

# **Adoptions of Children from Sri Lanka in Switzerland, 1973-1997: the practices of private adoption agencies and the authorities**

Historical analysis carried out on behalf of the Federal Office of Justice, in the context of the Postulate Ruiz 17.418

Summary of the report  
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## **Summary of chapter 3 – legislative framework for international adoption**

The new adoption provisions written into the Swiss Civil Code on 1 April 1973 gave adopted children the same rights as biological children. They also strengthened the protection of children, stipulating that adoption could only be granted after a comprehensive investigation into the character and health of the persons wishing to adopt. For children from Sri Lanka, it was particularly relevant that in Switzerland adoption was preceded by a two-year foster care period. During this period the children had to be legally represented by a third party, i.e. a legal guardian. Children who were not adopted after the end of the foster care period had a precarious residence status, as their acquisition of Swiss citizenship was conditional on their being adopted in Switzerland. Another gap was that the law did not take into account the specific circumstances of international adoptions, which had begun in the 1960s with children adopted from Tibet, Algeria, Tunisia and Vietnam. Certain situations were not covered by Swiss adoption law. Many Sri Lankan children who had not yet reached the age of six weeks were given to Swiss couples for adoption. It would be worth exploring in these cases whether the subsequent adoption decisions were made in conformity with Swiss law, as the Civil Code specifically stated that consent to adoption could not be given within the first six weeks of birth. Whether this also applied to international adoptions is a moot question, as no court has ruled on this issue.

The new rights conferred on children under the Swiss Civil Code, which improved the legal status of illegitimate children and unmarried mothers, also had an indirect impact on international adoptions from 1978. The number of domestic adoptions decreased and the demand for foreign children increased as a result.

*The Ordinance on the Placement of Children in Foster Care obliged the authorities to carry out comprehensive checks*

The Ordinance on the Placement of Children in Foster Care (FCAO), which also came into force in 1978, had a major impact on all adoptions. Prospective foster parents were now legally required to obtain an official authorisation and were subject to supervision. Children could only be placed with a foster family for future adoption if there were no legal obstacles to adoption. This meant that the prospective adoptive parents' suitability had to be thoroughly assessed before the child was placed in foster care. A foster care authorisation was granted for a specific child identified by name. This ordinance contained the first provisions specifically concerning children from abroad placed with foster parents in Switzerland. In addition to an entry or residence permit, the prospective foster parents had to submit a declaration stating the reasons for taking the child into foster care in Switzerland as well as the written consent of the birth parents. Prospective foster and adoptive parents also had to undertake to cover the child's maintenance costs. The FCAO explicitly – and for the first time – addressed certain aspects of international adoptions. The gaps in adoption law were thus partially covered by specific provisions in the FCAO just as the boom in international adoptions was beginning.

As reports of problems and abuses involving international adoptions increased, so did awareness of the need for stricter rules. The FCAO as amended, which took effect in 1989, aimed to tighten the rules governing the placement of children from abroad in order to provide better protection against child trafficking. Prospective foster and adoptive parents were now also required to submit a report on the child's life to date, indicating the child's country of origin and the adoption agency. The ordinance also provided that consent must be obtained from the competent authority abroad for the child to leave the country for placement with foster parents in Switzerland. The amendments to the Act thus addressed additional issues of concern that had previously arisen in practice. For example, couples who wanted to take in several children now had to be screened with particular care. However, the amended ordinance also included provisions that relaxed the basic requirements for placement in foster care and weakened the protection of children. Under the original version of the FCAO, approval for placement in foster care could only be granted for a specific child identified by name, but under the amended version it was now possible to authorise the provisional placement of unidentified children. The FCAO as amended produced mixed results, as it did not ensure better protection of children in every respect.

*Supervision of adoption agencies in Switzerland introduced in 1973*

The Ordinance on Placements with a view to Adoption, which came into force on 16 April 1973, also had a significant impact on international adoptions. It was the first piece of legislation governing the activities of adoption agencies in Switzerland. Like the adoption provisions written into the Swiss Civil Code in 1973, the ordinance provided that children could only be placed for adoption with the prior consent of the birth parents and following an assessment of the suitability of the prospective adoptive parents. Those bringing foreign children to Switzerland for adoption were required to obtain special accreditation for an intercountry placement, demonstrate familiarity with the social conditions and the

law in the child's country of origin and undertake to comply with international law. Another key provision was that adoption agents could only charge reasonable fees, and the payment of any kind of compensation to the birth parents was explicitly prohibited. The new ordinance also gave the supervisory authority the right to revoke the adoption agent's accreditation if it failed to comply with adoption rules. Authorities and officials who became aware of violations had to report them immediately to the Federal Department of Justice and Police (FDJP). The FDJP was required to forward such reports to the cantonal supervisory authority and was also the federal authority entitled to appeal decisions made by the cantonal authorities. The ordinance as amended, which took effect on 1 January 1989, introduced more precise rules on intercountry placement. This was significant for adoptions of Sri Lankan children, because additional accreditation was now specifically required for each country.

The provisions on adoption contained in Articles 75 to 78 of the Federal Act on Private International Law (IPLA), which entered into force on 1 January 1989, were also relevant for international adoptions. The IPLA provided that an adoption had to be granted in Switzerland and was subject to Swiss law. This applied only to Swiss nationals residing in Switzerland. The IPLA thereby confirmed that foreign children who had been handed over to couples or individuals in their country of origin were not considered adopted in Switzerland, even if the adoption had been granted by a court abroad. These provisions were based on the statutory two-year foster care placement period that had to precede the adoption.

#### *Adoption procedures under the Swiss federal system*

Under Swiss law, the cantons were responsible for implementing adoption procedures. This division of responsibilities between the federal government and the cantons is a distinctive feature of Switzerland's education and social system. The cantons enacted implementing provisions governing the responsibilities and procedures for adoptions. As a result, practices differed from one canton to another, as the examples of the cantons of Bern, Geneva and St Gallen illustrate. The implementing provisions in Geneva, for example, reflected the professionalised administrative structures of this city canton and the considerable influence of the court that issued adoption decisions. In the German-speaking part of Switzerland, on the other hand, adoption tasks were generally delegated to an administrative authority, which is why the municipal guardianship authorities in the cantons of Bern and St Gallen played an important role in the procedures, even during the foster-care period. In contrast to Geneva, the canton of St Gallen has a long tradition of delegating public services to private associations, as is evident from its implementing provisions to the FCAO.

It was only in the 1990s that the international community established a legally binding and effective framework for intercountry adoptions. The UN Convention on the Rights of the Child, which took effect in Switzerland on 26 March 1997, is one example, though it was only relevant for a few months during the period covered by this report. Other important international conventions did not apply to Switzerland until after the period under review.

## **Summary of chapter 4 – virtually unsupervised adoption agents with links to child trafficking networks**

The placement of Sri Lankan children for adoption in Switzerland was organised by internationally active networks which also catered to couples wishing to adopt in other European countries. The Swiss authorities were aware of irregularities and cases of child trafficking in Sri Lanka by the end of 1981 at the latest. For years afterwards, they had to deal again and again with the same people and organisations in Sri Lanka and in Switzerland.

In Switzerland, these were the social worker Alice Honegger in the canton of St Gallen, the relief organisation Terre des hommes in Lausanne and the Bureau Genevois d'Adoption (BGA) in Geneva. All three had been accredited to handle intercountry adoptions and were under cantonal supervision. They worked together with Sri Lankan contact persons in Colombo and were to varying extents confronted with illegal practices on the ground. Adoptions could not be arranged without the involvement of Sri Lankan operators, as Lausanne-based Terre des hommes soon realised.

Nevertheless, there were alternatives: in light of its experience in the country, Terre des hommes gradually withdrew from Sri Lanka. The BGA made every effort to conduct thorough checks. It informed couples interested in adopting about adoption procedures in Sri Lanka and explicitly warned them about exorbitant fees. This made the procedure more cumbersome, which is why the BGA placed only a small number of children for adoption each year. Couples using this adoption agency had to wait a long time to adopt a child. In contrast, Alice Honegger worked for decades with Rukmani Thavanesan-Fernando, a Colombo-based lawyer who was known to have placed 250 to 300 children for adoption abroad but was also known to be involved in international child trafficking.

In Sri Lanka, Dawn de Silva, Rukmani Thavanesan-Fernando and Chandra Perera, a former government official, organised adoptions for Swiss couples. All three were based in Colombo and were therefore not under the supervision of the Swiss authorities. They not only placed children abroad, but also ran homes for mothers and young children in Sri Lanka. The Sri Lankan police evidently investigated two of them, Dawn de Silva and Rukmani Thavanesan-Fernando, for their involvement in child trafficking and operating 'baby farms'.

The Swiss authorities also knew that the Sri Lankan authorities were aware of organised criminal activities but did not stop the trafficking of children. Hospitals, homes, lawyers, agents and adoption facilitators participated in the trafficking of children. Claude Ochsenbein, chargé d'affaires at the Swiss embassy in Colombo, informed the Swiss Federal Aliens Office (SFAO), sent it a series of remarkably critical articles that had been published in the Sri Lankan press and sounded the alarm in the spring of 1982.

He also conducted his own investigation in Sri Lanka and wrote a report identifying numerous people involved in child trafficking. Dawn de Silva figured prominently in the report, as did a 'De Silva-Kaiser clan' with links to Switzerland.

#### *Alice Honegger's involvement in a child trafficking network*

When Alice Honegger began facilitating the adoption of Sri Lankan children in 1979, she was not unknown to the authorities. Various public authorities in the canton of St Gallen, including the cantonal police, had dealt with complaints and allegations relating to her adoption services as early as the 1950s and 1960s. Her domestic and intercountry adoption business had already prompted complaints of opaque finances and lack of transparency. But the authorities only stepped in when third parties demanded that they look into a particular case or when they came under pressure from the media. This pattern was repeated in the case of Sri Lankan adoptions, despite the fact that Alice Honegger's adoption agency had been under the purview of the cantonal supervisory authority since 1973. Alice Honegger was able to operate largely unhindered for years and ultimately succeeded in positioning herself nationwide as an international adoption agent.

Between 1979 and May 1982 Honegger arranged the adoption of as many as 270 Sri Lankan children in collaboration with Sri Lankan lawyer Rukmani Thavanesan-Fernando, who engaged in abusive practices. Every time the supervisory authority tried to check her activities, Honegger ignored its instructions and injunctions. Even after the St Gallen Department of Justice and Police temporarily withdrew her accreditation for Sri Lanka in 1982, she continued to place Sri Lankan children with Swiss couples. Her clients included the secretary of a guardianship authority, who was given a baby for adoption after Honegger's accreditation had been revoked. Honegger also ignored the St Gallen supervisory authority's order to stop working with Thavanesan-Fernando. A review of the available records on Alice Honegger, who maintained an extensive correspondence with various government agencies, shows that the cantonal supervisory authority failed to fulfil its responsibility. For years, the cantonal supervisory authority granted Honegger accreditation to facilitate intercountry adoptions even though she was unable or unwilling to provide documents evidencing how many Sri Lankan children she had placed for adoption in Switzerland. The supervisory authority was also aware that Honegger had close links to Rukmani Thavanesan-Fernando, a lawyer who was involved in a child trafficking ring in Sri Lanka. The supervisory authority would have had effective means to put a stop to Alice Honegger's activities: it could and should have permanently revoked her accreditation. Whether and to what extent Sri Lankan children brought to Switzerland by the St Gallen adoption agent Alice Honegger had been victims of child trafficking and possibly child abduction would have to be investigated on a case-by-case basis. There are indications that this was indeed the case: Honegger told prospective adoptive parents to keep the adoptions secret and threatened them that they would not receive a child if they broke this rule. Alice Honegger and her partner in Sri Lanka, the lawyer Rukmani Thavanesan-Fernando, also placed children for adoption in Switzerland without the consent of their birth parents. Thavanesan-Fernando earned enormous sums of money by procuring Sri Lankan children for her. This

was denounced in 1982 by Claude Ochsenbein, chargé d'affaires at the Swiss embassy, and in 1984 by Pedro Sutter, a social worker who had investigated the situation in Colombo. In Colombo, Sutter learned that Thavanesan-Fernando made as much money by placing a single child for adoption as a Sri Lankan teacher could earn in two years. Multiplied by 250 to 300 children per year, this amounted to an enormous sum of money.

#### *'Baby farm' operator Dawn de Silva*

The chargé d'affaires of the Swiss embassy in Colombo, Claude Ochsenbein, strongly warned the federal authorities about Dawn de Silva as early as 1981. This Sri Lankan adoption agent was at the centre of allegations of child trafficking and would also be involved in criminal proceedings several years later. Dawn de Silva not only facilitated the adoption of Sri Lankan children; she also owned a travel agency that sold prospective adoptive parents holiday packages, which included hotel accommodation in Colombo or in her hotel by the sea. Her business was based on a sophisticated pricing system with precisely calculated fees for various goods and services. Swiss couples had to pay all sorts of fees and tips and bring gifts, including a ladies' watch, a Swiss army knife and a video recorder. Dawn de Silva also demanded secrecy from prospective adoptive parents and threatened to send them back to Switzerland without a child if they broke this rule. The Swiss federal authorities knew about this. In autumn 1984 the SFAO warned the cantonal authorities responsible for foreign nationals in the French-speaking part of Switzerland that Dawn de Silva made unreasonable demands and procured children through dubious means. Yet Sri Lankan children continued to be brought to Switzerland.

When the Sri Lankan police raided one of Dawn de Silva's 'baby farms' in 1987, there were Swiss couples among those waiting for the children they had been matched with. The baby farm was a complex of buildings spread over a large area where Dawn de Silva not only ran a beach hotel with a swimming pool, but also had a locked rear building where infants were laid out on old mattresses for foreign couples wishing to adopt a child. The Sri Lankan press had been reporting for years that baby farms like this one employed white men to father babies for the adoption and 'export' markets. The lighter skinned the babies, the higher the price they fetched. The Swiss authorities were well aware of the existence of baby farms in Sri Lanka, as one had been exposed in 1982 and the Swiss media had covered the ensuing scandal. Yet the Swiss authorities never considered issuing a permanent blanket ban on adoptions of children from Sri Lanka.

Baby farms were not the only places where foreign couples could procure babies. Even in state-run orphanages and hospitals, babies were turned over to agents and intermediaries who falsified birth certificates so that no one would be able to trace them back to their birth parents. Swiss couples paid between CHF 5,000 and 15,000 per adoption placement. The birth mothers were paid just a few dollars, and sometimes also given a thermos flask and a second-hand dress. The lion's share of the money paid by foreign adoptive parents went to the adoption facilitators.

## **Summary of chapter 5 – federal authorities' virtual inaction despite abuses**

The Swiss authorities, especially the SFAO and the Swiss embassy in Colombo, had been aware of problems related to child trafficking in Sri Lanka since the end of 1981. The cantonal and communal authorities also had documents in foster care and adoption files that should have raised alarm bells. But as far as the SFAO and the Federal Council were concerned, the problems were mainly in Sri Lanka, not in Switzerland. This allowed them to ignore the abusive practices of adoption agents. Yet the SFAO knew full well that three people in particular were orchestrating the export of babies from Sri Lanka for adoption by Swiss couples: Dawn de Silva, Rukmani Thavanesan-Fernando and Alice Honegger. The latter ran an adoption agency until 1997 accredited by the St Gallen Department of Justice and Police.

The cantons were responsible for supervising the adoption agencies, but the FDJP had the right to appeal cantonal decisions. The renowned legal scholar and adoption expert Cyril Hegnauer had criticised this federalist structure as early as 1975. Hegnauer argued that because adoption agencies operated across international borders, they must be monitored by the federal government. He also recommended the establishment of an advisory commission on adoptions attached to the FDJP.

There were also critical voices within the FDJP as early as the mid-1970s. FDJP official René Pachter, who would later become a senior desk officer at the Federal Police for Foreign Nationals, repeatedly drew attention to specific procedural shortcomings in Switzerland. He noted, for example, that foreign children were being brought to Switzerland without entry permits and that responsibilities were not clearly defined. Pachter was one of the first to denounce the fact that the interests of adoptive parents were placed above those of children – a criticism that went to the heart of the problem and would remain valid for years after he had made it. Despite these early warnings and growing awareness that adoption agents were engaged in illegal activities, the adoption system remained virtually unchanged for decades.

When the allegations about child trafficking in Sri Lanka became public, the director of the SFAO instructed the Swiss embassy in Colombo to look into the matter. In a revealing move, the SFAO also instructed the embassy to add a note to each entry visa issued for the purpose of adoption stating that the child in question had not been trafficked. Claude Ochsenbein, the Swiss chargé d'affaires, explained to Bern that he was not in a position to issue such a seal of approval. The SFAO repeatedly sought to pass off responsibility to the Swiss embassy.

As the authority with the right to appeal cantonal adoption decisions, the FDJP could have intervened in the cantons' supervision of adoption agencies. For example, it could have stepped in when the St Gallen Department of Justice and Police renewed Alice Honegger's accreditation as an adoption agent

in autumn 1982 despite pending legal actions against her. The records examined for this report provide no indication that the FDJP ever exercised its right of appeal. Nor is there any indication that it proposed putting a stop to adoptions of children from Sri Lanka – despite the fact that the Swiss embassy in Colombo had regularly informed the SFAO, which was part of the FDJP, about child trafficking in Sri Lanka. The SFAO was therefore also aware that the Sri Lankan authorities were unable – or unwilling – to curb child trafficking. It was up to the SFAO to take action, but it never did.

The Federal Office of Justice (FOJ) did, however, set up a working group that included the legal scholar and adoption specialist Cyril Hegnauer. It did so in response to complaints about the lack of legal certainty raised by the Conference of Directors of Cantonal Youth Welfare Offices. The youth welfare office directors also suggested that a partial revision of the relevant legislation, specifically the Ordinance on the Placement of Children in Foster Care and the Ordinance on Placements with a view to Adoption, should be looked into. In 1986, the working group published a critical report entitled 'Adoption of children from the Third World'. The working group had examined problematic adoption cases and criticised the failure to conduct thorough checks and exercise due care in placing children. It took stock of the many problems associated with adoptions of children from the Third World, provided an overview of concerns in relation to international adoptions, and highlighted abuses. It also prepared preliminary draft amendments to the two ordinances. Finally, the working group helped to bring about concrete improvements, for example by laying down more stringent requirements in the Ordinance on Placements with a view to Adoption as amended. Adoption agents were now required to obtain from the supervisory authority an additional accreditation for each country from which they brought children to Switzerland for adoption. They were also required to be well informed about conditions in the children's country of origin and to comply with local laws.

#### *About-turn by Swiss chargé d'affaires*

The Swiss embassy in Colombo had been confronted with a large number of adoption cases over the years, as it issued visas for Sri Lankan children bound for Switzerland for adoption. Even before travelling to the country, Swiss couples wishing to adopt a child from Sri Lanka frequently contacted the Swiss embassy seeking information on the local situation and asking for advice. The Swiss embassy accommodated these requests and provided services that went well beyond its remit, for example by booking hotel rooms with children's beds.

During the period under review, Swiss embassy staff in Colombo did not apply consistent standards when assessing adoptions. The chargé d'affaires at the Swiss embassy, Claude Ochsenbein, was already sounding the alarm about child trafficking in 1981, identifying a number of questionable players by name, but he later expressly recommended one of them as a reputable adoption agent. The critical reports he sent Bern, which became more frequent from the beginning of May 1982, were only taken note of because the SFAO wanted to avoid the appearance of child trafficking. Although a small number of SFAO employees were committed to preventing child trafficking, the same cannot be said of the SFAO as an institution.

### *Precarious legal status of children*

Children brought to Switzerland for adoption were initially placed in foster care with their future adoptive parents for a minimum two-year period. The children had a precarious legal status during this period. In Sri Lanka they were deemed to have been adopted, but in Switzerland they were neither Swiss citizens nor foreign nationals with a secure residence status. This legal gap posed serious problems in cases where the adoptive parents decided not to go ahead with the adoption during the foster care period. This was compounded by the fact that guardianship systems were often quite rudimentary. Adoption experts characterised the situation as a legal representation crisis (*'Vertretungsnot'*). Proper legal representation and supervision of the foster care provided would have been all the more necessary as the assessment of the suitability of the prospective adoptive parents was often anything but thorough. The social enquiry reports were often inadequate or never produced in the first place, in particular when couples procured a child abroad without going through an accredited adoption agency and brought it back to Switzerland without official authorisation. The SFAO was well aware of this. As early as 1981, an SFAO official had therefore urged cantonal experts to carry out suitability checks with due care: a child could generally only be refused entry if the cantonal authority had refused to authorise the foster care placement.

Although blank authorisations were illegal, the SFAO was slow to address the long-standing practice of entry permits with fictitious information about children placed for adoption. Under the FCAO, which came into force in 1978, a foster care authorisation – which was legally required for the entry of foreign children – could only be granted for a specific child identified by name. Yet even Switzerland's highest immigration authority authorised applications with fictitious information. It was not until 1983 that the SFAO wrote the cantons a circular letter urging them to change their practices. It did so not because it recognised that the law had been violated, but because it wanted to forestall accusations that Switzerland was aiding and abetting child trafficking. This change of course was short-lived. Indeed, the amended FCAO accommodated the questionable practice of foster care applications containing fictitious information. The authorities could now authorise the provisional placement of a foreign child for adoption even if the child was not specifically identified by name.

The granting of entry authorisations on the basis of fictitious information was closely linked to the issuing of visas by telex. Prospective adoptive parents would travel to Sri Lanka without a proper entry permit for a specific child. As soon as the baby was handed over to the prospective parents in Colombo, they would call the authorities in Switzerland to ask for a placement authorisation to be sent to them by telex for the child that had been picked out for them. Alice Honegger continued to advise prospective adoptive parents to do this even after the SFAO prohibited blank authorisations in 1983. And after the SFAO banned the issuing of visas by telex, adoption agents and prospective adoptive parents seized on the last loophole available: they would swap one baby for another on the pretence that the one originally selected for adoption was gravely ill. As a result, the embassy sometimes issued visas on the basis of identifying information that had been switched at the last minute. The Swiss embassy

repeatedly sent urgent requests to the SFAO to clarify how it was to proceed when confronted with children who had been exchanged and were now due to travel to Switzerland. A meeting on this matter which would have far-reaching consequences took place in Switzerland in August 1984. The director of the SFAO received the adoption agent Alice Honegger from St Gallen and the Christian Democrat parliamentarian Edgar Oehler, also from St Gallen, and acceded to their request to continue the use of blank authorisations and the issuing of visas by telex. The SFAO thereby endorsed the very practice that had allowed children other than those originally selected for adoption to be chosen or exchanged at the last minute under opaque circumstances, and thus gain entry to Switzerland. The SFAO thus once again relaxed the entry requirements for Sri Lankan children, even though just a few weeks earlier the issue of baby trafficking had again made headlines on the island. The Sri Lankan press had reported that child traffickers were protected by influential politicians and government officials. Media reports also revealed that birth parents had been induced with false promises to relinquish their children and that there were also cases of outright abduction.

Whether some of these children were subsequently adopted by Swiss couples is a question that cannot be answered conclusively. The fact is, however, that a large number of children were brought to Switzerland without the required documents, without the written consent of the birth parents and without a birth certificate. Furthermore, many of the documents contained contradictory details concerning the children's identity and origin. Only rarely did communal foster care authorities seek to clarify cases that were manifestly in breach of legal requirements or insist on proper documentation. Those seeking clarification were mainly individual social workers in the communes who took the children's welfare to heart and asked the questions they were supposed to ask.

## **Summary of chapter 6 – poorly managed adoption procedures in the cantons**

Cases reviewed on a sample basis from Bern, St Gallen and Geneva show that the federal system allowed different adoption procedures from one canton to another. Whereas in the canton of Bern the Directorate of Justice and in St Gallen the district authority (*Bezirksamt*) decided on adoption applications, in Geneva this task fell to the civil court. A common denominator of these agencies and courts was that they enjoyed wide latitude for interpretation and action, with grave consequences for adopted children. Because of the federal system, children did not all receive the same treatment and enjoy the same level of legal certainty from one canton to another. It must also be noted that all three samples examined for this report revealed problematic or even unlawful adoption practices involving children from Sri Lanka.

### *Canton of St Gallen*

According to the Federal Statistical Office, 85 children from Sri Lanka were adopted in the canton of St Gallen between 1979 and 1997. The St Gallen sample contained 28 adoption files, including at least 24 relating to adoptions placed by Alice Honegger. The files showed multiple breaches of the law both in foster care placements and adoption procedures. In a number of cases, communes issued foster care authorisations after a Sri Lankan infant had entered Switzerland and was already living with the prospective adoptive couple. In over a third of the cases, the authorities failed to appoint a guardian for the child during the two-year foster care period. In many instances a guardian was only appointed shortly before the adoption or not at all. In 11 of the 28 cases, the authorities granted adoptions without the consent of the birth mother or father, and in five others without the consent of the guardian.

It is evident that the district authorities granted adoptions on the basis of insufficient documentation: ten of the files examined did not contain medical certificates indicating the health of the adoptive parents and the infant, or reports on the child in foster care. Very few of the files accompanying the adoption decisions contained extracts from the criminal and debt collection registers, which were required as evidence of good character. The analysis of the 28 files shows that the communal guardianship authorities, the district authorities and the cantonal supervisory authority failed to exercise due diligence in handling adoptions of Sri Lankan children. Of the 28 adoption decisions taken by six district authorities which were reviewed for this report based on the documents on file, none complied with legal requirements. Most of the files showed multiple failures to meet legal requirements, including lack of consent by the guardian and the birth mother.

It is also evident that Alice Honegger continued to place Sri Lankan children for adoption in at least four cases between 14 May to 18 October 1982, a period during which the St Gallen Department of Justice and Police had revoked her accreditation. The fact that she had operated in violation of the law was not seen as a red flag by the district authorities when they issued the adoption decisions two years later. Nor was the fact that through her illegal activities, Honegger had placed a child for adoption with none other than the secretary of the St Gallen guardianship authority, who should have been informed that Honegger's accreditation had been revoked and whose post required him to uphold high standards of integrity. On the other hand, in 2019 the St Gallen government exculpated the supervisory authority, finding that under the law in force at the time, it had not acted unlawfully.

### *Canton of Bern*

The canton of Bern laid down its adoption procedures and guidelines at an early stage and produced explanatory factsheets for the communes. Nonetheless, a review of 16 adoption files shows that in practice, there were also numerous shortcomings and failures to meet legal requirements in Bern. Sri Lankan children were brought to the canton of Bern with blank entry permits, even though this was explicitly prohibited in the canton's implementing provisions. The files also contained numerous inconsistencies, for example concerning the children's place of birth or the age of their birth mothers.

In many files, the birth mother's declaration of consent was either missing or her signature could not be made out as it was covered with adhesive tape. The Bernese officials failed to seek clarification in these cases. They also failed to contact the birth fathers where the statement of consent was missing but their identity was known. Moreover, many of the files contained contradictory information on the children. It is striking that the large number of discrepancies never aroused the suspicion of any of the authorities involved.

In contrast to the canton of St Gallen, the Bernese authorities appointed guardians for all children in foster care. In some cases, they appointed relatives or acquaintances of the prospective adoptive parents to act as guardians. These guardians were naturally favourably disposed towards the adoptive parents. In other cases, official guardians or social workers were entrusted with this task. The latter may have been professionals but the social enquiry reports they wrote show a striking lack of professionalism. Instead of providing detailed assessments of each case based on objective criteria, they drafted short reports replete with reductionist and in many cases stereotypical generalisations.

#### *Canton of Geneva*

Although in the canton of Geneva adoptions were granted by a court, there was not much difference between that canton and the cantons of St Gallen and Bern in terms of compliance with legal requirements. None of the 27 files examined indicate that the court conducted its own investigations or requested additional documents. On the contrary, the record shows that the Genevan court granted adoptions after a brief period of time, sometimes just a few days after receiving the applications. Almost none of the files contained documents indicating the origin of the children. Not a single adoption file contained a copy of an authenticated statement of consent from the birth parents. Furthermore, most of the files from the 1980s contained no information on the origin of the children or copies of Sri Lankan court decisions. It is conceivable that these documents are stored in the civil court's case records, but it was not possible to verify this conclusively for this report. Adoption files became noticeably thicker, i.e. more extensive, in the 1990s, as the court began to examine more thoroughly why children had been put up for adoption. During the 1990s, there was also a decline in the number of children adopted from Sri Lanka.

Geneva had another blatantly abusive practice in common with Bern and St Gallen in the 1980s: half of the 27 entry permits examined for this report bore fictitious names and dates of birth. However, the Genevan authorities were comparatively thorough in checking the personal, social and economic background of the prospective adoptive parents. Without exception, they obtained extracts from the criminal register, salary statements, medical certificates, detailed application letters, and reports from third parties.

#### *Similarities and differences among the three cantons*

All three cantons took in children with birth mothers with a wide range of ages. The Sri Lankan women who gave up children for adoption were by no means all young. The occupations listed in the

adoption files show that people of all social strata adopted Sri Lankan children in the cantons of Bern, Geneva and St Gallen. Adopting a child from abroad was not the preserve of the wealthy. Most couples followed the traditional family model, with the man as the breadwinner and the woman as housewife. In all three cantons, the age and minimum length of marriage of the adoptive parents met legal requirements.

In the BGA, the canton of Geneva had an accredited adoption agency that can be said to have had comparatively professional working practices. The BGA conducted thorough checks, which took time. Only half of the couples in the canton of Geneva used the BGA's services. Of the children who arrived in Geneva through other channels, five were placed by Dawn de Silva and two by Alice Honegger. Geneva was close enough geographically to fall within the catchment area covered by Alice Honegger from St Gallen. In the canton of Bern, in contrast, most of the children were placed by Alice Honegger's and Dawn de Silva's adoption agencies. In the canton of St Gallen, Alice Honegger can fairly be said to have had a monopoly in facilitating the adoption of Sri Lankan children.

St Gallen, Geneva and Bern were among the six cantons that accounted for the largest number of adoptions from Sri Lanka between 1973 and 1997, along with the cantons of Zurich, which ranked first, and Aargau and Vaud. The most serious failures were missing statements of consent from the birth parents, entry and residence permits with fictitious information, poor or no legal representation for the children placed in foster care, and the fact that the suitability of the prospective adoptive parents was either not assessed with proper care or at all. In the canton of Bern, all 16 files reviewed for this report either did not meet legal requirements or showed marked inconsistencies. In the canton of St Gallen, none of the 28 adoption decisions reviewed met all the legal requirements. Half of the files from the canton of Geneva had fictitious information in the entry permits and the majority did not contain any information on the origin of the children.

## **Chapter 7 – Conclusions and further research needs**

### **Conclusions**

In the case of a young woman who was adopted by a couple in Switzerland in the 1980s, all the statements made in her adoption documents are likely to have been falsified. The young woman found her 'mother' in Colombo, or at least the woman whose name is mentioned in the documents and listed as her mother. However, during the young woman's visit, she realised the 'mother' knew nothing about this and was shocked. This Sri-Lankan woman's personal data had been stolen and used in an adoption certificate without her knowledge.

This case shows clearly how the Sri Lankan adoption system was abused in many ways in order to realise the unfulfilled wishes to have children of couples from prosperous western countries, such as Germany, the Netherlands, Sweden and Switzerland. To meet this need, a veritable adoption market

was created in the second half of the 1970s, controlled by a network of lawyers and agents. Placing Sri Lankan children for adoption became highly lucrative for local operators, given the large differentials in prosperity and income between the countries involved. This encouraged corruption. In the 1980s thousands of Sri Lankan children arrived in European countries under dubious and sometimes illegal circumstances. Between 1973 and 1997, the Swiss authorities provided 950 entry permits for children from Sri Lanka. The Sri Lankan authorities tried repeatedly to stop the adoptions because of the irregularities, but they were not successful. It is not clear from the files examined whether Switzerland, for its part, considered stopping the entry of Sri Lankan foster and future adoptive children because of the alarming reports.

The critical media coverage that began in Sri Lanka in 1981 exposed clear cases of child trafficking. This information was not only in the hands of the federal and cantonal authorities; by the spring of 1982, anyone who read a newspaper or news magazine knew what was happening. However, for many of those in Switzerland looking to adopt, the child trafficking networks and baby farms that were uncovered were not sufficient reason to abandon their wish to have children. Many of them travelled to Sri Lanka, often without consulting an adoption agency recognised by the authorities. However, using such an agency was certainly no guarantee that the adoption of a Sri Lankan baby was in conformity with the law. It was not unknown for agencies to deceive and swindle adoptive parents.

Indeed it was these recognised adoption agencies in particular that put pressure on the Swiss authorities to relax the conditions for processing foreign adoptions. The founder of Terre des hommes, Edmond Kaiser, who was already beating the drum for international adoptions in the 1960s, lobbied for international adoptions in Bern in the 1970s. Furthermore, the adoption agent Alice Honegger from St Gallen, together with the Christian Democrat parliamentarian Edgar Oehler, also from St Gallen, persuaded the SFAO to introduce simplified entry procedures for adoptive children.

What is particularly serious, as revealed by the historical evaluation, is that the federal and cantonal authorities knew early on about the commercial and sometimes illegal nature of the placements. Despite this, Sri Lankan children were able to enter Switzerland without their birth parents having consented to their adoption.

Alice Honegger's case shows in particular that the responsible supervisory authority allowed her to carry on with her work for decades, even though she had repeatedly faced legal action and continually ignored official orders and prohibitions. The supervisory authority did not react even when a social worker went to the authorities and stated on the record that he could not be held responsible for Honegger's actions in Sri Lanka.

The Swiss authorities were also aware that children were exchanged in Colombo for money, everyday goods and luxury items. Individuals such as Dawn de Silva or the lawyer Rukmani Thavanesan-Fernando, both of whom placed children from Sri Lanka in Switzerland, were part of a corrupt system. Others, including the adoption agent Alice Honegger and, for a short time, Terre des hommes in Lausanne, tapped into this system.

The fact that the irregularities were recognised and discussed in Switzerland is illustrated by the fact that officials at the time repeatedly added explicit and cautionary handwritten notes to official documents, and that a dossier labelled 'child trafficking' can be found in the Federal Archives. Switzerland and Sri Lanka did not work together to curb child trafficking. When the chargé d'affaires at the Swiss embassy in Colombo, Claude Ochsenbein, proposed that a Sri Lankan minister be received in Bern for a meeting, the idea was dismissed. Instead, the SFAO declined any responsibility for dealing with the matter and referred the problem back to the Swiss embassy in Colombo.

An examination of the legislation enacted between 1973 to 1997 has shown that efforts were made to improve the situation of foreign foster and adopted children. However, this was only partially successful. Indeed, when the FCAO was amended in 1988, the new law introduced a controversial practice. From then on, it was possible to bring children into Switzerland whose personal details had only been provisionally established.

In the adoption cases during the period under review, it was also clear that authorities turned a blind eye to missing or contradictory documents. Although under the Swiss federal system powers are primarily vested in the cantons, it would have been possible for the authorities to insist on obtaining clear information on a child's origins and the statement of consent from the birth parents. A careful examination of each case at the time of entry would have been necessary, because if a Sri Lankan child came to Switzerland for adoption, the child would initially live as a foster child with a Swiss family for two years. If, after this time, the adoption was not authorised, it would have been virtually impossible to send the child back to Sri Lanka. To sum up, it is clear that children were sought for parents and not parents for children.

## **Need for further research and open questions**

As part of this report, files held by selected federal government offices, three cantons and various district authorities and communes were reviewed for the first time to examine the history of the adoption of children from Sri Lanka in Switzerland. The cases reviewed indicate that international adoptions paid a key role in Switzerland's adoption landscape. Thousands of children from many other Asian and Latin American countries were brought to Switzerland for adoption. This examination of the adoption of Sri Lankan children solely sheds light on a small part of a problematic practice. To date, little research has been done on international adoptions in Switzerland. Other European countries are also affected. The Netherlands, for example, has recently set up a commission of experts.

A comprehensive reappraisal of the history of international adoptions in Switzerland since the 1960s has yet to be undertaken. It is urgently needed. Switzerland's federal division of powers puts the onus on individual cantons and adoption agencies to investigate their past adoption practices. A comparison with practices in other European countries would also be worth undertaking. Back to the Roots, an association representing the interests of adult adoptees from Sri Lanka in Switzerland, has called for an examination of the circumstances in which foreign adopted children grew up in Switzerland. Oral

history projects based on interviews with birth parents who can be located and are willing to participate, adoptive parents and adopted children, would also be worthwhile.

Furthermore, the establishment of an independent central body to assist individuals seeking to know the truth of their origins is also important. Adoption agents involved in the international adoptions business decades ago are not impartial, and those affected do not want to turn to them for help. A large number of files are still in their possession. The Adoptio Foundation is known to hold important documents relating to the activities of the individual responsible for the largest number of adoptions from Sri Lanka, Alice Honegger, but it has so far proven impossible to transfer those files to a public, professionally managed archive. It would be necessary to determine whether the cantonal supervisory authority, in the case of St Gallen for example, could order the foundation to hand over the files.

The overwhelming majority of the adoptions examined for this report were arranged by adoption agents whose working methods fell far below professional standards. It is also clear from the cases reviewed on a sample basis that a sizeable proportion of cantonal adoption decisions did not meet legal requirements. For the individuals concerned, this raises the question of whether their adoption could be legally challenged. Whether individuals who were engaged in child trafficking for the purposes of adoption and are still alive can still be prosecuted is another open question. Key players such as Dawn de Silva, her then husband Wilhelm Weissgärber and Chandra Perera could still be questioned.

What Switzerland failed to do between 1973 and 1997 in relation to the adoption Sri Lankan children, namely to ensure that the authorities and adoption agencies made children's interests their first priority, it must now do in assisting adult adoptees searching for their origins.