

**Application to
The Truth and Reconciliation
Commission of South Korea**

- for the initiation of investigation concerning human rights violations and incidents of historical significance in the field of international adoption



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1.0 Introduction

On behalf of the organization Danish Korea Rights Group (DKRG), we hereby submit an application to initiate an investigation concerning human rights violations and incidents of historical significance in the field of international adoption during the authoritarian rule in South Korea.

DKRG is an organization for Danish adoptees from South Korea adopted to Denmark. At the time of writing, we represent more than 160 adoptees. DKRG is a non-profit interest organization that works for the rights of Danish adoptees from South Korea and for their rights to their own identity and personhood as adoptees and free individuals with their own ability and power to act as independent and free human beings.

DKRG's inquiry to the Truth and Reconciliation Commission of the Republic of Korea is based on the fact that many adoptees in Denmark were adopted during the time of authoritarian rule in South Korea. We are adoptees who seek our Korean origins and wishes to examine our backgrounds as adoptees. Access to background information and historical facts for the adoptees are therefore of crucial importance and significance, and for some adoptees it is also important to be able to search for their origin. Both the access to background information for adoptees and the access to search for biological family are today hampered by the practice of adoption agencies, which dates back to the time of authoritarian rule, which is still de facto unregulated when it comes to post-adoption services and is important to ensure the human rights of adoptees.

As adoptees, we are no longer the children that South Korea sent out of the country through international adoption during the time of authoritarian rule. Today we are adults who seek our identity and our personality as individuals in the societies and countries in which we have been placed through our adoption. But we also experience how the history from the time of authoritarian rule reaches into the present and impact the lives of each adoptee and influence our ability to create our identity, our personality, our autonomy and our freedom.

Today many of us are parents to our own children, and the question of our own identity and personality is not only of great importance to us as adoptees, but also to the next generation - our children. Our background stories are also our children's background stories, which is inextricably linked to our Korean origins and our Korean background.

We are aware that worrying and emotionally compromising information and knowledge may emerge if such an investigation is initiated by the Truth and Reconciliation Commission of the Republic of Korea. But as adoptees from South Korea, we will have no reservations. We want the truth to come out so that we can be reconciled with it, so to speak.

1.1 The challenges of requesting the Commission to investigate intercountry adoption from South Korea

The Commission's previous cases have dealt with limited incidents in the past in the form of concrete cases of violence, massacres and specific assaults.

When it comes to international adoption, we are not only talking about isolated incidents, but also about the establishment and creation of an adoptions system and an adoption policy that have led to and and permitted violations of human rights.

Each individual adoptee is an incident in itself, but the overall adoption system that was created and set up during the authoritarian era entailed in itself built-in systems where basic human rights were disregarded and abuses were put into the system as part of the adoption process itself.

These historically established systems from the authoritarian period extend far into the present because they have simply not been changed by the central actors of adoption in South Korea.

The most significant change in South Korean adoption occurred in 2012 with the introduction of South Korea's first real adoption law.

This law is characterized by the fact that it does away with previous practice regarding international adoption. From a human rights point of view, this in itself can be seen as an admission on the part of the South Korean state that previous practices were problematic in relation to basic human rights.

Our request to the Commission therefore deals with an investigation of the adoption system during the authoritarian period, as it is the systemic set-up that is inherently designed to systematically violate basic human rights and has built-in mechanisms that result in abuses and illegal acts with the aim of enabling the international adoption.

The question is therefore what the South Korean authorities by their actions allowed to happen and more importantly what the South Korean authorities by their omissions allowed to pass in relation to violations of basic human rights and abuse of children who were its own citizens.

The President of the Truth and Reconciliation Commission mentions in the article:

"[인터뷰]정근식 설이화해위원장 "배·보상특별법하다...해외일양 인권침해 사랑이스", "해외일양과 관련해서 촉박해...", "장진규명, 명태...서진실보길", Nnews, from July 17 2022

On the question "새 등장하고 있다" from the journalist, the President of the Truth and Reconciliation Commission replies: "아직도 엄연히 이전에 도달했고, 경제적으로 완벽해 지고 있으며, 경제적으로 충분하지 않은 상황에 처할 수 있습니다. 어느 정도 쳐도 좋다"고 말했다".

In response to the President of the Truth and Reconciliation Commission's statements, Danish Korean Rights Group submits this request to South Korea's Truth and Reconciliation Commission.

1.2 International adoption and the South Korean state

Approximately 9,000 Korean children have been adopted from South Korea to Denmark.

This has happened with the approval of the South Korean state during the authoritarian rule in South Korea. As explained in the following section 1.3. the vast majority of adoptions took place during the time of the authoritarian regime and possible violations of human rights as described here must be attributed to this rule.

The main principles of the administrative practice of the adoption agencies have been founded during the authoritarian era with the approval of the South Korean state, and it is the same practice from the authoritarian era that has been in force until recent times.

It is a practice where serious irregularities such as document forgery, corruption, maladministration and lack of order in papers and documents as described specifically for South Korea below in section 1.4.

Establishing an adoption agency has required the approval of the South Korean government and authorities at this time. It has thus not been possible for anyone to set up and run an adoption agency without approval and acceptance.

It is e.g. the case when the number of South Korean children had to be distributed to the respective adoption agencies. This distribution has taken place from the central team.

It is e.g. also the case when South Korean children had to be approved for adoption. South Korean authorities such as the Ministry of Justice and the Ministry of Foreign Affairs have been actively participating in this.

South Korea's Ministry of Justice has contributed to the international adoptions taking place. The stamps of this ministry can be found i.a. on documents where South Korean children's citizenships are revoked.

South Korea's Ministry of Foreign Affairs stamps and permits are found in adoptees' travel documents in connection with extradition to recipient countries.

The stamps and signatures of police authorities and municipal authorities are also found everywhere in the documents of the internationally adopted.

In other words, this means that South Korean authorities from local to state level have been involved in the very extensive international adoption, which has included the sending of up to 200,000 South Korean children over time, of which the vast majority of the children were sent during the authoritarian era .

Who protects a state's weakest citizens? Who are they protecting from the citizens of a state who cannot protect themselves?

In the international conventions, the answer is clear! It is the state's responsibility to do this!

When the South Korean state approves adoption agencies and determines who is allowed to conduct adoption business, the state also has a responsibility for the manner in which adoption business is conducted.

The South Korean government during the authoritarian era as well as today had the duty of supervision and oversight of how the licensing of the adoption agencies was administered.

This oversight and this duty of oversight can be seen precisely in the fact that it is South Korea's local authorities (police and municipal authorities) and state authorities (Ministry of Justice and Ministry of Foreign Affairs) that appear from the adoptees' documents in connection with the adoption preparations prior to the actual adoption and that the South Korean state had responsibility for the children's welfare and interests until they become citizens of the recipient country.

The South Korean state and local authorities have been part of all phases of the adoption in connection with international adoption and thereby the South Korean state has also been responsible for whether the human rights of the youngest citizens, the children, were respected and whether the basis for the international adoptions were correct and true.

The South Korean state was thus formally responsible for ensuring that there was no illegal adoption based on coercion, bribery, forgery of documents, questionable administration, missing documents and documentation, false orphanage cases.

The question is whether the South Korean state, through active action or passive omission, has contributed to illegal adoptions and contributed to a practice that today has major negative consequences for adoptees in Denmark and the rest of the world.

It is a fact that international adoptees today feel the consequences of the authoritarian regime's adoption practices and policies, an acknowledgment of this through a thorough investigation by South Korea's Truth and Reconciliation Commission is therefore necessary, and a subsequent recovery of the consequences of South Korea's adoption practices and adoption policy will in itself constitute a violation of human rights.

It is time to know the truth about one of the world's biggest social experiments, so that there can be recovery and reconciliation for the many former South Korean citizens who today bear and feel the consequences of South Korea's adoption practices and adoption policy.

1.3 The relevans of the authoritarian era and international adoption from South Korea to Denmark

The situation of Danish adoptees is interesting to look at during the authoritarian period and is emphasized by the number of adoption cases from South Korea to Denmark within the period.

A total of 8,814 Korean children were sent from South Korea to Denmark by international adoption in the period 1963 to 2021.

In the period 1963 to 1993, 7790 Korean children were sent from South Korea to Denmark by international adoption.

This means that 88.38% of the Danish adoptees from South Korea were adopted during the authoritarian era.

In comparison, only 11.62% have been adopted after the authoritarian era, and more remarkably, only 0.61% have been adopted since 2012, when South Korea's first adoption law came into effect and partial legal regulation was introduced.

This demonstrates that the authoritarian period and authoritarian rule had a major impact on international adoption. It also shows that the authoritarian rule's systems in the field of adoption are continued until South Korea's first adoption law comes into action in 2012 and only then regulated the adoption system that was built up during the authoritarian rule.

Year	Number of adoptees	%
1963-1979	3851	43,69
1980-1988	3339	37,88
1988-1993	600	6,81
Subtotal 1963-1993	7790	88,38
1994-2011	970	11,01
2012-2021	54	0,61
Total number of Danish adoptees fra South Korea	8814	100,00

The average number of children annually (sent to Denmark alone) in the period 1963-1993 is 268.62 South Korean children. That is more than 22 children every month.

The average annual number of children (sent to Denmark) in the period 1994 to 2021 is 39.38 children.

There is a difference of a factor of 6.8 between the two periods. In other words, 7 times more children were adopted annually on average per years during the authoritarian period.

There are variations in the annual number of adopted children from South Korea. In the period 1980 to 1986, 2,723 children were sent out during the period to Denmark alone, corresponding to more than 390 children on average per year during the period.

To Denmark alone, that was more than 32 children a month and more than 1 child every day in average.

Year	Number of adoption cases to Denmark
1980	403
1981	402
1982	483
1983	347
1984	295
1985	402
1986	401
Total	2733

The numbers speak for themselves. The authoritarian era and the authoritarian rule play a decisive role in the history of international adoption in South Korea.

Therefore, international adoption is inextricably linked to the authoritarian rule and the historical fact that South Korea sent out up to 200,000 of its own children through international adoption.

Number of Korean adoptees to Denmark by year:

1953-57		1974	542	1981	402	1988	270	1995	120	2002	45	2009	21	2016	5
1958-68	13	1975	246	1982	483	1989	109	1996	80	2003	56	2010	21	2017	6
1969	12	1976	419	1983	347	1990	136	1997	65	2004	53	2011	16	2018	7
1970	126	1977	460	1984	295	1991	115	1998	63	2005	46	2012	10	2019	3
1971	308	1978	417	1985	402	1992	101	1999	65	2006	43	2013	5	2020	3
1972	347	1979	406	1986	401	1993	139	2000	68	2007	22	2014	7	2021	3
1973	555	1980	403	1987	336	1994	105	2001	61	2008	20	2015	5		
Total															8,814

These are the numbers of cases only from Denmark. The same conditions apply to all countries to which South Korea has sent children for adoption purposes. The authoritarian period accounts for the majority of adoptees from South Korea.

These figures only apply to Denmark. The overall figures for international adoption from South Korea are far greater.

The sheer number of children who were adopted out during the authoritarian era alone must have raised the attention of the South Korean state.

Most adoptees known to DKRG are registered as orphans. Our adoptees are primarily children who are registered as found or lost children, who have been left at e.g. steps and at the police.

The large number alone calls into question the validity of the adoption documents of the adoptees who were supposed to be found and lost children. Most of the adoptees are registered as born in Inchon, Busan and Seoul. This must have meant that the streets and steps of South Korea must have been literally flooded with children on a daily basis, and there must be tens of thousands of police reports of surrendered children from the era of authoritarian rule.

This questioning of the validity of the adoption documents becomes particularly interesting when adoptees from South Korea find their biological family and thereby experience a completely different background story than that which appears in the adoption documents. Namely, that they were not and have never been orphans.

The South Korean state and its authorities may have contributed to the laundering of children and illicit adoption through its approvals and stamping of adoption documents.

Whereby the status of South Korean children as orphans or lost children has been made legitimate on paper.

1.4. The Dutch report into international adoption from South Korea

The Dutch government has set up a committee to investigate international adoption. The committee's report was published in February 2021. Regarding South Korea, the committee's report states the following types of abuse found in adoptions from South Korea in the period before 1998, and that includes the time before 1993 and the authoritarian period:

- 1) Missing personal data / Missing documents
- 2) Document forgery
- 3) Maladministration
- 4) Fraud and corruption

(See appendix 1: The Dutch Report, p. 124)

Denmark and the Netherlands are both comparable countries with comparable structures of society.

That a report from the Dutch government states that Missing personal data/missing documents, document forgery, maladministration and fraud and corruption has taken place in connection with adoption from South Korea is a fact that calls for a thorough investigation of international adoption from South Korea.

The Dutch report states:

"Based on the investigation, the Committee has distinguished eight types of abuse in adoptions to the Netherlands. Usually, several types of abuse occurred within one adoption case. An example of this is child theft associated with document forgery and profiteering. In other words, abuses usually took place in conjunction with one another.

The following types of abuse have emerged in the research material:

- *Absence of documents and/or personal data;*

- Document forgery;
- Failure to perform duties in accordance with general principles of good administration and associated rules and procedures;
- Fraud and corruption: Wilfully misleading and deceiving something or someone or misusing authority or power for personal gain.” (The Dutch report on Intercountry Adoption, Appendix 1, p.122)

The fact that the Dutch government's report only states that Missing personal data/missing documents, document forgery, maladministration and fraud and corruption have taken place and does not investigate it further is because South Korea is not within the core area of the Dutch committee's mandate.

This is a good reason why South Korea's Truth and Reconciliation Commission should conduct a thorough investigation into this very area.

Scope/time period	Country	Abuses							
		Missing personal data/documents	Document forgery	Maladministration	Fraud and corruption	Concealment of status	Child theft	Child trafficking	Baby farms
Countries in the order establishing the Committee	Bangladesh	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Brazil	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Colombia	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Indonesia	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
	Sri Lanka	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue
Before and after 1998	Chile	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Ethiopia	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Greece	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	India	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Peru	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Poland	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Romania	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Taiwan	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	Thailand	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue	Light blue
	South Korea	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue	Dark blue

Legend

Dark blue = structurally identified **Light blue** = occasionally identified **Gray** = unknown

The Dutch investigation points to systemic causes of fraud, maladministration, corruption and document forgery etc.

Furthermore, the Dutch government's investigation into adoption to the Netherlands confirms the experiences of adoptees from Denmark, which is explained below.

The Dutch government's conclusions point to elements that, as a whole and separately, constitute the definition of human rights violations and illegal adoption during the authoritarian period, and it calls for the need for a thorough investigation of adoption during the authoritarian era's rule.

1.5 What will an investigation into international adoption under the authoritarian rule mean for the victims

For the adoptees, an investigation will create historical clarity over the many allegations of human rights violations. It could also mean that solutions can be found in relation to recovery and reconciliation between the South Korean state and the many adoptees in Denmark, who feel that the South Korean state's failure to act perpetuates the unacceptable situation, which has its roots deeply rooted in the authoritarian period.

A study of the authoritarian era can also provide important insight into the historical aspects of adoption from the authoritarian era that influence today's victims and ensure that the sins of the past are not repeated in the present.

An investigation of the past can be of the greatest possible importance for future adoptions from South Korea and ensure that it takes place with full security for the children's human rights.

1.6 What will the Commission's rejection of an investigation into international adoption mean?

DKRG respects the Commission's decisions. Having said that, it is also important to draw attention to the fact that tens of thousands of internationally adopted people from South Korea outside of Denmark follow DKRG's request to the Commission for a thorough investigation of international adoption from South Korea.

International adoption from South Korea has not been an invention of the adoption agencies themselves, but has been allowed, approved and licensed by the South Korean state and which also therefore stands on the scale of how international adoption has been handled by the South Korean state.

A refusal to investigate intercountry adoption from South Korea will therefore also arguably be seen as a continuation of the concealment of the circumstances and facts underlying thousands of former South Korean nationals.

A rejection of an investigation will indisputably be considered the result of irrelevant political expression, which will stand in stark contrast to the Commission's stated purpose of finding the truth about historical events and violations of human rights regarding reconciliation.

2.0 DKRGs claims

As adoptees, we demand full opening of our original adoption documents, which are currently in the custody of the adoption agencies Holt and KSS concerning international adoption from the time of authoritarian rule in South Korea. These documents are central to an in-depth investigation of the role of the South Korean state in connection with international adoption during the authoritarian era.

We urgently request that the original adoption documents to be transferred to the official Korean post-adoption authority, so our documents and history are protected by the South Korean authorities and preserved for post-adoption purposes within the frame of South Korean adoption laws, and protect the privacy and personal information of each adoptee, so that adoptees have access to their own background information as well as provide access for adoptees to initiate a search for biological origin through the official Korean post-adoption authority with the aim of living up to international human rights on the right to identity, the right to know our backgrounds as well as the right to know our biological origin, which are rights protected by international law under United Nations and more.

3.0 Request for initiation of investigation of internationally adoptees

According to the Law on Reconciliation of Past Cases for Truth and Reconciliation (진실·화해를 위한 과거사정리 기본법), Article 2, Section 4 and Section 6, the Truth and Reconciliation Commission is authorized to investigate, respectively, violations of human rights and to investigate cases of historical significance that the Committee for Reconciliation of Past Cases for Truth and Reconciliation under Article 3 recognizes as necessary to find out the truth in

order to achieve the purpose of this Act.

DKRG will present concrete cases from adoptees that fall under possible violations of human rights (Article 2, Section 4) as well as matters that urgently require an investigation with the aim of clarifying past events and creating historical clarity about matters relating to international adoption (Article 2, Section 6).

Both points are of crucial importance to the thousands of international adoptees who are of South Korean descent and will certainly contribute to creating justice and reconciliation.

3.1 The Aggrieved and the Unreconciled

As mentioned in the introduction of this request in section 1.1, adoption in itself is not an incident, but instead it is the systemic incidents that have made the adoption and the adoption basis possible. Therefore, DKRG qualified and categorized incidents related to adoption that constitute violations of human rights in order to create an overview of known incidents related to international adoption.

These are described in the sections 3.1.1 og 3.1.2 samt i afsnit 3.3, and the categories are inserted to the application forms of the adoptees who apply in connection with this application.

During this case, DKRG will present two main groups of adoptees who are the subjects of DKRG's request to the Truth and Reconciliation Commission. This is done to understand the complexities regarding the protagonists of international adoption.

3.1.1 Group 1: The aggrieved adoptees - the adoptees who, e.g. have learned the truth about their adoption and have found conditions that point to violations of human rights.

The definition of the Aggrieved are the people who have found certainty and the truth about their Korean origins and are clear about the circumstances surrounding their background. They are aggrieved because they feel that they have been wronged because their human rights have been violated.

The Aggrieved find out that their date of birth and age has been changed by the adoption agencies. The aggrieved find out, that they are not orphans who have been abandoned but have always had biological parents. The aggrieved find out that they are not the person they have thought they were all their lives, but that they have changed their identity into the identity of a dead child.

That makes them angry and upset in all their clarity about who they really are.

The starting point for the Aggrieved is that they feel subject to violations of human rights on specific points.

The categories are:

- a) Wrong date of birth. It is e.g. people who have been lied younger than they really are.
- b) Wrong city of birth. This is, for example, where it is stated that one was born in Seoul, but in reality was born in Busan.
- c) The identity of the adoptee is incorrect (the adoptee is not the person who appears in the adoption papers). This is, for example, where adoptees are sent in the identity of a dead child or another adoptee.

- d) The adopted person's status as an orphan is incorrect. It is e.g. cases where the adoption papers say that you are an orphan, but in reality the parents are alive and the adopted person has been made an administrative orphan on paper to facilitate the adoption process.
- e) Cases of serious illness, malnutrition or poor health. Welfare cases where the adoptee's welfare has not been considered by adoption agencies or the Korean state. It is e.g. cases where adoptees have arrived in the recipient country sick, malnourished or in another unsound condition, where the adoptee has not yet received formal Danish citizenship and is therefore under the responsibility of the adoption agencies and the Korean state.
- f) Access to background information is refused by the adoption agencies. These are cases where adoptees ask for access to their own personal information, but are denied access to background information.
- g) The adoption agencies do not initiate post-adoption proceedings in accordance with the Adoption Act in Korea regarding to obtain consent for the release of third party information (e.g. biological family) from the third party.
- h) Sibling cases, where the adopted person finds out that he/she has been separated from a brother or sister, and where the right according to Article 8 of the Convention on the Rights of the Child applies.
- i) Cases where the adoptee is told by the adoption agency that the information in the adoption case is incorrect, but where the adoption agency refuses to disclose the content of the correct or incorrect information.
- j) Cases where the adoptee finds out that their name as per the adoption papers is incorrect. This applies to adoptees who use their Korean name in full or who are legally registered with their Korean name as stated in the official Korean adoption documents.
- k) Abuse of the adopted person. These are cases where the adoptee before and after the time of adoption has been subjected to physical, psychological or sexual abuse in institutions or in the custody of adoption agencies in Korea or by the adoptive family.
- l) Adoptees are classified as disabled on an incorrect basis (health-related). These are cases where a temporary bacterial or viral infection is found in the child, but which has not resulted in permanent harm or physical disabilities, and which cannot be classified as a disability according to ordinary medical standards.
- m) Other incorrect or false information

3.1.2 Group 2: DKRG will also present the unreconciled adoptees who for years have sought and demanded the truth about the circumstances surrounding their adoption in vain.

The definition of the Unreconciled are the people who live in uncertainty about their background. They seek their background without getting answers about factual circumstances. They feel deprived of their human rights and of their right to identity.

The uncertainty and denial of background information affects the unreconciled adoptee mentally and robs them of the opportunity to create their own authentic identity and personality.

It can, for example, be adoptees who change their name to their Korean name again or incorporate their Korean name into their Danish name. The Korean name that they take is the

name that appears on the adoption documents, and the Korean name thereby becomes an integrated part of their identity.

DKRG suspects that adoption from South Korea may have taken place under the violation of fundamental human rights. Many adoptees may have been victims of illegal adoption, where forgery of documents, identity fraud, bribery, coercion and criminal acts may have taken place.

3.2 DKRG's recommendations for a full scale investigation of internationally adoption cases

With our application for a Commission investigation of the international adoptees' situation, we request an investigation of the conditions that apply to the adoption agencies Holt's Children Services, Inc. and Korean Social Services, Inc. adoption business back from the start of the two adoption agencies under authoritarian rule. It is our view that the past and present practice of adoption in South Korea has not undergone significant changes since the time of the South Korean authoritarian rule. In this way, the practices of the past under the authoritarian rule strongly influence the present treatment of adoptees from South Korea.

3.3 Special focus areas for an in-depth investigation of the Unreconciled

3.3.1 Legal deficiencies in adoption

- That the Truth and Reconciliation Commission investigates whether illegal adoption has taken place within the frame of South Korean and international law,

- and investigates the number of adoptees for whom changes and possible document forgeries have been made.

- That is: forgeries and distortions of adoption documents; exchanges and forgeries of adoptees' identities; falsified and incorrect birth data; that adoptees on the wrong basis have been systematically orphaned on paper; illegal adoption without parental consent, etc.

3.3.2 The right to original documents and background information

- That the Truth and Reconciliation Commission takes a position on adoptees' demands for the right to access their own original adoption documents, taking into account the Adoption Act's respect for third party rights.

3.3.3 Demand of transfer to neutral post-adoption authority for post-adoption purposes and protection

- That the Truth and Reconciliation Commission take a position on the adoptees' claim that all original documents relating to international adoptees be transferred immediately to the South Korean post-adoption authority with the purpose of post-adoption services, so that documents, information and personal data are protected by the South Korean state and not kept by private adoption agencies with full access to delicate private information.

- By transferring the cases to an authority under the South Korean state, the documents are protected for posterity and are protected against destruction and against any distortion or falsification of content.

3.3.4 Recognition of the significance of the adoption documents for the adoptee's right to his or her own identity and personality

- That the Truth and Reconciliation Commission takes a position on adoptees' demands for the right to know their own identity and personhood, as well as the obligation of the adoption agencies, Holt and KSS, to live up to this right.

3.3.5 Investigation into possible human rights violations during the authoritarian period in South Korea

- That the Truth and Reconciliation Commission takes a position on whether the human rights of adoptees have been violated.

3.3.6 Investigation into whether the adoption agencies have acted intentionally or culpably

- That the Truth and Reconciliation Commission take a position on whether the adoption agencies, Holt and KSS, have acted negligently.

3.3.7 The role of the South Korean state in adoption under the authoritarian rule

- That the Truth and Reconciliation Commission take a position on whether the South Korean state have failed to monitor the adoption agencies' practices, which have largely not been regulated.

- That the Commission assesses whether there is a need for institutional changes in the South Korean adoption system that do not appear to have undergone any significant changes since the time of the authoritarian rule.

- That the Truth and Reconciliation Commission investigates if the laws and policies were wrong or insufficient at that time under authoritarian rule, and whether it can be regarded as state violence.

3.3.8 Investigation into the number of deaths of adoptees before obtaining Danish citizenship

- That the Truth and Reconciliation Commission investigates how many children died in Holt's and KSS' custody prior to the planned adoption date,

- and investigates how many children died during transport to the recipient country,

- and that the commission investigates how many children died upon arrival to the recipient country before the child received the citizenship of the recipient country.

- That the Truth and Reconciliation Commission investigates how the respective adoptive parents and biological parents were informed of the death of the child.

3.3.9 Investigation into the number of seriously ill adoptees

- That the Truth and Reconciliation Commission investigates how many children were sent from South Korea in a critical health condition such as e.g. infections or malnutrition.

3.3.10 Investigation into adoption agencies' obligations prior to the adoptees obtaining Danish citizenship

- That the Truth and Reconciliation Commission investigates how many adoptees, prior to receiving Danish citizenship, after arrival in Denmark, were subjected to abuse, neglect or unworthy treatment.

3.3.11 Investigation into admissions to hospitals prior to the adoptees obtaining Danish citizenship

-DKRG has received information that adoptees were admitted to Danish hospitals upon arrival to Denmark from South Korea. The children were at this time South Korean citizens. We kindly ask, that the Truth and Reconciliation Commission investigates how many children received

medical treatment after arriving to Denmark while they were still South Korean citizens.

3.3.12 Investigation on violation of human rights in relation to citizenship

- That the commission investigates how many South Korean adoptees had their South Korean citizenship administratively revoked before they acquired Danish citizenship and were thereby made stateless.

3.3.13 Investigation on deletion of South Korean citizenship

- In Denmark, we experience that Danish adoptees find out that they are still listed as South Korean citizens in South Korea. This is experienced when the adoptees apply for F4 visas. We kindly ask that the commission investigates how many adoptees are still listed as South Korean nationals in South Korea, even though it is decades since the adoption was finalized.

3.3.14 Investigation into adoptees' separation from siblings

Our definition of biological siblings also includes half-siblings who have a common father or mother.

- That the Truth and Reconciliation Commission investigates how many biological siblings were separated as a result of the adoption process,

- as well as investigates how many biological siblings were placed in different adoptive families separated,

- and how many siblings are still living in South Korea as South Korean citizens.

3.3.15 Investigation of reunification of separated siblings

- We kindly ask that the Truth and Reconciliation Commission investigates the possibility of reunification of biological siblings.

3.3.16 Investigation into cancellation of relinquishment for adoption

- That the Commission investigates how many biological family members have regretted the adoption,

- and how many biological family members have requested reunification with adoptees, after the child had been relinquished for adoption.

3.3.17 Investigation into the voluntary nature of adoptions

- That the Commission investigates how many biological families have objected to the adoption prior to the finalization of the adoption.

- That the Commission investigates the number of children who were given up for adoption by persons other than the child's biological mother or father (e.g. grandparents or others).

3.3.18 Legality of relinquishment of the child

- That the Commission investigates the legal basis for the biological family's transfer of the child to the adoption agencies. DKRG has received information that handover of the child from parents to adoption agencies or orphanage is based on non-legally binding contracts between biological parent and adoption agency or orphanage. This is problematic in cases where the biological parent demands the child returned, but the adoption agency or orphanage claims that the biological parent has transferred custody of the child to the adoption agency or

orphanage, thereby relinquishing their own parental authority.

3.3.19 Investigation into why missing children were given up for adoption

- That the Commission investigates how many missing children were adopted as a result of the children's biological family not being able to be traced.

3.3.20 Investigation on the economic aspects of adoption

- That the Commission investigates how much money adoptive parents paid to the adoption agencies.

- That the Commission investigates the relationship between voluntary donations from recipient countries to the adoption agencies and actual payment for adoption,

- and examines whether voluntary donations actually constituted payment for children, which could indicate that voluntary donation has in fact been payment for children masked as voluntary donations, which could indicate commodification of South Korean children.

- That the Commission investigates whether there is a relationship between the size of donations from recipient countries and the range and type of available adoptees.

- Thus, the question is whether a larger amount of money donated has led to better access to children for the donors.

3.4 The adoption agencies under the authoritarian rule

The adoption agencies Holt and KSS were established during the authoritarian rule. During this period, the adoption agencies have more or less operated within a legally unregulated area, where adoption has not been regulated by law.

It must be assumed that Holt and KSS have had boards of directors and organizational day-to-day management.

DKRG knows from sources that e.g. adoption agency Holt's Children Services, Inc. has had board members and organizational day-to-day managers who were affiliated with the Korean military during the authoritarian period.

If it can be confirmed that it was military people who sat on Holt's and KSS' boards or management, what was the reason for this?

In relation to the authoritarian rule in South Korea, it is of historical interest for adoptees to know whether there is a direct connection between the adoption agencies had a connection to the circle of the authoritarian rule's leaders and what interest there was (e.g. of a financial nature or others)

DKRG requests the Commission to investigate the following:

a) Who was on the boards of Holt and KSS during the authoritarian rule,

b) and were these board members employed or were they connected to the authoritarian rule and its leaders.

c) Did board members and senior staff in Holt and KSS have special child-related, social work-related or adoption-related skills that made them competent to fulfill their duties of looking after children's interests, health and welfare?

- d) During the authoritarian regime, which persons established guidelines, administrative instructions and the rules for international adoption internally in the adoption agencies Holt and KSS?
- e) Which people made the adoptees' family registries in Holt and KSS?
- f) and which senior employees or board members gave instructions to the employees of the adoption agencies Holt and KSS on how to fill them in?
- g) Were board positions in Holt and KSS paid positions? And if so, what was the annual salary for a board position in Holt and KSS during the authoritarian era?
- h) Which persons in Holt and KSS were employed with decision-making competence in relation to determining the agencies' practices and procedures?
- i) During the authoritarian era, which persons in Holt and KSS were responsible for looking after the children's welfare until the children had obtained Danish citizenship?
- j) Which ministry or administrative unit of the Korean state supervised Holt and KSS
- k) and in what way was the inspection carried out in practice?
- l) Which persons in Holt and KSS were responsible for ensuring the children's health, safety and welfare?
- m) Which persons in Holt and KSS gave approval that it was safe to put the children on an airplane on a long journey to the recipient country and ensured that the child did not suffer harm?
- n) Which persons in Holt and KSS were responsible for ensuring that the children were in good health and were not malnourished, sick or showing signs of illness in the form of rashes, sores and boils?
- o) Which persons in Holt and KSS wrote the adoptees' background information in the adoptees' adoption documents (e.g. wrote that they were orphans, even though they had parents. e.g. wrote that they were found on the street and handed in to the police, even though the children were in reality handed in by a grandmother),
- p) and which persons in Holt and KSS gave the order for the adoptees' documents to be drawn up with that wording?

4.0 The background for the application - and the violations of human rights

For the past 30 years, adoptees from Denmark have sought their own true identity and personality through the adoption agencies through which we have been adopted. In the case of Danish adoptees, these are the adoption agencies Holt's Children's Services, Inc. (Holt) and Korean Social Services, Inc. (KSS).

As adoptees, we find it very difficult and often impossible to access the original documents relating to our adoption, our South Korean background, and our background information prior to our adoption placement.

This prevents us from gaining insight and knowledge about the conditions that underlie our identity and personality, and it creates great frustration for South Korean adoptees in Denmark, which our organization represents through this application for initiating an investigation into international adoptees' right to own true identity and personhood.

The reluctance of South Korean adoption agencies to provide adoptees with insight into our adoption, background information and about our life in South Korea prior to adoption cuts us off from the right to our own true identity and personhood and has a detrimental effect on each individual South Korean adoptee who is deprived of the essential information, which helps to shape our true identity. We have lived with this origin deprivation both during our upbringing in Denmark as young adopted children and to this day as adult adoptees.

Some adoptees from Denmark have found biological family in South Korea, and many of the adoptees experience big discrepancies between the information that appears in the adoption documents and the information their biological family members share with them. These discrepancies concern, for example:

- Incorrect or false background information (e.g. that you are an orphan, but in reality the identity of the parents is known to the adoption agency)
- False or fictitious dates of birth (e.g. that you as an adoptee turn out to be older than it appears from the adoption documents. That is, you have been lied younger by the adoption agency)
- False or fictitious identities (e.g. that the adoptee is sent away in the identity of a dead adoptee, because the child, who should have been sent away, dies before being sent to the recipient country, and another child is sent instead)
- Children who, according to the adoption documents, should be healthy children were sent from the South Korean adoption agency as sick and malnourished to the recipient country, where we know that some children died during the transport between Denmark and the recipient country, and the adoptees who were sent in poor health condition to the recipient country must be considered to be survivors who to this day are affected by the late effects of disease and malnutrition.

All of these are factors that individually and as a whole have far-reaching consequences for the formation of our true identity and our personhood.

To find out as an adult that your adoptee identity from which you have lived your entire life is falsified is disruptive or even destructive.

That as an adult, finding out that you are in fact older, than you have thought you were all your life, has a profound influence on your identity and personhood.

That you have lived your whole life in the belief that you, for example, was born in Seoul, and it is stated in your Danish passport, but that it turns out that you were born in Busan, is a small change, but with great significance for your identity.

Having believed all your life that you are an orphaned child, but in adulthood finding out that your biological parents are still alive, can turn your identity and personality upside down.

In the past few months, there has been an influx of stories from adoptees from South Korea with similar stories about incorrect birthdays. We have received inquiries from Danish Korean adoptees who can provide information about incorrect or falsified background information, etc.

All of this is objectively apt to question the accuracy of the adoptees' background information, birth information and the circumstances surrounding the adoption to such an extent that it can be difficult to trust that the information on which we have based our lives as adoptees, our identity and our personality as Danish Koreans.

As adoptees from South Korea, we are confronted on a daily basis with being adoptees from South Korea. We do this because we as Asians with our Asian traits stand out from the majority of the Danish population, who are white Europeans.

Questions and remarks such as: "Where do you come from?", "Do you speak Danish?", "You speak Danish very well", "How long have you lived in Denmark?", "Are you from South Korea or North Korea?", are frequently asked questions and remarks to adoptees from South Korea, and thus it is a daily reminder of our South Korean origins and our identity as adoptees from South Korea.

Many adoptees from South Korea have their own children, who clearly carry the South Korean features. In schools or in institutions they are met with questions about why they look different or with questions about why their mother or father is Asian.

Our children's background stories are inextricably linked to our background stories as adoptees from South Korea. The fact that we cannot give answers to our children to the many questions our children ask us, because we ourselves do not even know, is problematic. Our background information is important to our offspring - the children and young people who are descendants of adoptees from South Korea. It is crucial for them while they are shaping and creating their own identity.

In DKRG, we regularly receive stories from adoptees who report that the lack of insight into our background as adoptees has affected them in their youth and adult life and has manifested itself in various mental problems that affects their daily lives.

5.0 The basis for the reconciliation and restoration of the adoptees' human rights to identity and personality

The individual's right to one's own true identity and personhood is a universal human right. The right to know one's own true identity and personhood is the basis of an individual's dignity and autonomy as a human being.

It is our claim that the adoption agencies Holt and KSS detain background information and mislead adoptees from South Korea.

The adoption agencies' claims are that the adoptees' background information is the private property of the adoption agencies and that they protect the private information of our biological families.

We as adoptees would like to challenge the adoption agencies' claim that the adoptees' background information is the adoption agencies' private property.

It is our claim that the adoptees' background information is the adoptees' private property. No private company or organization can own the personal information of private individuals.

The adoptees' private information about origin, background history, birth, early childhood upbringing in Korea, the circumstances surrounding the adoption and much more are the information that forms the basis of each adoptee's identity and personhood both as adoptees of South Korean origin and as individuals.

When the adoption agencies claim that our private and very personal information is their private property, then we are deprived of the access to know the truth about our own identity.

Our organization DKRG has received ongoing testimonies from adoptees from Denmark. These testimonies are of great concern to us who have been adopted from South Korea, because

they raise suspicion that the adoption agencies' alleged ownership of our personal information is based on systematic falsifications and distortions of our personality, identity and background information.

We have testimonies from adoptees that give rise to the legitimate suspicion that if such background information from the adoption agencies were to be made public would result in a full blown scandal that would show that the adoption agencies since the very beginning of international adoption and up until today have provided authorities, adoptive parents and the adoptees with incorrect information about the adoptees' backgrounds and origins.

We have reasonable suspicion that many adoptees have been orphaned on paper to enable international adoption. We have reasonable suspicion that many of us do not know how old we are, because in some cases the adoption agencies have lied us younger, to make us more attractive in the adoption market.

We have reasonable suspicion that our adoptive parents did not receive correct information about the adopted child that they received. They thought they adopted an orphan, but in reality, many have adopted a child who has been orphaned only in the system of adoption agencies.

Many of us who have been adopted from South Korea have lived our lives and based our identity on a lie. We will no longer live our lives on a lie. We have a right to know our identity. We have a right to know the truth.

That is why we are asking for the Truth and Reconciliation Commission's help in finding the truth about the thousands of adoptees who have been internationally adopted from South Korea since the very beginning of international adoption and who are today deprived of the right to know their identity and personhood by the adoption agencies.

6.0. The right to identity and personality in international law

The right to identity is internationally recognized as a protected right in international law:

Under Article 7 of the Convention on the Rights of the Child, a child has a right to have a legal identity by being registered, and has a right to a name and a nationality.

Convention on the Rights of the Child, 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 speedily re-establishing his or her identity."

Article 8's protection and rights apply for the rest of the life of the child and are not limited only to childhood.

Adoption on the basis of incorrect or falsified background information constitutes illegitimate adoption under international law.

The Convention of the Rights of the Child, article 11 concerning illicit transfer of children:

"1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad."

Convention on the Rights of the Child, 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:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counseling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child 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;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;"

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavor, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or bodies."

Convention on the Rights of the Child, Article 35:

"States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form."

The right to have and develop a personality is addressed in Article 22 of the United Nations Universal Declaration of Human Rights: *"Everyone is entitled to the realization of the rights needed for one's dignity and the free development of their personality."*

United Nations Universal Declaration of Human Rights, article 22:

Article 22: *"Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. "*

United Nations Universal Declaration of Human Rights, Article 29 also protects the right to develop one's personality: *"[e]veryone has duties to the community in which alone the free and full development of his personality is possible."*

Convention on the Rights of the Child, Article 36:

"States Parties shall protect the child against all other forms of prejudicial exploitation to any aspects of the child's welfare."

The United Nations World Goals, Goal 16 - peace, justice and strong institutions:

16.6: *"Develop effective, accountable and transparent institutions at all levels"*

16.9: *"By 2030, provide legal identity for all, including birth registration"*

16.10: "Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements"

16.A: "Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime"

7.0 South Korean law does not preclude background search or search for biological family

The procedure is described in the South Korean adoption regulations, so this should not be an obstacle. Today, South Korean adoptees can contact the National Center for the Rights of the Child (NCRC) and apply for biological family search. The procedure today is such that the NCRC seeks out the South Korean biological family and asks them if their personal information may be released to the adoptee. This protects the private information of the biological family.

If the biological family wishes contact with the adoptee, they consent to the release of their information.

If the biological family does not give consent, the adoptee is informed that the biological family does not want contact.

7.1 South Korea's post-adoption authority faces the same challenges as the internationally adopted in obtaining correct and original documents

Today, the issue is that South Korea's official public post-adoption organization does not have access to the adoptees' original adoption documents because the adoption agencies consider the adoptees' background information as the private property of the adoption agencies. That is, South Korea's official post-adoption authority receives the same inaccurate and incomplete information that the adoptees receive to this day.

The argument of protection of biological family is therefore not valid. Privacy is not up to the adoption agencies but is up to a government agency in South Korea. Today, adoption agencies detain thousands of personal and private files with information about adopted and biological families.

7.2 Ownership to private and personal information from European point of view complies with South Korean privacy rules

Denmark, where we come from, is part of the European Union (EU). Privacy rules are thoroughly established for all EU member states through the General Data Protection Regulation (GDPR). Here, the principle is to protect the private information of the individual EU citizen. That is, to protect every single citizen in an EU country by considering the citizen's private information as the citizen's personal property.

The example of European law is to illustrate that European lawmakers regard personal and private information as a pre-legal universal right codified in European law. This conception of law is based on the same universal values and conceptions of basic (human) rights that also appear in South Korean law (PIPA and ARCO), and it is precisely because of their similarities that an analogy can be drawn to the underlying consideration of the adoption agencies' interpretation of private property. This emphasizes that no person's personal information can be the property of others, but belongs to the person.

The principle is that all EU citizens have their own private information at their disposal and can dispose of it. The information is all private information, sound, image, information that can be

linked directly to the person. It can be a contributing interpretative contribution to the question of who has the ownership of personal and private information.

EU rules are based on the view that citizens' rights are a fundamental and universal right, which is why the EU has laid down rules on what binds all EU Member States to protect citizens (GDPR Articles 1 and 2):

Article 1: "The protection of natural persons in relation to the processing of personal data is a fundamental right. Article 8 (1) of the Charter of Fundamental Rights of the European Union (the 'Charter') and Article 16 (1) of the Treaty on the Functioning of the European Union (TFEU) provide that everyone has the right to the protection of personal data concerning him or her."

Article 2: "The principles of, and rules on the protection of natural persons with regard to the processing of their personal data should, whatever their nationality or residence, respect their fundamental rights and freedoms, in particular their right to the protection of personal data. This Regulation is intended to contribute to the accomplishment of an area of freedom, security and justice and of an economic union, to economic and social progress, to the strengthening and the convergence of the economies within the internal market, and to the well-being of natural persons."

From December 17, 2021 The European Union states, that the privacy rules of the Republic of Korea complies with the EU GDPR.

7.3 The right to personality and identity from ECHR

The European Court of Human Rights has on numerous occasions ruled on the appropriate balance between the privacy interests of parents and the right of children to know their birth parents. The court's decision is based on the premise that the right to identity and personality is pre-legal.

In the case of *Jäggi v. Switzerland* (application no. 58757/00) holding that identity constitutes part of the inner core of one's right to private life:

"The Court considered that persons trying to establish their ancestry had a vital interest, protected by the Convention, in obtaining the information they needed in order to discover the truth about an important aspect of their personal identity. However, the need to protect third parties might exclude the possibility of compelling them to submit to any kind of medical analysis, particularly DNA tests. The Court therefore intended to gauge the relative weight of the conflicting interests, namely the applicant's right to discover his parentage against the right of third parties to the inviolability of the deceased's body, the right to respect for the dead and the public interest in the protection of legal certainty.

In the first place, the Court considered that an individual's interest in discovering his parentage did not disappear with age, on the contrary. Moreover, the applicant had always shown a real interest in discovering his father's identity, since he had tried throughout his life to obtain reliable information on the point. Such conduct implied moral and mental suffering, even though this had not been medically attested.

Secondly, the Court noted that in opposing the DNA test, which was a relatively unintrusive measure, A.H.'s family had not cited any religious or philosophical reasons. Moreover, if the applicant had not renewed the lease on A.H.'s tomb, the peace of the deceased and the inviolability of his mortal remains would have already been impaired in 1997. In any event, his



body was due to be exhumed in 2016, when the current lease expired. The right to rest in peace therefore enjoyed only temporary protection.

In addition, the Court observed that the private life of the deceased person from whom it was proposed to take a DNA sample could not be impaired by such a request since it was made after his death. Lastly, the Court noted that the protection of legal certainty alone could not suffice as grounds to deprive the applicant of the right to discover his parentage.

That being the case, the Court considered that Switzerland had not secured to Mr Jäggi the right to respect for his private life and held that there had been a violation of Article 8. "

With these words, the Danish Korean Rights Group submits an application to the Truth and Reconciliation Commission of the Republic of South Korea. Our application could have major life-changing implications for thousands of South Korean adoptees.

In connection with our application to the Truth and Reconciliation Commission, the Board of Directors of Danish Korean Rights Group has set up a working group that will be available to the Truth and Reconciliation Commission if our application gives rise to additional questions or information.

The working group can be contacted at this email address: DKRG@danishkorean.dk.

Yours sincerely
Danish Korean Rights Group

Peter Møller and Peter Knudsen