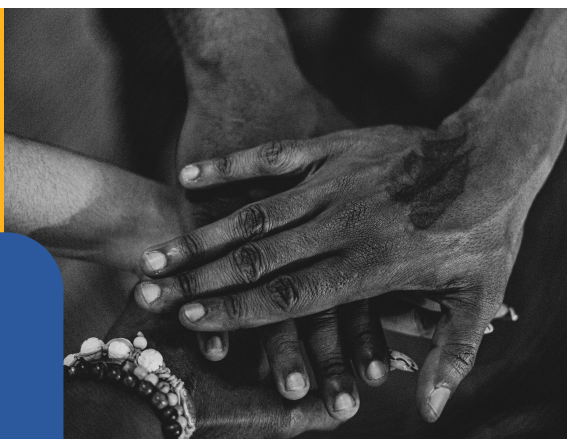




United
Adoptees
International



Position Paper

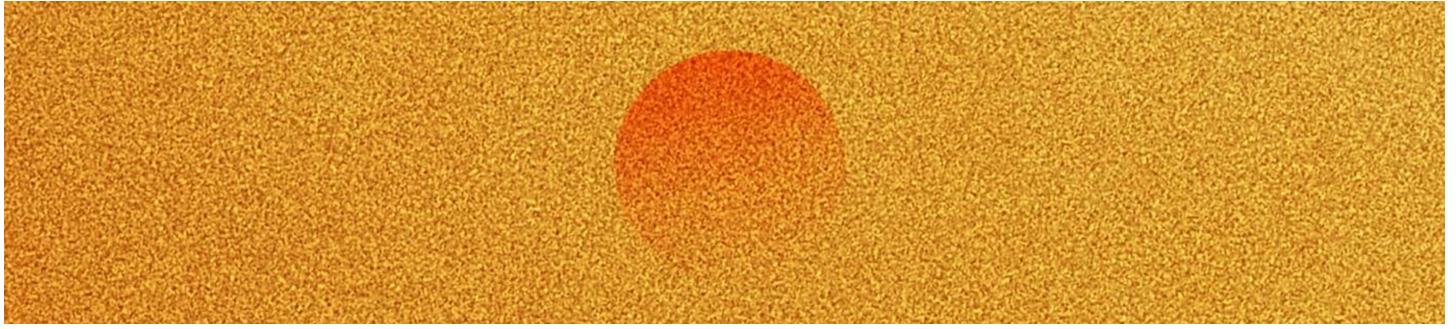
Position paper on a united front to end intercountry adoptions and seek redress for all adoptees and victims

May 2024

PURPOSE

This position paper from United Adoptees International is for a call to unite interest groups and individuals to strengthen action and advocacy in the receiving countries and sending countries towards

1. **abolishing intercountry adoptions,**
2. **the correct implementation of the United Nation Convention on the Rights of the Child, as opposed to the Hague Adoption Convention,**
3. **demanding redress from the receiving and sending countries for the adoptees and victims,**
4. **denouncing the Hague Adoption Convention.**



THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The UN Convention on the Rights of the Child (UNCRC) has been ratified by every nation except the USA and is a binding human rights treaty that provides the legal framework for the protection of children.

The articles of the UNCRC are interdependent and together they provide the best protection against trafficking for children.

The following articles from the UNCRC are relevant in the context of adoption:

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Editor's note: Many of the articles in the convention point to the same principle: Governments are obliged to assist families in difficulty. This is the best way of helping a child in need as it will take place within his/her culture and family.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. 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 his or her identity.

Intercountry adoption has had a perverse effect on these rights as adoption changes the child's identity socially and legally. As a result, the aforementioned rights are violated, and governments have a responsibility to assist adoptees in re-establishing their original identities.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. *States Parties shall in accordance with their national laws ensure alternative care for such a child.*
3. *Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.*

Article 20.3 is often misinterpreted:

Adoption is often erroneously described as a child protection measure; however, it is not. In a rights-based system, the child is the rights holder and the state the duty bearer. This means that the state must establish suitable institutional and foster care systems for children in need of care and protection.

Adoption is a civil order, akin to marriage, creating a relationship between individuals and thus falls under private or family law.

Child Protection, on the other hand, is governed by public law.

Adoption is a very drastic measure that permanently cuts all legal family ties and alters the identity of a child. Intercountry adoption is even more extreme, as children lose their citizenship, religion, language, and culture.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

b) Recognize that intercountry adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin.

Article 21b of the UNCRC is also known as the **subsidiarity principle**. It is important to know how the UNCRC and the Hague Adoption Conventions versions of the subsidiarity principle differ, and it is cause for considerable confusion.

Article 21b stipulates that intercountry adoption is only permissible if there is no local care available, such as foster care, residential care, local adoption, kinship, or any other suitable manner of care. In any functional nation, there are almost no circumstances when local solutions cannot be found.

Thus, under the UN Convention on the Rights of the Child, intercountry adoptions are if at all, an extreme exception.

The subsidiarity principle according to the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption:

Preamble

b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

In contrast to the United Nations Convention on the Rights of the Child, the text of the Hague Adoption Convention introduces the concept of “permanency” and replaces “suitable manner of care” with “suitable family”.

It therefore does not recognize foster or institutional care as suitable for children, only permanent family-based solutions, which is adoption.

The Hague Adoption Convention was created to undermine the UNCRC and to center child care policies around adoption.

The subsidiarity principle under the Hague Adoption Convention can be summarized as follows:

If a child cannot be raised by his or her parents, the child should be placed for domestic adoption. If that domestic placement is not possible within a limited period, the child should be placed for intercountry adoption.

Comment:

It is evident that the Hague Adoption Convention conflicts with the United Nations Convention on the Rights of the Child.

In the hierarchy of laws, the United Nations Convention on the Rights of the Child is considered superior and the most important of all the human rights conventions. Thus, the Hague Adoption Convention, being a private law convention, contradicts the principles outlined in Article 21b of the United Nations Convention on the Rights of the Child.

For further reading and references:

<https://database.againstchildtrafficking.org/node/42064>

RECOMMENDATIONS

United Adoptees International and the signatories seek justice for adoptees and demand immediate action to the following recommendations:

1. A complete permanent ban on intercountry adoptions.
2. Correct implementation of the United Nations Convention on the Rights of the Child as opposed to the Hague Adoption Convention.
3. Establishment of comprehensive redress schemes under which adoptees can request individual compensation.
4. Financial support for organizations which are independent and not connected to the adoption system, which assist adoptees and victims with their social, psychological, and legal issues, as well as searches for family members.



UNITED ADOPTEES INTERNATIONAL

The UAI is an umbrella organization comprising individuals and groups fighting the injustices stemming from intercountry adoptions. Our advocacy is centered on abolishing intercountry adoptions and ensuring the proper implementation of the United Nations Convention on the Rights of the Child (UNCRC), as opposed to the Hague Convention (HAC). Furthermore, our goal is to secure redress for victims whose human rights have been violated.

The work of the UAI is also bearing fruit, with the Netherlands initiating an investigation into past adoption practices and the Committee Investigating intercountry adoptions advising the government to stop intercountry adoptions in 2021. More recently, [Denmark](#) has also halted adoptions with the coming out of [the documentary](#), "The Great Adoption Theft". Investigations were also conducted by the [Swiss](#), [Belgium](#), [Norwegian](#), [Danish](#), [Swedish](#), [Korean](#), and [French](#) authorities, culminating in reports on the illegality of the majority of adoptions in those countries.

In April 2024 the Dutch house of representatives called for the ceasing of intercountry adoptions and increasing assistance to adult adoptees.

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