

Child's right to identity in alternative care¹

Submission to the CRC Committee's DGD on 16 and 17 September 2021

While ensuring quality care for children deprived of their families is important (article 20 Convention on the Rights of the Child (CRC)), the preservation and access of the child's identity – including name, nationality and family relations (article 8 CRC) – is equally necessary when finding suitable care. When these dual goals are not achieved, the lifelong impact for the child and the wider society, causes significant damage. It is therefore imperative that those working in child protection, alternative care and adoption, give greater attention to the child's right to identity, noting that it is the gateway to accessing all other rights. Child Identity Protection hopes that by focusing on the three DGD specific objectives, that link the provision of quality alternative care to safeguarding the child's right to identity, this submission will contribute to:

- the achievement of SDG 16.9 where by 2030 States provide legal identity for all; and
- ensuring that every child and later adult, that has been in care, has full access to their origins.

1 Harms of care and abuse on children in care, and measures that ensure prevention, intervention and access to justice, accountability and suitable reparation (specific objective 2)

1.1 Loss of children's identity in alternative care

While a wide range of harm and abuse may occur when children are placed in care, those related to the loss of the child's identity have received scarce attention, despite having serious lifelong consequences. Such harm can arise when children cannot grow up in their family of origin and are not able to maintain a relationship with them and/or when there is incomplete or falsified information about their family relations, contrary to international standards.²

There are multiple examples of State-led initiatives or abdication of their responsibilities that has resulted in such contraventions, a few of which are noted below:

- **gender discrimination** related to birth mother status, as in Australia,³ Korea,⁴ Ireland⁵ and Switzerland.⁶ These examples show that decisions were at times enabled by legislation such as secrecy provisions and/or lack of reflection periods. Gender discrimination may also occur against the birth father, such as in proceedings whereby his participation is excluded, such as in the UK⁷ or South Africa.⁸
- **racial discrimination** against indigenous and minority groups as occurred for instance in Australia,⁹ Canada¹⁰ and Switzerland¹¹ as well as against coloured children in the USA.¹²
- **poverty**¹³ including when it leads to informal arrangements where a child may be placed away from their families of origin, where they may be at risk of being subject to slavery or become involved in child domestic work.

The most significant concerns that International Labour Office (ILO) has identified in these situations include "long and tiring working days; use of toxic chemicals; carrying heavy loads; handling dangerous items such as knives, axes and hot pans; insufficient or inadequate food and accommodation, and humiliating or degrading treatment including physical and verbal violence, and sexual abuse."¹⁴ ILO notes that "17.2 million children are in paid or unpaid domestic work in the home of a third party or employer."¹⁵ Examples include the restaveks in Haiti¹⁶ and criaditas in Paraguay.¹⁷

- **political, economic or religious motivations.**¹⁸ Political motivations, such as the one child policy in China and enforced disappearances during dictatorships in Argentina, Chile and Spain¹⁹ have resulted in unnecessary separation. Economic motivations may likewise drive children into care. As the funding of residential care is invariably based on the number of children in the institution, children may unnecessarily be drawn into these settings, despite the great majority having at least one living parent. This can occur for example when children are falsely named "orphans", and the process of "paper orphaning", and/or the promotion of "orphanage tourism"²⁰ in facilities that are usually located in popular tourist areas. The work of Terre des hommes in Nepal to vindicate "paper orphans" is worth mentioning.²¹ Religious motivations can also drive children into care where these situations can stretch, or even rupture, original family relationships, and the creation of a bond with a religious leader may unduly modify the child's identity. To illustrate, according to a 2019 report "about 100,000 talibé children living in boarding schools in daaras throughout Senegal are obliged by koranic masters or marabouts to beg every day for money, for food, for rice or for sugar."²² In Cambodia, thousands of children, especially boys aged 10 and over, were placed in one of the 65 Pagodas as of 2014/2015.²³
- **combination of the above factors**, coupled with lack of access to economic, social and cultural rights and a context of corruption has also resulted in for example, forced (and illegal) adoptions in Guatemala.²⁴



1

"It was here in Parkside I was given the name "NUMBER FIVE". The number you are given is what you answer to, it is sewn on all your clothes, it is your locker number and your bed and cell number. I ceased being Alan and became number five." *Footnote 1

1.2 Current cases: access to justice, accountability and suitable reparation

Restorative measures and accountability in alternative care and adoption is vital, particularly when children are unnecessarily separated from their families. Articles 9 and 25 CRC create broad obligations for the State to preserve family relations for children separated from their families, where article 8(2) CRC creates a responsibility to re-establish missing elements of the child's identity including in family relations.

Where there has been an undue separation of the child from his or her parents, family reunification and reintegration should be encouraged (10(1) CRC) when in the child's best interests.²⁵ Arguably, the benefits of having a family can only be achieved if the child knows who their family relations are, as outlined in article 8(1) CRC in their right to identity, which assumes that Civil Registration and Vital Statistic (CRVS) systems are functioning well. If the child cannot and does not know who their family relations are, then family reunification is virtually impossible (see section two).

In practice, restoring the child's original identity through family reunification requires further efforts. The issue of reintegration is often missing from national legislation and policy, with ineffective practices such as failure to address the reasons for initial separation and inadequate post support services. International efforts such as the 2022 Annual Day on the Rights at the Human Rights Council dedicated to family reunification as well as inter-agency collaboration that led to the Guidelines on Children's Reintegration,²⁶ should contribute to building the child's identity through these efforts.

At a regional level, the ECtHR has provided helpful jurisprudence. For example in 2020 it ruled, that there was a violation in right to privacy, when the Norwegian child protection authorities did not facilitate contact with the family of origin, nor did they provide adequate support to them while the child was in alternative care. The lack of social contact with the birth family was one factor that led to the decision to remove their parental authority and led to the adoption of the child. The ECtHR held that the child protection authorities were responsible for the family breakdown and failed its duty to promote family reunification.²⁷ The Inter-American Court of Human Rights has provided remedies to re-establish the child's identity, for example, requiring that Guatemala adopt all necessary and adequate measures to facilitate the restitution of family ties between Osmín Tobar Ramírez and his parents, as well as modify Osmín's birth certificate to reinstitute legal family ties.²⁸

At a national level, Cambodia has undertaken an initiative in this direction, with a 2015 Action Plan for improving child care, with the target of safely returning 30 per cent of children in residential care to their families during 2016 - 2018.²⁹ Paraguay has also recently introduced a law that promotes the maintenance of family ties, although its full implementation still remains a challenges.³⁰

1.3 Past cases: access to justice, accountability and suitable reparation

In past situations of abuse in alternative care related to the child's right identity, particularly when mass numbers are involved, different challenges may exist, to accessing justice, accountability and reparation, related to the scope of State's responsibility. The discovery of missing or falsified information related to a child's identity is likely to occur when the child is perhaps an adolescent or as an adult. In such cases, the statutes of limitations may apply and/or existing international, regional and national frameworks may not have been in force at the time of the breach. Such legal challenges, may be exacerbated with issues such as lack of political will, limited pathways to justice and a culture of impunity. Practical realities may mean that even the existence of DNA database cannot resolve situations as records may not have been preserved and in some situations, even (purposefully) destroyed.

In response to gross occurrences of abuse including deprivation of identity, national enquiries such as in Australia, Canada, Ireland, Scotland, Spain, and Switzerland have been set up. The outcome and recommendations from these enquiries vary in degree, noting that apologies, memorialisation processes, reparation and non-recurrence measures are key responses.

The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (UN SR on transitional justice) has provided a comprehensive report on the design and implementation of apologies (e.g. motivation, acknowledgement and truth, timing, preparation the apology, after the apology: follow through, non-recurrence and reconciliation) that is helpful for past abuses in alternative care.³¹ The formal apologies of the Australian government for forced adoption practices of single mothers³² and treatment of indigenous peoples,³³ including the establishment of victim's fund are a promising practice. Similar political will was shown for the "Forgotten Australians and former child migrants, collectively known as care leavers" including the introduction of a new Find and Connect service.³⁴

Switzerland provides another promising practice, where formal apologies have occurred and significant funds have been dedicated to research addressing the coercive practices of the past and present, such as the study on coercive measures for welfare purposes and out of home placements, which led to the Federal Act on Compulsory Social Measures and Placements prior to 1981 (CSMPA), effective on 1 April 2017.



The Amacker study on “Private and public actors in out-of-home child care processes” will contribute to knowledge on the role of financial and supervisory frameworks in coercive decision in all out of home placements including residential care. The formal apology by SOS Children’s Villages in 2021 in response to failures in safeguarding and governance likewise moves in the right direction of reparation.³⁵

Despite such efforts, additional responses to situations of past abuse must be developed. For instance, States should systematically implement memory processes. The UN SR on transitional justice’s 2020 report³⁶ in this context is helpful as it outlines the importance of archives and ensuring access (paras 70 to 73). This is particularly relevant in the case of Ireland where following the enquiry into Mother and Baby Homes, certain records of victims and witnesses were destroyed to ensure anonymity, which will significantly limit the fulfilment of the right to identity.³⁷ German authorities, have in contrast, opened the archives of the Stasi (the Ministry of State Security of the former German Democratic Republic) as a promising practice to ensure open access.³⁸ States should likewise be cautious in applying General Data Protection Rules (GDPR) to withhold “mixed data” from children about their personal identity information in alternative care.³⁹ It seems that governments such as those in the UK are narrowly interpreting article 15(4) GDPR so that children (and later adults) cannot fully access their rights to identity and know their origins when mixed data is involved – which can potentially affect the 30,000 children that enter care each year.⁴⁰

In responding to past abuses, States should equally be working towards the elimination of impunity for abuse in alternative care and adoption. It is of vital importance that strategic litigation and the promotion of access to justice by survivors, including the lifting of statute of limitations be encouraged. A promising example in this context occurred in Guatemala and the criminal prosecution of human trafficking for illegal adoption purpose and the different strategies implemented to fight impunity.⁴¹ It is also important that States invest significant resources in preventing the recurrence of such abuses, which includes the introduction of frameworks that uphold human rights as foundational step.⁴²

Through a grant of the Swiss National Foundation, Child Identity Protection is currently working with the University of Geneva and other experts to evaluate coercive decision making in foster care, and where possible adoption, in Switzerland through the lens of international standards. The results of this research should be helpful in providing concrete examples of how States can effectively meet the child’s identity needs and tackle the issues raised beforehand.

2

Preventing family separation, through enhanced prevention and gatekeeping initiatives (Specific objective 4)

2.1 Improve access to civil registration and vital statistic systems for families at risk of separation

Families that cannot access CRVS systems are likely to be the same that are at risk of separation, due to lack of access to basic services and pervasive discrimination. Notably, it is widely accepted that children born in rural areas from underprivileged backgrounds and whose mothers may have a low level of education are less likely to have their births registered.⁴³ For example, UNICEF notes that around three million children in Latin America and the Caribbean do not have birth documents as “the registration process in a number of countries lacks sensitivity to indigenous peoples’ culture and tradition. The cross-border ‘nature’ of indigenous communities adds to these obstacles. Urban-rural differences also mask deeper underlying disparities, mainly related to poverty.”⁴⁴ Further obstacles to birth registration occur in countries such as Uzbekistan, where registration costs money, in Indonesia where a marriage certificate is required, and in Bhutan where a child of unknown father cannot be registered.⁴⁵ In Malaysia, like other countries, other factors include cumbersome administrative procedures for birth registration, and difficulties in obtaining birth certificates for children who are refugees or born from undocumented migrant workers, who do not seek birth registration due to fear of arrest.⁴⁶ States should therefore address the underlying obstacles to accessing CRVS systems as a preventative measure to avoid risk of separation.

2.2 Anonymous abandonment of children

Children without an identity at birth include those who are abandoned and eventually placed into care. The magnitude of this situation is currently unknown as worldwide statistics do not exist – although outdated information is available.⁴⁷ In practice, abandonment is where parents leave the child without any identifying information about the child’s “family relations”. When this occurs, compliance with the right of the child to identity through access to his or her origins is almost impossible. For example, certain countries authorise such practices, allowing anonymous childbirth such as in France and Luxembourg (e.g. naissance sous X) or USA (e.g. safe haven laws)⁴⁸ or baby boxes (e.g. Austria, Belgium, Czech Republic, Germany, Japan, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Republic of Korea, Slovakia, Switzerland).



2

So I don't know where I originate from
... I don't know and obviously my
children and grandchildren will have
the same problem you see it goes down
in generations.
(Female, 64) ** (Footnote 1)

These practices facilitating anonymous abandonment are contrary to international standards, for example para 42 of the UN Guidelines which states that “when a child is relinquished or abandoned, States should ensure that this may take place in conditions of confidentiality and safety for the child, respecting his/her right to access information on his/her origins where appropriate and possible under the law of the State.”

Instead of proactively creating frameworks allowing anonymous births, States should be encouraged to abolish such initiatives and set up confidential births as recommended by the CRC Committee to Austria (2020),⁴⁹ Korea (2019)⁵⁰ and France (2016).⁵¹ One promising practice in Germany occurred with the introduction of a law on confidential births and how children can access their origins.⁵² As a measure of first resort, States should importantly be encouraged to support families in their caregiving role to prevent the abandonment of children, in addition to systems that allow for confidential births.

2.3 Support services to prevent anonymous abandonment and/or unnecessary separation and facilitate access to origins

A number of States have introduced effective practices to prevent abandonment and give support to young mothers, noting that early intervention are cost effective, as seen for example, in many East European countries.⁵³ Improving access to health and other services as well as having specialist workers in maternity units, when a child is born with a disability, has also supported parents in their caregiving role (paras 9 and 10 UN Guidelines) as illustrated by the services at Angkor Wat Children's Hospital in Cambodia.⁵⁴

Specific services to accompany children and adults searching for their origins should also be developed. For example, the French National Council for Access to Personal Origins (CNAOP)⁵⁵ was created in 2002 to collect and conserve information on the identity of birth parents and the child's history. It has a duty to search for the biological mother and to obtain her consent should the child request information about his or her origins. Support services for mothers in hospital have been developed over the last few years. In 2019 the report indicates that “297 people have had access to the identity of at least one of their birth parents through the CNOAP.” The “Filiation centre” has also been set up in Belgium to provide support to those searching for their origins.⁵⁶

3

Explore innovative approaches to alternative care for children in particularly vulnerable situations, such as humanitarian contexts and migration (specific objective 7)

Children in emergency situations, including unaccompanied and separated refugee and migrant children,⁵⁷ may be deprived of their identity. For example only 45% of children born in Donetsk and Luhansk (Non-controlled Government areas, NCGA) and around 12% born in Crimea have obtained a birth certificate issued by the Ukrainian Government.⁵⁸ All children born in NCGA receive birth certificates by de facto authorities but these are not recognised by the Ukrainian Government. While procedures exist that allow children from the NCGA to obtain birth certificates, the steps are cumbersome, expensive and not fully implemented.⁵⁹ Significant expenses occur for parents to get certificates approved by the courts related to travel/overnight stay in the GCA. Further in some countries, the conditions of the child's registration in receiving or transit countries do not always respect their rights. For example thousands, including children, with Mexican nationality born in a country other than Mexico do not have a birth certificate due to cumbersome administrative procedures and costs.⁶⁰

Moreover, when a child arrives in a new country, there may be inadequate mechanisms in place that facilitate an immediate search for information concerning family background - when safe to do so. Paragraphs 162-167 of the UN Guidelines provide helpful orientations on what should be recorded and how family reunification should occur in emergency settings. Without these family tracing and reunification (FTR) services in place, renewed contacts with the family may be challenging.⁶¹ It may also be the case that CRVS systems are not able to communicate with each other in cross-border situations, where birth and identity documentation may not be recognised in another country.⁶²

UNHCR's Best Interests Procedure Guidelines, Assessing and Determining the Best Interests of the Child (UNHCR BIP Guidelines)⁶³ launched in 2021 is an extremely important tool for assessing and determining the best interests of the child in these settings. It is filled with importance guidance notably meeting the child's identity needs including “sex, sexual orientation, national origin, religion and beliefs, cultural identity and personality.” In considering the child's development and identity needs, a strong emphasis is made on understanding the child's family environment, family relations and contacts. It is likewise necessary that authorities in the different States cooperate well in all cross border settings.



3

"I needed to talk about those good times before the war. But the more I talked about my father, the more I missed my mother and little brother, too. I didn't grow up with them. I felt as if I missed that chance and would never get it again, and that made me sad." *Ishmael Beah, former child soldier*

Still, armed groups deliberately set out to change child soldiers' identities as a means of cutting them from their previous lives and reducing attempts to escape. Often they do this by saying, "Now you are soldiers," requiring them to wear uniforms and other symbols of their identity, and subjugating them through brutality and control processes. ***

Footnote 1

The Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children provides a useful framework for such co-operation. Switzerland has developed an aide memoire to encourage cantonal authorities to consider the child's best interests, including family relations in these cross-border alternative care placements.⁶⁴

FTR services may also be limited in how they can effectively apply to children separated from their families and are recruited by terrorist groups. The UN SR on violence against children notes in a 2020 report that "tens of thousands of foreign, Iraqi and Syrian children are being held in detention on suspected ISIS association or terror-related offenses, or in camps. These children are exposed to violence, due process violations and family separation. Securing solutions for these children must be pursued in advance or in parallel with efforts to facilitate repatriation."⁶⁵ According to the Special Representative of the Secretary General for children and armed conflicts in June 2020, "more than 7,000 children have been recruited or used during conflicts."⁶⁶ When children belong to such groups, their family existence is erased and they have a new identity linked to the group. As described by a Dutch report: "one of the aims of these training camps is to detach the very young children from their families and to develop a feeling of belonging to the group, in opposition to their individual identity."⁶⁷ Work is needed to explore family reunification when the identities of families of origin may have little meaning and/or when families may have difficulties in accepting the children.

Children living in street situations are another example of vulnerable circumstances, that children may be separated from their families and often without legal identities. The Consortium for Street Children has developed an excellent tool on how legal identity can be established and its restoration for street children in many countries.⁶⁸

Recommendations

- **Civil registration and vital statistic (CRVS) systems should be set up to include all relevant elements of the child's identity :**
 - use of multilingual civil status forms (e.g. ICCS Convention no 16 and no 34)
 - safe and confidential communication between the civil registrars in cross-border matters
 - preservation and access to information about origins, in perpetuity
 - training of actors responsible for CRVS
- **States should invest in support services to families at risk of abandonment and those who cannot access CRVS systems, including appropriate psychosocial support to prevent family separation and access to all services**
 - Innovative support services to families with children with "difficult" behaviour are also important to prevent unnecessary separation.⁶⁹
- **Greater investment into family reunification and reintegration, including comprehensive training on importance of identity rights (i.e. name, nationality and family relations), especially for children who have been inappropriately placed in care and/or those involved in armed conflict**
- **Encourage co-operation between States in cross-border matters, including ratification of relevant Hague Conventions such as the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children**
- **For past abuse cases, States should:**
 - lift statute of limitations in cases involving children
 - consider the importance of apologies and memorialization, including archiving as outlined for example, in the work of the UN SR on the promotion of truth, justice, reparation and guarantees of non-recurrence
 - develop protocols for victims on available remedies, including free counselling, mediation services, reparation including financial compensation, training of actors, new laws etc.
 - introduce search for origins and family reunification initiatives that are well resourced
- **In order to benefit from the existing research on past abuses in alternative care and adoption, a Global study centralizing the lessons learned, should be developed to pinpoint:**
 - Factors that lead to a successful research/enquiry
 - Measures that have been effective in holding States and other actors accountable.
 - Prioritisation of recommendations, given resources
 - What is considered suitable reparation for the abuse in alternative care, such as restoration of identity
 - Other areas that can benefit from lessons learnt, such as the prohibition of the use of anonymous gametes in assisted reproductive technology⁷⁰
- **Modification of child's identity in alternative care should only occur when in the child's best interests, including into adulthood, including in formal care situations such as kinship care, foster care, kafalah, residential care, as well as adoption, etc.**
- **International standards, for example a general comment or guidelines, should be developed to protect the child's right to identity (name, nationality and family relations) in alternative care and many other themes**



Endnotes

¹Prepared by Mia Dambach and the team at Child Identity Protection (www.child-identity.org) – notably Christina Baglietto, Laurence Bordier, Cécile Jeannin, Gisela Sin Gomiz and with input from Dr Chrissie Gale. This submission includes issues related to adoption, as children are often (unduly) placed in alternative care, prior to adoption or when adoption is inappropriately prioritised for children separated from their families.

* Senate Community Affairs Reference Committee (2004). *Forgotten Australians. A report on Australians who experienced institutional care or out-of-home care as children*, pps.93 and followings. https://www.aph.gov.au/binaries/senate/committee/clac_ctte/completed_inquiries/2004-07/inst_care/report/report.pdf. ** Lorraine Sherr, Kathryn J. Roberts & Natasha Croome | Peter Walla (Reviewing editor) (2018) *Disclosure and identity experiences of adults abandoned as babies: A qualitative study*, *Cogent Psychology*, 5:1, DOI: 10.1080/23311908.2018.1473744 *** Wessells, M. (2006). *Child soldiers from violence to protection*, p.82/83

²For example, CRC preamble, articles 7(1), 8 and 9 CRC and paras 10, 109-112, 167 of UN Guidelines for the Alternative Care of Children (UN Guidelines)

³Commonwealth of Australia (2012, February 29). *Commonwealth Contribution to Former Forced Adoption Policies and Practices*. Australia: Senate Standing Committees on Community Affairs.

⁴South Korea's Single Moms Struggle To Remove A Social Stigma. May 11, 2015. Npr. Available at: <https://bettercarenetwork.org/news-updates/news/south-koreas-single-moms-struggle-to-remove-a-social-stigma>

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⁵Mothers and baby homes Commission of Investigation (2021). *Final report*. Ireland : Department of Children, Equality, Disability, Integration and Youth. <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>

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⁷Clapton, G. (1997, April). *Birth Fathers, the Adoption Process and Fatherhood*. April 1997. *Adoption & Fostering* 21(1):29-36. UK: Sage publishing.

⁸Louw, A. (2010) *PER* vol.13 n.3 Potchefstroom Jan. 2010 http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812010000300006

⁹Human Rights and Equal Opportunity Commission (1997). *Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Australia: Australian Human Rights Commission.

¹⁰Johnston, P. (1983). *Native children and the child welfare system*. Toronto : Published by the Canadian Council on Social.

¹¹Meier, T. (2008, December). *The fight against the Swiss Yenish and the 'Children of the open road' campaign*. Romani Studies. UK: Liverpool University Press.

¹²<https://www.childrensrights.org/racism-in-child-welfare-and-juvenile-justice-systems/>

¹³Para 15 UN Guidelines states that “financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care, for receiving a child into alternative care, or for preventing his/her reintegration, but should be seen as a signal for the need to provide appropriate support to the family.”

¹⁴Child labour and domestic work (IPEC). (n.d.). ILO.

<https://www.ilo.org/ipecc/areas/Childdomesticlabour/lang--en/index.htm>

¹⁵Child labour and domestic work (IPEC). (n.d.). ILO.

<https://www.ilo.org/ipecc/areas/Childdomesticlabour/lang--en/index.htm>

¹⁶Gilbert L, Reza A, Mercy JA, Lea V, Lee J, Xu L, Marcelin LH, Hast M, Vertefeuille J, Domercant JW. The experience of violence against children in domestic servitude in Haiti: Results from the Violence Against Children Survey, Haiti 2012. *Child Abuse & Neglect* 2018; 76: 184-193.

<https://www.sciencedirect.com/science/article/pii/S014521341730409X> External

¹⁷<https://www.acuorum.com/las-criaditas-el-trabajo-infantil-pervive-en-paraguay>

¹⁸Para 20 UN Guidelines notes that “the provision of alternative care should never be undertaken with a prime purpose of furthering the political, religious or economic goals of the providers.”

¹⁹Tiempo de verdad y justicia. Vulneraciones de derechos humanos en los casos de “bebés robados”. <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/Informe-beb%C3%A9s-robados.pdf> and [https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-inaceptable-impunidad-decadas-sin-respuesta-a-miles-de-denuncias-de-desaparicion-forzada-apropiacion-y-o-sustitucion-de-identidad-de-ninos-y-ninas/\(available in Spanish\)](https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-inaceptable-impunidad-decadas-sin-respuesta-a-miles-de-denuncias-de-desaparicion-forzada-apropiacion-y-o-sustitucion-de-identidad-de-ninos-y-ninas/(available%20in%20spanish)).

²⁰When Children Become Tourist Attractions. (n.d.). Think Child Safe. <http://www.thinkchildsafesafe.org/thinkbeforevisiting/>

²¹See personal testimony: paper orphans vindicated in Nepal in Baglietto C, Cantwell N, Dambach M (Eds.) (2016). *Responding to illegal adoptions: A professional handbook*. Geneva, Switzerland: International Social Service (section 5.6)

²²Human Rights Watch. (2019). *La place de ces enfants n'est pas dans la rue. Une feuille de route pour mettre fin à la maltraitance des talibés au Sénégal*. <https://www.hrw.org/fr/report/2019/12/16/la-place-de-ces-enfants-nest-pas-dans-la-rue/une-feuille-de-route-pour-mettre-fin>.

²³Hamilton, C., Apland, K., Dunaiski, M., & Yarrow, E. (2017). *Study on Alternative Care Community Practices for Children in Cambodia*. Ministry of Social Affairs, Veterans and Youth Rehabilitation of the Kingdom of Cambodia & UNICEF Cambodia, p. 16.

https://www.unicef.org/cambodia/media/666/file/Alternative_Care_Community_Practices-EN.pdf%20.pdf

²⁴(CICIG, 2010). See for example *Case of Ramírez Escobar et al. v. Guatemala. Merits, Reparations and Costs. Judgment of March 9, 2018. Series C No. 351:*

https://www.corteidh.or.cr/docs/casos/articulos/seriec_351_esp.pdf.

²⁵Paras 49-52 UN Guidelines

²⁶<https://www.familyforeverychild.org/guidelines-on-childrens-reintegration>

²⁷*Pedersen vs Norway* (2020);

<https://strasbourgobservers.com/2020/05/28/pedersen-et-al-v-norway-progress-towards-child-centrism-at-the-european-court-of-human-rights-2/>

²⁸See other remedies in

<https://www.corteidh.or.cr/corteidh/cf/Jurisprudencia2/overview.cfm?doc=1920&lang=en>

²⁹Ministry of Social Affairs, Veterans and Youth Rehabilitation, Kingdom of Cambodia. (2017). *Action Plan for Improving Child Care with the target of safely returning 30 per cent of children in residential care to their families 2016 - 2018*. <https://www.unicef.org/cambodia/reports/action-plan-improving-child-care-target-safely-returning-30-cent-children>

³⁰<https://www.bacn.gov.py/leyes-paraguayas/9165/ley-n-6486-de-promocion-y-proteccion-del-derecho-de-ninos-ninas-y-adolescentes-a-vivir-en-familia-que-regula-las-medidas-de-cuidados-alternativos-y-la-adopcion>

³¹2019 UNGA Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, <https://undocs.org/en/A/74/147>

³²<https://www.ag.gov.au/families-and-marriage/national-apology-forced-adoptions>

³³<https://info.australia.gov.au/about-australia/our-country/our-people/apology-to-australias-indigenous-peoples>

³⁴https://www.dss.gov.au/sites/default/files/documents/response_senate_onst_cttee.pdf



³⁵<https://www.sos-childrevillages.org/news/sos-children%E2%80%99s-villages-responds-to-failures>

³⁶ 2020 HRC Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, <https://undocs.org/A/HRC/45/45>

³⁷ <https://www.irishtimes.com/news/politics/confidential-records-destroyed-without-consent-td-claims-1.4476559>

³⁸ See Federal Commissioner for the Archives of the Ministry of State Security of the German Democratic Republic, www.bstu.de/en/.

³⁹<http://jfmresearch.com/wp-content/uploads/2021/03/Submission-to-Oireachtas-Justice-Committee-Re-GDPR-MOR-CMG-LON-26.3.21.pdf>

⁴⁰See example <https://amp-theguardian.com.cdn.ampproject.org/c/s/amp.theguardian.com/lifeandstyle/2021/may/15/the-secret-of-my-identity-devastated-me-could-official-records-reveal-the-truth-about-my-childhood>

⁴¹See promising practice in Baglietto C, Cantwell N, Dambach M (Eds.) (2016). Responding to illegal adoptions: A professional handbook. Geneva, Switzerland: International Social Service (section 5.6)

⁴²See work of UN SR on transitional justice <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/FrameworkToPrevention.aspx>

⁴³ Birth registration, without legal proof of identity, children are left uncounted and invisible. (2020). UNICEF.

<https://www.unicef.org/protection/birth-registration>

⁴⁴ UNICEF. (2016). Birth registration in Latin America and the Caribbean: Closing the gaps. 2016 Update. <https://data.unicef.org/resources/birth-registration-latin-america-caribbean-closing-gaps/#>.

⁴⁵UNICEF. (2013). Every Child's Birth Right: inequities and trends in birth registration. UNICEF. <https://www.unicef.org/media/73661/file/Every-Childs-Birth-Right-2013.pdf.pdf>.

⁴⁶ Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material. (2018). Visit to Malaysia <https://www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx>

⁴⁷ Project Reference Number: JUST/2008-1/451 - JLS/2008/DAP3/AG/1451, Child abandonment and its prevention: https://ec.europa.eu/justice/grants/results/daphne-toolkit/content/child-abandonment-and-its-prevention_en. This 2008 report of the European Commission notes that Slovakia has the highest number of children (from 0 to 3years) openly abandoned (4.9 for 1000 births of viable children), followed by the Czech Republic (4.1 for 1000), Latvia (3.9 for 1000) and Poland (3.7 for 1000). According to the same report, in the countries which keep statistics, Romania has the highest number of children abandoned per year in maternity hospitals (3.6 for 1000 births), followed by Slovakia (3.3 for 1000), Poland and Lithuania (1.7 for 1000) and France (1 for 1000).

⁴⁸ See Child Welfare Information Gateway. (2017). Infant Safe Haven Laws. U.S. Department of Health and Human Services, Children's Bureau. <https://www.childwelfare.gov/pubPDFs/safehaven.pdf#page=5&view=Summaries%20of%20State%20laws>.

⁴⁹ UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of Austria, 6 March 2020, CRC/C/AUT/CO/5-6.

⁵⁰UN Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of the Republic of Korea, 24 October 2019, CRC/C/KOR/CO/5-6.

⁵¹ UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of France, 23 February 2016, CRC/C/FRA/CO/5.

⁵² <https://www.dw.com/en/confidential-birth-a-safe-private-way-out-for-pregnant-women/a-39662482>. See also description in le rapport du Conseil Fédéral du 12 octobre 2016 « mieux soutenir les mères en détresse et les familles vulnérables »

⁵³ The University of Nottingham, UK, Directorate-General Justice and Home Affairs, in collaboration with For Our Children Foundation (Bulgaria), Life Together Association (Czech Republic), University of Copenhagen (Denmark), University of Lyon (France), Family Child Youth Association (Hungary), Paramos Vaikams Centras (Lithuania), Nobody's Children Foundation (Poland), Children's High Level Group (Romania), and SOCIA (Slovakia). (2012). Child Abandonment and its Prevention in Europe, European Commission Daphne Programme. The University of Nottingham (Institute of Work, Health & Organisations).

<https://bettercarenetwork.org/sites/default/files/attachments/Child%20Abandonment%20and%20Its%20Prevention%20in%20Europe.pdf>

⁵⁴ <https://bettercarenetwork.org/library/principles-of-good-care-practices/leaving-alternative-care-and-reintegration/preventing-and-responding-to-child-abandonment-at-hospitals>

⁵⁵Conseil National pour l'Accès aux Origines personnelles (CNAOP). (2020). Rapport d'activité 2019. Ministère des Solidarités et de la Santé. https://www.cnaop.gouv.fr/IMG/pdf/18-ra_2019_version_finale.pdf.

⁵⁶ <https://afstammingscentrum.be/>

⁵⁷ UNICEF estimated that in 2017 the number of unaccompanied and separated children having requested asylum in countries outside the European Union amounted 4000 in 2010 vs 19 000 in 2015. UNICEF. (2017). A child is a child. Protecting children on the move from violence, abuse and exploitation. <https://data.unicef.org/resources/child-child-protecting-children-move-violence-abuse-exploitation/>.

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⁵⁸ United Nations (January 2020). Briefing Note on birth registration, Ukraine. Retrieved from: https://www.unhcr.org/ua/wpcontent/uploads/sites/38/2020/03/Briefing-Note-Birth-registration_2020.pdf

⁵⁹United Nations (January 2020). Briefing Note on birth registration, Ukraine. Retrieved from: https://www.unhcr.org/ua/wpcontent/uploads/sites/38/2020/03/Briefing-Note-Birth-registration_2020.pdf

⁶⁰<https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2019/EstSociodemo/identidad2019.pdf>

⁶¹See, in respect of migrating, refugee and asylum seeking children and the EU Corneloup, S., Heiderhoff, B., Honorati, C., et al. (2017). Children On the Move: A Private International Law Perspective (PE 583.158). Directorate General for Internal Policies of the Union, Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament. [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583158/IPOL_STU\(2017\)583158_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583158/IPOL_STU(2017)583158_EN.pdf)

⁶²See work of International Commission on Civil Status http://www.ciec1.org/SITECIEC_WEB/FR/index.awp

⁶³<https://www.refworld.org/pdfid/5c18d7254.pdf>

⁶⁴<https://www.bj.admin.ch/bj/en/home/gesellschaft/kinderschutz/platzierungen.html>

⁶⁵ Solutions for Children Previously Affiliated With Extremist Groups: An Evidence Base to Inform Repatriation, Rehabilitation and Reintegration https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/2020/reports_extremism/un_hq_osrsg_solutions_for_children_previously_affiliated_with_extremist_groups_20-01153_lo-res.pdf See also National Coordinator for Security and Counterterrorism (NCTV) and General Intelligence and Security Service (AIVD). (2017). The Children of ISIS. The indoctrination of minors in ISIS-held territory. https://radical.hypotheses.org/files/2018/01/Minderjarigen_bij_ISIS_ENG.pdf

⁶⁶ Face aux millions d'enfants pris au piège des conflits, l'ONU appelle. (2020, June 15). ONU Info. <https://news.un.org/fr/story/2020/06/1070962>

⁶⁷ National Coordinator for Security and Counterterrorism (NCTV) and General Intelligence and Security Service (AIVD). (2017). The Children of ISIS. The indoctrination of minors in ISIS-held territory. https://radical.hypotheses.org/files/2018/01/Minderjarigen_bij_ISIS_ENG.pdf

⁶⁸ <https://www.streetchildren.org/legal-atlas/map/>

⁶⁹ See promising practice Norwegian Center for Child Behavioural Development (www.nubu.no) and Family- and Community-based Programmes in Iceland (Patterson, Forgatch, & DeGarmo, 2010; Rains, Sigmarsdóttir, & Forgatch, 2021)

⁷⁰ See work of UN SR on sale and sexual exploitation Mme Maud de Boer-Buquicchio <https://www.ohchr.org/EN/Issues/Children/Pages/Surrogacy.aspx>

