

Yeshiva University, Cardozo School of Law

LARC @ Cardozo Law

CICLR Online

Journal Blogs

11-11-2021

International Adoptions: A Troubling Decrease?

Katherine Jenkins

Cardozo International & Comparative Law Review

Follow this and additional works at: <https://larc.cardozo.yu.edu/ciclr-online>



Part of the [Law Commons](#)

Recommended Citation

Jenkins, Katherine, "International Adoptions: A Troubling Decrease?" (2021). *CICLR Online*. 31.
<https://larc.cardozo.yu.edu/ciclr-online/31>

This Article is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in CICLR Online by an authorized administrator of LARC @ Cardozo Law. For more information, please contact christine.george@yu.edu, ingrid.mattson@yu.edu.

International Adoptions: A Troubling Decrease?

By: *Katherine Jenkins*



“The suffering and deprivations of parentless children is a terrible tragedy that mocks our pretensions of progress toward international human rights. This suffering also undermines the needs and basic human dignity of our children and our aspirations for international social justice.”[1] It is a no secret that parentless children are a vulnerable group, highly at-risk of psychological and behavioral issues. Historically, one solution to this issue has been international adoption, through which thousands of children have received the love and care which all children deserve. The United States is a major player in international adoptions, adopting more foreign children than the next thirteen major receiving countries combined.[2] However, international adoptions to the United States have been in a freefall since 2004, exhibiting an 82% overall decrease.[3]

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption introduced international standards for adoptions, with the dual purpose of: 1) addressing irregularities in international adoption and 2) curbing abusive practices like the selling and trafficking of children.[4] The Hague Convention is also meant “to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law.”[5] While the Hague Convention has an admirable purpose, and has facilitated thousands of international adoptions since 1993, it’s high standards have proven difficult for some countries to implement. Countries have to invest a significant amount of energy and research to integrate the rules of the Hague Convention.[6] In certain instances, it requires a complete revamping of adoption systems. “Even for

the wealthiest of countries, implementation of the Hague Convention takes time and resources.”[7] Unfortunately, this means that countries with fewer resources, who often need international adoption the most are unable to meet the high standards of the Hague Convention.[8] For example, Guatemala used to be very involved in international adoption.[9] However the country also had a litany of issues, including reports of rural families that admitted that they sold their babies for \$300 to support their families, the defrauding or coercing of women in maternity homes to give up their children, and even open child kidnappings.[10] In 2007, Guatemala passed legislation in hopes of meeting the Hague Convention Standards. A year later, the United States ceased international adoptions from Guatemala, citing the country’s failure to be Hague-compliant.[11] Today, this remains the case, as the burden of implementing the high standards of the Hague has proven to be too much.[12] While the Hague Convention is admirable in that it discourages corruption and encourages adoptions that ensure the best interests of children, it has led to practical complications in poorer countries and decreases international adoptions.

However, the Hague Convention is not solely to blame. In more recent years, many countries, out of political or social motivations, have either reduced or altogether halted adoptions to the United States. From 1999 to 2018, the top five countries of origin for international adoption were China, Russia, Guatemala, South Korea and Ethiopia, accounting for 70% of international adoptions to the United States during this period.[13] However, this has completely changed in the recent years. In 2012, Russia passed the Dima Yakovlev Law, which ended all international adoptions to the United States. The law was named for a toddler who was adopted from Russia and subsequently killed in the United States when his adoptive father left him in a hot car. The father was later acquitted, which led to outrage in Russia.[14] In reality, this tragic case was the final breaking point for Russia, as there had been a few cases where adopted Russian children were abused or killed by their adopted parents.[15] Similarly, Ethiopia banned adoptions in 2018, in response to a US case where an Ethiopian adoptee was starved and beaten to death by her parents. While these are undoubtedly tragic, not all decreasing adoptions rates were caused by such a parade of tragedies. International adoptions from China have decreased steadily as well, but for positive reasons: increased domestic adoptions, decreased child abandonment, economic growth, and the loosening of the government’s family planning policies.[16]

Fast forward to 2021, and international adoptions face another incredible hurdle: the Covid-19 pandemic. In 2020, there was a 45% decrease in international adoptions, with only 1,622 adoptions taking place.[17] This is largely attributable to the impact of the pandemic, which interrupted government office operations and travel plans.[18] And unfortunately, countries that suffered the greatest losses from Covid-19, such as the United States and China, were two of the countries with the heaviest involvement in adoption.[19] Furthermore, Covid-19 and the subsequent loss of employment has led to financial uncertainty and vulnerability, which likely put the expensive process of adoption out of the reach of many potentially loving and open families.[20] It remains to be seen how Covid-19 will fully impact international adoptions, but it is likely that it will contribute further to the decline.

Acknowledging the positive and negative reasons for the decrease in international adoptions, the US State Department wrote, “[i]mproved economic conditions and greater acceptance of domestic adoptions in many countries is a positive development; in contrast, governments that unilaterally prohibit adoptions for political reasons only serve to hurt defenseless children.”[21] While many of the reasons for decreased international adoptions are bad ones, the statistic is not all troubling. Poorer countries, especially those like Guatemala, that are working to implement the Hague Convention standards, should be supported by the United States in hopes of reopening the international adoption channel, and strong domestic policies that facilitate intracountry adoptions, such as those in China, should be encouraged. Ultimately, all countries should be motivated and united in the same goal: protecting the best interests of the parentless child, one of the most vulnerable among us.

Katherine Jenkins is a 2L at Benjamin N. Cardozo School of Law. She received her B.A. in Social Work from Long Island University. Katherine is interested in Advocacy and Public Interest Law.

[1] Lynn D. Wardle & Travis Robertson, *Adoption: Upside Down & Sideways? Some Causes and Remedies for Declining Domestic and International Adoptions*, 26 Regent U. L. Rev. 1 201, 220 (2013-14).

[2] U.N. Dep’t of Econ. & Soc. Aff., Population Div., Child Adoption: Trends & Policies at 74, U.N. Doc ST/ESA/SER.A/292 (2009).

[3] Mary Landrieu, *Intercountry Adoption & Global Child Welfare Statistics*, Cong. Coal. on Adoption Inst. (May 2019), <http://www.ccaainstitute.org/resources/fact-sheets>.

[4] Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, May 29, 1993, S. Treaty Doc. No.

- [5] *Id.* Art. 1.
- [6] Katherine Sohr, *Difficulties Implementing the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption: A Criticism of the Proposed Ortega's Law and an Advocacy for Moderate Adoption Reform in Guatemala*, 18 Pace Int'l L. Rev. 559 (2006). <https://digitalcommons.pace.edu/pilr/vol18/iss2/7/>.
- [7] *Id.* at 578.
- [8] *Id.* at 580-81.
- [9] Sarah Elizabeth Nevill & Karen Smith Rotabi, *Developments in US Intercountry Adoption Policy since Its Peak in 2004*, 23:1 Adoption Q. 63, 71-72 (2020)1719254 (noting that in 2005, 98% of adoptions from Guatemala were international adoptions, and in 2007, one out of every one hundred children born in Guatemala left the country for international adoptions).
- [10] *Id.*
- [11] *Id.*
- [12] Sohr, *supra* note 6; *See also* Nevill & Rotabi, *supra* note 9.
- [13] Nevill & Rotabi, *supra* note 9, at 69.
- [14] *Id.* at 71.
- [15] *Id.*
- [16] *Id.* at 70.
- [17] US Dep't of State, Annual Report on Intercountry Adoption (2021).
- [18] *Id.*
- [19] Patricia Fronek & Karen Smith Rotabi, *The Impact of the Covid-19 Pandemic on Intercountry Adoption and International Commercial Surrogacy*, 63(5) Int. Soc. Work 665, (2020).
- [20] *Id.* § 11.
- [21] Annual Report on Intercountry Adoption, *supra* note 17, at 2.