relate to abuses within the intercountry adoption practice with the Netherlands, but also with other receiving States.

10.2 Characterisation and system

Based on the investigation, the Committee has distinguished eight types of abuse in adoptions to the Netherlands. Usually, several types of abuse occurred within one adoption case. An example of this is child theft associated with document forgery and profiteering. In other words, abuses usually took place in conjunction with one another.

The following types of abuse have emerged in the research material:

- *Absence of documents and/or personal data;*
- *Document forgery;*
- *Failure to perform duties in accordance with general principles of good administration and associated rules and procedures;*
- *Fraud and corruption:* Wilfully misleading and deceiving something or someone or misusing authority or power for personal gain.

- *Concealment of status*: Deliberately making a person's parentage and true descent ambiguous or uncertain.
- *Child theft*: deliberate and illegal removal of minors from parents or legal guardians.
- *Child trafficking*: transporting, recruiting or trafficking minors for the purpose of exploitation.
- *Baby farms*: places where women (whether or not forced, and/or for a fee) are made pregnant, or where they stay to give birth; to then give up their new-born child for intercountry adoption.

Based on the available research material, it is not possible to make quantitative statements about the extent of the types of abuse, for example about percentages of incorrect documentation or the number of adoptees from *baby farms*. Such signs are taken for information purposes and are not quantified or validated. The Committee has, however, made the following indicative three-way classification for the extent of the abuses:

- *Unknown*: in the available and examined research material, no signs of abuse with regard to that country were found. It is therefore unknown whether such abuses took place in the country concerned.
- *Occasionally identified*: abuses have been identified in a limited number of sources, by a limited number of persons or authorities, and/or in a limited period of time.
- *Systematically identified*: abuses have been identified in different sources, from or by different parties involved, and/or in multiple time periods.

Based on this system, the Committee screened eighteen "additional" States of origin. Those eighteen countries were selected on the basis of adoption numbers, signs of abuse in the media or elsewhere, and/or because they emerged as salient in the research material.

In order to provide insight into the possible effect of the implementation of the Hague Adoption Convention in the Netherlands on the signs of abuse, a division in time was made between a period before 1998, the year that the Netherlands introduced the 1993 HC, and a period after 1998. The time ranking of the countries is based on the period in which the adoption numbers reached their relative largest size. Subsequently, the source material was examined for the countries. Table 11 shows the results of the screening.

10.3 Main findings

This chapter shows that there are signs of abuse in all screened countries. The general picture that emerges from the screening is that abuses in intercountry adoption are a systematic problem, regardless of the country. Abuses have occurred throughout the history of intercountry adoption up to the present day. The introduction of the 1993 HC in 1998 has not changed this sufficiently. Examples of countries where this is the case are: China, the Congo, Guatemala, Haiti and Uganda.³⁶⁶

³⁶⁶ For a more detailed illustration of the abuses in the other countries, a number of additional cases are discussed in Appendix G. This concerns Greece, South Korea, Romania, China, India, Guatemala, Haiti and Uganda.

Scope/time period	Country	Abuses							
		Missing personal data/documents	Document forgery	Maladministration	Fraud and corruption	Concealment of status	Child theft	Child trafficking	Baby farms
Countries in the order establishing the Committee	Bangladesh	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Brazil	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Colombia	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Indonesia	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Sri Lanka	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
Before and after 1998	Chile	Light blue	Light blue	Light blue	Light blue	Light blue	Dark blue	Light blue	Grey
	Ethiopia	Light blue	Dark blue	Dark blue	Dark blue	Dark blue	Grey	Grey	Grey
	Greece	Grey	Grey	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	India	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Peru	Grey	Dark blue	Grey	Light blue	Light blue	Light blue	Dark blue	Dark blue
	Poland	Grey	Grey	Dark blue	Grey	Grey	Grey	Grey	Grey
	Romania	Dark blue	Grey	Dark blue	Dark blue	Light blue	Dark blue	Dark blue	Dark blue
	Taiwan	Grey	Grey	Grey	Grey	Grey	Light blue	Light blue	Dark blue
	Thailand	Light blue	Grey	Light blue	Light blue	Light blue	Dark blue	Dark blue	Dark blue
	South Korea	Dark blue	Dark blue	Dark blue	Dark blue	Grey	Grey	Grey	Grey
After 1998	China	Light blue	Light blue	Dark blue	Dark blue	Light blue	Dark blue	Dark blue	Dark blue
	Congo	Grey	Grey	Dark blue	Light blue	Light blue	Dark blue	Dark blue	Dark blue
	Guatemala	Grey	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Light blue
	Haiti	Light blue	Dark blue	Dark blue	Dark blue	Dark blue	Light blue	Light blue	Dark blue
	Hungary	Grey	Grey	Dark blue	Dark blue	Light blue	Grey	Light blue	Dark blue
	Uganda	Grey	Light blue	Grey	Dark blue	Grey	Light blue	Grey	Dark blue
	United States	Light blue	Grey	Dark blue	Grey	Grey	Grey	Grey	Dark blue
	South Africa	Light blue	Dark blue	Light blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue

Legend

Dark blue = structurally identified

Light blue = occasionally identified

Grey = unknown

Table 11: Signs of abuse

11 Analysis

11.1 The causes of abuses

The Committee has established that the structural and systematic abuses found were caused by a complex of factors in both the Netherlands and the States of origin.

Adoptive parents were driven by a mixture of motives. Some wanted to adopt out of the desire to give an underprivileged child a better future, or to help children in dire humanitarian emergencies as a result of wars or disasters. Not infrequently, the latter group of idealistic adoptive parents already had children of their own. Childless couples wanted to be able to take a child into their family in order to fulfil their desire to have children. Adoptive parents were financially resilient in relation to the standard of living in many States of origin. Partly because of this, the relationship between the birth family and the adoptive parents was unequal.

In the States of origin, underdevelopment, poverty, inequality, wars and disasters led - along with local norms, values and taboos - to children who were orphaned or displaced because their family was no longer there or could not care for them. For the local homes to which these children were admitted, intercountry adoption was often a means of reconciling the growing supply of children with the available capacity. Although these children were often placed for adoption as orphans, in many cases they turned out not to be orphans, because (one of) their parents was/were still alive.

In most States of origin, unmarried pregnancy and single motherhood were not accepted and the mother and the child were stigmatised or rejected. There was great social pressure on the mostly young mothers to give up their children. Therefore, the voluntariness of the relinquishment decision, even if the relinquishment documents are signed by the mother, is questionable.

Many States of origin were fragile states with - sometimes corrupt - national administrations that were unable or unwilling to eliminate abuses. Intermediaries often belonged to the local elite and managed to escape criminal prosecution by using connections. In a number of countries, investigations into abuses have sometimes been started, but it has been difficult to provide evidence, and convictions have only rarely been issued. The investigations also functioned as a lightning rod or were covered up. In a limited number of States of origin, the fuss about abuses has led to a temporary or permanent stop of intercountry adoption.

The factors of supply and demand have combined to create a financial incentive-driven international "adoption market". The high amounts paid as compensation for adoptions - certainly in view of the standard of living in the States of origin - had a corrupting effect. The intercountry adoption system itself acted in some cases as a "child laundering" mechanism because it could convert children placed for adoption under suspicious circumstances into legitimately adopted children.

The emergence of an adoption market and making children tradable (“commodification”) - including market terms such as “supply and demand”, “channels”, “intermediaries” and “licenses” - can in itself be considered an abuse. As a result, the best interests of the adoptees and their families are insufficiently protected in the States of origin, which were often characterised by missing or deficient legislation and regulations, weak supervision and often endemic corruption. These interests are also insufficiently protected in the Netherlands, where intercountry adoption was initially hardly regulated in national or international legislation and treaties, or was left to private initiative and where - also due to slowly developing regulations - attention was paid almost exclusively to the interests of adoptive parents.

In many countries, adoption implied that the legal family ties between the birth parents and families and the adoptees were completely broken. The child was given a new identity, nationality and (family) name under which they were registered. Although this practice is sometimes consistent with prevailing national law, it complicates the adoptees' search for their own origins and identity and is at odds with international law and treaties.

These circumstances have long left organisations and DIY individuals free to arrange adoptions themselves or through intermediaries. Tighter regulations and treaties have not been able to eliminate abuses and, according to some observers, even promoted them, because the supply of children went “underground”. The Committee has established that many of the explanatory factors in both the states of origin and the Netherlands are still fully applicable today and are a permanent incentive for possible abuses.

11.2 The prevailing views on intercountry adoption

The long-term persistence of a positive view of intercountry adoption has had a major influence on the development of intercountry adoption practice. As a result, despite growing evidence to the contrary, intercountry adoption was considered the best solution for a child who could not be cared for at home. Emphasis was placed on the fact that these children were in an emergency situation for which there were no good solutions available locally. It was firmly assumed that these children would be better off in the richer, western world anyway.

The dominant image was that of “orphans in need” and adoptive parents who wanted to help. Adoption was identified with a form of “doing good” by mere benefactors and aid workers. There was no critical scrutiny despite abuses that occurred even then. This mindset was also embraced by adoptive parents, intermediaries and other involved parties in the Netherlands, including the government. Moreover, the way of thinking was in line with the existing desire to have children or the idealistic motive of the prospective adoptive parents.

There was no room in this mindset for conflicting or unwelcome judgments that could distort this picture. Prospective adoptive parents benefited from a quick, irrevocable adoption that provided family security. In this view on intercountry adoption, the feelings and interests of the birth family, which were often not in the picture at all, were usually completely ignored. No or little attention was paid to the

negative aspects for the children themselves (identity issues, developmental, cognitive and behavioural problems) as they had been documented since the late 1970s. It was not until the late 1980s that views on intercountry adoption gradually changed from positive to more realistic and pragmatic, to critical and even dismissive in the most recent period.

The idea that “everyone benefits” from an adoption has been an important factor for the government and intermediaries not to intervene, not to investigate reported abuses and not to rectify demonstrated abuses. Any adoption - even illegal or criminal - was considered a better option than no adoption at all. Because the children had been adopted “for their own good”, further investigation into illegal or suspicious adoptions was in most cases neglected. These prevailing views provide the Committee with an explanation but not a legitimacy for the abuses found. They have allowed human and children’s rights violations to continue and to be tolerated.

11.3 Intercountry adoption as a system

The intercountry adoption system from the Netherlands can be described as the set of government and private organisations that deal with intercountry adoption within the framework of the relevant legislation and regulations. From that perspective, the Committee has looked at questions such as: What explains the observed attitude of the government? What were and are the relative weaknesses of the system? What made the system not prevent abuses? Can the current system be substantially improved so that it is able to guarantee ethical intercountry adoption? The Committee formulates its answers below.

11.3.1 The role of the Dutch government

For a long time, the Dutch government saw adoption as a purely private matter. It relied on Dutch intermediaries and foreign authorities despite frequent signs of abuses. The Dutch authorities have also regularly hidden themselves behind ongoing research in the States of origin, which was seldom followed up. The policy area received too little attention within the responsible Dutch government agencies, in particular within the Ministries of Justice and Foreign Affairs, and the diplomatic missions. The policy area there was dominated by the demand for children and the interests of the adoptive parents. If problems had already surfaced, the policy or further rules often did not follow until years later.

Internationally, the government was afraid of jeopardising good relations with the States of origin by raising issues such as abuses or incorrect documents. The Dutch government agencies involved accepted the local authorisations and stamps as authentic, even if the contrary turned out to be the case. The Dutch government did not act because it did not want to frustrate the adoption process and because it did not want to damage diplomatic relations with States of origin. If the government did act, it was in cases where the interests of the adoptive parents were at stake. Representatives

of the Dutch government were also involved in individual adoptions in which it acted in violation of the rules in a number of cases.

The adoption system hardly had a structure of checks and balances. The government itself was both executor and controller; it maintained a close relationship with intermediaries who often had links to politics; the audit was not very thorough; adequate supervision was lacking and the government hardly enforced it due to a lack of capacity. Officials could not counterbalance the predominant positive views. They faced a lack of knowledge and had insufficient insight into the situation in the States of origin. Nor did Dutch officials have insight into the way in which the intercountry adoption market was structured. The government did not act against the problematic aspects of DIY adoption until it was eventually banned. Even when unlawful practices were identified, it was seldom prosecuted but often dismissed because of the alleged "best interests of the child". In the case of intercountry adoption, the government was non-resistant and passive, and did not act. Both in the States of origin and in the Netherlands, this led to impunity for abuses in intercountry adoptions.

11.32 The role of the intermediaries

From the 1970s onwards, more and more intermediary organisations emerged that differed in professionalism and expertise. The costs of adoption procedures increased. Adoptive parents were increasingly able to specify their specific wishes - for example, regarding the child's age, origin, medical condition, gender and skin colour. The Committee has established that Dutch intermediaries were aware of abuses since the emergence of intercountry adoption. Some intermediaries were also involved in abuses themselves, for example by deliberately disregarding the rules, forging documents or engaging with local contacts who were known to be corrupt and fraudulent. Some Dutch agencies not only mediated in adoptions, but also organised aid projects in States of origin. However, other organisations consciously decided against this, because they did not want to give the impression that aid projects would serve as a compensation for placing children for adoption or that these project funds were used for intercountry adoption.

The intermediaries saw it as their main task to provide for the need for children. A critical attitude towards States of origin was difficult to combine with this. Although some intermediaries did report abuses, most preferred to look away. As a result, the intermediaries were, in effect, a conservation factor with regard to abuses. Overly critical attitudes would also create the risk of declining adoption opportunities by intermediaries, which would contravene their own institutional interests and those of the influential adoptive parents.

The intermediaries were partly dependent on the number of adoptions for which they mediated. For example, the parties competed with each other with promises of faster procedures and shorter waiting times. Since 2008, it has been stipulated that only a limited number of intermediaries may be active per State of origin, which reinforced this dynamic. So-called chain consultations - established to monitor developments in the adoption procedure and discuss

any problems between the intermediaries - however, created more tensions between the intermediaries than they resolved.

The pressure from adoptive parents was high, the waiting lists long and the competition fierce - so for intermediaries, the motto was "the faster, the better". In some cases, this has led to a less critical look at adoption procedures and excessive confidence in foreign intermediaries whose actions were often driven by personal (financial) gain. The Dutch intermediaries did not exercise effective control over the course of procedures in the States of origin.

The documentation and archiving of adoption files by intermediaries regularly leaves a lot to be desired. Records from the 1970s and 1980s are often incomplete, which makes searching for the origins of adoptees more difficult, although this has improved somewhat since the 1990s. The transfer of archival inventories and files of disbanded intermediaries creates confusion for adoptees about who to contact with their parentage questions.

11.3.3 The role of Dutch politics

Politics has shown interest in intercountry adoption since the 1960s. The political agenda was largely determined by the interests of adoptive parents. The ability to proceed with, shorten or speed up adoption procedures was a regularly recurring theme in debates and parliamentary papers until the turn of the century. Members of parliaments and political decision-makers were also familiar with abuses: from the early 1960s onwards, critical parliamentary questions were posed and parliamentary debates were held.

The Committee finds that, although the politicians have raised signs of abuse, they primarily served the interests of the adoptive parents and not those of the adoptees or the birth family. Politics has only given minimal substance to its monitoring task with regard to abuses.

11.3.4 The influence of the 1993 HC

As a result of the implementation of the 1993 HC in 1998, the Dutch government established a Central Authority. Neither in the Dutch relations with the intermediaries, nor with regard to foreign countries, has the Central Authority been able to acquire a strong position. The embedding within the Ministry of Justice has been changed several times and the Central Authority has acquired little or no institutional stature.

With regard to foreign countries, the Dutch Central Authority could not play a formal role in relation to non-State Parties of the 1993 HC. With regard to the State Parties to the 1993 HC, the principle of trust applied and the Central Authority saw few opportunities to intervene in the event of problems. In the performance of its tasks, time and time again, the Central Authority experienced tensions between the principle of trust and its control and supervision task. Due to this principle of trust, the possibilities of the Central Authority to critically challenge matters during inspection missions were also perceived as limited.

The same also applied to licensed intermediaries. The Committee is of the opinion that the Central Authority has therefore insufficiently fulfilled its task as supervisor and protector of the best interests of the child.

All things considered, the government and intermediaries have set insufficient limits to abuses, whether through procedural regulation, or through supervision and control. The best interests of the child still appear to be subordinate because the system does not have sufficient strength to adequately protect these interests.

11.4 Impact on the parties involved

What consequences has intercountry adoption had for the parties involved? What are the consequences of the identified abuses for the birth family, the adoptive parents and the adoptees? Much international research has been conducted into this, as well as research in the Netherlands. On behalf of the Committee, a representative survey was also conducted among adoptees in the Netherlands by the Statistics Netherlands (CBS).

11.4.1 Birth families

Birth families (often a single mother with several children) are the least visible and heard of all parties involved. The adoption decision has often come about under social pressure or coercion. In addition to extreme forms of child theft or kidnapping, children have also been relinquished by making false promises to the birth family or having them sign documents they did not understand. In other cases, birth parents were not familiar with the scope, implications and definitive nature of intercountry adoption.

Birth parents can suffer from feelings of loss, grief and isolation and are sometimes looking for their adopted child. The same applies for other relatives. Only a small number of them manage to find their adopted relatives because the local organisations or intermediaries involved deny their responsibility and do not provide support or access to information. In some countries, birth parents or birth families are not entitled to see the adoption papers of their child or relative. Although voluntary organisations for birth parents have been set up in a few countries, relatively little has been arranged for this group.

11.4.2 Adoptive parents

A very large group of adoptive parents have legally adopted according to Dutch law. They trusted that the adoption was in order, which was also in line with the prevailing social view. However, whether deliberately or not, they, too, have contributed to the creation of an adoption market. There is also a group of prospective adoptive parents whose involuntary childlessness and genuine desire to have children have been exploited for commercial gain. Adoptive parents may feel touched by the publicity about the identified abuses and may have doubts about the procedures at the time of the adoption

of their children. After all, the overall picture of intercountry adoption was still positive at the time. It was not until later years that views on adoption would tilt and eventually become much more critical. This is sometimes difficult for adoptive parents, because they do not recognise themselves in the critical images and are convinced that they have acted in good faith, and in the best interests of the child.

There were also some prospective 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 fact that adoption brought about family security was crucial; foster care was not considered, because it did not meet their need. Some within this category have deliberately pushed the boundaries and acted illegally (such as forgery, smuggling children under false identities, paying extreme sums for corrupt "intermediaries", etc.). Some of the adoptive parents have also actively promoted an adoption market through political mobilisation and organising adoption for other prospective adoptive parents.

Until the late 1980s, there was not much information about intercountry adoption and adoptive parents were less prepared for the potential problems that could affect adoptees. These problems are caused by the traumatic experiences, deprivation or neglect that these children have experienced at a young age and which can give rise to all kinds of disorders, to a greater extent with adoptions at a later age. Sometimes these problems also stem directly from the adoption itself. Not all adoptees have such problems, and some have learned to handle them. For adoptive parents who are confronted with the - sometimes considerable - problems that their adopted child experiences, this is painful and sad.

11.4.3 Adoptees

There can be many reasons for adoption. There are children of whom both parents are deceased, or at least the caring parent. There are also children who were not accepted socio-culturally and sometimes were unwanted by their parents or mother. For example, children born of rape or children born out of wedlock in situations where pregnancy and motherhood outside of marriage were taboo. There are also children of parents who could not care for them because of poverty or other extreme circumstances and who wanted to give their child a better life. There are also *special needs* children, who need specific care that is not available or too expensive in some countries. Finally, there are children who are neglected or abused and removed from their homes or who have been kidnapped or robbed.

Although adoptees were often presented as orphans, many of them still had parents. For most children, the need for intercountry adoption is not black and white, and pressure to place them for adoption and other abuses are lurking.

Adoptees themselves are on average moderately positive about intercountry adoption, according to their answers in the survey of the Statistics Netherlands (CBS). For example, 84% indicate that adoption has given them more opportunities, and 70% think that adoption should continue to be possible. At the same time, many adoptees experience contradictions and frictions in their lives. Both academic research and the survey of the Statistics Netherlands (CBS) have shown that adoptees face all kinds of problems in their youth

to a higher degree than a comparable group. For some adoptees, such problems are permanent while for others, the problems are temporary.

Adoptees are often confronted with existential questions about the how and why of the adoption and with questions about their (dual) origin, identity and belonging. They deal with this in different ways. Some can live with it, while it can be traumatising for others.

The survey of the Statistics Netherlands (CBS) shows that more than four out of five adoptees think they should be able to find out their background, while half have already started looking for information about their adoption and background. Of the people who have not done this, more than a third indicate that they want to do this in the future. However, many searches do not lead to the desired result because documents or available information are incorrect. Access to files - both in the Netherlands and abroad - is difficult, costs money and the current remaining intermediaries have insufficient capacity and expertise to facilitate this. There is no central place where all data can be found. The adoptees surveyed indicate that they lack a central information point and that they expect more support from the Dutch government in their search.

When adoptees discover that their adoption involved abuses, this often triggers emotions such as anger or sadness, or the feeling of 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 involved Dutch and overseas governments and intermediaries from whom adoptees receive little support or understanding.

12 Conclusions

The Committee has investigated abuses in intercountry adoption and the way in which the Dutch government and intermediaries have dealt with this. The general picture that emerges from this research is that there were serious abuses during the period under review and that the government and the intermediaries did not take effective actions against this. They have allowed the interests of adoptive parents to prevail, and as a result have failed to represent the interests of both adoptees and their birth parents.

1. Structural abuses in intercountry adoption

In the five countries studied (Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka), serious intercountry adoption abuses occurred in the period of 1967-1998. There were also adoption abuses before 1967, after 1998 and in other countries.

- Abuses occurred in all five countries surveyed during the period of 1967-1998. Although the nature and extent of the abuses identified varied over time and between countries, abuses appear to be an almost permanent and systematic problem.
- The identified abuses concern both activities that have taken place in violation of applicable laws and regulations, and unethical acts.
 - Examples of illegal activities are: corruption; making it impossible or more difficult to find out the origin and identity of adoptees by forging documents; deliberately stating incorrect information in documents such as age; relinquishment of children for payment or under duress; child trafficking, theft and kidnapping; baby farming and concealment of status.
 - Examples of unethical acts include: relinquishing children under false pretences or moral pressure; the abuse of poverty or other social and cultural circumstances of birth mothers such as war, disasters and social taboos; inadequate archiving, inaccuracies in recording data and a lack of transparency in documentation.
- The Committee has established that similar abuses also took place before 1967 and after 1998, and in other countries. The pattern of adoption abuses in those countries shows striking similarities with the five countries studied in depth. Regardless of the different contexts, abuses in intercountry adoption seem to occur everywhere to this day. The most important conservation factors in this are the demand for children and the financial incentive-driven intercountry adoption market where socio-economic inequality, poverty and making children tradable commodities come together.

2. Knowledge and involvement of the Dutch government

The Dutch government was aware of adoption abuses from the late 1960s. In doing so, the government failed to fulfil its responsibilities and obligations, and failed to intervene when there was reason to do so.

- Since the 1960s, there has been a steady stream of reports about adoption abuses at home and abroad. There were also signs from intermediaries. Since 1961, more than 130 parliamentary questions have been asked about intercountry adoption. Some countries have unilaterally terminated the adoption relationship with the Netherlands due to abuses.
- The Dutch government was aware of these signs, which has been demonstrated by numerous documents and internal correspondence from relevant (government) agencies within the responsible Ministry of Justice. Messages between the Ministry of Foreign Affairs and the embassies abroad regularly dealt with the issue of how to deal with adoption abuses, and information about this was also exchanged in the interdepartmental correspondence between the Ministry of Justice and the Ministry of Foreign Affairs.
- In a number of cases, representatives of the Dutch government were involved in adoption abuses, acting in violation of the rules.

3. Knowledge and involvement of Dutch intermediaries

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

- The Dutch intermediaries also had knowledge of abuses in intercountry adoption for a long time. Before the introduction of the licensing system in 1989, this also includes DIY individuals.
- The involvement of intermediaries in abuses varies. Although much of the documentation of intermediaries has been destroyed, it has emerged that they were aware of abuses and that some were also involved directly or through local personnel. Among other things, they engaged in self-enrichment, circumvention of regulations, for example with regard to the Dutch long-stay visa (*mvv*), the adjustment of data, or the use of fraudulent lawyers and other intermediaries with a known dubious reputation. In a few cases, intermediaries reported suspicions of wrongdoing to the Ministry of Justice.
- There are indications of direct involvement in misconduct of employees of intermediaries. The Committee has not been able to determine whether this only concerns individuals or whether there were networks.

4. The government has not taken effective action against abuses

The Dutch government has failed to take timely measures where it could have done so, for example by means of legislation with stricter conditions, supervision of adoption practice, monitoring compliance with legislation and regulations and investigating signs of abuse. This has allowed abuses to continue.

Background

- The Dutch government realised too little and too late that intercountry adoption quickly developed into a market of supply and demand, and that “supply-transcending demand” contributed to abuses. Financial motives of intermediaries, foreign agencies and local contact persons played a major role.
- For a long time, there was a prevailing positive image of intercountry adoption. Insufficient attention was paid to the disadvantages and problems associated with intercountry adoption, although these were already known at a relatively early stage to the policy-responsible Ministry of Justice.

Legislation and regulations

- The Dutch government has failed to take timely measures where it could have done so. For too long, it has regarded intercountry adoption as a matter for private parties, namely adoptive parents and intermediaries, whereby it saw only a limited regulatory role for itself.
- The Dutch government did not see either policy or supervision regarding intercountry adoption as a priority and felt no responsibility for the system as a whole. Partly because of this, the implementation of the policy was insufficiently positioned within the Ministry of Justice. Officials were insufficiently able to counterbalance intermediaries and governments in other countries, nor were they sufficiently equipped to effectively counteract adoption abuses.
- Adoptive parents, intermediaries and politicians put pressure on the government to facilitate adoption and speed up procedures. With a facilitating stance, the government thought it was doing the right thing for these prospective adoptive parents and the foreign children who were believed to have no parents to care for them. Information to the contrary was ignored or dismissed.
- The government stood too much aside from abuses in the States of origin. It considered the adoption abuses abroad primarily the responsibility of intermediaries and the authorities of the countries concerned. According to the Dutch government, active involvement went against the sovereignty of other states, and it did not want to jeopardise the good relations with other countries. In summary, the response to abuses by the government can be characterised as absent, turning a blind eye and passive.

Monitoring and enforcement

- The Dutch government has not adequately fulfilled its supervisory task, and has failed to monitor where it could and should have done this. Occasionally, on the basis of concrete reports of abuses, a certain form of supervision and enforcement from the Dutch government did sometimes take place, but the general attitude was one of tolerance and turning a blind eye.
- When issuing documents such as the declaration of approval in principle, it was determined that consent for adoption was only granted if the parents had relinquished the child "in a way that was valid on the spot and acceptable according to Dutch standards". It was the job of the intermediaries to be "diligent" on this point. However, it has not been found that the Dutch government has reviewed this.
- When issuing relevant documents such as Dutch long-stay visas and other visas, registrations in the civil registry and adoption rulings in court, the Dutch government relied on previous links in the procedural chain and did not independently review these, even if it was clear that something was wrong. Border controls were also based on the accuracy of the documents.
- With the implementation of the licensing system in 1989, intermediaries could continue their activities and were granted a license without adequate verification of compliance.
- Established abuses at adoption intermediaries have never led to the permanent withdrawal of the license after 1989. However, adoptions from certain countries have been temporarily suspended by the Dutch government.

Investigation of signs

- Although the Dutch government was generally well aware of abuses, action was not taken, or taken too little or too late. Sometimes signs were downplayed or considered not concrete enough to look into.
- The Public Prosecution Service has found illegal adoptions in various domestic investigations into DIY individuals, but this has not led to prosecution. According to the Public Prosecution Service, the parents did not act for profit and the return of the child was not considered in their best interest.

5. The social and political image has been crucial in the development and maintenance of the abuses

For too long, intercountry adoption has been seen socially and politically as a laudable way to save children in need. In addition, it met the desire of parents in the Netherlands who wanted family security and who were unable to have children themselves or who wanted to take a child into their family out of idealism. Due to this prevailing view of "doing good", no timely action was taken against abuses.

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

6. The consequences of adoption abuses for those involved

For many of those involved, the consequences of their adoption are drastic. Due to the way in which their adoption was conducted, many adoptees are unable to find out their identity. Not knowing their origins and having to live with unanswered questions cause anger, pain and sorrow, regardless of how they fare in the Netherlands. Birth parents, birth families and adoptive parents also experience the drastic consequences of the adoption abuses.

Birth families

- The birth families, often single mothers with several children, are the least visible and heard of those involved. The birth mothers are first of all victims, and experience feelings of loss, sadness and isolation due to the loss of their child. They were sometimes pressured to give up their child, the concept of "adoption" as used in the Western world was unknown to them, and in the worst case their child was stolen.

Adoptive parents

- A number of adoptive parents who adopted a child in good faith and according to the rules out of good intentions, or a deep desire to have children now (sometimes) feel guilty, because the adoption appears to be surrounded by abuse, or the transition from another culture has led to major problems. Some adoptive parents also feel like victims.

Adoptees

- Adoptees face all kinds of problems in their youth to a greater extent than a comparable group of non-adoptees. For some adoptees, such problems are permanent, while for others the problems are temporary.
- The majority of adoptees are generally positive about their own adoption. The connection that adoptees feel with the Netherlands is great. More than three quarters say adoption has given them more opportunities.
- About half of the adoptees indicate that they have been looking for more information about their adoption and/or background. Of the half who did not do this, more than a third indicate that they will (perhaps or certainly) look for this in the future.
- The search for information about the adoption or the background turns out to be a laborious process, in which the information found often turns out to be incorrect.
- Many adoptees are partly or completely unable to find out their identity. Not knowing their origin and having to live with unanswered questions cause anger, pain and sadness in some.
- The vast majority of adoptees want recognition from the Dutch government for the loss that is partly caused by the actions or negligence of the government, and which has damaged confidence in the government.
- In addition to recognition, adoptees need more specialised psychological help and support in tracing their origins, such as making archives accessible, making DNA research available and facilitating searches.

13 Recommendations

The Committee finds serious shortcomings in the way in which the Dutch government and intermediaries have dealt with adoption abuses. The trust of many adoptees and other involved parties in the Dutch government and intermediaries has been violated as a result.

The established abuses cannot be reversed. The Committee therefore wants to ensure that the consequences of the abuses receive sufficient attention and that they are prevented in the future. This concerns abuses in intercountry adoption, but care must also be taken to prevent abuses occurring in new forms of family formation, such as commercial surrogacy.

The Committee urges that the following recommendations be taken up vigorously and that valuable time is not wasted, given that the birth parents of many adoptees are now elderly.

The Committee recommends the following to the Minister for Legal Protection:

1. Government recognition

Recognise that the government has failed to address adoption abuses.

Explanation

The Committee points to the need for the government to restore its violated relationship with adoptees, adoptive parents and birth parents and family. One condition for this is the recognition by the government that it has failed to combat adoption abuses. An attitude of openness and transparency towards those who want to retrieve information from the past is appropriate in this respect.

2. Suspension of intercountry adoption

The current system of intercountry adoption with private elements cannot be maintained. The Committee has serious doubts whether it is possible to design a realistic public law system in which the identified abuses no longer occur. Pending decision-making, the Committee recommends to suspend the implementation of intercountry adoptions.

Explanation

The Committee has established that the system of intercountry adoption with its private elements, such as private intermediaries, is susceptible to fraud and to date, has given rise to abuses. The actual options are an important element in the decision-making process

to supervise the process of intercountry adoption from the Netherlands within and outside the national border. In the meantime, the Committee recommends taking a hold in the form of a suspension. Attention must also be paid to transitional law.

The Committee has doubts whether it is possible to design a realistic alternative system, given that the many attempts to reduce abuses by means of stricter regulation of the current system have failed to date.

Finally, the Committee points out the importance of drawing lessons from the past. The inability to combat abuses in intercountry adoption in recent decades calls for measures for future forms of family formation that resemble intercountry adoption, such as surrogacy, for example.

3. Establishment of a national Expertise Centre

Provide an independent national Expertise Centre in which knowledge in the field of identity questions, root searches and aftercare is bundled so that adoptees are facilitated in accessing their files, the search for their birth parents, finding suitable psychosocial help and legal support.

Explanation

With this recommendation, the Committee wants to ensure that the consequences of the adoption receive sufficient attention by offering adoptees support with questions about origins and providing care and aftercare. This goal can be achieved by making expertise and infrastructure available. This includes facilitating access to domestic and foreign adoption files and the search for the birth family, including the parents and other relatives such as (half-)siblings.

The Expertise Centre also provides access to low-threshold facilities that offer good aftercare to adoptees and adoptive parents, and guide them with the specific life questions associated with adoption in the form of professional psychological help or the search for it. Legal support can include matters such as name or age change, multiple nationality and revocation of adoption.

It is important that the government ensures that the current associations, foundations and other organisational links of adoptees and those involved come together so that optimal use can be made of existing knowledge.

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 of 1967-1998 and on the countries of 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 signs 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 signs of abuse in other countries and in the period after 1998. 1998 is the year in which the Hague Adoption Convention (1993 HC) 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 States 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 1993 HC 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 1993 HC 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 States 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 States 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 States 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 States 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 States 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 States of origin.

The Dutch intermediaries saw their primary task as meeting the demand for children. It was difficult to combine this priority with a critical attitude towards the States 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.

List of abbreviations

BIA	Dutch Bureau for Intercountry Adoption and Youth Welfare [Stichting Nederlands Bureau voor Interlandelijke Adoptie en Jeugdwelzijn]
CBS	Statistics Netherlands [Centraal Bureau voor de Statistiek]
Fiom	Dutch Single Mother Association for the Federal Territory [Federatie van Instellingen voor de Ongehuwde Moeder]
1993 HC	The 1993 Hague Adoption Convention
IAPA's	Instituciones Autorizadas para desarrollar el Programa de Adopción
ICBF	Instituto Colombiano de Bienestar y Familiar
ICS	International Commercial Surrogacy
IJZ	Youth Care Inspectorate [Inspectie Jeugdzorg]
IND	Immigration and Naturalisation Service [Immigratie- en Naturalisatiedienst]
ISS	International Social Service
UNCRC	International Convention on the Rights of the Child
J&S	Ministry of Justice and Security
MinFA	Ministry of Foreign Affairs
MinJus	Ministry of Justice
MVV	Dutch-long stay visa [Machtiging tot voorlopig verblijf]
NVP	Dutch Association for Foster Families [Nederlandse Vereniging voor Pleeggezinnen]
RSJ	Council for the Application of Criminal Law and Youth Protection [Raad voor Strafrechtstoepassing en Jeugdbescherming]
RvdK	Child Care and Protection Board [Raad voor de Kinderbescherming]
SAV	Adoption Facilities Foundation [Stichting Adoptievoorzieningen]
SIA	Foundation for Intercountry Adoption [Stichting Interlandelijke Adoptie]
TdH	Terre des Hommes
S&J	Ministry of Security and Justice
UN	United Nations
Wob	Government Information (Public Access) Act [Wet openbaarheid van bestuur]
Wobka	Placement of Foreign Children Act [Wet opnemng buitenlandse kinderen ter adoptie]
Wobp	Placement of Foreign Foster Children Act [Wet opnemng buitenlandse pleegkinderen]

Glossary

Term	Description/definition
Adoption	The legal placement of a child not of your own. Adoption creates a new, legally established family relationship between the adoptive parent(s) and the child.
Adoption triangle	Term used for the three parties directly involved in an adoption, namely: the birth parent(s), the adoptee(s) and the adoptive parent(s).
Adoption market	Term used by some scholars to emphasise the financial and political-economic incentives associated with the adoption system. Also called “baby market”.
Adoptive parent(s)	Person(s) or couple adopting a child. After the court has pronounced the adoption, a new, legal family relationship arises between the adopted child and the adoptive parent(s).
Adoption system	The entirety of government and private organisations that deal with intercountry adoption and the applicable laws and regulations. Also called adoption regime. This report emphasises the mechanisms and actions of the Dutch government and intermediaries in intercountry adoption.
Declaration of relinquishment	Written document signed by the birth parent(s) stating that they are relinquishing their child.
Apostille Convention	International treaty that provides for the use of certain official documents (such as birth certificates) abroad by means of a certificate procedure, the Apostille.
Baby farms	Places where women are made pregnant or stay to give birth; to then give up their new-born child for adoption (whether or not against their will and/or payment).
Baby market	See adoption market.

Declaration of approval in principle	Written notification issued by the Ministry of Justice to prospective adoptive parents that “in principle there is no objection” to the placement of a foreign adopted child.
Intermediary(ies)	Organisation/agency involved in the adoption system on a professional or voluntary basis. Also called: adoption intermediary; adoption institution; adoption agency; mediating body organisation; mediation body(ies), license holder(s) (after the introduction of the Wobp in 1989).
Domestic adoption	Placement of a child, whereby both the child and (one of) the adoptive parent(s) have the same nationality and/or reside in the same country.
Central Authority	Body charged with implementing and enforcing the adoption policy of a country that is a member of the Hague Adoption Convention (1993 HC).
Commodification	Turning something into a tradable commodity.
Surrogate mother(hood)	A woman who bears a child for a person or couple. A surrogate mother is considered to be a woman who has become pregnant with the intention of giving birth to a child on behalf of someone else who wishes to acquire parental authority over that child or who otherwise wishes to permanently take on the upbringing of that child.
Adoptee(s)	A person who is a full child of adoptive parents in a legal sense, where the legal ties between the adoptee and the birth parent(s) have been severed. Also called: adoptive child.
Birth mother	The woman from which an adoptee was born. Other words are: distance mother; biological mother; original mother; natural mother.
Birth parents	The parents from which an adoptee is born. Also called: natural parents; biological parents; distance parents; original parents.
Hague Adoption Convention (1993 HC)	Convention that includes safeguards and guidelines for intercountry adoption. The 1993 HC was established in May 1993. In the Netherlands, it entered into force in 1998.
International Convention on the Rights of the Child (UNCRC)	The UNCRC, also known as the United Nations Convention on the Rights of the Child, was drawn up in 1989. It entered into force in the Netherlands in 1995. The UNCRC consists of the rights of children under the age of 18. Article 21 in the convention is devoted to adoption.

Immigration and Naturalisation Service (IND)	The IND is part of the Ministry of Justice. The IND implements Dutch immigration policy, such as assessing and granting residence applications for persons who wish to (permanently) reside in the Netherlands. Until 1993, the Immigration Service was the predecessor of the IND.
Chain consultation	Periodic meeting of stakeholders within the adoption chain, including the licensed intermediaries and the Central Authority.
Child theft	Kidnapping; child abduction.
Child trafficking	Clandestine market in trafficked children; sale of children. Also called: child laundering.
Dutch long-stay visa (mvv)	Entry visa for establishment in the Netherlands. An mvv is applied for at the Dutch diplomatic representation in the child's State of origin and is issued by the Ministry of Foreign Affairs.
Abuse	With abuse, the Committee understands: acts or omissions that are contrary to applicable national or international laws and regulations, as well as acts or omissions that are not formally inconsistent with applicable national and international laws and regulations, but are ethically irresponsible.
Moratorium	Legal term meaning suspension.
(Board of) Principal Public Prosecutors	The national leadership of the Public Prosecution Service (OM). The Board determines the investigation and prosecution policy of the Public Prosecution Service. This makes it the highest decision-making body within the Public Prosecution Service.
Child Care and Protection Board (RvdK)	The Board that advises on the suitability of adoptive parents to have a child placed with them. The Board carries out the home study and advises the Minister of Justice on the granting of a declaration of approval in principle.
Special needs (adoptive) child	A(n) (adopted) child with (any form of) a psychological, medical, cosmetic or other type of condition.
Full adoption	Full adoption occurs when the legal family relationship between the adopted child and the birth parent(s) is broken and is replaced by family law relationships between the adoptive parent(s) and the adopted child.
Principal subsidiarity	Principle that sees intercountry adoption as the last resort for possible child protection. Before intercountry adoption, other options should be explored.

State Party(ies)	A country that has signed and ratified the Hague Adoption Convention.
Concealment of status	Deliberately making a person's parentage and true descent ambiguous or uncertain.
License holder system	The system of licenses set up by the Ministry of Justice in 1989 for organisations that mediate in intercountry adoption, and thus implies a ban on mediation without a license.
Principle of trust	Starting point included in the 1993 HC. The aim is to ensure that State Parties can rely on each country to perform its duties and responsibilities properly.
Aliens Act implementation guidelines	The Aliens Act Implementation Guidelines contain the policy and implementation rules for Dutch immigration policy.
Government Information (Public Access) Act (Wob request)	Dutch citizens can submit a Wob request to have certain government information disclosed.
Placement of Foreign Children Act (Wobka)	Current Dutch adoption legislation. In 1989, the <i>Placement of Foreign Foster Children Act</i> [Wet opnemng buitenlandse pleegkinderen] (Wobp) came into effect, which in 1998 was renamed to the <i>Placement of Foreign Children Adoption Act</i> [Wet opnemng buitenlandse kinderen ter adoptie] (Wobka).
DIY individual (DIY adoptions)	Intercountry adoption without the use of a licensed intermediary.
Simple adoption	Adoption whereby the existing family relationship between the adoptee(s) and the birth parent(s) is not broken.

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Commissie onderzoek
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