



## Information submitted to the Committee on Enforced Disappearances

Review of Switzerland – April 2021

### Recognise illegal adoptions as enforced disappearance

Back to the Roots is an association founded by and supporting persons adopted from Sri Lanka to Switzerland. As the Committee has already indicated in its questions (questions under paragraph 21 of the List of Issues), it is broadly aware of the issues surrounding adoptions from Sri Lanka, in the 1980s and 90s, and in some instances till today. This information therefore complements the questions already asked. However, we would be happy to provide additional background and context to the below.

In its [response to the List of Issues](#) the government of Switzerland references a report produced pursuant to parliamentary motion No. 17.4181 (“Shedding light on illegal adoptions in Switzerland of children from Sri Lanka in the 1980s”).

**While Back to the Roots welcomes the report produced by the government, we wish to highlight key elements of the report from the perspective of the persons concerned, and draw attention to certain shortcomings in the current system of support for adopted persons and their families:**

- The Federal Council acknowledged in clear terms the injustice that had occurred, and acknowledged the misconduct of the Swiss authorities in the adoptions from Sri Lanka and expressed its regret to the adopted persons.
- In some adoption cases, the babies/children from Sri Lanka were forcibly taken from their mothers and/or families. New birth documents with false identities were issued for the babies so that they could be placed for adoption.
- Very often, there are no references to the biological family in the adoption or identity documents, which means it is often impossible for the now-adults to know their true identity, let alone obtain information about their family of origin.
- These illegal adoption practices were known to the Swiss authorities in the early 1980s, which was confirmed by diplomatic cables, but the authorities in Bern or the cantonal authorities failed to stop them.



In its response to paragraph 21 of the List of Issues, the Swiss authorities claim that the report includes the measures available today to support affected persons in their search of origins.

The government has also initiated a number of working groups, mandated to review current adoption procedures and redesign the governmental support for the process of search of origin. Back to the Roots is represented in these working groups, and supports the process.

However, so far, all discussions are taking place on the assumption of legal adoptions. The processes discussed are not suited to support children (now adults) whose adoption did not run correctly, such as if the consent of the biological parents was missing, or where the babies were given a new, 'fake' identity. Sadly, this seems to be the case for the majority of adoptions from Sri Lanka.

Importantly, the measures proposed by the federal authorities have only recommendatory character, since the cantonal authorities are competent to provide support to the persons concerned. In practice, therefore, we are observing significant differences between cantons.

## Switzerland's obligations under the Convention

It is our view, that, pursuant to Art. 25 and Art. 15 of the International Convention on the Protection of All Persons from Enforced Disappearance ('the Convention'), and in particular paras. 2, 3 and 4, both Switzerland and Sri Lanka – as States parties to the Convention – have an obligation to cooperate in assisting victims and searching for disappeared persons (Art. 15, Art. 25. 2 and 3). They should discharge this obligation having due regard to the 2019 Guiding Principles for the Search for Disappeared Persons, and in particular to Principles 7, 11, 12 – and in particular 12.3). Both Switzerland and Sri Lanka also have an obligation to prevent and criminally sanction the wrongful<sup>[A4]</sup> removal of children subjected to an enforced disappearance and the falsification/alteration of documents attesting to their true identity (Art. 25.1) and put in place legal procedures to review adoptions that originated in an enforced disappearance (Art. 24.4).

**So far, the government of Switzerland has failed to clearly acknowledge that the babies illegally adopted from Sri Lanka, as well as their families, are victims of enforced disappearance pursuant to Arts. 24, para. 1; and Art. 25, para. 1, of the Convention. We hope that the Committee will clearly recognise this.**



In practice, Back to the Roots has learned that, **in many cases, forensic examinations are the only reliable and realistic option for searching for, finding and identifying the disappeared children (mainly because the identity papers provided at adoptions were falsified).**

Many families from Sri Lanka are looking for their disappeared children, and are contacting Back to the Roots for assistance. **We ask that Switzerland provide free of charge DNA testing for adopted persons and their potential families.**

In order for us adopted persons to receive more support and for Switzerland to be held accountable, we depend on our adoption cases being recognized as enforced disappearances by the Committee.

In recommending Switzerland to take appropriate measures to address this issue, we would appreciate reference by the Committee to its own **Guiding Principles for the Search for Disappeared Persons**. We consider the following principles particularly relevant for the present circumstances:

- Principle 4.2: the search should follow a differential approach (measures to be undertaken in cases allegedly involving children)
- Principle 7: the search is a continuing obligation
- Principle 8.8: The comprehensive search strategy for newborn and very young children should take into account the fact that their identity documents may have been altered and that they may have been taken from their families, given a false identity and handed over to a children's institution or another family for adoption. These children and adolescents, who may by now be adults, should be searched for, identified and have their identity restored.
- Principle 11: the use of information in the search (and in particular, para. 5)
- Principle 12: the search should be coordinated (and in particular para. 3)

## Suggested Recommendations

Based on the above, we suggest the following recommendations:

**The Committee recommends that the State party provide the necessary support to persons adopted in Switzerland from abroad and who may have been victims of enforced disappearance under articles 24, para. 1, and 25, para. 1, of the Convention, in order to ascertain and restore their identity and assist with the family reunification.**

**The Committee asks the State party to fully investigate the individual cases of wrongful removal of children, so as to provide victims the rights to truth**



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**and reparation, pursuant to article 24, paras. 2, 3, 4 and 5, of the Convention.**

**The Committee recalls that Switzerland, pursuant to Art. 15 and 25, para. 3, must duly cooperate with Sri Lanka in assisting the victims and searching for, identifying and locating children victims of enforced disappearance through illegal adoption, including by providing the necessary technical, forensic and material support.**

Geneva, 26.2.2021