

Recipient: National Assembly President

수신: 국회 회장

Subject: A petition to end intercountry adoption

제 목: \_\_\_\_\_

Contents: 1. Petition Introduction      2.Statement      3. Petition Body      4.Conclusion:

Suggestions for the future      5. Attachments

붙임: 1. 청원소개 의견서    2. 탄원의문맥    3. 청원서    4. \_\_\_\_\_    5. \_\_\_\_\_

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**Introduction**

**소개 의견**

회원님 장향숙

**Statement**

(탄원의 내용)

**Context**

As the Republic of Korea has entered into the 21<sup>st</sup> century, among the numerous issues remaining unresolved is the issue of intercountry adoption. Intercountry adoption, a remnant from the Korean War, began as a humanitarian effort instigated by American Christian missionaries; however, by the 1980s intercountry adoption had become a government-regulated *de facto* industry of child exportation with over 66,000 children adopted abroad in that decade alone. Today, Korea is the only industrialized nation that *systematically* sends its citizens abroad for adoption. According to the Ministry of Health and Welfare, 155,044 Korean children have been adopted to 15 different Western countries between 1953-2004; these countries include the United States (103,095), France (11,090), Sweden (8,953), Denmark (8,571), Norway (6,080), the Netherlands (4,099), Belgium (3,697), Australia (3,147), Germany (2,352), Canada (1,841), Switzerland (1,111), New Zealand (559), Luxembourg (492), Italy (382), and England (72).

The on-going practice of sending Korean children to Western countries to be raised by non-Korean parents continues to mar Korea’s image perpetuating the assumptions that Korea is still a poor, developing country unable to take care of its so-called “orphans.” Countries such as China, Russia, and Guatemala also send high numbers of their children abroad for adoption yet their GDPs are much lower than Korea’s. In truth, the absolute majority of the children sent abroad for adoption, are indeed not orphans at all. The over 2,000 children per year that are surrendered for overseas adoption are born to single, unwed mothers in their late teens to mid-20s.

Obviously such a phenomenon is not a reflection of Korea’s current economic status nor is it reconcilable with the reality that Korea’s birthrate is at an all-time low. What the continuing practice of intercountry adoption does reflect is the lack of social services, rights for women and children, and the government’s continued dependence on intercountry adoption in lieu of developing a mature social welfare system to deal with the needs of its citizens. In addition, Korea is not in compliance with either the UN Convention on the Rights of the Child or The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption – both of which stipulate that when all other possibilities have been exhausted, intercountry adoption should be the final option.

Intercountry adoption is a human rights issue, with the rights of Korean children who are adopted abroad put into question, not to mention the routine violations of birth mothers’ rights to decide – in an informed, non-coercive manner – the future of their own children. It is time that Korea takes the moral and financial responsibility for the well-being of its own children and the mothers who give birth to them. It is time for the end of intercountry adoption.

**Petition Body**  
**청원서**

Issue: A Petition To End Intercountry Adoption

제목: \_\_\_\_\_

존경하는 국회의장님 그리고 국회의원 여러분

**I. Government: Korea's responsibility to care for its own children**

A. Lack of government responsibility to care for Korean children

Without adequate financial support from the Korean government and a developed social welfare system, it continues to be difficult for low-income families or single parents to raise and keep their children. At the same time, children adopted abroad are denied basic human rights and a standard of care which is accepted in the international community through both the United Nations Committee on the Rights of the Child (UNCRC) and the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (ICA).

According to the Ministry of Health and Welfare (2001-2005), 99.7% of intercountry adoptions were the children of single mothers, not orphans. If a single parent decides to raise his or her child alone, there is only minimal, short-term assistance offered by the government.

B. Lack of social welfare to support children

Child welfare is one of the most underdeveloped aspects of the social welfare system. While the Ministry of Planning & Budget (2006) plans to increase support for early childhood education and care, funds allocated for Women & Childcare services totals only 1.6% of the Social Welfare and Health budget, *the lowest percent* category out of all the money spent in this Ministry.

C. UNCRC: ICA should be the last option, not the first option as it has been in Korea

The United Nations believes it is the responsibility of each country's government to ensure that its children's fundamental rights are preserved and protected. As stated by the National Human Rights Commission of Korea, intercountry adoption should be considered only if a "...child cannot be placed in a foster or an adoptive family or cannot *in any suitable manner* be cared for in the country of origin." Unfortunately, the practice of intercountry adoption from South Korea is a fully integrated part of social welfare operations; it is an established practice that South Korea *depends on* to mitigate the absence of adequate social welfare and family planning services. Needless to say, given the lack of government support, intercountry adoption is not used as a "last option," but in many cases, it is used as a *first* option.

**II. Economics: ICA as a profitable, calculated business**

A. Profits and mismanagement by international adoption agencies and orphanages

"Orphanages and large childcare facilities are loopholes in Korea. The State does not establish or run the facilities, this is done by social welfare organizations, to which the State provides financial support. The problem is that the State does not supervise the organizations enough. Social welfare organizations established for public interests are becoming privatized and profit-oriented. These facilities have a notoriously bad public image because of misappropriation of government funds, the family-inherited operation system, profit-making business activities and operations, appropriation of profits, and association with corruption and bribery of regional supervisory bodies."

(UNCRC Supplementary Report to the Republic of Korea's Second Periodic Report on the  
Implementation of the Convention on the Rights of the Child, June 2002)

Intercountry adoption is an established business that is economically lucrative. According to KBS' *In-depth 60*

*Minutes* report, in 2003 the total commission fees for the four main intercountry adoption agencies (Holt, Eastern Social Welfare Society, Social Welfare Society, and Korean Social Services) totaled KRW 1.8 billion. Not only does the government save social welfare expenditures and avoid the problem of unwed mothers and unwanted children, but it generates excessive amounts of money to form a profitable adoption industry. The Hague Conference on Private International Law (HCCH): Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Concluded 29 May 1993; Entered into force 1 May 1995) Chapter VI, Article 32 states:

No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

Only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

#### B. International adoption fees much higher than domestic adoption fees

There is a large discrepancy between the fees required for an international versus a domestic adoption. According to Grand National Party lawmaker Ko Kyung-hwa's 2004 Inspection for the Ministry of Health and Welfare, the commission for a domestic adoption is KRW 2,198,000 and the overseas adoption commission is KRW 9,616,000. She also concluded that certain expenses are inflated (arrangement expenses), duplicated (both the government and adopting parents give money for labor costs and operating expenses), or unnecessary (PR expenses should be paid by the government, not passed on to the adopting parents). In effect, *"the high commissions on overseas adoptions encourage overseas adoptions while discouraging domestic adoptions."*

#### C. The relationship between facilities for single mothers and adoption agencies

Adoption agencies, which operate the majority of these institutions and therefore provide a large amount of the social services currently available to women in Korea, have an enormous amount of influence in the choices made by single mothers with regard to their children. A lack of government funding, monitoring, and auditing of adoption agencies, orphanages and unwed mothers' homes has caused unethical and sometimes illegal adoption practices, such as coercion and bribery.

Currently there are a total of 18 "Institutions for Unmarried Mothers." These facilities provide lodging and boarding, medical benefits and vocational education. Of these, *half* are run by or have connections to adoption agencies. Since 2003 the government has begun to offer financial aid to these centers, but it has not been enough to solve the economic difficulties faced by these mothers.

There is a two-fold problem of the government supporting these centers: first, that the financial assistance is not enough, and second, that homes for single mothers very often encourage the mothers to surrender their children. Hospitals also have close relationships with single mothers homes and adoption agencies as reported in the KBS investigative news program "In Depth: 60 Minutes" broadcast in spring 2005.

Furthermore, Article 26 of the Mother-Father-Child Welfare Law states that government funds must be returned in some cases, including those in which the head of a mother and child welfare facility or organization performs an act contriving any personal profit in operating the mother and child welfare facilities.

### III. Human Rights: ICA as a Violation of Adoptee & Birth Family Rights

#### A. UNCRC: ICA as a violation of adoptee rights

"States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference." (UNCRC, Article 8 (1))

The United Nations Children's Fund (UNICEF) has worked closely with the UN Convention on the Rights of the Child (UNCRC) to advocate its position on intercountry adoption. Given that the UNCRC clearly states that every child "...has the right to know and be cared for by his or her parents," UNICEF asserts "...that families needing support to care for their child should receive it, and that alternative means of caring for a child

should only be considered when, despite this assistance, a child's family is unavailable, unable or unwilling to care for him or her."

#### 1. Involuntary removal from adoptee's country of origin

Decisions affecting an adopted person's future are usually made by persons other than the adoptee her/himself; an adoptees' rights to identity are often underplayed, ignored or forgotten. Article 8 of the UNCRC defines identity as "including nationality, name and family relations as recognized by law without unlawful interference." Article 20.3 stresses that when decisions are made about alternative care "due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."

Intercountry adoption from Korea is the *involuntary* removal of a person from his or her culture, language, and rights to his/her personal history. The significant cultural differences between the birth country and the adoptive country render it extremely difficult for an adoptee to reclaim his/her past history and early life experiences let alone access Korean language and culture.

#### 2. Erasure and loss of identity, culture, language, and heritage

According to the UNCRC Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

UNICEF similarly stipulates guidelines regarding intercountry adoption, and that ultimately [it is] the State's duty to "ensure that the best interests of the child" [is] "the paramount consideration..."

It is the States responsibility to protect the rights of its own children including "the child's right from birth to an identity (name, nationality and family relations) and to protection from being unlawfully deprived of that identity." (Article 8)

Children have the basic right to know who their birth parents are and to be raised by them: "...as far as possible, the right to know and be cared for by his or her parents." (Article 7)

And when alternative care for a child is necessary "due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background." (Article 20.3)

It is clear that the practice of intercountry adoption as it occurs in South Korea today violates these internationally recognized guidelines on the protection of the rights of children. The loss of identity is in no way calculable or measurable by quantitative means.

### B. ICA as a violation of birth mother / birth family rights

#### 1. Coercion and deception of birth mothers / families to surrender children

In many cases, because of the interconnected relationship between facilities for single mothers and adoption agencies / orphanages, there is undue pressure for women to surrender their children. Women are not informed of their rights and are often under extreme emotional stress and monetary pressure.

According to the HCCH: Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, Chapter II, Article 4, C (3), D (4):

"An adoption within the scope of the Convention shall take place only if the competent authorities of the State of Origin (c) have ensured that (3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and (4) the consent of the mother, where required, has been given only after the birth of the child; and (d) have ensured, having regard to the age and degree of maturity of the child, that (4) such consent has not been induced by payment or compensation of any kind."

2. Social stigma and lack of financial support and social services for mothers to keep their children

In Korea, where single mothers have few options, few rights and there is a strong social stigma, it is extremely difficult for them to care for their children. The lack of financial support for women and children leaves them vulnerable to control by their families, the government, and society. According to the Supplementary Report to the ROK's Second Periodic Report on the Implementation of the CRC:

"It is impossible for unmarried mothers to raise their children alone due to discrimination against women and social criticism of and accusations against unmarried mothers. Because of non-existent child support by the State and lack of legal action against delinquent fathers, most unmarried mothers choose abortion or adoption of their children."

Single mothers can receive approximately KRW 400,000 per month if they are registered with the National Basic Livelihood Protection Program. But according to one single mother, "If the mother gets a job paying more than KRW 1 million per month, the family is no longer eligible for the subsidies." Such a policy obviously discourages single mothers from seeking full-time employment.

3. Lack of women's rights

The continued existence of intercountry adoption from Korea is intimately tied to the state of women's rights within the country. Women in Korea face disproportionately high risks to their health, are not encouraged to participate in the economic sector, and face various kinds of discrimination. Despite measures by the government to promote gender equality in recent years, there is not enough sex education or policies and services in place to prevent women from becoming unwed single mothers and to protect them if they do.

Korean women are far behind their international peers, and rank among the lowest in the world, 54<sup>th</sup> among 58 countries, in terms of women and girls' equality and empowerment. Korea placed at the bottom of all 30 OECD countries for women's equality, and also places lowest among most of the 28 emerging economies in Asia, Africa, and Latin America.

Young women face limited opportunities and discrimination in their education, further limiting their ability to find viable employment that will allow them to support themselves. Park Soo-mi, a research fellow at the Korean Women's Development Institute, said that most single mothers hold low-paying and often non-regular positions.

#### **IV. Conclusion: Alternatives to ICA**

In cases where families are unable to care for their children, current alternatives to intercountry adoption include foster care and domestic adoption; however, these programs are underdeveloped and, in the case of foster care, not common practice. Although the Korean government has launched campaigns in recent years to encourage domestic adoption and provide financial incentives for families who adopt domestically, the process of adopting domestically remains complicated and discouraged by adoption agencies themselves in favor of ICA.

In Korea, existing "foster care" programs are largely operated by adoption agencies. These programs provide temporary care for children before they are adopted. The goal of these programs falls outside of the internationally recognized notion of foster care, which is meant to serve as a form of social support to families who are *temporarily* unable to care for their children, with the intent that they eventually will do so.

Currently, the Korean Foster Care Association administers such programs. Although there are 16 Family Foster Care Support Centers providing programs of recruiting and institutionalizing foster care families, approximately only 5,600 children are being cared for. Because the vast majority of these children (about 61%) are placed with relatives, this greatly decreases the *actual number* of children in foster care programs that are operated *outside of adoption agencies*.

To summarize: Korea has the financial ability and moral responsibility to care for the upbringing of its own children rather than sending them abroad for adoption. According to international standards, children's rights are violated when they are forcibly removed from their country of origin and mother's rights are violated when

they are coerced into surrendering their children. In addition, there should be no collusion between adoption agencies, orphanages, and homes for single mothers. As Korea continues to develop its social welfare system, international adoption should no longer be a viable option.