

Introduction

On 23 August 2022, the Danish Korean Rights Group (DKRG) – the Danish human rights organisation for adoptees from Korea – submitted a request to Korea's Truth and Reconciliation Commission (TRC) to investigate adoptions.

The request consisted of two components. One was a request to investigate the role of the Korean state and the adoption agencies in international adoptions from Korea. We refer to this as the systemic component. The other was to investigate a number of individual cases concerning the circumstances of adoptees.

The second component was divided into two subgroups. Subgroup 1 concerned individual adoptees who had a reasonable suspicion of, or documentation for, human rights violations. Subgroup 2 concerned individual adoptees who wished to have the background information in their official adoption records examined.

The two subgroups of individual cases were created because it was assumed that the majority of adoptions from Korea would be unproblematic, and that the aim was to identify individual adoption cases in which there were reasonable grounds for suspicion or evidence of unlawful or problematic circumstances.

In this way, it was assumed that the cases in Subgroup 2 would not only be investigated and clarified, but could also serve as a methodological control group for the cases in Subgroup 1, which were defined by suspicion or evidence of unlawful acts and serious human rights violations.

Our assumption when we began turned out to be naïve and trusting. Like the adoptees themselves and the adoptive parents in the receiving countries, we too had believed in the narratives of the adoption agencies over decades, and in the prevailing adoption discourse.

Our assumption that the majority of adoptions would be lawful, and that the issue was merely to identify the problematic ones, proved to be a wrong assumption on our part.

The South Korean NGO KoRoot has reviewed approximately 3,000 adoption cases since 2022. We have not been able to identify a single adoption case that does not contain significant unlawful actions or serious human rights violations.

3,000 cases do not represent all adoptions among the approximately 200,000 adoption cases that exist worldwide.

At a 95% confidence level and a $\pm 2\%$ margin of error, a sample size of about 2,400–3,000 cases is sufficient — regardless of whether the population is 50,000 or 200,000.

The statistical method referred to here is called statistical inference.

Critics (often the adoption agencies and proponents of uncontrolled handling of children) will claim that 3,000 cases are merely isolated incidents and that generalisation is therefore not possible. This criticism is countered by facts based on the statistical and methodological approach.

Population	Sample size for $\pm 2\%$ margin of error	Confidence level
50,000	ca. 2,400	95%
200,000	ca. 2,500–3,000	95%

This means that generalisability does not depend on the number alone, but on how the sample is selected and how consistent the patterns are.

Methods	Explanation
Systemic evidence	If document forgery occurs across time, actors, and types of cases, it is structural and not coincidental.
Methodological consistency	A uniform investigative method in all cases strengthens the validity and credibility of the conclusions.
Representativeness	A sample that reflects the variation in the entire population can be used for generalisation.
External corroboration	Other investigations or data sources showing the same pattern weaken the criticism and strengthen the conclusion.

DKRG's and KoRoot's investigative basis covers adoption cases from 15 countries: Denmark, Norway, Sweden, Finland, Germany, the Netherlands, Belgium, Luxembourg, France, Switzerland, Canada, the USA, Australia, Italy, and Korea.

The first surprising conclusion we reached is that the nature of the illegality or human rights violations does not depend on which country the adoptee was sent to.

There are four major adoption companies in Korea that have acted as adoption agencies: Holt Children's Services, Inc. (Holt), Eastern Welfare Society, Inc. (Eastern), Korean Social Service, Inc. (KSS), and Korean Welfare Service, Inc. (KWS – formerly CPS – Child Placement Services and SWS – Social Welfare Society).

In addition, there are older adoption entities that operated through a combination of so-called private placements. These include the Seventh-day Adventists (known, among other things, from Seoul Sanitarium and Hospital – SSH), the international organisation ISS (International Social Services), and private individuals connected to the National Medical Center in Korea (NMC), such as foreign doctors' wives who, as accompanying spouses, engaged in the supply of Korean children. Korean adoption companies (such as Holt) assisted these private individuals in finding children. These so-called private adoptions represent a smaller number of adoptions with a far more varied approach than the four major Korean adoption companies.

Our surprising conclusion is based on the fact that the four major adoption companies – Holt, KSS, Eastern, and KWS – all used the same methods. Their letterheads, logos, typefaces, and document layouts may differ, but the procedures and document contents are exactly the same – a one-to-one match.

This means that in adoptions, it is not decisive which country the adoptee is sent to. As long as the placement has taken place through one of the four Korean adoption companies, the damage in terms of unlawful acts and serious human rights violations has already occurred before the adoptee left Korea.

In a number of adoption cases, it has been established that a child's destination country was changed during the process in Korea. Instead of being sent to the USA, the child was sent to Denmark — on the same problematic documents.

In other cases, children prepared for international adoption were changed to domestic adoption. Instead of being sent to, for example, Denmark, the child remained in Korea and was assigned to a Korean family. There are also cases where a child initially prepared for domestic adoption in Korea was instead sent for international adoption to, for example, Denmark.

The conclusion is important for understanding adoptions for those who wish to work on and study Korea's role in international adoptions. Research and examination of adoptions should take as their starting point the systemic circumstances.

In relation to DKRG's request to the Commission, it can therefore be concluded that the systemic circumstances have major human consequences for adoptees and their relatives – and arise from problematic legal conditions and serious breaches of international law and treaty obligations.

Illegal and unlawful adoptions?

What is an adoption? Here are some official definitions based on the legal determination of what adoption is:

“To adopt a child means to take the child into one's family as if it were one's own. Adoptive parents have the same rights and duties as biological parents, including parental custody.” (Scandinavia and Europe)

“Adoption involves a complete change of family. The adopted child loses the right of inheritance from the biological family. The adopted child and its descendants acquire inheritance rights from the adoptive parents and their relatives.” (Scandinavia and Europe)

“A legal act whereby a person is entered into a family's genealogy as an heir, typically to carry on the family's name and lineage.” (Korea)

These are excerpts from common legal definitions of what adoption actually is. In short, adoption is a legal act whereby a non-biological child becomes a legal member of a new family and obtains the same legal inheritance rights as if the child had been born to the family, and the adoptive parent(s) assume the same legal obligations toward the child as if it were their biological offspring.

In adoptions, it is therefore essential that adoption is not seen as a single concept, but that focus is placed on the processes leading to adoption.

These two aspects must be viewed as separate processes. The adoption itself may have been entirely legal in the receiving country, but the problematic part lies in how the child was

obtained for adoption and the processes that took place prior to the adoption proceedings in the receiving country.

In assessing legal, ethical, and human rights issues, focus is placed on the following:

1. How the child is obtained by the adoption agencies and childcare institutions
2. How the obtained child is treated after being received by the adoption agencies and childcare institutions
3. How the child's departure is prepared and the child is sent to the receiving country
4. The adoption process in the receiving country (not addressed here)

DKRG and KoRoot's Work, Research, and Methodology

The work carried out by DKRG and KoRoot is primarily undertaken by adoptees. Being adopted is not, in itself, a qualification. The adoptees with whom DKRG and KoRoot collaborate are spread across 15 countries and speak 10 different languages (Danish, Norwegian, Swedish, Finnish, German, French, Flemish, Italian, Korean, and English).

The foundation of DKRG and KoRoot's work is that these adoptees, in their respective home countries, hold professional positions as doctors, pharmacists, researchers, lawyers, historians, police officers, economists, and many more.

In addition, non-adoptees have contributed their expertise to DKRG and KoRoot's work. For example, at the University of Copenhagen, researchers and professionals in medical disciplines such as internal medicine, forensic medicine, paediatrics, and obstetrics have assisted DKRG in research and documentation for the Korean Truth and Reconciliation Commission.

Independent investigations and research have been conducted at a high professional standard, focusing on factual matters and scientific analysis.

The aim has been to conduct research and analysis on a professional basis. A clear distinction has been maintained between political, ideological, or emotional positions on adoption and purely factual and objective matters.

This is why DKRG's work and methods differ greatly from the traditional discourse on adoption, which for decades has revolved around being for or against adoption.

The traditional discourse has been shaped by subjective narratives:

1. Rescue and Salvation Narrative

“Adoption is a humanitarian act, where the child is rescued from poverty and given a better life.”

This narrative has been central to the adoption industry, particularly in international adoptions.

It portrays adoptive parents as saviours and the child as passive and grateful.

It often overshadows the child's loss of origin, identity, and family.

2. **Seamless Integration Narrative**

"The adopted child becomes part of the family and society without significant problems."

This narrative ignores the psychological, cultural, and legal challenges that many adoptees face.

It has contributed to a lack of follow-up and support for adoptees in adulthood.

3. **Legal Correctness Narrative**

"If the adoption is approved by the authorities, it is automatically legal and ethically sound."

DKRG and KoRoot challenge this by demonstrating that the procurement of the child may have been problematic, even if the adoption itself was legally approved.

This shifts the focus to the pre-adoption process, which has often involved document falsification, coercion, and lack of consent.

4. **Silence and Loyalty Narrative**

"Adoptees should be grateful and should not question their adoption."

This narrative has fostered a culture in which criticism of adoption is seen as disloyal or emotional.

DKRG and KoRoot have broken with this by insisting on professionalism, objectivity, and documentation.

The adoption system in South Korea has historically been shaped by a perception of adoption as a welfare task rather than a legal and human rights process. This approach has been rooted in an ethics of benevolence, where the intention to do good for the child overshadowed a more structured, rights-based understanding of the complexity of adoption. Christian religious values have also played a central role in shaping adoption practices, especially through the private organisations that have dominated the field.

Until recently, adoption in South Korea was primarily managed by private actors under the supervision of the Ministry of Health and Welfare. Organisations such as Holt International Children's Services, founded by American missionaries in the 1950s, have had a decisive influence on both national and international adoption practices. Holt and similar organisations have operated on a Christian ideological foundation, viewing adoption as an act of charity and salvation. Narratives of "rescuing" children and giving them a better life have been prominent, and slogans such as "Born not from our flesh, but born in our hearts" illustrate the emotional and religious approach that has shaped the field.

Slogan/Motto	Recognised Narrative	Explanation
“Every child deserves a loving home”	🔴 Rescue and Salvation	Portrays adoption as a solution to a child’s hardship without addressing the loss of origin.
“Love makes a family”	❤️ Seamless Integration	Romanticises integration and ignores the complexity of identity and belonging.
“Adoption: A journey of love”	✉️ Silence and Loyalty	Focuses on love while avoiding critical questions about rights and origins.
“Chosen, loved, adopted”	✅ Legal and Moral Correctness	Implies that adoption is inherently moral and legally sound.
“Born not from our flesh, but born in our hearts”	💭 Emotional Idealisation	Sentimentalises adoption and overshadows systemic and legal issues.

Historically, these slogans have served as effective communication strategies to generate positive attention and financial support for adoption organisations. However, they have also helped construct and perpetuate a one-sided discourse in which adoptees’ own experiences, perspectives, and rights have been marginalised or overlooked.

In contrast to the normative and emotionally driven narratives that have historically dominated the discourse on international adoption, DKRG and KoRoot base their work on verifiable facts and cross-disciplinary evidence. This methodological and documentation-based approach inherently contrasts with the ideologically and sentimentally framed portrayals that have characterised the adoption industry for decades.

By allowing objective data, legal analysis, and empirical research to form the basis of investigations into adoption practices, a knowledge framework is established that not only challenges prevailing narratives but also marks a paradigmatic shift towards a factual and analytical understanding of the structural, ethical, and legal issues that adoption entails — both in historical and contemporary contexts.

As international adoptions from South Korea have come under increased international legal and political scrutiny, organisations such as the Danish Korean Rights Group (DKRG) and KoRoot have assumed a central role in shaping a fact- and research-based narrative. Our

work represents an epistemological challenge to the normative understanding of adoption, which for decades has been shaped by affective and ideological constructs.

Rather than reproducing emotional narratives of rescue and care, DKRG and KoRoot insist on an analysis grounded in documentation, rights violations, and structural accountability.

This approach differs markedly from the historically emotion-driven discourse in which adoption was primarily regarded as a social solution for unwanted or marginalised children. In the prevailing understanding, the adoption system was legitimised through moral notions of charity and family-making, often without critical reflection on the legal and ethical premises. By contrast, DKRG and KoRoot have highlighted how adoption in practice has been characterised by systemic flaws, where lack of transparency, document manipulation, and absence of informed consent have been widespread.

Our work is not merely the uncovering of isolated cases but an exposure of patterns indicating institutional systemic failure. By analysing adoption documents, interviewing affected individuals, and collaborating with legal, historical, and medical experts, we have contributed to a new understanding of adoption as a field in which both state and private actors have failed to protect the fundamental rights of individuals. This approach is methodologically grounded and seeks not subjective moral vindication but objective legal and historical accountability.

It is precisely in this difference – between affective legitimisation and evidence-based critique – that the contrast becomes clear. Whereas the traditional discourse has focused on intentions and notions of benevolence, DKRG and KoRoot insist on analysing consequences and structures. Their work has contributed to prompting South Korea's Truth and Reconciliation Commission to initiate investigations into adoption practices, signalling a shift from narrative framing to legal adjudication.

This development points to a deeper transformation in the understanding of adoption: from a socially and religiously rooted practice to a matter of human rights and law. In this context, DKRG and KoRoot serve as epistemic countervoices that not only correct historical misconceptions but also help redefine what adoption should mean in a modern rule-of-law state.

A central challenge in addressing adoption-related issues in South Korea lies in the deeply entrenched administrative and professional culture operating within vertical and hierarchical silos. Adoption has traditionally been placed under the jurisdiction of the health and welfare sector, which has led to the practice being understood primarily as a matter of social care. This sectoral placement has been accompanied by a value orientation rooted in an ethics of benevolence and intentional goodwill, rather than a structural and legal analysis of the actual circumstances.

This vertical organisation has had significant consequences for how adoption-related problems have been addressed. Human rights violations, document forgeries, lack of consent, and systemic breaches of the law have been treated as administrative irregularities within the welfare sector, rather than as legal and rule-of-law issues. This has resulted in a fragmented sense of responsibility, with no single authority possessing either the mandate or the incentive to investigate and address the cross-cutting implications of adoption practices.

Paradoxically, the solutions to these challenges do not lie in further vertical specialisation, but in a horizontal and cross-sectoral approach. To address the complex and structural problems inherent in adoption, it is necessary to establish cooperation across multiple jurisdictions — including legal authorities, law enforcement agencies, state administrative bodies, and human rights institutions. Such horizontal governance would allow for a more holistic and rights-based handling of adoption cases, shifting the focus from intentions to consequences, and from care to accountability.

It is therefore insufficient to regard adoption solely as a matter of health and welfare. On the contrary, the field should be recategorised as an inter-ministerial and legal matter, where legislation, investigation, documentation, and reparation are integrated components. Only through such a horizontal approach can the systemic violations that have characterised the adoption system be addressed effectively and justly.

This need for a horizontal, rights-based approach is reflected in the conclusions and recommendations of the Korean Truth and Reconciliation Commission.

Key Aspects of Human Rights Violations in Intercountry Adoption

On 26 March 2025, the Truth and Reconciliation Commission (TRC) published its first interim report on adoptions, addressing both individual cases and broader systemic issues in adoptions from Korea.

The South Korean Truth and Reconciliation Commission (TRC), in its investigation into intercountry adoptions from South Korea between 1964 and 1999, has documented extensive and systemic human rights violations. Based on witness statements, archival records, and adoption files, the investigation points to a structural failure in the State's responsibilities and active involvement by adoption agencies and childcare institutions. This text analyses the TRC's conclusions on the roles and responsibilities of the key actors.

The TRC concludes that, for several decades, the Korean State failed to establish and enforce a legislative and administrative system to safeguard children's rights in intercountry adoptions. The State prioritised intercountry adoptions as a cost-effective solution rather than investing in national welfare systems. This policy resulted in:

- **Delegation of full responsibility to private actors:** The State transferred the entire adoption process – from the intake of children to the screening of adoptive parents and legal approval – to private agencies without adequate oversight.
- **Failure to implement legislation:** Although laws such as the Special Adoption Act and its associated regulations required consent and documentation, these provisions were not enforced. The TRC documents that the authorities often approved adoptions without verifying consent, identity, or the suitability of adoptive parents.
- **Absence of international commitment:** South Korea has signed, but not ratified, the Hague Convention on Protection of Children in Intercountry Adoption. The TRC highlights this as a key failure in the State's duty to protect children from trafficking and identity loss.

Adoption agencies such as Holt Children's Services, Korea Social Service, and Eastern Social Welfare Society played a central role in the documented violations. The TRC concludes that these agencies:

- **Falsified documents and identities:** Agencies fabricated reports of abandoned children, substituted identities, and manipulated adoption files to expedite processes and avoid administrative costs.
- **Ignored legal requirements:** Agencies failed to obtain proper consent and documentation, and they breached their legal guardianship duties by transferring children to adoptive parents before the adoptions were legally finalised.
- **Created a commercial adoption market:** The TRC documents that agencies charged compulsory donations and fees exceeding actual costs. These funds were used to ensure a constant supply of adoptable children, creating incentives for unethical practices.

Childcare institutions, including temporary shelters and orphanages, acted as intermediaries in the adoption process. The TRC concludes that these institutions:

- **Contributed to false registrations:** Institutions collaborated with agencies to register children as abandoned, often without genuine attempts to locate their biological families.
- **Failed to protect children:** Institutions neglected to safeguard children's rights and wellbeing, and they accepted transfers and adoptions without questioning the authenticity of the documentation.
- **Denied responsibility during investigations:** The TRC documents cases where institutions refused to assist biological families searching for their children, and where staff expressed that they had no obligation to use resources to reunite families.

Based on data from national archives, interviews, and adoption records, the TRC documents the following systemic violations:

- **Lack of consent and falsified documents:** Adoption procedures were often carried out without proper legal consent from biological parents. Children were registered as abandoned through fabricated reports, constituting a violation of criminal provisions on document forgery.
- **Identity substitution and loss of origin:** In cases where a child died or was retrieved by their biological family, another child was assigned the original identity to expedite adoption. This undermined the child's right to identity and origin, as protected by the UN Convention on the Rights of the Child.

- **Inadequate screening of adoptive parents:** The TRC documents that 99% of adoption approvals in 1984 were granted on the same day or the day after the application, indicating a superficial assessment of adoptive parents' suitability.
- **Commercialisation and compulsory donations:** Adoption became, in practice, a profit-driven industry, with adoptive parents required to pay "donations" in addition to official fees. These funds were used to maintain a constant supply of adoptable children, incentivising unethical practices.
- **Mass export of children:** Adoptions were organised to meet foreign agencies' quotas, and children were transported as "cargo" without adequate care. The TRC highlights cases where children died during transport due to neglect of their health needs.
- **Failure of guardianship and abandoned children:** Adoption agencies failed to fulfil their legal duties as guardians, and in several cases, children were abandoned or returned by adoptive parents without State intervention.

TRC's investigation reveals a deeply rooted structure of negligence and complicity within South Korea's international adoption system. The state failed to protect children's rights, adoption agencies prioritized efficiency and profit over ethics, and child institutions contributed to practices that systematically undermined children's rights to identity, family, and protection. TRC recommends an official apology, legal reparations, and ratification of international conventions as necessary steps toward justice and accountability.

The South Korean Truth and Reconciliation Commission (TRC), in its comprehensive investigation of international adoptions from South Korea between 1964 and 1999, concluded that the state's adoption practices were not only administratively deficient but also in direct violation of the country's constitution and international human rights standards. TRC's findings document systemic violations of fundamental rights, including the right to identity, family life, and legal protection.

TRC concludes that over nearly five decades, the Korean state failed to ensure children's rights in international adoptions, constituting breaches of several articles in the South Korean constitution. In particular, the following are emphasized:

The right to human dignity and identity: By permitting systematic manipulation of children's identities and registering them as "abandoned" without documentation, the state violated the individual's right to know their origin and maintain their legal identity.

The right to legal security and protection: Lack of oversight of adoption agencies and absence of effective complaint mechanisms undermined citizens' access to justice and state protection.

The state's positive obligation to protect children: By prioritizing international adoption as a

socio-political solution without establishing an adequate welfare system, the state failed its constitutional duty to protect children as vulnerable citizens.

TRC identifies multiple violations of international human rights conventions that South Korea has either ratified or is obliged to respect under international law:

The UN Convention on the Rights of the Child (CRC): Adoption practices violated Articles 7 and 8, which guarantee the child's right to a name, nationality, and family relations. Identity substitution and lack of documentation systematically undermined these rights.

The International Covenant on Civil and Political Rights (ICCPR): Lack of legal security and absence of effective complaint mechanisms for adoptees and their biological families constitute breaches of Articles 2 and 14 concerning access to remedies and fair treatment.

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption: Although South Korea signed the convention, it has not ratified it. TRC highlights this as a central cause of the adoption system operating without international oversight and lacking guarantees to prevent abduction, trafficking, and unethical practices.

TRC emphasizes that these violations were not isolated errors but expressions of systemic failure where the state actively or passively allowed private actors—adoption agencies and child institutions—to operate without sufficient control. This resulted in:

- A practice where children were treated as export commodities
- A system where financial incentives overshadowed ethical considerations
- A persistent violation of adoptees' rights to truth, identity, and legal protection

DKRG and KoRoot Legal Framework

1) The Rome Statute and the ICC Crimes Act: Legal Basis for Assessing Human Rights Violations in International Adoptions from South Korea

In light of the South Korean Truth and Reconciliation Commission's (TRC) findings regarding systemic violations in international adoptions, the legal basis for assessing state responsibility is not limited to national constitutional law and human rights conventions but also includes international criminal law. Particularly relevant is the Rome Statute of the International Criminal Court (ICC), which South Korea has ratified and incorporated into domestic law through a specific statute: the ICC Crimes Act.

The provisions of the Rome Statute and their Korean implementation can be used as a legal framework to evaluate whether adoption practices constitute crimes against humanity or other international crimes.

The Rome Statute, adopted in 1998 and entered into force in 2002, established the ICC and defines four main categories of international crimes: genocide, crimes against humanity, war crimes, and aggression. South Korea signed the Rome Statute on March 8, 2000, and ratified it on November 13, 2002. To ensure national jurisdiction over these crimes, South

Korea enacted a separate law in 2007: the Act on the Punishment of Crimes under Jurisdiction of the International Criminal Court, commonly known as the ICC Crimes Act. This law criminalizes the crimes enumerated in the Rome Statute under Korean law and establishes procedures for cooperation with the ICC.

The law has a dual purpose: to ensure that serious international crimes can be prosecuted nationally, and to fulfill South Korea's obligations as a State Party to the Rome Statute. The ICC Crimes Act contains detailed provisions on genocide, crimes against humanity, and war crimes, thus constituting a central legal basis for assessing systemic abuses, including those that may have been committed through the adoption system.

Article 7 of the Rome Statute defines crimes against humanity as acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Among the acts that may constitute such crimes are deportation or forcible transfer of population, persecution of an identifiable group, enslavement, and other inhumane acts.

In the context of international adoptions from South Korea, which the TRC has documented as characterized by systematic identity manipulation, false registrations, and forced separation from biological families, several of these categories may be relevant. In particular, deportation and forcible transfer may apply if children were removed from their families and sent abroad without lawful consent or without attempts at family reunification. Enslavement may be relevant if children were treated as property or exploited economically, while persecution may be applicable if adoptions were used to marginalize certain social or ethnic groups.

Furthermore, the Rome Statute's open wording on "other inhumane acts" allows for inclusion of practices that do not necessarily fall under the classical categories but nonetheless constitute serious violations of human dignity. Systematic manipulation of children's identity, substitution of children, and absence of state protection can in this context be considered such acts.

South Korea's ICC Crimes Act criminalizes the above-mentioned crimes in accordance with the Rome Statute's definitions. The law enables Korean authorities to prosecute individuals, including officials and institutional leaders, who have contributed to such crimes. Thus, the law constitutes a potential instrument for judicial follow-up on the TRC's conclusions, provided that responsibility and proof of systemic character and knowledge of the abuses can be established.

The Concept of "Enforced Disappearance"

The concept of "enforced disappearance" has developed in international criminal law into an independent category of crime against humanity. Article 7(1)(i) of the Rome Statute recognizes enforced disappearance as one of the acts which, when committed as part of a widespread or systematic attack against a civilian population, constitute a crime against humanity. In light of the South Korean Truth and Reconciliation Commission's documentation of systemic manipulation of children's identity and covert removal from biological families, it is relevant to examine whether certain adoptions can be classified as enforced disappearances under criminal law.

Article 7(2)(i) of the Rome Statute defines “enforced disappearance” as:

“Arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.”

This definition contains three central elements:

- Deprivation of liberty (arrest, detention or abduction)
- State involvement or acceptance
- Denial of the deprivation of liberty and concealment of the person’s fate and whereabouts

In the context of international adoptions from South Korea, the concept of enforced disappearance may be invoked if the following conditions are met:

- Children were removed from their biological families without lawful consent or proper documentation.
- The State or State-approved institutions (adoption agencies, orphanages) actively or passively participated in the removal.
- Access to information about the child’s origin, identity, and fate was subsequently denied—to both the child and the biological parents.

The TRC has documented that many children were registered as abandoned without evidence, that their identities were altered, and that biological parents in several cases were not informed about the child’s fate. Legally, this can constitute an enforced disappearance, as the child is removed from legal protection, and both the child and family are left uncertain about each other’s existence and whereabouts.

In the assessment of human rights violations in international adoptions from South Korea, the concept of enforced disappearance is central. The Rome Statute of the International Criminal Court (ICC) recognizes enforced disappearance as a crime against humanity, and South Korea has incorporated this provision into national law through the ICC Crimes Act (Act No. 8719 of 2007).

Article 7(1)(i) of the Rome Statute classifies enforced disappearance of persons as a crime against humanity when committed as part of a widespread or systematic attack against a civilian population. Article 7(2)(i) defines the concept as:

“Arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those

persons, with the intention of removing them from the protection of the law for a prolonged period of time.”

This definition contains three key elements:

- A deprivation of liberty (arrest, detention or abduction)
- State involvement or acceptance
- Subsequent denial of the deprivation of liberty and concealment of the person’s fate and whereabouts

South Korea ratified the Rome Statute on November 13, 2002, and enacted the ICC Crimes Act in 2007 to fulfill its international obligations. The law grants Korean courts jurisdiction over crimes covered by the Rome Statute, including crimes against humanity such as enforced disappearance.

It prescribes penalties, including life imprisonment, and establishes procedures for cooperation with the ICC, as well as the application of national laws on extradition and mutual legal assistance.

In the context of international adoptions from South Korea, as documented by the TRC, certain adoptions may legally qualify as enforced disappearances. The TRC has demonstrated that:

- Children were registered as abandoned without evidence
- Identities were manipulated or substituted
- Biological parents were denied access to information about their children’s fate
- The State and authorized agencies actively or passively participated in these acts

These circumstances meet the criteria set out in the Rome Statute’s definition. The removal of children from their families without lawful grounds, combined with the State’s failure to acknowledge the removal and denial of access to information, can constitute an enforced disappearance, as the child is removed from the protection of the law for a prolonged period.

The UN Working Group on Enforced Disappearances has emphasized that enforced disappearance does not necessarily require physical deprivation of liberty but rather systemic denial of the individual’s existence and rights.

The Inter-American Convention and the UN Convention for the Protection of All Persons from Enforced Disappearance (2006) oblige states to prevent and prosecute such acts, even when committed by non-state actors with the State’s consent.

The provisions on enforced disappearance in the Rome Statute and South Korea's ICC Crimes Act form a solid legal basis for assessing whether certain international adoptions from South Korea constitute crimes against humanity. When children are removed from their families without lawful grounds and the State fails to provide information about their fate, they are placed outside the protection of the law—a core element of the concept of enforced disappearance. Korean legislation enables national prosecution of such acts and should therefore be activated in follow-up to the TRC's conclusions.

South Korea has in recent years attracted international attention regarding documentation of systematic abuses in international adoptions, including child abduction, coercion of biological mothers, and falsification of identities. The question remains whether Korean law provides sufficient grounds to prosecute responsible actors—both public and private—and whether the Rome Statute and ICC Crimes Act can be used to lift statutes of limitations and qualify these acts as crimes against humanity.

South Korea ratified the Rome Statute in 2002 and enacted the Act on the Punishment of Crimes within the Jurisdiction of the International Criminal Court (ICC Crimes Act) in 2007. This law implements Article 7 of the Rome Statute on crimes against humanity, including Article 7 on enforced disappearance of persons.

The ICC Crimes Act criminalizes these acts when committed as part of a widespread or systematic attack against the civilian population, and with State involvement, support, or acquiescence.

Article 29 of the Rome Statute establishes that crimes under its jurisdiction are not subject to statutes of limitations. The ICC Crimes Act recognizes this principle, meaning that:

- Acts committed in the 1970s and 1980s—as documented by the Truth and Reconciliation Commission (TRC)—can be prosecuted today if qualified as crimes against humanity.

This is crucial, as many relevant acts would otherwise be time-barred under general Korean criminal law.

South Korea's criminal law contains several provisions applicable to the concrete acts:

Act	Criminal Code Provision
Illegal deprivation of liberty	Article 276
Forgery of documents	Articles 231–234

Coercion and threats	Article 324
Child abduction	Article 287
Injury during deprivation of liberty	Article 281

These provisions can be applied alongside the ICC Crimes Act, especially when specific acts are committed by individuals or institutions.

The TRC's documentation indicates that:

- Children were systematically registered as abandoned without evidence
- Biological mothers were coerced to sign consent under pressure
- Adoption agencies and public authorities collaborated to conceal identities

These circumstances meet the criteria for a systematic attack against the civilian population, with State involvement or acquiescence. Therefore, there is grounds to apply the ICC Crimes Act and qualify the acts as crimes against humanity.

There is a clear legal basis under Korean law for prosecuting enforced disappearance and related acts in international adoptions. The ICC Crimes Act implements Article 7 of the Rome Statute and removes statutes of limitations, making it possible to prosecute systematic abuses committed in earlier decades. Korean criminal law complements this with specific provisions on abduction, coercion, and document forgery.

Sources:

- Rome Statute of the International Criminal Court
- UN Working Group on Enforced Disappearances
- ICC Crimes and Punishment Act, Republic of Korea

2) The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)

The ICPPED, adopted by the United Nations General Assembly on 20 December 2006 and entering into force on 23 December 2010, is a core human rights instrument aimed at preventing, combating, and prosecuting enforced disappearances. The Convention stipulates that no one shall be subjected to enforced disappearance under any circumstances – not even in times of war, states of emergency, or political unrest (Article 1).

The Republic of Korea ratified the ICPPED on 8 December 2022. Although no specific implementing legislation has yet been adopted, the Convention has legal effect in Korean law through the following mechanisms:

- **Constitutional status:** Ratified treaties have the same rank as national laws and may be directly applied by the courts.
- **Precedent:** Korean courts have previously applied international conventions as sources of law, particularly in human rights cases.

The ICPPED defines enforced disappearance in Article 2 as:

“Arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.”

The Convention obliges States to:

- Criminalise enforced disappearance in national legislation (Article 4)
- Investigate and prosecute both State and non-State actors where the State has been complicit (Article 3)
- Guarantee victims’ rights to truth, reparation, and access to information (Article 24)

The Truth and Reconciliation Commission (TRC) has documented that thousands of children were removed from their families without proper consent, registered as abandoned without evidence, and sent abroad with no possibility of contact with their origins. Where such acts occur with State involvement and are followed by the denial of the child’s fate, they meet the criteria for enforced disappearance as defined in the ICPPED.

The Convention therefore provides a clear legal basis to:

- Qualify certain adoptions as human rights violations
- Prosecute involved individuals, including officials and agency directors
- Strengthen victims’ claims to truth and reparation

Point	Rome Statute	ICPPED

Purpose	Prosecution of the most serious international crimes	Prevention and combating of enforced disappearances
Prosecution of individuals	Yes – both by the ICC and national courts (e.g., in South Korea)	Yes – States must prosecute individuals nationally
Court	ICC as an international court, but national jurisdiction takes precedence (principle of complementarity)	Only national courts – no international court
Nature of the offence	Enforced disappearance as part of a systematic attack = crime against humanity	Enforced disappearance is an independent offence, regardless of systematisation
Role of States	Must prosecute themselves – the ICC intervenes only in cases of failure	Must actively prevent, investigate, and prosecute
Scope	Applies to States that have ratified the Rome Statute and implemented it into national law	Applies broadly and requires active State action

Source: OHCHR – ICPPED

The Rome Statute focuses on prosecution, whereas the ICPPED focuses on victim protection and structural prevention.

Requirements for the nature of the offence

The Rome Statute requires that enforced disappearance form part of a systematic or widespread attack against the civilian population to constitute a crime against humanity.

The ICPPED criminalises any single act of enforced disappearance, regardless of whether it is part of a larger pattern.

Adoption cases from the 1970s onwards can potentially be prosecuted if they qualify as crimes against humanity – and if the courts accept the application of international norms as sources of law.

Courts may therefore choose to apply the ICC Crimes Act and the Rome Statute in parallel with the ICPPED, and give weight to the principle of non-applicability of statutory limitations, even in the absence of a separate implementing law for the ICPPED.

3. The UN Convention on the Rights of the Child – UNCRC

The UNCRC plays a central role in the legal and ethical assessment of intercountry adoption cases. Adopted by the UN General Assembly in 1989, it is the most widely ratified human rights treaty in the world, with 196 States Parties, including the Republic of Korea. The Convention defines a child as any person under the age of 18 and establishes that children are independent rights-holders, not merely objects of care.

The best interests of the child as the paramount principle (Article 3)

All decisions concerning adoption must be based on the best interests of the child. This principle obliges both sending and receiving States to ensure that the adoption serves the child's welfare – not economic, political, or institutional interests.

The right to identity and origin (Articles 7 and 8)

Children have the right to know their parents, nationality, and identity. In adoption cases where documents have been falsified or information about the biological family has been concealed, this may constitute a violation of the child's rights.

The right to protection against unlawful removal and trafficking (Articles 11 and 35)

The UNCRC obliges States to prevent the illicit transfer and trafficking of children. Adoptions carried out without consent, on the basis of false information, or through economic exploitation may fall under these provisions.

The Republic of Korea has ratified the UNCRC and is therefore legally bound under international law to comply with its provisions. According to the findings of the InCRC and the TRC, the State has:

- Delegated adoption authority to private agencies without adequate oversight
- Failed to protect children's rights, including the right to identity and family life
- Participated in systematic violations that may be contrary to the UNCRC

Adoption and the Rights of the Child

Article 21 of the UNCRC provides that States permitting adoption must ensure that the best interests of the child are the paramount consideration. It sets out key obligations:

States must:

- Ensure that adoptions are authorised only by competent authorities, and that the decision is based on reliable information regarding the child's status, with informed consent from all relevant parties.
- Recognise that intercountry adoption should only be considered if the child cannot be suitably cared for in the country of origin. Article 21(b) explicitly states that intercountry adoption should be a measure of last resort, when no appropriate care is available in the home country. The large-scale export of children – as documented by the TRC in Korea – may contravene this provision, especially if conducted systematically and without individual assessment.
- Take measures to prevent financial gain and economic exploitation in the adoption process.
- Promote international agreements and ensure that intercountry adoptions are carried out through competent authorities.

Source: UNCRC Article 21 – ICRC database

Article 7 of the UN Convention on the Rights of the Child (UNCRC) forms a cornerstone of the protection of a child's identity and right to belonging. It establishes that every child has the right to be registered immediately after birth, to have a name, to acquire a nationality, and—so far as possible—to know and be cared for by their parents. This provision has both legal and ethical significance and reflects a broad international consensus on the fundamental rights of the child.

Article 7(1) sets out four core rights: registration at birth, the right to a name, the right to a nationality, and the right to know and be cared for by one's parents. These rights are not merely administrative formalities but are fundamental to the child's identity, legal status, and social belonging. Birth registration is a prerequisite for the exercise of other rights, including access to healthcare, education, and protection against exploitation. The right to a name and nationality is essential for the child's legal existence and affiliation to a state, while the right to know and be cared for by one's parents is closely tied to the child's emotional and social development.

Article 7(2) obliges States to ensure the realisation of these rights in accordance with national law and their international obligations, especially in cases where the child would otherwise be stateless. This entails a positive obligation for States to establish effective birth registration systems and to prevent children from losing or being denied citizenship. In practice, this provision is of particular significance for children born in conflict zones, refugee children, and children born out of wedlock, where the risk of statelessness and lack of registration is heightened.

Article 7 is also relevant in adoption cases, especially international adoptions, where the child's access to information about their biological parents may be restricted. The right to know one's parents is not absolute, but must be respected as far as possible. This means that States should strive for transparency and access to origin information, unless there are

compelling reasons to the contrary. Article 7 is therefore not merely a technical provision but an expression of fundamental respect for the child's dignity and identity.

Article 8 of the UN Convention on the Rights of the Child was established as a legal and ethical response to historical practices in which children's identities were systematically disregarded, manipulated, or erased—often as a result of unregulated international adoptions and state intervention. The provision affirms that the child has the right to preserve their identity, including nationality, name, and family relations, and places a positive obligation on States to restore this identity if it has been unlawfully taken from them.

The historical background of Article 8 is closely linked to the development of international adoptions in the 20th century, particularly in the aftermath of wars, political conflicts, and economic inequality. After the Korean War in the 1950s, an extensive international adoption practice emerged, whereby thousands of Korean children were sent to the West—especially the United States and Europe—through private adoption agencies. Many of these adoptions took place without adequate documentation, without the consent of biological parents, and with changes to the child's name, date of birth, and nationality. As a result, the children lost any connection to their origins, and their identities were, in effect, erased.

Similar patterns were documented in Latin America, particularly under the military dictatorships in Argentina and Chile in the 1970s and 1980s, where the children of political prisoners were adopted under false identities as part of state strategies for social control and ideological homogenisation. These children were registered with new names and placed with regime-loyal families, constituting a violation of their right to identity and origin.

Such historical experiences revealed how international adoptions—when not subject to strict legal and ethical safeguards—can result in profound and lasting identity loss. Article 8 was thus formulated as a protective provision to address the harm caused by such practices. It represents an expansion of the human rights concept, recognising the child's psychosocial and cultural integrity as a right in itself.

The provision is based on an understanding of identity as more than just legal data—it also encompasses emotional, social, and cultural bonds that are essential for the child's development and sense of self. In legal and academic contexts, Article 8 can thus be viewed as a normative response to historical practices in which children were treated as objects of state and institutional decisions without regard to their individual rights. International adoptions—particularly those characterised by unregulated practices, lack of documentation, and politically motivated anonymisation—have been a key driving force behind the creation of this provision and its continued relevance in international child law.

Article 8(1) of the UNCRC affirms that “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law, without unlawful interference.” This provision constitutes a fundamental rights standard that protects the child's personal and legal integrity. In the context of international adoptions, Article 8(1) is of particular importance, as cross-border adoption has historically been associated with identity loss, document falsification, and denial of access to origin information.

Article 8(1) should be understood as a reaction to practices in which children's identities were altered or erased as part of the adoption process. In several sending countries—including South Korea, Guatemala, and Chile—cases have been documented in which children were registered with new names, dates of birth, and nationalities, and where links to biological parents were severed without proper consent or documentation. These practices have led to many adoptees losing access to their origins, which constitutes a violation of their right to identity as protected by Article 8(1).

The provision has both a negative and a positive dimension. The negative obligation entails that States must not unlawfully interfere with the child's identity—for example, by changing a name or nationality without valid grounds. The positive obligation entails that States must actively ensure the preservation and protection of the child's identity, including by establishing systems for documentation, access to origin information, and possibilities for contact with biological family where possible and in the child's best interests.

In international adoptions, these obligations are particularly complex, as the child often changes both legal and cultural contexts. Article 8(1) requires that the receiving State respect and document the child's original identity, and that the sending State ensure that the adoption does not result in unlawful or irreversible identity loss. This requires inter-State cooperation, transparency in adoption procedures, and access to origin archives for adoptees.

In a human rights and child rights context, Article 8(1) represents protection of the child's right to continuity and belonging. It underscores that adoption is not merely a legal transfer of parental authority but a process with profound consequences for the child's self-understanding and lifelong identity. International adoptions that do not respect these rights risk violating Article 8(1) and, thereby, the child's fundamental human rights.

Article 8(1) of the UNCRC is not consistently enforced in practice in South Korea, particularly in relation to international adoptions. On the contrary, evidence from both academic studies and official reports—including the South Korean Truth and Reconciliation Commission's (TRC) investigation—has shown that thousands of children were sent abroad with erased or falsified identities.

From the 1950s to the 1990s, many children were registered with altered names, birth dates, and inaccurate information about parental status. In numerous cases, children were registered as orphans despite their biological parents still being alive, and access to origin information was systematically restricted. These practices constitute clear breaches of Article 8(1), which obliges States to respect and preserve the child's identity without unlawful interference.

South Korea has ratified the UNCRC, and the Convention has legal force under its Constitution. Nevertheless, in practice there has been a lack of implementation and oversight, particularly because the adoption system was, for decades, run by private agencies without adequate state supervision. Only in recent years has there been political and legal attention to the need to ensure access to origin information and to restore the identities of former adoptees.

Some initiatives have been launched to improve access to archives and restore contact with biological families, but these are limited and not systematic. It must therefore be concluded that South Korea has historically and structurally failed to enforce Article 8(1) in practice, with profound consequences for adoptees' right to identity and origin.

Article 8(2) of the UNCRC states that "where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity." This provision constitutes a positive obligation for States to actively remedy previous violations of a child's identity and is particularly relevant in the context of international adoptions, where identity loss has been widespread and systemic.

Article 8(2) should be understood as a legal mechanism for restoring a child's original identity when it has been erased, falsified, or concealed as a result of unlawful practices. Unlike Article 8(1), which is primarily protective in nature, Article 8(2) entails an action-oriented obligation: States must not only refrain from violating the child's identity but must also intervene when a violation has occurred. This includes administrative, legal, and social measures, such as access to origin information, re-establishment of contact with biological family, and correction of official records.

In international adoptions, this provision is particularly significant, as many adoptees—especially from sending countries such as South Korea, Guatemala, and Ethiopia—have been deprived of core elements of their identity. This includes changes to name, date of birth, nationality, and information about biological parents. In many cases, adoptions took place without proper consent, with falsified documents, or through systems that failed to safeguard the child's best interests. Article 8(2) obliges States to respond to these circumstances, including retrospectively, by providing access to archives, supporting family tracing, and granting legal recognition of original identity.

The provision also has a transnational dimension. As international adoptions involve both sending and receiving States, Article 8(2) imposes a shared responsibility to ensure that identity loss is not left unremedied. This requires inter-State cooperation, access to cross-border databases, and respect for adoptees' right to know their origins. In practice, however, many States have failed to fully implement these obligations, resulting in continued identity loss and psychosocial harm for those affected.

In an academic and human rights context, Article 8(2) represents a rare explicit norm for the restoration of rights rather than mere protection. It recognises that identity loss is not only a legal violation but an existential harm that requires active intervention. In relation to international adoptions, Article 8(2) is therefore not only relevant but essential to ensuring justice and healing for former adoptees whose identities were disregarded in breach of the Convention's principles.

In the context of international adoptions, Article 8(2) is particularly relevant because thousands of children—especially from sending countries such as South Korea—were historically adopted under conditions in which their identities were erased, falsified, or concealed. This includes changes to name, date of birth, nationality, and information about biological parents. In many cases, children were registered as orphans despite their parents being alive, and access to origin information was systematically restricted.

South Korea has ratified the UNCRC and is therefore under an international legal obligation to comply with Article 8(2). In practice, however, the country has, for decades, failed to implement effective mechanisms for restoring the identities of former adoptees. The adoption system was historically run by private agencies with minimal state oversight, and there has been a lack of centralised archives, legal access to origin information, and support for family tracing.

The South Korean Truth and Reconciliation Commission (TRC), established in 2023, has documented extensive identity loss among international adoptees and concluded that the State failed to ensure the child's right to identity in violation of both Article 8(1) and 8(2). The Commission has recommended that the government establish systems to restore identity, including access to adoption archives, legal recognition of original names, and support for contact with biological families. However, these recommendations have yet to be fully implemented.

There are some initiatives, such as the state-run "Integrated Information System for Adoptees", intended to consolidate adoption data, but the system is fragmented and inadequate. Many adoptees continue to report lack of access to their origin information, incomplete or manipulated documents, and absence of state support for identity restoration. This indicates that South Korea is failing to meet the proactive obligation required by Article 8(2).

In an academic and human rights context, it must be concluded that South Korea has historically failed to comply with Article 8(2) in practice, and that structural, legal, and administrative mechanisms for restoring the identities of the thousands of children adopted under unregulated and often unlawful conditions remain lacking. Article 8(2) therefore remains an unfulfilled obligation in South Korea's adoption history.

5. Other Obstructive Factors in Korea Causing Continuing and New Violations of Korean Law and Human Rights

The NCRC is a state institution under the Ministry of Health and Welfare, established for the purpose of protecting children's rights and implementing the UN Convention on the Rights of the Child (UN CRC). From July 2025, the NCRC has taken over all adoption records from private agencies and functions as the primary authority for adoptees' access to background information. The institution is therefore responsible for:

- Management of adoption records
- Guidance and support for adoptees
- Compliance with national and international human rights standards

The NCRC has, in several cases, denied that the UN CRC and the UN Convention for the Protection of All Persons from Enforced Disappearance (UN CED) have legal effect in South Korea, despite both conventions being ratified and, under Article 6(1) of the Constitution, having the same status as national law. This denial undermines the protective mechanisms of the conventions and constitutes a breach of both international and Korean law.

Adoptees are denied access to their original identity, even in cases where document forgery has been acknowledged by adoption agencies. The NCRC fails to restore identity, in violation of UN CRC Article 8(2), which obliges states to restore the child's identity, and UN CED Article 25, which requires access to truthful information about origins.

The NCRC refuses access to key documents such as adoption consent forms, institutional records, and police reports, citing "privacy" without reference to relevant legislation. This is contrary to Article 35 of the Personal Information Protection Act (PIPA), which grants individuals the right to access records, as well as the NCRC's own policy, which allows access with anonymisation of third-party information.

Rejections from the NCRC are often issued without a written explanation or legal basis, in breach of the Administrative Procedures Act (APA), which requires written decisions, legal justification, and information on avenues for appeal.

Communication with the NCRC often takes place via group e-mails, and case officers are anonymised, undermining accountability and transparency. This is contrary to the APA's requirement that the case officer be identifiable and that cases be handled properly.

Case processing at the NCRC extends over several years, even in situations where swift access to medical information is vital. The institution fails to inform applicants of expected processing times, contrary to the APA's requirements for timeframes and the right to be heard.

The NCRC's PAS staff lack legal and human rights expertise, and decisions are made without reference to applicable law. Several staff members have previously worked in adoption agencies, raising questions of impartiality and undermining trust in the institution's neutrality.

NCRC staff run private consultancy businesses alongside their public work and use NCRC resources for private purposes. This constitutes a serious conflict of interest and violates principles of public administration.

Rejections are often based on internal administrative manuals, which do not have legal status and may not override rights established under PIPA, the APA, or international conventions. This undermines legal certainty and creates arbitrariness in case processing.

Even in cases where document forgery and illegal adoptions have been acknowledged, the NCRC fails to take action. This raises questions about the authority's duty to respond to potential crimes against humanity.

The NCRC's practices constitute a systemic disregard for both Korean law and international human rights conventions. The institution's denial of the legal force of conventions, refusal of access to records, arbitrary case processing, and conflicts of interest undermine adoptees' rights and create serious issues of legal certainty. Comprehensive reforms, legal accountability, and international oversight are required to ensure that South Korea fulfills its obligations as a state governed by the rule of law and as a party to the relevant conventions.

The NCRC Scandal

As adoptees have increasingly sought to trace their origins, documentation has emerged of widespread fraud, document forgery, and forced separation from biological families. At the centre of current criticism is the National Center for the Rights of the Child (NCRC) – the state institution which, from July 2025, will take over all adoption archives from private agencies.

In 2024 and 2025, South Korea's handling of international adoptions has been the subject of intense criticism, particularly after the NCRC assumed responsibility for centralising adoption records. The scandal involves serious errors in the handling of institutional documents, resulting in wrongful reunifications, data loss, and violations of adoptees' rights.

The NCRC was established as a state body with responsibility for children's rights and adoption administration.

The NCRC scandal concerning institutional documents reveals deep systemic problems in South Korea's adoption administration. Technical and administrative mismanagement has resulted in loss of identity, wrongful reunifications, and serious breaches of legal certainty. Independent audits, legal accountability, and international monitoring are needed to ensure that adoptees gain access to the truth about their origins.

The Ministry of Health and Welfare, the National Audit of Korea's Parliament, and Korea's Anti-Corruption Commission have confirmed fraud and deception over a ten-year period regarding the NCRC's handling of adoptees' institutional records.

Furthermore, criminal negligence on the part of the NCRC has been established.

Main Tasks for TRCK III's Investigation on Intercountry Adoption

TRC2 was established on 10 December 2020 as part of a revision of the legislation on addressing past affairs. The Commission was set up as an independent body to investigate and uncover the truth about the anti-Japanese independence movement, overseas Koreans, massacres during the Korean War, human rights violations under Korea's authoritarian regimes, and killings committed by hostile forces.

The initial investigation period was three years but was extended by one year until 26 May 2025. Under TRC2, intercountry adoption was among the areas investigated, and the Commission presented its first findings on 26 March 2025.

TRC2 examined cases involving adoptees who had experienced human rights violations before, during, and after their adoption. This included, among other matters:

- Erroneous or unlawful procedures connected to adoptions, such as document forgery and lack of consent.
- The role of adoption agencies and state institutions.
- Identity fraud, where original information about adoptees was falsified or concealed.

- The social and legal consequences for adoptees and their families.

TRC2 has published reports and recommendations aimed at uncovering the truth and proposing reforms to improve the rights and conditions of adoptees.

One of the criticisms has been that not all cases have been investigated in this phase, leading to demands for either an extension of TRC2 or the creation of a subsequent commission (TRC3) so that all outstanding adoptee cases can be properly addressed.

Under TRC2, South Korea's Truth and Reconciliation Commission, significant controversies have arisen, particularly regarding the appointment of Chairperson Park Sun-young and the involvement of the conservative People Power Party (PPP).

In 2024, President Yoon Suk-yeol, then a member of the PPP, appointed Park Sun-young as Chairperson of the Truth and Reconciliation Commission. Park's appointment sparked protests from victims of state violence, who criticised her for praising dictatorial regimes and for the perceived inadequacy of the Commission's investigations. These protests culminated in a rally demanding her resignation, organised by groups such as the National Democratic Martyrs and Victims Commemoration Coalition.

Critics argue that Park's appointment was politically motivated, intended to influence the Commission's findings to align with the PPP's interests. This perception of political interference has led to calls for a new, impartial commission to ensure unbiased investigations into past human rights abuses.

The controversy surrounding Park's leadership has also affected the Commission's handling of adoption-related cases. Investigations into overseas adoptions, including those from the 1970s and 1980s, have been delayed, leaving many adoptees without answers. The Commission's credibility has been called into question, with some victims and advocates calling for its dissolution and the creation of a new body to address these issues.

In response to these controversies, there have been widespread demands for reform. Protesters have called for the resignation of Chairperson Park Sun-young and for the establishment of a new Truth and Reconciliation Commission that operates independently of political influence and is committed to uncovering the full truth about past injustices.

With the Establishment of TRC3, Adoptees Seek:

Official Recognition of Adoptions as State-Related Human Rights Violations

- That unlawful intercountry adoptions, particularly from the 1960s to the 1990s, be recognised as part of South Korea's past in which state institutions (e.g., ministries, orphanages, and state-licensed adoption agencies) were complicit in violations.
- Investigation into human rights violations committed by the state or with the state's consent.

Comprehensive Fact-Finding on Remaining Cases

- Many cases filed under TRC2 (over 300 adoptions) remain unprocessed.
- TRC3 would ensure the Commission could continue gathering documentation, hearing witnesses, and collecting evidence.

Historical Documentation and Public Reporting

- That the actual course of adoptions be recorded in TRC's official final report, to be submitted to the President, the National Assembly, and the public.
- This would create a permanent historical record to be used in future legal or reform work.

Recommendations on Redress and Reform

- TRC could recommend compensation, apologies, or other forms of redress for affected adoptees.
- TRC3 could also propose changes in adoption and restoration laws to remedy and prevent similar violations.

Strengthened International Commitment

- Although TRC is a national body, its conclusions may refer to South Korea's international obligations (e.g., UN conventions).
- For adoptees, this means TRC3 could link their cases to the state's duty to respect and restore identity and family life.

The Ability for More Adoptees to Have Their Cases Investigated

- The mandate to accept new cases expired on 9 December 2022. Establishing TRC3 could assist new adoptees.

Viewing Intercountry Adoptions in Context with Other Issues

- A future TRC3 could build on TRC2's findings. There is a need to view adoptions in the context of other human rights violations in Korea, as there are close connections between institutions, Korean labour camps, Korean "comfort women", and adoption.

Enhanced Investigative Tools for TRC3

- It is evident that adoption agencies have not voluntarily disclosed all documents and information about adoptees. TRC3 must have better access to documents and evidence.

Long-Term Goals and Objectives after TRCK's Investigation and Truth Confirmation

The South Korean Truth and Reconciliation Commission (TRC), following an extensive investigation into intercountry adoptions from 1964 to 1999, has presented a series of recommendations to address systemic human rights violations that have occurred in connection with the state's handling of intercountry adoptions. The investigation, covering 367 individual cases, documents serious breaches of both national and international legal principles, including identity forgery, lack of consent, inadequate screening of adoptive parents, and the commercialisation of the adoption process.

Recommendations from the Truth and Reconciliation Commission on Human Rights Violations in South Korea's Intercountry Adoption Practices:

1. Official State Apology

TRC recommends that the South Korean government issue a formal apology to affected adoptees and their families. Such an apology should acknowledge the state's responsibility for the structural failures and human consequences resulting from the lack of regulation and oversight.

For DKRG and KoRoot, an official apology would be an appropriate outcome if accompanied by tangible changes for Korean adoptees worldwide.

Violations of law and human rights occurred during Korea's dictatorial and authoritarian periods.

The current government and parliamentary majority in Korea did not take part in the human rights violations related to adoptions.

DKRG and KoRoot propose that the Korean government and parliament instead work together with DKRG and KoRoot to remedy the illegalities and human rights violations that have occurred by implementing concrete changes in cooperation with us adoptees.

This specifically concerns:

- Adoptees' and biological families' access to accurate background information and origins.
- Adoptees' and biological families' access to DNA testing.
- The dissolution of the NCRC's adoption department and the creation, within existing structures, of a proper state authority with investigative powers to assist adoptees and their biological families with information disclosure.

- Public authorities being requested to assist adoptees within the framework of Korea's international obligations.
- The investigation, prosecution, and punishment of individuals who have committed criminal offences within the framework of Korean law and Korea's international obligations.
- Redress for birth mothers for coercion and social stigmatisation that led them to surrender their children against their will.

2. Investigation of Citizenship Status and Legal Protection

The Commission calls for a nationwide review of adoptees' citizenship status to identify legal irregularities and ensure that all affected individuals have full legal protection and citizenship in accordance with applicable law.

DKRG and KoRoot propose that all Korean adoptees be able to reinstate their Korean citizenship easily and quickly if they so wish, provided they have a clean criminal record.

3. Restoration of Identity and Remedies for Victims

TRC recommends establishing mechanisms to restore the true identity of affected individuals, including access to original documents and support for re-establishing contact with biological families. Remedies should also be offered to victims of document forgery and identity substitution.

DKRG proposes the immediate dissolution of the NCRC's adoption department and the creation, within the same budget, of an independent state body tasked with assisting adoptees. This unit should be independent, like TRC, and free from the influence of adoption agencies and improper considerations.

4. Ratification of the Hague Convention

The Commission emphasises the necessity for South Korea to ratify the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993). The Convention sets international standards for adoption and aims to prevent child trafficking and ensure the best interests of the child.

5. Institutional Responsibility and Obligations of Adoption Agencies

TRC recommends that the adoption agencies involved – including Holt Children's Services, Korea Social Service, Korea Welfare Services, and Eastern Social Welfare Society – be held responsible for assisting in the restoration of adoptees' rights. This includes access to archives, support for family tracing, and cooperation with authorities in receiving countries.

DKRG and KoRoot propose that it be made a criminal offence to withhold, conceal, destroy, or otherwise dispose of adoptees' background information.

These recommendations form a central element in the effort to secure justice for those affected and to reform future adoption practices in line with international human rights standards. The Commission's work thus contributes to the broader discussion on the state's role in protecting vulnerable citizens and the necessity of historical accountability.

Roles of the Korean Civil Society in Raising Awareness of Intercountry Adoption

The Korean civil society plays a crucial role. As ethnic Koreans, many adoptees feel a strong connection to Korea and the Korean people.

It is important that the false adoption narratives are replaced with factual knowledge, which comes through the work of the TRC. This is just as important as learning about the Japanese occupation and the Gwangju Massacre.

At DKRG, we have a saying: *“We cannot turn back time and change the past, but together we can change the present and the future.”*

At DKRG, we also need help in the time ahead. We need sparring partners with whom we can discuss legal matters, professionals with knowledge of Korea’s history, and people who can help build relationships between biological families and adoptees.

There is another motto at DKRG: *“We will do for today’s Korean children and families what no one did for us when we ourselves were Korean children.”*

For DKRG and KoRoot, it is important that the TRC’s work and the extensive research being carried out lead to real change in Korea. Korea is still sending children abroad for adoption, and far too many children in Korea end up in institutions, where they remain easy targets for the adoption industry even today.

“The best interests of the child” is the central principle of the Hague Convention and of international human rights. It requires that the best interests of each individual child are protected and upheld.

This stands in stark contrast to the very existence of an adoption system. A system does not start from the perspective of the individual child. As shown by 70 years of adoption history in Korea, the system has been a system for its own sake—serving all other interests except those of the individual child.

What is right for one child may come at the expense of another.

Adoption must meet three conditions:

1. It must comply with human rights fully and without exception.
2. There must be no money exchanged between the parties and intermediaries to the adoption.
3. It must be done solely in the best interests of the individual child.

Areas for Research or Further Investigation

- Adoptions of mixed-race children under Syngman Rhee's "One Country, One People" policy.
- Procurement of children from maternity clinics and hospitals through induced premature births.
- The role of Korean child institutions in adoptions.
- Korean labour camps: the TRC has so far identified 36 labour camps similar to Brothers Home and Seongam Academy. These camps must be investigated, as they are connected to adoptions.
- The treatment of biological mothers and unmarried women.