

# Filiatory Disappearance and the Psychological Effects of Fragmented Legal Recognition: Rethinking Harm in Intercountry Adoption

Bindhu Van Diest (MA)

Psychoanalyst / Clinical Psychologist

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## ABSTRACT

This article examines the Dutch Butink case as a site where the limits of legal recognition in intercountry adoption become visible. Drawing on Loibl's analysis of the structural constraints of tort law, it argues that such cases reveal a fundamental mismatch between how harm is experienced and how it must be articulated in order to be recognised within legal frameworks.

While malpractice in intercountry adoption is increasingly acknowledged through public discourse, state apologies, and official investigations, this acknowledgment does not consistently translate into legal accountability. The article develops the concept of *filiatory disappearance* to conceptualise a condition in which filial relations that have existed remain insufficiently recognised or cannot be adequately inscribed within legal and symbolic frameworks.

Integrating psychoanalytic and psychosocial perspectives developed in the context of state violence, the analysis examines the psychological effects of this gap at the level of subjectivity. It argues that the issue is not simply the absence of justice, but the presence of a fragmented form of recognition—one that ties acknowledgment to individualized proof while leaving the broader meaning of harm insufficiently stabilized in law.

In doing so, the article proposes a rethinking of harm beyond strictly juridical categories, highlighting how incomplete recognition shapes the conditions under which subjects are able to situate their histories.

## Introduction: A Case That Exposes a Limit

On 7 April, the Court of Appeal in Amsterdam delivered its final judgment in the case of Dilani Butink, a Dutch adoptee from Sri Lanka who had initiated legal proceedings against the Dutch State and the adoption agency involved in her adoption. For many adoptees, the case represented more than a legal dispute: it was a litmus test of the State's willingness to acknowledge its role in the systemic failings of intercountry adoption practices. The rejection of her claims has been widely perceived not only as a legal outcome, but as a profound disappointment, raising broader questions about the possibilities and limits of justice.

This article adopts an interdisciplinary approach, integrating legal analysis with psychoanalytic and psychosocial frameworks. It examines the Butink case not only as a legal judgment, but as a site where law and subjectivity intersect—focusing on the psychological effects produced when harm is not fully recognised within the legal order.

The issue at stake is not one of absolute impunity, as in dictatorial contexts where violence is denied entirely. Rather, the Butink case points to a more complex configuration in which harm is partially acknowledged—through public discourse and state apologies—yet not translated into legal responsibility. This disjunction raises a central question: what are the psychological effects of harm that is recognised, yet not fully established as injustice?

In her recent article *Justice Out of Reach*, Elvira Loibl (2026) analyses the structural constraints that make tort law particularly ill-suited to address harms related to intercountry adoption. The legal system evaluates conduct according to past standards, requires individualized and concrete proof where evidence is often inaccessible, and reduces complex systemic dynamics to discrete acts and identifiable actors. The present article builds on this insight and introduces the concept of *filiatory disappearance* to articulate the implications of these limitations at the level of subjectivity. The analysis draws on psychoanalytic and psychosocial human rights approaches, particularly those developed in Argentine contexts in response to state violence and the appropriation of children.

The complexity of the Butink case becomes more apparent when examining the logic of tort law. As Loibl (2026) shows, tort law requires harm to be framed as an individualized wrongful act with concrete evidence and a clear causal link—conditions particularly difficult to meet in contexts of historically embedded, structurally produced harm. Moreover, courts continue to rely on individualized standards of proof even where systemic irregularities have been extensively documented (Loibl, 2025). The succession of different rulings in the Butink case illustrates the law's oscillation between a systemic understanding and a strictly individualized assessment of responsibility.

A further difficulty concerns the temporal framework. The Butink adoption was completed in 1992, prior to the Hague Convention, so the court assesses it by the legal standards of that time—limiting the retroactive qualification of past practices as wrongful (Loibl, 2026). Yet this approach presupposes that harm can be located and assessed within that period, whereas in intercountry adoption cases, effects unfold over time and may only become intelligible retrospectively. Even where legal safeguards have been strengthened, irregularities and falsified documentation have persisted: the problem is not merely historical, but structural (Loibl, 2026). Intercountry adoption relies on transnational networks

and documentation that cannot always be independently verified—an ambiguity constitutive of the system itself.

Crucially, this tension does not result in a complete absence of recognition. Elements of harm are acknowledged through public discourse and state apologies, but such acknowledgment does not translate into juridical responsibility. What emerges is a gap between what is recognised and what can be legally established—pointing to a fundamental limitation in tort law's capacity to address harms that are diffuse, historically embedded, and bound up with identity and filiation (Loibl, 2026).

### **From Legal Limitation to Symbolic Implications**

Moving beyond juridical analysis, this section considers how the legal gap described above operates at the level of subjectivity. Frameworks developed in contexts of state violence and impunity offer useful conceptual tools—not as directly transferable models, but as means for thinking through a different configuration.

In the Butink case, the situation does not involve a complete denial of harm. Rather, recognition is fragmented across different institutional registers: elements of wrongdoing are acknowledged through public discourse, reports, or apologies, but not translated into juridical responsibility. This configuration cannot be reduced to an absence of justice; it points to a condition in which recognition and non-recognition coexist without being integrated into a coherent symbolic structure. The law does not remain silent, but its response is partial and discontinuous.

From a psychoanalytic and psychosocial standpoint, this has implications beyond legal attribution. If legal recognition contributes not only to the regulation of conduct but also to the symbolic organization of experience, then its incompleteness may affect the conditions under which subjects are able to situate themselves in relation to what has occurred. The question is not only whether harm is acknowledged, but how that acknowledgment is structured—and whether it can be inscribed within a stable framework of meaning. Where recognition remains partial, it may fail to provide the symbolic coordinates necessary for such inscription. The outcome is not silence, but a fragmentation of meaning.

It is precisely within this space that the notion of *filiatory disappearance* becomes analytically relevant: it conceptualizes not only the absence of recognition, but the condition in which relations that have existed remain insufficiently inscribed within legal and symbolic structures. The limitations of legal recognition cannot be regarded as neutral constraints; they contribute to shaping the symbolic environment in which subjects seek to situate their own histories.

## Law and the Fiction of the Subject

To further examine the implications of incomplete legal recognition, it is necessary to consider the relationship between law and subject constitution. From a psychoanalytic perspective, as articulated by Braunstein (1999, 2005), law and subjectivity are not external to one another but structurally intertwined.

Braunstein proposes that the subject is not a pre-existing, stable entity but emerges within language and through the symbolic structures that organize social life. As he formulates it, "the beings imposed by language are beings of fiction, and among them, the subject" (Braunstein, 2005, p. 37). Self-unity is not given but constructed: this unity "does not exist except as fiction" (Braunstein, 2005, p. 39), sustained through symbolic inscriptions—naming, legal registration, social recognition—rather than through ontological consistency. In this sense, the subject is not only inscribed within the law, but instituted by it (Braunstein, 1999, p. 4). Law does not merely limit the subject; it contributes to the conditions under which desire becomes possible (Braunstein, 1999, p. 10), and legal categories participate in organizing the forms through which subjects become intelligible to themselves and others (Braunstein, 2005, p. 39). Yet this constitution remains inherently unstable: the symbolic order is structurally incomplete (Braunstein, 1999, pp. 9–11).

This has direct implications for contexts of partial recognition. If subjectivity depends on symbolic inscription—through naming, recognition, and legal attribution—then gaps or inconsistencies in these processes produce effects beyond the juridical domain. What is at stake is not only the attribution of responsibility, but the conditions enabling subjects to establish a meaningful symbolic framework within which to situate themselves. In the context of intercountry adoption, situations in which origins remain uncertain, documentation is incomplete, or identity cannot be fully reconstructed do not merely affect knowledge about the past—they affect the symbolic conditions supporting the subject's sense of unity, leaving identity exposed to uncertainty at the level of its symbolic foundations.

It is within this configuration that the notion of *filiatory disappearance* becomes relevant. If the subject is constituted through symbolic inscription, then disruptions in these processes affect the conditions under which filial relations can be symbolically sustained. The question is thus not only what has occurred, but what it means to inhabit an identity whose symbolic grounding remains only partially secured within the legal and social order.

## **The Notion of Impunity and the Psychosocial Effects of Fragmented Recognition**

To examine the broader social and symbolic effects of incomplete legal recognition, it is useful to draw on the work of Kordon (1991) and Kordon et al. (1995), who analyze the relationship between impunity, law, and subjectivity in contexts of state violence.

Kordon (1991) conceptualizes justice as operating on several interconnected levels: symbolic reparation (acknowledging damage and designating responsibility), social norm (establishing the boundaries of the permitted), and social cohesion (sustaining shared structures). Impunity affects all three simultaneously: when responsibility is not established and violations are not sanctioned, the symbolic force of norms is weakened, normative distinctions become unstable, and the social fabric is compromised. Kordon et al. (1995) further show that by blurring the distinction between the legal and the illegal, impunity contributes to social disorganization described in terms of anomie—affecting the intelligibility of social relations and the capacity to attribute meaning to events. These effects operate through broader social and symbolic processes, including the circulation of narratives that displace or reframe responsibility (Kordon, 1991). Feelings such as fear, insecurity, or helplessness are not isolated responses, but expressions shaped by transformations in the social environment.

In the context of intercountry adoption, these dynamics take an indirect form. Dominant discourses frame adoption in terms of rescue, protection, or improved life opportunities—narratives that do recognize the subject but also structure the terms under which certain experiences can be expressed. Experiences of loss, rupture, or injustice may become difficult to articulate; the desire to know may be reinterpreted as ingratitude, and the articulation of harm minimized. These dominant narratives of rescue are not merely expressions of social attitudes; they are enabled by the absence of a stable legal structure capable of articulating harm in juridical terms. Consequently, experiences of loss or rupture may struggle to attain legitimacy—not because they are denied outright, but because the frameworks required for their recognition remain incomplete.

These theoretical frameworks are not directly transferable to the present case, but function as conceptual tools for thinking through a different configuration—one in which recognition is partial rather than absent. If impunity destabilizes symbolic and social structures, fragmented recognition may produce analogous, though not identical, effects.

Gesteira (2016) offers an important illustration: in Argentina, personal documents such as birth certificates are often described as "legal but illegitimate" by those searching for their origins, insofar as they comply with formal procedures while failing to reflect the experienced truth of filiation. This highlights that filiation is constituted at the intersection of legal, social, and symbolic dimensions—legal recognition does not automatically produce legitimacy, which is constructed and may be

contested through evolving forms of knowledge and interpretation. Just as the limitation of legal recognition may undermine the legitimacy of certain experiences, formally recognised identities may also be experienced as illegitimate when they fail to correspond to the subject's understanding of their own history.

### **Trauma and the Instability of Symbolic Coordinates**

The effects described above can be further illuminated through the work of Silvia Bleichmar, developed in the context of state violence. Her analysis focuses not on violent acts themselves but on the conditions under which subjects are no longer able to anticipate or regulate their relation to the Other.

As Bleichmar (2002, p. 190) formulates it, situations of terror emerge when "one does not know what kind of response one's action will elicit from the other." The unpredictability of the Other, combined with the absence of stable rules governing response, produces a situation in which action cannot be regulated in advance. The persistence of such conditions leads to a "disintegration of the social fabric," fracturing alliances and undermining the reliability of discourse itself (Bleichmar, 2002, pp. 190–191). This can be understood as a destabilization of the symbolic coordinates that enable the subject to interpret and organize experience: what is at stake is not only that harm has occurred, but that the structures through which it can be situated become unstable or inconsistent.

In the context of intercountry adoption, subjects may be confronted with histories marked by gaps, inconsistencies, or contradictions in which the question of origin—functioning as a key point of orientation—cannot be fully stabilized. The difficulty lies not only in what is unknown, but in how what is known can be positioned within a coherent frame of reference. Legal processes have the potential to intervene at this level: by naming harm and establishing responsibility, they may contribute to stabilizing the structures through which experience is organized. When such recognition remains incomplete, this stabilizing function is limited.

Bleichmar's work also allows for a dialogue with human rights frameworks in which enforced disappearance has been described as producing ongoing psychological suffering in contexts of uncertainty and impossible accounting. While the dynamics of intercountry adoption are not equivalent, they point to a configuration in which comparable conditions—prolonged uncertainty, fragmented recognition, incomplete symbolic inscription—may give rise to enduring forms of psychic distress, unfolding across time in relation to the conditions under which experience can be symbolically organized.

## **Memory, Temporality, and the Retroactive Construction of Trauma**

Lucila Edelman's work introduces a crucial temporal dimension. Drawing on the psychoanalytic notion of *après-coup*, she shows that the significance of past experiences is not fixed but may be redefined through later events or new information, altering the interpretation of earlier occurrences (Edelman, 2002, p. 216). In the context of adoption, an identity lived as coherent may become unsettled when uncertainties regarding origin, documentation, or the conditions of adoption come to light. Temporality is not merely an external dimension of experience but intrinsic to the way it is lived and symbolically inscribed.

This temporal dynamic is well-documented empirically. Adoptees often encounter new elements of their history at different moments in life—through personal searches, access to archives, institutional inquiries, or encounters with biological relatives (Intercountry Adoptee Voices, 2016, 2023). These moments may alter the meaning attributed to earlier experiences, introducing discontinuities into the narrative of identity (Koskinen, 2019). Individuals who had understood their adoption in terms of abandonment may later encounter elements challenging this narrative, requiring a reconfiguration of personal history (Koskinen, 2019; Salvo Agoglia et al., 2023). Qualitative research on reunions with biological relatives shows these encounters are often marked by ambivalence rather than immediate continuity: birth siblings encountered in adulthood may appear simultaneously as figures of proximity and estrangement, described as "perfect strangers" (Salvo Agoglia et al., 2023).

From this perspective, the difficulty lies not only in the incomplete recognition of harm in the present, but in the possibility that such gaps are reiterated over time. In many cases, the initial separation was not fully inscribed within a framework capable of acknowledging the relation as such. When subjects later attempt to make sense of their history, this initial gap may be encountered again at the level of legal recognition—producing not a single moment of non-recognition, but a repetition of incomplete inscription across time.

This temporal dimension challenges tort law. As Loibl (2026) argues, tort law locates harm within a defined moment in the past and evaluates it by norms applicable at that time. But if the meaning of harm is subject to retroactive transformation, it cannot be fully situated in the past. The law requires harm to be demonstrated, while the subject encounters it as something that remains open to reinterpretation.

## **Filiatory Disappearance**

The preceding analysis makes it possible to articulate more precisely what is at stake in *filiatory disappearance*. It provides a conceptual framework capable of accounting for the dynamics observed across juridical, symbolic, and temporal dimensions.

Filiatory disappearance does not only refer to a physical disappearance, but to a disruption in the conditions that allow filial relations to be established, recognised, and meaningfully inhabited. It designates a situation in which such ties may exist or have existed, yet remain insufficiently acknowledged within legal and symbolic structures.

From a psychoanalytic perspective, as articulated by Braunstein (1999, 2005), the subject is constituted through symbolic inscription—particularly through language and law—and in relation to the Other. It is positioned within a network of signifiers that establishes its place within a field of meaning, including its relation to origins and to others. Filiality, in this sense, is not merely a legal status, but a symbolic and relational structure through which the subject situates itself.

However, the legal category of adoption may operate in ways that partially occlude these dimensions. The establishment of a new filial relation can reorganize the field of relations, displacing prior ones without providing a framework through which they can be meaningfully articulated or integrated. The issue, therefore, is not only one of incomplete inscription, but also of the non-recognition of relations that may have previously existed.

This dynamic can be further clarified through the distinction between legality and legitimacy, as well as between acknowledgment and recognition. Research in Argentina shows that individuals searching for their origins often describe personal documents as “legal but illegitimate,” insofar as they comply with juridical procedures while failing to reflect what is experienced as the truth of filiality (Gesteira, 2016). Legal inscription, in this sense, does not guarantee meaningful recognition.

A similar tension appears in the recognition of a right to origin. While many legal systems grant access to information about biological parents, this does not necessarily entail recognition of the filial relation itself, nor of the conditions under which it was disrupted.

The law may allow access to information, and even forms of acknowledgment, while leaving unresolved how that knowledge is to be integrated within a structure of rights, responsibility, and relational meaning. The subject may thus encounter a paradox: the relation can be identified, yet remains absent at the level of legal recognition.

This imbalance is also reflected in language. The term “adoptee” positions the subject in relation to an act performed by others, rather than from its own experiential standpoint. Despite its passive grammatical form, it remains anchored in the perspective of incorporation into a new familial structure.

This asymmetry is further visible in the etymology of “adoption,” derived from the Latin *adoptare*, meaning “to choose” or “to take toward oneself.” The term emphasizes incorporation into a new relation, while rendering less visible the disruption of a pre-existing one. Language thus contributes to shaping which dimensions of experience become more or less intelligible.

A similar asymmetry can be observed in relation to voice. Legal and institutional frameworks shape the conditions under which different actors can speak and be recognised. Research has shown that the perspectives of first parents have historically been marginalized in policy and academic discourse in favor of adoptive families and institutional actors (Cawayu & Sacré, 2024; Cammu et al., 2021; Expertpanel Interlandelijke Adoptie, 2021). The emergence of these perspectives in public discourse has often been mediated by adoptees themselves, who may come to occupy a complex relational role: carriers of a relation that has remained insufficiently expressed within legal and discursive structures. The absence of first parents' voices is thus not simply a descriptive gap, but a structural feature of the ways in which filial relations have been organized and recognised.

Filial disappearance can therefore also be understood as a condition in which certain voices—particularly those of first parents, and in different ways adoptees—remain only partially audible within legal and social structures. The issue is not simply their absence, but the failure of these voices to be recognised as constitutive of filial relations.

This is particularly significant when considering that filiation is not solely legal or biological, but relational and intersubjective. The subject comes to know itself through its relation to others, including those who occupy a place in its filial history. Where these relations remain unrecognized, unarticulated, or unintegrated, the subject may encounter difficulties in establishing a coherent sense of origin and belonging.

This perspective also sheds light on the reactions expressed by adoptees in response to legal decisions such as Butink. These reactions are often articulated in terms of frustration or disappointment, or as a sense that the harm experienced is not fully recognised. From a structural perspective, however, they may also be understood as indicating a repetition of earlier forms of non-recognition.

In many cases, the initial separation between children and their first parents was not fully inscribed within a framework capable of acknowledging the relation as such. The disruption of filial ties was

not recognised as carrying legal or symbolic weight, whether due to absence of documentation, falsification, or lack of acknowledgment. When legal frameworks later fail to adequately recognize the nature of this disruption, this initial absence may be reiterated.

From this standpoint, the problem lies not only in the present limitation of legal recognition, but in the possibility of reproducing the very conditions that characterized the original rupture. The law does not simply fail to repair a past disruption; it may contribute to the persistence of its incomplete inscription.

This raises a more fundamental question regarding the relation between legal recognition and symbolic inscription. If a relation was not fully acknowledged at the moment of its disruption, to what extent can it be recognised retrospectively?

From a psychoanalytic perspective, recognition cannot fully restore what was never inscribed. That which was not symbolically acknowledged does not disappear; rather, it remains without a stable place within the structures that organize meaning. Later forms of recognition may enable partial articulation, but cannot fully reconstruct the conditions that were absent at the moment of rupture.

In this sense, legal recognition does not operate as restoration, but as a necessarily incomplete rearticulation. The law may name, acknowledge, or assign responsibility, yet it does so in relation to a relation that was never fully inscribed. This limitation helps explain why such processes may be experienced as insufficient, even when they are formally present.

The term *filiatory disappearance* thus refers not to the absence of a relation, but to the absence of its recognition across legal, discursive, and symbolic levels. It designates a condition in which filiation relations remain structurally unsettled—not because they do not exist, but because they cannot be fully acknowledged within the frameworks that organize their meaning.

This condition may also extend to dimensions of experience that precede full symbolic articulation. Early forms of dependency, attachment, and separation may be registered at levels not immediately accessible to language, yet later reinterpreted in light of new experiences and knowledge. Filiatory disappearance, in this sense, is not merely an abstract concept, but a phenomenon unfolding across legal, symbolic, relational, and affective dimensions.

From this perspective, the issue is not only whether filiation is legally established, but how it is symbolically mediated, whose perspectives are recognised as legitimate, and which dimensions remain unacknowledged. Filiatory disappearance thus captures a configuration in which legal recognition, symbolic inscription, and lived experience remain only partially aligned, leaving the

subject in a position where its relation to origin cannot be fully stabilised within the symbolic and legal order

### **Identity, Truth, and the Limits of Recognition**

Fabiana Rousseaux (2019) proposes the concept of "subjective harm" to challenge approaches that reduce damage to measurable psychological symptoms or isolated events. Instead, she situates harm at the level of the subject's existence within a symbolic and social framework: what is affected is not only the individual psyche, but the conditions under which a subject can situate itself in relation to its own history (Rousseaux, 2019, p. 5). Harm cannot be conceptualized as a discrete, delimited event; it pertains to a disruption in the symbolic coordinates that enable the construction of a coherent narrative within a broader social order. Full restitution is therefore inherently limited—the objective is not the recovery of an intact identity, but the possibility of articulating a position from which the rupture can be acknowledged and re-inscribed.

Rousseaux poses a central question: whether it is possible to demonstrate sufficient harm to the State in order to elicit acknowledgement of its actions in relation to the life of the individual (Rousseaux, 2019, p. 6). This reveals a structural paradox: the subject is required to translate experience into forms the law can recognise—identifiable damage, causal links, measurable effects—yet the harm at stake pertains to identity, history, and belonging, and exceeds these categories. As demonstrated by Loibl (2026), the recognition of responsibility in tort law requires establishing a causal connection to a specific wrongful act, whereas Rousseaux's concept of subjective harm positions damage as the effect of broader historical and social conditions. The crux is not the absence of harm, but the incongruity between how harm is experienced and how it must be articulated for legal recognition.

This logic extends beyond the strictly legal domain. In broader institutional frameworks of recognition and reparation, access to compensation often depends on demonstrating individualized and clinically legible harm—suffering translated into diagnostic categories. But this translation risks oversimplifying complex experiences of identity, history, and symbolic rupture, reducing them to forms aligned with institutional criteria. Recognition becomes conditional upon translation: the subject must categorize its experience according to externally defined categories, risking the loss of its most structurally significant attributes.

Lo Giudice (2019) further clarifies how the disruption of filiation affects the subject's position within a symbolic and generational order. Filiation is not solely a biological fact but a juridical and symbolic construction situating the subject within a network of relations, names, and generational differences.

The falsification or concealment of filiation does not only affect factual knowledge about origins but alters the conditions through which the subject can be inscribed within a genealogy. Clinical accounts indicate that such encounters may necessitate what has been termed "supplementary psychic work," as individuals must rearticulate their history in light of new and potentially disorganizing elements (Lo Giúdice, 2019).

The challenge of translating subjective harm into legally recognisable forms is compounded by the way impunity is socially and institutionally produced. As demonstrated by Kordon et al. (1995), impunity is not a passive absence of accountability but is perpetuated through discursive and institutional mechanisms that dilute responsibility, disqualify victims, and fragment collective understanding (pp. 29–31). Ulloa (1999) adds a structural dimension: the issues at stake cannot be reduced to isolated acts but must be understood in relation to configurations that organise social and institutional relations. Situations may emerge in which there is no effective "third instance" capable of regulating the relation or introducing limits; the absence or weakening of this mediating function leaves subjects exposed to asymmetry and dependency, in which appeal, recognition, or protection is compromised. The challenge of recognition in cases such as Butink's is therefore not incidental but structural—a fundamental incompatibility between the logic of institutional recognition and the nature of the harm involved.

### **The Collective Dimension of Harm, History, and Reparation**

Alicia Stolkiner (2017) insists that harm in contexts of identity disruption cannot be understood as purely individual. Drawing on her work on the appropriation of children during state terror in Argentina, she demonstrates that each case is embedded within broader historical and social dynamics: what appears as an individual trajectory simultaneously reflects collective histories and social practices. Identity emerges through complex interactions between familial, cultural, and historical processes; when this continuity is interrupted—through falsification of filiation, suppression of origins, or displacement—the effects extend beyond the individual and alter the conditions under which identity can be constructed and transmitted.

In the cases Stolkiner analyses, the appropriation of children involves a symbolic and material "erasure" of filiation, displacing subjects from their genealogical and historical inscription (Stolkiner, 2017, p. 195). Those affected may be considered "disappeared while alive" (p. 193), with damage that "reproduces itself constantly" across generations (p. 194). Despite clear differences between these contexts and intercountry adoption, this framework enables an important conceptual shift: rather

than focusing on intention, it draws attention to the effects that arise when relations of origin are not fully recognised or inscribed within legal and symbolic structures. Applied to intercountry adoption, it points to a configuration in which relations of origin may be altered or rendered unintelligible without necessarily resulting from a deliberate project of erasure.

Intercountry adoption cannot be reduced to isolated decisions or individual misconduct; it is embedded within global asymmetries, social imaginaries, and narratives framing adoption in terms of rescue or protection. While such narratives may emphasize humanitarian intentions, they can simultaneously obscure the disruption of pre-existing relations. These symbolic frameworks do not simply disappear once practices are questioned; they continue to circulate, shaping present difficulties in recognizing harm. Obstacles to recognition arise not only within legal systems but within broader social imaginaries.

This also sheds light on the role of receiving states. Even where direct state involvement in the initial separation cannot be legally established, legal frameworks in receiving countries may contribute to the continuation of filial disappearance—not through deliberate erasure, but through the absence of forms of recognition capable of fully acknowledging the disrupted relations and their implications.

Stolkiner emphasizes that reparation must be understood as a collective process: not solely compensating individuals but recognizing victims at a social level, reconstructing shared narratives, and re-establishing frameworks of meaning that have been disrupted (Stolkiner, 2017, p. 198). The challenge lies not only in identifying individual suffering but in addressing the historical, social, and symbolic conditions that produced it.

### **Impunity, Cruelty, and the Persistence of Violence in the Social Bond**

Aguiar (2008) conceptualizes impunity not as the mere absence of punishment, but as a condition that affects the social body—an ongoing situation in which the lack of judicial accountability continues to shape collective life, giving rise to psychosocial effects such as helplessness, disorientation, and a diminished confidence in law as a regulatory structure. When perpetrators are not publicly identified or held accountable, suffering may remain insufficiently acknowledged at both individual and collective levels, weakening the normative and symbolic structures that sustain social life. Aguiar (2023) further emphasizes that these effects extend beyond those directly affected, with the persistence of impunity giving rise to transgenerational transmission and contributing to what she describes as a "negative inheritance"—a process reshaping collective memory, perception, and expectation over time.

Berezin's (2010) analysis of cruelty adds a relational dimension. Rather than defining cruelty as a series of exceptional acts, Berezin situates it within relational configurations in which the other is not fully apprehended as a subject and the capacity to perceive and respond to the other's position is diminished. Cruelty does not necessarily depend on explicit intent to harm, but may arise where relational and symbolic conditions limit the perception of the other. In the context of intercountry adoption, this allows for a nuanced understanding: the term "violence" here does not imply intentional harm in every instance, but refers to structural and relational conditions in which subjects may be affected without full acknowledgment—including situations in which filial relations are disrupted or reconfigured without being fully articulated within legal and symbolic frameworks.

The psychosocial effects described by Aguiar and the relational dynamics analysed by Berezin converge in pointing to a broader condition in which experiences of rupture, uncertainty, and insufficient recognition may persist over time. This resonates with the notion of *filial disappearance*, understood not as a singular event but as an ongoing condition in which relations that have existed remain only partially inscribed within the frameworks that organize meaning, responsibility, and belonging. The effects associated with impunity cannot be reduced to individual reactions to past events; they must be understood in relation to the ways in which these events are—or are not—recognised in the present.

### **Beyond Impunity: Recognition in Motion, Justice in Suspension**

The impasse exposed by the Butink case should not be interpreted as absolute. Across national contexts, an increasing number of investigations, reports, and legal actions indicate that processes of recognition are underway—though they remain fragmented and do not consistently translate into juridical outcomes.

Official inquiries in several countries have documented systemic irregularities in intercountry adoption practices, including falsification of documentation, coercion, and misrepresentation of children as adoptable—reflecting broader structural conditions rather than isolated incidents (Commissie Onderzoek Interlandelijke Adoptie, 2021; Expert Panel Interlandelijke Adoptie, 2023; Truth and Reconciliation Commission of Korea, 2025). In the Netherlands, the Joustra Commission concluded that authorities were aware of abuses yet failed to establish adequate safeguards, and that such practices continued even after the ratification of the Hague Convention (Commissie Onderzoek Interlandelijke Adoptie, 2021). In Belgium, an expert panel led to institutional and policy responses

acknowledging structural shortcomings—a significant shift in public discourse and institutional positioning, reflected in the differentiation between legal and ethical analyses in the Flemish expert panel reports (Expert Panel Interlandelijke Adoptie, 2023a, 2023b). Yet despite these developments, the translation of such findings into legal accountability remains limited.

On 4 March 2026, the Flemish Minister of Welfare, Caroline Gennez, indicated in the Flemish Parliament that a debate would be initiated on the gradual phase-out of intercountry adoption. At the time of writing, a concrete policy framework is still under development. These discussions reflect growing awareness of structural concerns while underscoring the persistence of unresolved questions regarding responsibility and the adequacy of existing legal frameworks.

In the Republic of Korea, the Truth and Reconciliation Commission determined that the state had infringed upon the fundamental rights of adoptees through systemic failures, including fabrication of documentation and insufficient oversight (Truth and Reconciliation Commission of Korea, 2025). In Chile, investigations have revealed networks of actors involved in irregular adoptions—extended, sustained, and coordinated over time, involving both public and private actors (Ministerio de Justicia y Derechos Humanos de Chile, 2025, p. 4). Criminal complaints have been filed, including by the National Human Rights Institute, some invoking enforced disappearance, although none have resulted in convictions to date (Chilean Chamber of Deputies, 2019; Instituto Nacional de Derechos Humanos [INDH], 2024).

Despite these forms of acknowledgment, legal proceedings have struggled to produce consistent accountability, with courts often dismissing claims on procedural or evidentiary grounds. New legal strategies are emerging, however: in several cases, adoptees have shifted focus from isolated acts to state responsibility for sustaining systems known to produce harm, addressing systemic failures including lack of oversight and the continuation of harmful practices despite mounting evidence. Recent scholarship has also explored illegal adoption and identity suppression through the lens of enforced disappearance under international human rights law, focusing on situations in which children have been removed, their identities altered, and family ties effectively erased, sometimes with the knowledge or tolerance of state authorities (Loibl, 2024; United Nations, 2006).

Taken together, these developments indicate that acknowledgment is not a completed process but an ongoing and contested field. From the perspective developed in this article, the coexistence of expanding knowledge and limited juridical inscription reflects a continuation of filial disappearance: relations that have existed remain insufficiently recognised and cannot be fully articulated within the legal and symbolic systems that organize meaning, responsibility, and belonging.

Impunity is not only a legacy of past practices; it is reproduced in the present through the fragmented and incomplete nature of recognition itself.

## Conclusion

The present article has examined the Butink case as a site where the limits of legal recognition become visible. Drawing upon Loibl's analysis of the structural constraints of tort law (Loibl, 2026), it has argued that these limitations reflect a fundamental mismatch between the form in which harm is experienced and the form in which it must be articulated to be recognised within legal frameworks (see Braunstein, 1999, 2005; Bleichmar, 2002; Edelman, 2002; Rousseaux, 2019; Kordon et al., 1995; Ulloa, 1999; Stolkiner, 2017). This incongruity produces a gap between acknowledgment and legal responsibility that actively shapes how subjects can situate their experiences.

The notion of *filiatory disappearance* has been proposed to conceptualize this condition—articulating how legal limitation, symbolic inscription, and temporal processes intersect in shaping the conditions of subjectivity. The issue at hand is not merely the absence of justice, but the presence of a fragmented form of recognition that fails to adequately consolidate the concept of harm: the law does not wholly reject what has occurred, yet fails to provide a framework capable of fully articulating it.

This observation calls for a more nuanced understanding of recognition—one that considers not only the acknowledgment of harm but the manner in which it is inscribed within legal, symbolic, and social frameworks. Where recognition remains partial, the conditions under which harm becomes intelligible, speakable, and recognisable are affected (Kordon, 1991; Kordon et al., 1995; Stolkiner, 2017), shaping how subjects relate to their own histories. Rather than conceptualizing such cases in terms of the presence or absence of justice, it becomes possible to consider the specific effects produced by configurations in which recognition remains incomplete.

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