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Why Australia needs a Parliamentary Inquiry into Intercountry Adoptions

“I believe that I was human trafficked” – Anna, an adopted Korean Australian on
ABC Background Briefing, 3 August 2024

Introduction

Evidence is mounting globally that intercountry adoptions are very vulnerable to criminal exploitation, including in countries that Australian parents adopt children from. While the prevalence of illegal practices within adoption systems has been widely reviewed and reported on overseas and also in Australia, it has yet to be examined by any Australian jurisdiction.

Intercountry adoption is a very complex and emotionally charged process that involves legal and ethical considerations in two countries: The country where the child was born, the *sending* country, and the country where the adoptive parents live, the *receiving* country.

Sending country: This is the country where the child and their birth parents currently live. This country has the primary responsibility for ensuring that the adoption is in the best interests of the child and that all legal requirements are met.

Receiving country: A country where the adoptive parents reside and where the child will live after the adoption. This country has a responsibility to ensure that the adoption is legal and ethical and that the adoptive parents are suitable to raise a child. Illegal practices often occur within the child’s country of origin, frequently involving individuals and organisations in both the public and private sectors.

While the actual incidence of illegal adoptions is unknown it is clear that many adoptees are greatly loved by their adoptive families and live happy lives. However, it is very clear that this is not the experience of all intercountry adopted children, some of whom have been adopted through unlawful means in *sending* countries including:

- Purchasing children from impoverished families.
- Kidnapping children from homes or institutions.
- Stealing newborn babies from hospitals.
- Coercing or deceiving vulnerable birth parents into relinquishing their children.

Once obtained, these children are often ‘laundered’ through legal adoption systems, with falsified documentation masking their origins and presenting them as legally available for adoption. Like with Anne, the reality for victims of these practices is the discovery, often later in life, that their adoptions were based on fraudulent information and that they have living relatives and often parents who have mourned their loss.

Stakeholders in the intercountry adoption system within *receiving* countries, such as adoption agencies and authorities, often deny any wrongdoing when faced with claims of irregularities. They argue that ensuring compliance with legal standards is the responsibility of authorities in the *sending* countries and that they had no choice but to trust the integrity of the foreign adoption system and the accuracy of the information provided about the children.

Though direct involvement in child acquisition may be difficult to prove, stakeholders in *receiving* countries like Australia often enable misconduct through:

- Allowing excessive payments, disguised as “adoption fees” and “donations,” to flow to *sending* countries.
- Failing to adequately oversee adoption processes.
- Not understanding the warning signs of irregularities.

History of Intercountry Adoption in Australia

The Australian government initially resisted intercountry adoption, believing it detrimental to children to be separated from their families, cultures, and home countries. However, sustained pressure from influential prospective adoptive parents eventually swayed policy, paving the way for privately funded international adoptions in Australia in the 1970s. This was despite

early evidence of illegal adoptions that violated prohibitions against the abduction, sale and trafficking of children.

Since then, over 10,000 intercountry adoptions to Australia have been officially recorded. However, this number likely underestimates the actual number, as earlier adoptions arranged privately, through proxies, or by expatriates were often not formally documented. This lack of record-keeping makes it difficult to determine the actual number of intercountry adoptions that have occurred and the circumstances of their adoption.

During the mid-1980s, the Australian Government took control of intercountry adoption, centralising it at both the state and federal levels. The 1993 Hague Convention on Intercountry Adoption, ratified by Australia in 1998, aimed to create consistent and secure intercountry adoption procedures. Despite this, illegal adoptions persist, highlighting ongoing systemic problems. These illicit activities often exploit weaknesses and inter-jurisdictional gaps in child protection systems, sometimes facilitated by criminal organisations, corrupt officials, or inadequate government policies.

Data collection on intercountry adoptions in Australia has become more thorough since 1986, with over 10,000 adoptions from at least 44 countries documented. This number likely underestimates the true extent of intercountry adoptions. Earlier adoptions, particularly those arranged privately or by expatriates, often went unrecorded. Furthermore, the impact of intercountry adoption extends beyond the adoptees themselves, affecting their families, including parents, partners, and children. Therefore, the overall reach of intercountry adoptions is significantly larger than the documented figures suggest.

Anna's Story

Anna is among 3,600 Australian's adopted from South Korea via the Eastern Social Welfare Society (ESWS). Like many others, Anna was told she was an orphan. However, after years of unease about her adoption paperwork, Anna discovered the truth: her birth parents were alive and married when she was born, meaning her documents were falsified.

Her birth mother revealed in a letter that she was forced to give Anna up due to pressure from Anna's father and doctor because Anna was a girl. Anna's story is part of a larger scandal where ESWS is alleged to have falsified documents, including marital status, to facilitate adoptions and even paid bribes to hospital staff for babies. This practice meant children were listed as orphans in English documents while their Korean documents told a different story.

Anna feels she was trafficked, as she was essentially sold to her adoptive parents. The South Korean Truth and Reconciliation Commission is investigating these cases, and there are calls for a similar investigation in Australia into historical intercountry adoption practices. Anna's experience highlights the lifelong trauma caused by these falsifications and the need for accountability.

Impacts on Illegally Adopted Children and their Families

The documented impacts on intercountry adoptees can include:

1. **Identity confusion:** Intercountry adoptees may face unique challenges related to their racial, ethnic, and cultural identity. They may struggle to reconcile their birth culture with their adoptive culture, leading to feelings of confusion and alienation.
2. **Loss of connection to birth family:** In many cases children have limited or no contact with their birth family, which can lead to feelings of loss and grief.
3. **Trauma:** The separation from their birth family and culture is a significant loss for the child, even if the circumstances leading to the separation were difficult. This loss can lead to feelings of grief, abandonment, and identity confusion.
4. **Attachment Disorders:** children may experience difficulties forming secure attachments with their adoptive parents.

A Complex Domestic and International Legislative Environment

Intercountry adoption is governed by a complex web of international and domestic laws and regulations. The most important international treaty is the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which sets out ethical principles and legal standards for intercountry adoptions. Australia's intercountry adoption system is a complex and varied multi-jurisdictional system with responsibilities shared between federal and state/territory agencies.

Federal Government: The Department of Social Services oversees intercountry adoptions to ensure ethical practices and compliance with the Hague Convention on Intercountry Adoption. They manage Australia's intercountry adoption programs, engage with international and national stakeholders, and operate Intercountry Adoption Australia (IAA), an information and referral service. In addition to the DSS, other government departments are also involved. The Department of Home Affairs is responsible for matters related to citizenship and visas for

adopted children, while the Attorney-General's Department plays a role in family law aspects and ensuring Australia's adherence to the Hague Convention.

State/Territory Governments: States and territories have a central authority responsible for managing intercountry adoption applications, assessing eligibility, providing support and supervision to families, and handling day-to-day matters. This means that the processes and requirements vary depending on where you live in Australia.

This complex web of responsibilities in intercountry adoption, both between sending and receiving countries and within Australia's multi-layered system, has created significant vulnerabilities which include:

- **Lack of transparency/accountability:** The involvement of multiple agencies can obscure lines of responsibility. This lack of clear oversight can create opportunities for unethical actors to operate within the gaps. For example, corrupt officials in the sending country might exploit the system for financial gain, while monitoring mechanisms may be insufficient due to the shared responsibility. It becomes difficult to pinpoint who is accountable if something goes wrong.
- **Inconsistent standards and procedures:** Variations in procedures and requirements between states/territories in Australia, and especially between *sending* and *receiving* countries, creates confusion and inconsistencies. This can be exploited by those seeking to circumvent ethical practices. A lack of standardised processes can make it difficult, if not impossible, to ensure all adoptions meet the highest ethical standards. For example, one state might have more rigorous screening processes for prospective parents than another.
- **Pressure to expedite:** The strong desire to expedite the adoption process can create pressure to cut corners. This can lead to inadequate due diligence, such as insufficient background checks on the child's history or the prospective parents' suitability. This rush can leave children vulnerable to being placed in unsuitable or even harmful environments.
- **Lack of information sharing:** The complex system can hinder effective information sharing between different agencies. Vital information about a child's medical history, family background, or special needs might get lost or not properly communicated between the sending country, the Australian federal government, and the relevant state/territory agency. This can lead to children not receiving the necessary support and care, before and after arriving in Australia.

- **Jurisdictional issues:** Disagreements or delays between federal and state/territory agencies can create roadblocks in the adoption process, leaving children in limbo. This can be particularly problematic in complex cases where there are disputes over jurisdiction or responsibility.
- **Post adoption support gaps:** Even after an adoption is finalised, families may require ongoing support. The fragmented nature of the system can make it difficult for families to access the necessary resources and support services. This lack of post-adoption support can place strain on families and, in some cases, lead to the disruption of the adoption.

International Precedents

Australia has yet to undertake a systemic investigation into intercountry adoptions despite wide-spread global evidence of systemic failures. Several countries have conducted investigations or inquiries into their intercountry adoption practices. This includes:

- **Netherlands:** The Dutch Government investigated intercountry adoptions and published a report in 2021. The 2021 report, which exposed widespread abuses and failures in intercountry adoptions, prompted the Dutch government to temporarily suspend all such adoptions. In 2024, they announced a six-year plan to phase out the practice entirely after the government ruled that the risk of malpractice cannot be ruled out even in a more strictly regulated system.
- **Belgium:** The Belgian Parliament approved a resolution in 2022 recognising the occurrence of illegal adoptions and launched an administrative inquiry into the issue.
- **Norway:** Norway is investigating illegalities in intercountry adoptions, particularly from South Korea, Taiwan, Thailand the Philippines and Colombia. Norway has suspended adoptions from several countries due to concerns about the legalities and ethics of the process.
- **Denmark:** Denmark announced the closure of its only international adoption agency due to concerns over fabricated documents and procedures.
- **France:** France released a report in 2023 pointing to 30 years of international adoption mishandling. France has also suspended international adoptions from certain countries due to concerns about the ethics and security of the process.

- **South Korea:** South Korea's Truth and Reconciliation Commission is investigating over 380 cases, including 16 from Australia, highlighting widespread human rights abuses. Through this process, we now know that over 3,600 South Korean children were adopted by Australian families under false pretences.

A Federal Parliamentary Inquiry

In light of the evidence of systemic illegal intercountry adoptions and the damage it can do to the children, to their birth parents and to their adoptive parents, it is important that Australia conducts a comprehensive inquiry to consider matters such as:

- How to identify and eliminate illegal adoption practices.
- How to identify the children who have experienced unethical or illegal practices during their adoption process, and what the appropriate responses by the Australian and state and territory Government are.
- Is it still acceptable for Australia to continue with intercountry adoptions? Is it better to support vulnerable children to remain in their birth country with appropriate family-based care? Are there other ways of providing more adoption opportunities for Australian parents within Australia?

Australia's intercountry adoption practices and its history requires careful examination, as systemic issues warrant investigation. Some of the issues to be subject of inquiry include:

- **Human Rights Violations:** Australia's intercountry adoption history includes documented cases of illicit and illegal activities, including child trafficking and inadequate safeguards for adoptees. The case of the "Julie Chu cohort" from Taiwan in the 1980s exemplifies these failures. These children, adopted into Australia, were victims of illegal adoption practices and received virtually no recognition or support. This case highlights the need to investigate the extent of these historical abuses and their ongoing impact.
- **Accountability Gaps:** The division of responsibilities between federal government departments (e.g., Department of Social Services and Home Affairs) and state and territory authorities creates significant gaps in accountability and support for adoptees. This fragmented system hinders tracking adoptions, monitoring ethical standards, and ensuring adoptees receive necessary assistance. Victims of illegal adoptions often encounter a complex bureaucratic process, with state and federal entities frequently shifting responsibility. This lack of clear accountability hinders access to justice. An

inquiry can clarify jurisdictional responsibilities and recommend a streamlined, nationally consistent approach to intercountry adoption.

- **Insufficient Support for Adoptees:** The consequences of illegal adoptions are profound and can include complex trauma, identity issues, and difficulties navigating legal and bureaucratic systems. Current funding for support services, such as the Intercountry Adoptee and Family Support Service (ICAFSS), is inadequate.

With less than \$90 allocated per adoptee annually, these services are significantly limited. This funding barely covers basic emotional counselling, let alone the comprehensive support many adoptees need. Specifically, adoptees often lack access to crucial services, including:

1. **Search and reunion services:** Assistance locating and connecting with biological families.
2. **Translation and interpretation services:** Essential for communication in birth countries.
3. **DNA and genealogy professionals:** Expertise in navigating complex family histories.
4. **Legal support:** Guidance and representation in legal challenges.
5. **Comprehensive peer support networks:** Opportunities to connect with others with similar experiences.

Recommendations for Reform:

A Senate Select Committee on Intercountry Adoptions

A parliamentary inquiry should be established to thoroughly investigate allegations of illicit and illegal practices within Australia's complex intercountry adoption processes.

Possible Areas of Legislative and Administrative reform:

1. The existing Commonwealth-State Agreement to be updated to address critical gaps in accountability and clearly delineate responsibilities between federal and state/territory jurisdictions. This should include standardised data collection and reporting mechanisms.
2. Migration laws and protocols must be strengthened to explicitly prevent future illicit and illegal adoption practices.
3. Specific legislation criminalising illicit and illegal practices within intercountry adoption is essential. This legislation must ensure perpetrators are held accountable
4. Enhanced Support for Victims. Dedicated funding could be allocated for post-adoption support services. These services could include:
 - Search and reunion assistance, DNA testing, and translation services.
 - Legal support, including advice on adoption records, and potential legal recourse.
 - Financial assistance to cover costs associated with search, reunion, legal proceedings, and therapeutic support.
 - Specialised trauma-informed counselling and emotional support for adoptees affected by illicit or illegal adoptions.
 - Support services should be comparable to those provided to victims of trafficking and forced adoption, recognising the similar trauma experienced.
5. International Collaboration and Engagement. Australia should actively collaborate with sending countries to address historical injustices related to intercountry adoptions. This includes establishing transparent and ethical adoption practices moving forward.

6. Learning from international investigations into adoption practices should be incorporated into Australia's policies and procedures.
7. Meaningful engagement with adoptee-led groups and networks in Australia (e.g., InterCountry Adoptee Voices (ICAV), Korean Adoptees in Australia (KAIAN), Australia United States Korean Rights Group (AUSKRG), Haitian Adoptees, Sri Lankan Adoptees, Ethiopian Adult Adoptees in Australia, Adopted Vietnamese International (AVI), Greek Born Adoptees) is crucial. These groups provide invaluable insights into the needs of adoptees and should be consulted in policy development and service delivery.

Thanks, and Acknowledgements

This brief has been prepared with the assistance of Lynelle Long and Samara James. Lynelle is the founder of InterCountry Adoptee Voices (ICAV), established in 1998. A Vietnamese adoptee residing in Sydney, Lynelle has built ICAV into one of the longest-standing and most globally connected platforms for intercountry adoptees, fostering collaboration and advocacy across sending and adoptive countries. In Australia, Lynelle has played a pivotal role in strengthening relationships with federal and state governments, leading to key policy changes such as psychological counselling, visa and passport assistance, and a now-defunct search and reunification service that helped over 200 adoptees and families.