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NEWSLETTER

The Right to Know One's Birth and Adopted Siblings

This article offers a summary of recent research by the ISS/IRC team on the right of adoptees and birth siblings to their origins. While much attention has focused on birth parents, this dimension remains underexplored. Drawing from an analysis of over 30 national frameworks, the article outlines key findings and highlights key recommendations.

The right to know one's origins is a fundamental aspect of the right to preserve one's identity¹ and is crucial to identity development². For adoptees, the right to know one's origins is often discussed focusing on the access to information about their birth parents³. However, an emerging yet underexplored dimension of this issue concerns the role of birth siblings in a search for origins process. In recent years, the International Social Service (ISS) has received an increasing number of inquiries from Central Adoption Authorities (CAA) seeking clarification on whether adopted and birth siblings have a right to information about each other. Likewise, ISS members have also been faced with search for origins cases either initiated by birth-siblings or adoptees looking for their siblings. The complexity of this issue lies in the differences between national legal frameworks, enforcement of the right to know one's origins and absence of official guidance. As a result, the ISS decided to conduct a brief study analysing over 30 national frameworks and case law, aiming to identify common trends and explore potential pathways

toward a more harmonised approach, as well as to offer recommendations to States on promising practices that guarantee both the adoptee's right to identity and the birth family's right to privacy. To distinguish between different possible scenarios, the following article will first address the rights of adoptees in relation to their birth siblings, and then specifically address possible rights of birth siblings.

Definitions matter:

Before analysing the legal frameworks of individual states, it is essential to define the terms "birth siblings" and "half-birth siblings." Full birth siblings share both birth parents, whereas half-birth siblings share only one. The analysis of the right to search for one's adopted or birth siblings revealed no distinction between full and half-siblings, leading to the conclusion that both possess equal rights to know each other. This article's analysis, therefore, applies to both categories.

¹ European Court of Human Rights (ECtHR), *Jäggi v Switzerland*, 58757/00 [2006] ECHR, para. 38; ECtHR, *Odièvre v France*, 42326/98 [2003] ECHR 86, para. 29.

² The UN Committee on the Rights of the Child, Joint Statement on Illegal Intercountry Adoptions [2022].

³ Samantha Besson, "Enforcing the Child's Right to Know Her Origins: Contrasting Approaches under the Convention on the Rights of the Child and the European Convention on Human Rights," *International Journal of Law, Policy and the Family*, 21 (2007): 137-159.

1. The Adoptee's Right to Know Their Birth Siblings

In a prevailing number of jurisdictions, the adoptee's right to search for his or her birth siblings is more comprehensively addressed than the birth siblings' rights. The existing approaches to information disclosure to the adoptee range from unrestricted access to restricted or lack of regulation.

In a limited number of jurisdictions, including the **Philippines**⁴, **Vietnam**⁵ and **Colombia**⁶, adoptees are granted unrestricted access to identifying information regarding their birth families, including siblings. In the **Philippines**⁷, disclosure of identifying information is contingent only upon psychological readiness, assessed through a report by a licensed psychologist. As in **Vietnam**⁸, the government actively facilitates access to such information, including for intercountry adoptees, by encouraging and supporting return visits with the aim of meeting and learning about their birth families.

In contrast, a limited number of States set strict limitations on the right to access information about birth siblings. In **Romania**,⁹ the court will approve the adoptee's request to receive information only if filiation was established with at least one birth parent before the adoption. However, **Bulgarian**¹⁰ legislation fully prohibits the disclosure of information about birth siblings.

Both unrestricted access to information about birth siblings and strict prohibitions risk prioritising one right over another—either compromising the privacy of the birth family and broader public interests or undermining the adoptee's right to identity in favour of birth family secrecy.

However, there are approaches such as the case-by-case practice to **Balance Competing Rights**, the **Mutual Consent Approach** and **Contact Registers** that are available options for both adoptees and birth siblings and offer a more nuanced approach, taking into account the adoptee's right to identity and the birth family's right to privacy.

The **Balancing Competing Rights** approach was developed through the European Court of Human Rights (ECtHR) case adjudication where the adoptee's right to know their origin, is balanced with the birth family's right to privacy and broader public interests¹¹. In addition, the court held that, as long as a State provides the possibility of obtaining non-identifying information about an individual's birth origins, attempts to ascertain whether the birth or adoptive parents have expressed a desire for secrecy, and allows exceptions on medical grounds¹², it complies with the European Convention on Human Rights (ECHR) and remains within a Member State's margin of appreciation¹³ in determining how to balance the rights involved.

An example of the application of the balancing approach to the right to know one's birth siblings can be found in **Italian** case law. In two consecutive cases, the Italian courts ruled that when both persons requesting information were adopted as children, their rights are compared as equal, meaning both consents were required for information to be disclosed respectively¹⁴. However, access to a birth sibling's identifiable information is denied in cases where it would indirectly disclose the identity of birth parents who have explicitly refused such disclosure and from whom consent cannot be obtained¹⁵.

⁴ Implementing Rules and Regulations for RA 11642, Section 71 (2020), Republic of the Philippines.

⁵ Law on Adoption No 52/2010/QH12, Art. 11; 2023 HCCH Country Profile, Vietnam.

⁶ Technical Administrative Adoption Process Guideline, Chapter VI (p. 225 et seq.); Search for Origins Instructions for C&A and Adult Adoptees, Colombia.

⁷ Implementing Rules and Regulations for RA 11642, Section 71 (2020), Republic of the Philippines.

⁸ Law on Adoption No 52/2010/QH12, Art. 11; 2023 HCCH Country Profile, Vietnam.

⁹ Law No. 273/2004, Art. 79(4), republished, Romania.

¹⁰ *Family Code*, Art. 105(1), Amended 2023, Bulgaria.

¹¹ In the European Court of Human Rights case *Godelli v. Italy*, no. [33783/09](#), § 50, 25 of September 2012 a broader public interest

was considered, as domestic authorities aimed to safeguard maternal and child health during pregnancy and birth, as well as to prevent illegal abortions or child abandonment.

¹² European Court of Human Rights (ECtHR), *Mitrevska v North Macedonia*, no. [20949/21](#), 14 May 2024.

¹³ European Court of Human Rights (ECtHR), *Odievre v. France*, no. [42326/98](#), 13 February 2003.

¹⁴ The Court of Cassation, Decision No. 6963 of 20 March 2018, Italy. Found at: <https://theitalianlawjournal.it/data/uploads/4-italj-2-2018/531-cocco.pdf>.

¹⁵ Juvenile Court of Potenza, Decision on 26 April 2022, Italy. Found at:

<https://www.avvocatipersonefamiglie.it/media/3281661962394.pdf>.

The **Mutual Consent** approach allows disclosure of identifying information or facilitation of contact only if all parties concerned expressly consent to such exchanges. Generally, this framework mandates a formal process, often mediated by competent authorities or professionals, to secure informed consent prior to any exchange of identifying information or contact from the adoptee, birth sibling and birth family members. In **Switzerland**¹⁶, **Ireland**¹⁷, **Quebec, Canada**¹⁸, the **US State of Washington**¹⁹ disclosure of identifying information about adopted or birth siblings is mediated after obtaining informed consent from both parties and after pre-contact counselling.

Some systems incorporate other forms of safeguards, such as the right to veto contact, as is implemented in several **Australian**²⁰ States and territories, including **South Australia, Northern Territory, Queensland, New South Wales, Tasmania**, and the **Australian Capital Territory** the birth family can veto the release of identifying information and contact. Additionally, it is a legal offence for the recipient of identifying information to attempt to contact the individual who has imposed the veto²¹.

The **Contact Registers** model is characterised by its voluntary and reciprocal nature. If both adoptees and their birth family, including siblings, are registered in the online register with the preference for contact and reunification the

relevant authority can then facilitate the exchange of information and support further contact where appropriate. The mutual consent contact registries are for instance established in **Ireland**²², in at least 30 States of the **United States**²³, and in **South Korea**²⁴. This approach is the most efficient and resource-saving as the CAA plays a limited but supportive role, primarily assisting with initial meetings and the exchange of information, without the need for active searches or intrusive procedures.

2. The Right of Birth Siblings to Know Their Adopted Sibling

Although birth siblings in some jurisdictions have access to search for origin services based on mutual consent or can register in contact registers to find their adopted sibling on similar grounds as the adoptee, many jurisdictions still restrict birth siblings' access to information about the adoptee. One example is the **Thai**²⁵ legislation allowing birth siblings to search for adoptees only if the birth parents are deceased and there are serious health conditions or the need to bequeath an inheritance. A complete restriction on access to identifiable information about adoptees is imposed in **Germany**²⁶, **Rwanda**²⁷, **Chile**²⁸, **Bulgaria**²⁹, **Peru**³⁰ and **Colombia**³¹. However, in

¹⁶ Swiss Civil Code, Art. 268 b(3), c(3), d, Swiss Confederation.

¹⁷ Birth Information and Tracing Act 2022 Policy Guidelines (2022), Sections 2.2.1, 2.2.2, and 2.2.3, 2.3.2.6, 2.3.1.2; Birth Information and Tracing Act 2022, Article 44, Republic of Ireland.

¹⁸ Official Information found at <https://www.quebec.ca/en/family-and-support-for-individuals/pregnancy-parenthood/adoption/search-information-family-origin-or-child-adoption/services-research-family-medical-background-reunions#c279048> (accessed 15 March 2025), Quebec, Canada.

¹⁹ RCW 26.33.343. Search for a Birth Parent or Adopted Child, Confidential Intermediary; RCW 26.33.347. Consent or Refusal to Release Adoptee's Identifying Information, Desire to Be Contacted, Certified Statement, Washington State.

²⁰ Parliament of Australia, found at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2010-13/commcontribformerforcedadoption/report/c12?

²¹ Parliament of Australia, found at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2010-13/commcontribformerforcedadoption/report/c12?

²² Birth Information & Tracing Act Guidelines 2022, Section 2.3.2.1, 2.3.2.3, 19, Ireland.

²³ *Adoptee Rights Law*, <https://adopteerightslaw.com/united-states-obc/> (accessed 15 March 2025), United States.

²⁴ Korea Adoption Services, found at

https://www.kadoption.or.kr/en/board/board_list.jsp?bcode=42_2

²⁵ Guidelines for Post-Adoption Services, Family Register Act B.E. 2478 (1935), §§ 22, 23, Thailand.

²⁶ Adoption Placement Act, § 8 (1976), §§ 8, 9; Information Communicated by the German Central Adoption Authority (2023), Germany.

²⁷ Guidelines on Intercountry Adoption, Art. 13; HCCH Country Profile (2019), Rwanda.

²⁸ Law No. 21.430 on Guarantees and Comprehensive Protection of the Rights of Children and Adolescents, Art. 26; Law No. 19.620 on the Adoption of Minors, Arts. 26 and 27; Regulation of Law 19.620 Governing the Adoption of Minors, Art. 30; HCCH Country Profile (2023); Information shared by the Central Authority (June 2023), Chile.

²⁹ *Family Code*, Art. 105(1), Amended 2023, Bulgaria.

³⁰ *Information Provided by the Peruvian Central Authority* (April 2023 and November 2024); *General Directive No. 009-2016-MIMP*, "Technical Guidelines for the Attention of Requests to Search for the Origins of Adopted Persons," approved by Ministerial Resolution No. 120-2016-MIMP, Arts. 5.1.10, 6.2.1, 6.1.3.1.e, Peru.

³¹ *Technical Administrative Adoption Process Guideline*, Chapter VI (p. 225 et seq.); Search for Origins Instructions for C&A and Adult Adoptees, Colombia.

Peru³² and **Colombia**³³, records of birth family requests for contact are retained within the adoption file to ensure that if the adoptee chooses to initiate a search in the future, they will have access to these records.

Furthermore, many States regulate the adoptee's right to obtain information about their birth siblings but do not explicitly grant birth siblings a similar right, as seen in the **Netherlands**³⁴, **Vietnam**³⁵, and **Brazil**³⁶. Some countries such as **South Korea**³⁷, **India**³⁸, **Moldova**³⁹, **South Africa**⁴⁰, **Germany**⁴¹, **Sierra Leone**⁴², **Togo**⁴³, **Uganda**⁴⁴, **Zambia**⁴⁵, and **Sri Lanka**⁴⁶ do not provide the procedure for both adoptees and birth siblings to request information about each other. However, even in the absence of specific legal provisions regulating the right to know adopted and birth siblings, States may still receive and process requests for access to information, as is exemplified by **Costa Rica** successfully processing incoming requests.

A clear example of the inconsistency in State approaches and the lack of official guidance is seen in the ECtHR case law. Although multiple cases have addressed an adoptee's right to identity in searching for their birth family, including a case that indirectly touched on access to information about a birth sibling⁴², the court has never ruled on a case brought by a birth sibling searching for an adoptee. This highlights that the

topic and its implications for concerned parties remain under-researched and could benefit from further guidance.

Recommendations

Based on the findings of this research and grounded in the extensive casework and experience of ISS, we propose the following recommendations:

1. Establishment of a Proportional and Rights-Based Legal and policy Frameworks

States should adopt legal frameworks that foresee the different scenarios discussed above and provide guidance on how to balance the rights of adoptees, birth parents, adoptive parents, and birth siblings in line with the ECtHR's proportionality standard. This would also include allowing birth parents to register a contact veto, ensuring consent procedures where no veto exists, and enabling mutual disclosure of identifying information between adopted siblings upon reaching majority age.

2. Implementation of Procedural Safeguards to Obtain Informed Consent

States must ensure clear and accessible procedures for registering contact vetoes and obtaining informed consent in a respectful manner. These could be facilitated through secure digital platforms, with professional guidance and ongoing support provided by Central Adoption

³² *Information Provided by the Peruvian Central Authority* (April 2023 and November 2024); *General Directive No. 009-2016-MIMP*, "Technical Guidelines for the Attention of Requests to Search for the Origins of Adopted Persons," approved by Ministerial Resolution No. 120-2016-MIMP, Arts. 5.1.10, 6.2.1, 6.1.3.1.e, Peru.

³³ *Technical Administrative Adoption Process Guideline*, Chapter VI (p. 225 et seq.); Search for Origins Instructions for C&A and Adult Adoptees, Colombia.

³⁴ Wobka (Chapter 4), Art. 17d,f,e; Copy of letter Advice on access to distance and/or adoption files 2025, Netherlands. Found at: <https://www.rijksoverheid.nl/onderwerpen/adoptie/documenten/brieven/2025/03/04/tk-bijlage-2-advies-pels-rijcken-inzage-dossiers>

³⁵ Law on Adoption No 52/2010/QH12, Art. 11; 2023 HCCH Country profile, Vietnam.

³⁶ Resolution no.19/2019 Art. 3 paras. 1-2; ISS/IRC local contact (2022), Brazil.

³⁷ Adoption Services Centre; Special Adoption Act (arts 21(5) and 36); 2022 Enforcement Rules of the Special Adoption Act (art. 23 and 24); 2024 Adoption Practice Guide (Part II. 4 pages 92-93, Part II. 14, pages 124-125); HCCH Country Profile (2020), South Korea.

³⁸ Adoption Regulations 2022, Art 47. Found at: https://cara.wcd.gov.in/PDF/adoption%20regulations%202022%20english_27.pdf

³⁹ Law No. 99 of 28.05.2010, Republic of Moldova.

⁴⁰ Children's Act 38 of 2005, section 248, 250, 252, 272; South Africa's responses to the HCCH Questionnaire on the practical operation of the 1993 Adoption Convention, Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021; Ancestors Research – South Africa; Abba Specialist Adoption & Social Services; Swedish CA's report (November 2024), South Africa.

⁴¹ Adoption Placement Act, 1976, §§ 8, 9; Information communicated by the German Central Adoption Authority (April 2023 & October 2024); Act on Pregnancies in Conflict Situations, 1992, § 31, Germany.

⁴² Adoption Act, 1989, Sierra Leone.

⁴³ Decree No. 2008-104/PR; HCCH Country Profile (2023); HCCH Questionnaire on the practical operation of the 1993 Adoption Convention (2020), Togo.

⁴⁴ Children Act 2000, Chapter 59, Art. 55, Uganda.

⁴⁵ ISS/IRC local contact 2022, Zambia.

⁴⁶ Protocol on the Search for origins in Sri Lanka by European Central Authorities of Belgium, Denmark, France, Germany, Netherlands, Norway, Sweden and Switzerland; La Voix des Adoptés, Sri Lanka; IG Back to the Roots, Research for origins in Sri Lanka; Laura Montarsolo (2019), La recherche des origines et les risques liés à l'adoption internationale : l'exemple du Sri Lanka (master's thesis); Project RACINE (ISS France), Sri Lanka.

Authorities (CAA), including access to psycho-social and peer-based support.

3. **Creation of Contact Registers Supervised by Central Adoption Authorities**

To enable voluntary reconnection, States should be encouraged to establish online contact registers under the supervision of CAAs. These registers offer a cost-effective, consent-based alternative to case-by-case searches and should be actively promoted and supported by authorities throughout the information-sharing and reunion process.

4. **Promoting Research on the Role of Sibling Relationships in the Context of Search for Origins**
States should support and fund longitudinal and interdisciplinary research examining the significance of sibling connections and relationships within the broader context of the right to know one's origins. The findings should inform evidence-based policymaking, ensuring that sibling relationships are appropriately recognised, protected, and regulated.



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