



The struggle for recognition and justice

An investigation into the responsibility of the Dutch State for abuses in the adoption of children from Indonesia, from 1973 to 1983.

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<https://www.ojau.nl/adoptie/>

How it started...

- ✓ My parents were always open about my adoption, but I didn't feel "adopted"
- ✓ After a traumatic event in 2009, I felt the need to search.
- ✓ In May 2010, my trip to find my roots.
- ✓ And then... my discovery of evil. A period of confusion, uncertainty and anger began.
- ✓ In 2016/2017, conversations with Ana van Valen of the Mijn Roots foundation, about her discoveries and findings during searches for adoptees from Indonesia who wanted to know where they came from.
- ✓ And then my struggle began...





Digging into the past, a painful pursuit

It became apparent that the identity of children had been tampered with for money. Trickery and deception to make a child adoptable.

3,040 children were transferred from Indonesia to the Netherlands for adoption.

- ✓ On what grounds could a child be adopted?
- ✓ What were the arrangements in Indonesia?
- ✓ What rules applied in the Netherlands?

Abuses in adoptions of children from Indonesia 1973 to 1984

- ✓ Mothers who were weak or sick after a difficult birth were lied to. Once the mother was ready to take the baby with her, her baby was gone.
- ✓ Children snatched. Intermediaries promised poor parents that their child would have a much better future with rich people. The child would come back later and take care of the parents. This was a lie.
- ✓ Babies were "sold".
- ✓ Fake mothers and fake witnesses.
- ✓ Babies switched, even deceased babies.
- ✓ Ages faked.



Responsible parties?

- ✓ Children's homes, doctors, midwives, notaries and intermediaries in all sorts of places in Indonesia: Each played a role in the laundering of illegally obtained children for adoption: This was essentially (cross-border) organised crime.
- ✓ Foundations, private intermediaries in the Netherlands who mediated in children for couples in the Netherlands and other countries too.
- ✓ The 'DIY adopters' who arranged everything themselves, sometimes at any cost.
- ✓ Both the Indonesian and Dutch governments: system responsibility.





1979: The director of BIA, the official adoption agency, considered adoption practices in the Netherlands "wrong and confusing".

- ✓ He spoke several times with welfare organisations in Indonesia that were concerned about growing child trafficking in the country.
- ✓ However, the Ministry of Justice wanted to leave adoption to private initiatives.
- ✓ And it was up to Indonesia to take measures of its own.



Legal basis for adoption

The best interests of the child have been considered to be a "fundamental principle" since 1956.

- ✓ Adoption served as a child protection measure in the best interests of the child in need of protection.
- ✓ An adoption request could only be granted if the adoption was in the child's "obvious interest" given that ties with the parents would be severed.



Principle followed by the Ministry of Justice in the 1970s:

“The best interests of foreign children, in the broadest sense, shall be protected in accordance with the Declaration of the Rights of the Child, adopted by the 14th Session of the United Nations on 20 November 1959.”



How was this principle guaranteed?

- ✓ Adoption Act (1956). Foreign foster children also came under the scope of this Act, but it had hardly any deterrent effect to prevent a child being given up and then adopted where this could not be justified.
- ✓ Article 279 of the Criminal Code: did not provide sufficient protection against child trafficking in adoptions of children from abroad.
- ✓ Existing guidelines on adoption. In fact, there was no monitoring or control at all as to whether the adoption was actually in the best interests of the child.



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Immigration Policy '70-'80

- ✓ The general criterion for admission policy was that there was no acceptable future for the child in the country of origin, given his or her circumstances.
- ✓ Not only intended to bring children who lived in less favourable material circumstances in the country of origin to the Netherlands.
- ✓ The child had to have been given up in a manner that was valid and acceptable according to Dutch standards.



An attempt to legislate for the adoption of foreign children

- ✓ What happens between the granting of the initial permission and the regulation of the stay of a foreign foster child takes place entirely without direct oversight of the authorities.
- ✓ Most of what happens in this interim phase takes place on foreign territory, where the Dutch government has no authority.

This is the position of the Ministry of Justice in its 'Memorandum on the Practical Course of Adoption and Adoption Preparation' of 2 May 1980.

However, it took nine years for a law to be enacted. In the meantime, no preventive measures were put in place.



Signals and warnings

- ✓ Former Member of Parliament Ed Nijpels: *“the import of peanuts is subject to more regulations than the adoption of a foreign child.”*
- ✓ Many journalists and other people with expertise in the field criticised the adoption practices.
- ✓ Shocking media reports of kidnapped children, deceived parents and criminal child trafficking gangs being rounded up and captured.
- ✓ A temporary adoption freeze by the Indonesian government in 1981 for prospective adoptive parents in the Netherlands because of several alleged child abduction cases.



Violation of the fundamental principle in the Immigration Act

- ✓ The best interests of the child were only assumed.
- ✓ There was no oversight. No check whether the child's parents had given up the child in a manner that was valid locally and acceptable by Dutch standards.

Snatching and kidnapping children, 'selling' lies, tampering with someone's identity is NOT acceptable.



Immunity of government bodies

It is difficult to prosecute mistakes made under the responsibility of the Ministry of Justice.

- ✓ The Dutch Supreme Court has ruled that, if the relevant criteria are met, the Dutch State is immune from criminal prosecution for an act or omission (Volkel judgment).
- ✓ Limitation period



The State therefore investigated whether it was liable in part for the abuses

Book 6, Article 162 of the Dutch Civil Code

Three grounds on which a certain act or omission might be considered unlawful:

- ✓ Infringement of a right.
- ✓ An act or omission in violation of a legal duty.
- ✓ An act or omission contrary to unwritten laws of what is customary in society.



The Dutch State held liable

As legal counsel on behalf of the Mijn Roots foundation, and therefore on behalf of the group of adoptees from Indonesia.

The first step: a letter setting out the State's liability towards a group of stakeholders.

1. Recognition of the abuses that have occurred in adoption procedures.

2. Financial compensation for the costs of establishing the truth.



Some arguments in favour of liability

- ✓ There is a causal link between the negligent acts and the damages suffered or yet to be suffered.
- ✓ Intangible damage.
- ✓ Material damage.

In the episode of Zembla, 'Adoption deception part III' (original broadcast 28 March 2018), I argued:

"Crimes have been committed. It's bizarre that adoptees have to pay from their own pockets to solve these crimes."



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Culpably negligent act

- ✓ Failure in the duty of care and duty to investigate. The State has failed to pay sufficient attention to safeguarding the best interests of the child.
- ✓ The removal of a child from its parents under false pretences happened in Indonesia, but also partly in the Netherlands.
- ✓ Lack of oversight, control and proper information: adoptees, the biological parents and adoptive parents in good faith are the unwitting victims.
- ✓ Written and unwritten norms have been violated because the State allowed the private free market in children to take its course.
- ✓ It is not a question of an act or omission by one or more Dutch government officials, but the failure of the State apparatus.



Lack of justification

- ✓ Adopted children and the biological parents who have lost their child are left empty-handed. It was not their free choice to become part of legalised child trafficking.
- ✓ Violation of Article 17 of the International Covenant on Civil and Political Rights (ICCPR, 1978).
- ✓ Violation of Article 8 of the European Convention on Human Rights (ECHR, 1954).



Important note: the International Convention on the Rights of the Child (CRC) was not yet applicable in the 70s and 80s. It was only ratified by the Netherlands on 8 March 1995.

Evidence

- ✓ Reports from the House of Representatives and other parliamentary documents from the 1970s and 1980s show that the Ministry of Justice did not consider it necessary to take (preventive) measures.
- ✓ In 1983, the Indonesian government imposed a ban on intercountry adoption of children.
- ✓ Stories from adoptees, statements from biological families and also adoptive parents.
- ✓ DNA tests don't lie.



Costs of establishing the truth

- ✓ A search, including return flight to Indonesia.
- ✓ Assistance such as translating documents, use of interpreters, etc.
- ✓ Other transport and accommodation costs.
- ✓ DNA kits where family members have been found in the files.

If an adoptee has a search facilitated by the Mijn Roots foundation, he or she will receive:

- ✓ Desk research and fieldwork, the intake and aftercare.
- ✓ Information about adoption from Indonesia .
- ✓ Themed meetings and other group events.
- ✓ Research, analysis and development.

The more data that was falsified for the adoption, the higher the costs of finding the truth.



Ministry of Justice does not feel responsible

On 31 May 2018 we received a response to the challenge.

The position of the Ministry of Justice summarised:

"The correctness of the content of the documents is essentially the responsibility of the authorities in the country of origin. It was not up to the Netherlands to monitor this; the Dutch State had no authority to do so. This division of responsibility is logical and inherent in the sovereignty of each State. In relation to the conduct of adoptive parents in the Netherlands or the activities of intermediary persons or organisations in the Netherlands, it is primarily these persons or organisations themselves who are responsible for their own acts or omissions."



Freedom of information

As a result of my research into the parliamentary documents on the role of the Dutch government and into the newspaper archive on signals from Indonesia, I made a number of FOI – freedom of information – requests, some of which are still pending.

- ✓ Government information can be obtained pursuant to the Dutch Freedom of Information Act. Transparency about government action is necessary in a democratic society.
- ✓ To obtain pieces of the puzzle: who, what, where and how. About things that need to be clarified.
- ✓ A request for information is granted subject to the provisions of Articles 10 and 11 of the FOI Act (absolute and relative grounds for refusal).

N.B. If no information is available about certain government actions, this of course speaks volumes about the course of events, because why would there be no record of certain government actions?



What options are there for the Mijn Roots foundation?

- ✓ Book 3, Article 302 of the Dutch Civil Code. A declaratory judgment to establish recognition.
- ✓ Collective action. The Mijn Roots foundation as an 'Article 3:305a organisation' that represents the interests of its supporters.
- ✓ The legal relationship between the plaintiff and the defendant will be undisputedly established, where applicable, following appeal or cassation proceedings.
- ✓ This does not (yet) concern a claim for damages/relief.
- ✓ Launch individual proceedings as part of the same procedure.



Specific help is needed NOW!

- ✓ Practical and effective assistance for adoptees is aftercare that should be provided by the Dutch State.
- ✓ Interest groups with knowledge and expertise in the field.
- ✓ Time is running out. Important knowledge and information in certain countries will disappear over time.



Actions carried out 2018-2019

- ✓ A complaint was filed with the National Ombudsman. Ministry of Justice has apologised for the way in which the claim was handled.
- ✓ Started a petition and organised a demonstration in The Hague.
- ✓ Political lobby.
- ✓ Gave a presentation as a guest speaker at an international symposium on adoption aftercare, 21 June 2019 in Venray (NL).
- ✓ Media attention <https://www.ojau.nl/adoptiezaken-in-de-media/>.
- ✓ Cooperation with other interest groups and parties who share the same vision. Mijn Roots, Plan Angel and Shapla Community have communicated their shared vision to the Ministry.
- ✓ The entire struggle recounted in a book "Parcels from Overseas".



Results so far

- ✓ An independent committee of inquiry has been set up under the leadership of Tjibbe Joustra. Has investigated adoptions from Indonesia. A number of meetings were held by invitation.

(N.B. extension of the study into intercountry adoption. The report is expected in February 2021)

- ✓ Constructive talks held with the Ministry of Justice.
- ✓ The Ministry of Justice is making €1.2 million available to enable specific assistance for adoptees. A plan for the short term will follow shortly. Discussions for more financial support are still ongoing. A plan for the longer term will follow at a later date.



Book: Parcels from Overseas

About legalised child trafficking in adoptions of children from Indonesia

- ✓ My personal search and story, the study into the role of the Dutch government, the struggle for recognition and justice.
- ✓ Launch 18 January 2020 in The Hague, 23 February 2020 in Antwerp.
- ✓ Distribution of copies to, among others, the Joustra Committee and Members of the House of Representatives.
- ✓ English translation of the book is in progress! The E-book is expected this year and will be presented in an online launch (if possible, there will be a live book presentation, that depends on the COVID-19 restrictions).

The proceeds of the book will be used for further research to establish the truth about adoptions from Indonesia, and to make the right of parentage a reality for adoptees and biological parents who have lost their child.

<https://www.ojau.nl/boek-onderzoek-adoptie/>





Seeds have been planted, nurtured,
hopefully harvesting them soon...

- ✓ For more information about my research and method, please visit <https://www.ojau.nl/adoptiezaken-indonesie/>
- ✓ If you have any questions, please send an email to info@ojau.nl
- ✓ Stay informed via the Facebook page [OJAU's Juri-schrijfsels](#)
- ✓ For information about the Mijn Roots foundation and its activities, please visit Facebook and/or <https://www.mijn-roots.com/>

Finally

It would be good if adoptees from other countries would join forces to raise this issue with the European Commission.

If the Netherlands decides to provide financial support to adoptees, this might contribute to the understanding and willingness of other governments to offer something similar. As we know, this is not only a Dutch problem.

So, do keep an eye on developments in the Netherlands!

Dewi Deijle.

