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EDITORIAL

R&R as part of State responses to illicit adoption practices

As discoveries of (potential) illicit adoption practices continue to emerge, States grapple with how to appropriately respond and balance competing interests, as outlined in this Editorial.

All States that have undertaken intercountry adoptions have been marred by illicit practices to varying degrees, regrettably some with what appears to be more systemic occurrences. The adequacy of State responses largely depends on political will and, more importantly, courage.

Rest and Recreation – Minimum political will

Denial is a common trademark when faced with an accusation, especially when it touches upon a State's authority. At this stage, States may **rest** on the fact that ratification/accession to the 1993 Hague Convention – alone – is a sufficient safeguard for undertaking adoptions. Others are lethargic as cases occurred before 1993 or prior to their ratification of the Convention. Should not States explore the Convention's practical – and arguably timeless – principles? These include, most notably, the principle of subsidiarity, the principle that poverty should never be the main reason for separation, that informed consent must be obtained and that there has been no improper use of money (including donations and contributions in States of origin), amongst others.

It is of great concern when it seems that adoption has become a **recreation**, especially when promoted by the media as the 'latest accessory', particularly by Hollywood stars. More recently, it has become worrying when adoption stories are being used to accumulate 'likes' in social media, and eventually become part of a

fundraising scheme. States have an important role to monitor and prevent such activities.

Roles and Responsibilities – Emerging political will

Glimpses of emerging political will occur when States are ready to explore **roles** and **responsibilities** in illicit adoption practices, such as the Dutch and Belgian-Flemish ongoing investigations, as well as the Swiss study of Sri Lankan practices (see Monthly Review No. 240 of March-April 2020). In addition, broader studies on the practical operation of the 1993 Hague Convention in specific areas, such as the financing of accredited adoption bodies in Denmark¹ or studies exploring the experience of adoptive families in Greece and Ireland (see Monthly Review No. 242 of June 2020) will help build more robust child protection systems and protocols for searches for origins and responding to illicit practices.

Nevertheless, such studies can only go so far, without further political will. Recommendations will remain empty without resources to make them realities. Proven political will is essential for ensuring real and effective responses to illicit practices for the adoption triad, and particularly for the children/adoptees.



Respect, Redress, Restoration and Restitution – Proven political will

Proven political will starts with **respect** for all the persons unduly affected by the illicit practice. An understanding of the loss, heartache, stress and other adverse consequences (see p. 13) involves time, compassion and action. It can start with an apology, as in Australia and Canada, but should continue and be accompanied by concrete efforts for **restitution** and **restoration**.

Whilst challenges, such as a statute of limitations, questions about the applicability of the 1993 Hague Convention standards pre-1993, and the extent of responsibilities for past governments' actions are real, surely the greater burden is borne daily by the victims of illegal acts.

Retrospect is a powerful teacher. It is hoped that the lessons drawn from intercountry adoption can benefit other children, including those that are donor-conceived and born through surrogacy (see p. 14). Leaving a legacy of hope for children where their long-term best interests are fully considered is our responsibility (see Editorial in Monthly Review No. 203 of July 2016). The ISS/IRC looks forward to contributing to the work of the [HCCH's Working Group on preventing and addressing illicit practices in intercountry adoptions](#) as well developing other tools to provide some restorative justice for all.

The ISS/IRC team,
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Reference:

¹ The report may be found at: <https://sim.dk/media/37739/bilagssamling-den-internationale-adoptionsformidling-i-danmark.pdf>.