

# Center for Adoption Policy

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## Compendium of Law Review Articles on International Adoption

Prepared for the Center for Adoption Policy by Charles M. Kunz, JD Candidate, June 2016, North Carolina Central University School of Law, September 2014.

### 2010-Present:

#### 2014:

- Jessica Alexander, *Why the United States should Define Illegal Adoption as Human Trafficking*, 36 Hous. J. Int'l L. 715 (2014). 34 Pages. Examines the high number of children who are offered for adoption by illegal means. Includes a discussion on the intercountry adoption process, problems with the process including common abuses such as Article 4 violations, the Non-Hague Process as a distinct problem, current United States responses including the IAA, denial of Visas, criminal enforcement, adoption as trafficking, definition of human trafficking, exploitation, exploitation by violation of international treaty, the results of using the human trafficking label including weakness of conventional obligations, use of the Trafficking Victims Protection Act and goals including increased protection offerings, TIP Report and Foreign Aid Considerations and remedies for victims.
- NilaBala, *The Children in Families First Act: Overlooking International Law and the Best Interests of the Child*, 66 Stan. L. Rev. Online 135 (2014). 9 Pages. Uses the stories of two children adopted from Africa to show how the current adoption system is plagued by a lack of accountability. Discusses the Hague Convention, IAA and CHIFF as well as pending legislation at the local level.
- Christopher Balding, *International Child Adoption Law and Empirical Analysis*, 13 Whittier J. Child & Fam. Advoc. 51 (2014) 28 Pages. Shows how empirical analysis can help when studying intercountry adoption and the tradeoffs facing policymakers and practitioners as well as suggesting a framework on evaluating risks on outcome performance rankings, time factors and risk analysis. Includes a discussion on the evolution of intercountry adoption law and regulation, introducing empiricism to intercountry adoption, an empirical framework for intercountry adoption, the time factor, risk analysis and empirical analysis in the big picture.
- Elizabeth Bartholet, *Creating a Child-Friendly Child Welfare System: The Use and Misuse of Research*, 13 Whittier J. Child & Fam. Advoc. 1 (2014). 12 Pages. Examines the child welfare system and whether it really serves child welfare as well as the inherent problems with misusing research. Includes discussions on what happens when good

research is ignored, how the research fails to show it benefits children to promote in-country adoption and how bad research has promulgated and is used to promote bad policy.

- Elizabeth Bartholet, *Intergenerational Justice for Children: Restructuring Adoption, Reproduction and Child Welfare Policy*, 8 Law & Ethics Hum. Rts. 103 (2014). 22 Pages. Argues for a restructuring of adoption by focusing on the child's welfare as equal to the adult's welfare and also changing the pronatalist and anti-contraception policies which encourage reproduction of unwanted babies. Includes discussions on the next generation of children, policies governing adoption, reproduction and child welfare, limited child welfare to support poor families and existing children, how the current reproduction policy encourages at-risk children at the expense of caring for existing children, how severe restrictions on international adoption prevent unwanted children being placed with the parents they need, wrong ideas about "rights", deconstructing the argument of international adoption being more of a problem than a solution, a look at international adoption shutdowns including Guatemala, Romania and Africa, and international surrogacy expansion.
- Marie A. Fallinger, *Moving Towards Human Rights Principles for Intercountry Adoption*, 39 N.C. J. Int'l L. & Com. Reg. 523 (2014). 60 Pages. Talks about the basic human rights principles needed in intercountry adoption, where the Hague Convention and CRC succeeded and where they've fallen short. Includes discussions on human rights instruments and how they work towards human dignity and adoption, different principles for intercountry adoption following from human dignity including the realism principle, the global interdependence principle, the non-discrimination principle, responding to concerns about a child's lost culture, the family diversity principle and rights of recognition and equal worth, the recognition of vulnerability and children's rights to grow and be loved. Concludes by saying that national agencies need to work to remove financial and uncertainties and myths about adoption to lead to more adoptions, especially of special needs children.
- Jade Gary, *Understanding the Decline in Transnational Adoption Channels: Whether the Children in Families First Act is an Effective Response to the Exploitation of Orphans*, 11 Loy. U. Chi. Int'l L. Rev. 141 (2014). 26 Pages. Addresses the Children in Families First Act (CHIFF) to determine whether it will effectively counter the decline in transnational adoption and whether it serves as an effective model for future international adoption reforms. Includes a background on international adoption, as well as a look at the current state of international adoption in Asia, Latin America and Europe, then Transnational Adoption Legislation including the Hague Convention, the Immigration and Nationality Act, the UN CRC, the impact of current transnational adoption legislation, a breakdown of CHIFF including an examination of its Title I (Realignment of Certain International Child Welfare Responsibilities and Functions), Title II (Annual Reporting) and Title IV (Funding and Effective Dates) and an analysis which features legislative reform stemming from CHIFF, social reform and global outreach efforts stemming from CHIFF, before introducing their proposal to change legislation and change social norms.
- Anna Jane High, *Pondering the Politicization of Intercountry Adoption: Russia's Ban on American "Forever Families"* 22 Cardozo J. Int'l & Comp. L. 497 (2014). 68 Pages. Looks at Russia's ban on intercountry adoption to the US and asserts Russia should

reconsider this ban. Includes discussions on the history of Russia-US intercountry adoption, its motives which include the child rescue approach, parent-driven objectives, the balance between the best interests of the child and the sender, then Russia as a sending country including post-USSR growth, Russian voices on children without families, failed adoptions and subsequent reform and the January 1, 2013 Adoption Ban before moving into discussion on the international approach to adoption and the shifting prioritization of intercountry adoption with its best interests and subsidy principles, the Hague Convention, alternative regulation in bilateral treaties, the council of Europe before closing with an evaluation of the ban which includes a look at the politicization of orphan welfare in Russia and beyond, the question of whether, in the short and long term, there's a right to adoption and Russia's long-term aim with ending intercountry adoption, the implication of the adoption ban on Russia's waiting children and the dual goals of in-country care and intercountry adoption as we move forward.

- Taemin King, *Breaking the Myths on Intercountry Adoption in Romania*, 10 Regent J. Int'l L. 131, (2014). 20 Pages. Focuses on the myths that caused Romania to ban intercountry adoption and debunks them. Includes a discussion on the flawed allegations against intercountry adoption including sensation but unsupported charges, perceived personal bias, how not everyone agreed to the total ban on intercountry adoption, the EU and intercountry adoption, pressure from the EU to enact the new adoption law, support in the EU for intercountry adoption, how adoption is preferable to other types of cares, adoption vs. orphanages and adoption vs. foster care.
- Jay Milbrandt, *Adoption the Stateless*, 39 Brook. J. Int'l. L. 695 (2014). 48 Pages. Analyzes pending legislation for the adopting stateless individuals, particularly children, with an emphasis on North Korean children. Includes an intercountry adoption background, statistics on all adoptions to the US from countries with stateless populations global parties and treaties, government legislation, a discussion on the sending countries and receiving countries which includes data on the State Department and which stateless countries have Hague status plus other stakeholders, a definition of statelessness, de jure statelessness, de facto statelessness, a brief history of statelessness, the global stateless population, stateless persons as a percentage of national population, challenges for adopting the stateless, the North Korean dilemma, adoption and statelessness, countries with statelessness populations participation with the Hague adoption convention, statistics on orphaned stateless children, estimated numbers of orphaned stateless children, legislation and intercountry adoption, an analysis of North Korean legislation and recommendations for future legislation.
- Gabriela Misca, *The "Quiet Migration": Is International Adoption a Successful Intervention in the Lives of Vulnerable Children?*, 52 Fam. Ct. Rev. 60 (2014). Shows that while overall children adopted internationally thrive in their adoptive countries based on the commitment of their adoptive parents, there is a lack of evidence-based practices relating to interventions best suited to the needs of children post-international adoption. Also suggests following a globally standardized process and strict protocols to help alleviate illicit activity in international adoptions. Includes examining whether international adoption is a global phenomenon, legal benchmarks in international adoption (mainly the UNCRC), debates in intercountry adoption including the benefits of it, in whose best interest it is, child laundering, cultural and self-identity, development

risks and resilience in intercountry adoption, developmental outcomes and cultural and self-identity.

- Lynn D. Wardle, *Adoption: Upside Down and Sideways? Some Causes of and Remedies for Declining Domestic and International Adoptions*, 26 Regent U. L. Rev. 209 (2014). 76 Pages. Examines developing social trends and adoption policy changes and their potential to have long-term consequences for adoption while also analyzing whether the growth of placing children with same sex couples is limiting adoption. Includes a discussion on the decline of international adoption to the US, the global decrease in international adoptions, trends in intercountry adoption to the 23 receiving states, the decline in domestic adoptions of unrelated children in the US, why the decrease in adoption matters, how the Hague Convention caused a reduction in intercountry adoptions, the status of adoption by LGBT couples and couples in the US with a look at the laws of all 50 states, reciprocal implications of adoption by same-sex partners and same sex marriage, legal allowance of same-sex unions globally vs. legal allowance of same-sex unions in the US, changing policies regarding legalization of same-sex partner adoptions, which nations and which states allow adoption of children by LGBT couples, why the legalization of adoption by same sex couples may reduce the number of adoptions, concerns about abuse, deception, and fraud in international adoptions and how that has reduced adoptions, the potential of “sideways” status (adoptive “Uncle” or “Aunt”) and how that may reconcile the competing interests and their solution to amend and improve the Hague Convention and to moderate state law.

#### **2013:**

- Joan Catherine Bohl, *The Future of Children in International Law Inter-Country Adoption: Is International Law Protecting the Best Interests of the Child?* 19 Sw. J. Int'l L. 323 (2013). 21 Pages. Looks at the origins of intercountry adoption and analyzes the parameters and efficacy of existing measures aimed at regulating the “economy” by comparing the rules of China, a Hague signatory with Korea, a non-signatory. Includes a discussion on the origins of intercountry adoption in the US, pre-Hague international attempts to regulate intercountry adoption, The Hague Convention of 1993 and a study of China, Korea and the Hague Convention.
- James G. Dwyer, *Inter-Country Adoption and the Special Rights Fallacy*, 35 U. Pa. J. Int'l L. 189 (2013). 63 Pages. Defends inter-country adoption by finding that the right to emigrate is the best vehicle to defend inter-country adoption and that the current trend is to focus on child-specific conventions which give rise to the “special rights fallacy” the author is speaking of. Includes a discussion on the CRC and Hague Convention, UNICEF, general human rights issues pertinent to inter-country adoption, the right to leave and change nationalities and other general human rights. The author then advocates for the right to invoke general human rights which he feels is the best defense of intercountry adoption before discussing choices of law, interpretations of the right to emigrate, interpreting bases for restricting the right, various scholarly writings on the subject before applying that right to intercountry adoptions. Typical arguments against adoption (state interest, national pride, neo-colonialism etc.) are mentioned as well as children left behind in the sending countries, profiteering, child welfare concerns, the notion of providing children for parents rather than parents for children, trafficking, mistreatment of children in the receiving countries, the cultural interests of children and

kinship ties. The author concludes by suggesting a new conversation on adoption which focuses on general human rights instead of special children focused conventions.

- William Giacofi, *Curbing International Adoption Abuses Through the Alien Tort Statute*, 18 Roger Williams U. L. Rev. 110 (2013). 32 Pages. Examines the Alien Tort Statute and how it might be applied to future intercountry adoption litigation. Includes a brief overview of intercountry adoption in the US, a background of intercountry adoption and current intercountry adoption regulations in China and Ethiopia, intercountry adoption abuses in China and Ethiopia, the Alien Tort Statute of 1789, *Sosa v. Alvarez-Machain*, intercountry adoption and the Alien Tort Statute, *Huynh ThiAnh v. Levi* and application of the Alien Tort Statute to adoption abuses.
- Deleith Duke Gossett, *If Charity Begins at Home, Why Do We Go Searching Abroad? Why the Federal Adoption Tax Credit Should Not Subsidize International Adoptions*, 17 Lewis & Clark L. Rev. 839 (2013). 69 Pages. The article states that the tax credit for adopting from foreign countries is undermining adoption from foster care by providing the same tax credit as those who adopt foster children receive. Includes a discussion on the foster care system and legislative attempts at reform, the children who are lost in and aging out of the foster care system, a discussion on adoptions both then and now, the international adoption trend (including how celebrities and evangelical Christians support it), criticism of international adoption and efforts to regulate the practice, criticism of the “victimization” of other countries and international regulations on intercountry adoption. Then a discussion on the subsidies for adoptions, the foreign adoption tax credit and questioning on who benefits from it (and how it thwarts social justice). The article concludes by stating the foreign adoption tax credit promotes international adoption to the detriment of children who remain not adopted in the US.
- Kim H. Pearson, *Legal Solutions for Transracial Adoptees*, 3 UC Irvine L. Rev. 1179 (2013). 44 Pages. Examines the similarities for LGBT youth and Asian adoptees and states that racial identity shouldn’t be devalued. Contains sections examining the similarities between the two, legal solutions for delivering racial identity, the Hague Adoption Convention, racial preference, mandated counseling, LGBT and APA communities and LGBT APA families.
- David Poveda, *Professional Disclosures on Single Parenthood in International Adoptions in Spain*, 36 PoLAR: Pol. & Legal Anthropology Rev. 35 (2013). 20 Pages. Looks at the work of psychologists and social workers who examined single parenthood adoptions in Spain. The authors discovered that the professionals work with a preset notion that “the best interest of the child” means placement with heterosexual families.
- Alice Richards, *Bombs and Babies: The Intercountry Adoption of Afghanistan’s and Iraq’s War Orphans*, 25 J. Am. Acad. Matrim. Law. 399 (2013). 23 Pages. Looks at the human rights crisis facing orphaned children as a result of the wars and explores whether adoption is a solution for them. Includes a history on the wars in Afghanistan and Iraq and their war orphans, the development of Islamic Family Law, Afghanistan’s family law, Iraq’s family law, adoption in Islamic family law, a history of the US and traditional international adoption, the Hague Convention, the IAA of 2000, loosening the strict immigration requirements for orphaned children, global response to war orphans including international organizations, successful intercountry adoption from Iraq, non-traditional intercountry adoption: humanitarian parole, and a conclusion that children are our future.

## 2012:

- Cheryl L. Allen, *The US-Russian Adoption Agreement: An End to Failed Adoptions?* 35 Fordham Int'l L.J. 1690 (2012). 53 Pages. Looks at international adoptions between Russia and the US and potential changes to it under the regulatory scheme posed by their new bilateral agreement. Includes a brief history on US-Russian intercountry adoption, instances where Russian adoption went wrong including problems with prospective parent pre-screening, problems with prospective parent post-screening, problems with acknowledgement and disclosure of the adoptive child's medical history, the American response to failed adoptions, the Russian response to failed adoptions, an exploration of the regulations in the adoption process including the UNCRC, Hague Convention and the specifics of the US adoption process before looking at agreement and the major changes proposed by it, precedent set by the Italian-Russian Child Adoption Agreement, the Nadezhda Fratti Adoption Scandal before concluding that success from the agreement will be dependent on how the agreement is implemented and that Russia should ratify the Hague Convention and that the Hague Convention should be amended to mandate bilateral agreements.
- David Bell, *The Ironic Twist and International Adoption: Same-Sex Couples and International Adoption Challenges*, 12 Whittier J. Child & Fam. Advoc. 151 (2012). 20 Pages. Looks at how many same-sex couples are barred from international adoptions due to bans based on misplaced morality reasons in the sending countries. Suggests the LGBT community needs to get involved to raise public awareness of this problem and that the legal community needs to also take notice of it. Includes discussions on the history of international adoption in the US, the process of international adoption and the laws from the initial steps to the foreign countries laws and the US Federal Government and home state's laws before looking at categorical bans which include some sending countries limiting adoptions to married couples, or others (like China) who expressly forbid same-sex couples from adopting and how this contrasts with the best interests of the child. The article concludes with some available options.
- D. Marianne Bower Blair, *Admonitions or Accountability?: U.S. Implementation of the Hague Adoption Convention Requirements for the Collection and Disclosure of Medical and Social History of Transitionally Adopted Children*, 40 Cap. U.L. Rev. 325 (2012). 71 Pages (Capital University). The article seeks to analyze the collection and disclosure standards and enforcement mechanisms that have been created in the wake of the Intercountry Adoption Act of 2000. It tracks the path to federal regulation with a look at complete transmission, regulation and liability under state law and concerns regarding traditional placements then moves to The Hague Convention and federal implementation of standards for collection and disclosure with a focus on collection standards for incoming adoptions including who can prepare reports, as well as foreign providers and foreign governmental authority, what must be collected as well as collection standards in outgoing adoption and the content requirements of those reports and who can prepare them, disclosure and preservation of those reports before discussing enforcement of the Hague Convention and its effect on liability and exculpatory clauses. The article concludes that the act has left too many gaps at the federal level which hurt collection and disclosure standards.
- Masha Farid, *International Adoption: The Economics of the Baby Industry*, 12 Whittier J. Child & Fam. Advoc. 81 (2012). 24 Pages. Focuses on the inadequate attempts by the

world's governments to reduce child trafficking and suggests the implementation of new government policies to criminalize it as well as regulations mandating transparency in adoptions and using disinterested counselors to account for children in orphanages. Includes a discussion on the historical background of international adoption, the supply and demand in the baby industry, child trafficking, child buying, child stealing, the role of law in these, the UN CRC, Hague Convention and Intercountry Adoption Act of 2000 as well as the US Trafficking Victims Protection Act as well as future prospects for closing the loopholes in the above, fixing the laws which fail to address child trafficking, transparency to minimize illegal conduct and how a US initiative will lead to foreign compliance.

- Georgia Gebhardt, *Hello Mommy and Daddy, How in the World Did They Let You Become my Parents?* 46 Fam. L.Q. 419 (2012). 30 Pages. Examines cases where children are adopted are abused by their adoptive parents and the lack of an international body of law and lack of uniform screening of potential parents to prevent this. Asserts international law must be modified and extended and created to protect children. Includes discussions on the parent's experience in adoption, laws governing international adoption, countries that make it easier for prospective parents to adopt (examples given are Ethiopia, Russia, China and the Philippines) including charts comparing the non-Hague adopting countries to the Hague ones with numerous criteria required by the sending country and concludes by suggesting necessary changes to the adoption convention to protect children.
- Joseph M. Isanga, *Surging Inter-country Adoptions in Africa: Paltry Domestication of International Standards*, 27 BYU J. Pub L. 229 (2012). 72 Pages. Looks at the increasing adoption trends in Africa which have not been paralleled with increasing the standards of their adoptions to world standards. Remarks on the overly restrictive standards in many African countries and there exists much abuse inside the system. Includes discussions on the pros and cons of African intercountry adoption, arguments in favor of African intercountry adoption, an analysis of international regulatory framework including the UNCRC, Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, The Hague Convention (1965) and the later Hague Conventions, the African Charter on the Rights and Welfare of a Child, an analysis of select African countries' legal remedies (South Africa, Malawi, Uganda, Zambia, Ethiopia, Nigeria) then recommendations for these countries.
- Elizabeth Long, *Where are They Coming From, Where are They Going: Demanding Accountability in International Adoption*, 18 Cardozo J.L. & Gender 827 (2012). 34 Pages. Suggests the US should only allow international adoptions from countries that have adopted the Hague Convention as it will ensure all parties have followed the minimum legal safeguards available. Included a brief history of adoptions in the US, primary concerns in international adoption, attempts at multinational legislation to regulate international adoption, an introduction to the Hague Convention including an outline of its requirements, an introduction to the orphan adoption process with an outline of orphan adoption process requirements, practical effects of the Hague Convention legislation on children and prospective parents and its practical effects on the adoption community before the conclusion of the US should only allow adoption from countries which have implemented the Hague Convention. This section includes a discussion on criticism and defenses.

- Glenys P. Spence, *Singing Songs in a Strange Land: the Plight of Haitian Children in the Space of International Adoption*, 15 Scholar: St. Mary's L. Rev. & Soc. Just. 1 (2012). 30 Pages. Discusses Haiti in the aftermath of their earthquake and international adoption there, particularly how they did not ratify the Hague Convention. Advocates for serving the best interests of the children by not severing familial bonds and for taking into account the socio-cultural needs of children and of the sending country. Includes an overview of international adoption law, Haiti's resistance and the international legal order, the genesis of international adoption, the adoption crisis in Haiti, as well as a discussion on the international adoption process in the US and Republic of Haiti, the commodification of children, Haiti's developmental challenges and the impact of the 2010 earthquake on adoption. Ultimately concludes by advocating the wealthier receiving countries only using adoption as a last resort and instead honoring their obligations under human rights law to provide for the children of sending nations.
- Barbara Yngvesson, *Transnational Adoption and European Immigration Politics: Producing the National Body in Sweden*, 19 Ind. J. Global Legal Stud. 327 (2012) 17 Pages. Explores the role of transnational adoption in Sweden in the second half of the 20<sup>th</sup> Century and early 21<sup>st</sup> Century. Includes discussions on adoption policy, multiculturalism and "non-Nordic growth" in Sweden, the origins and myths of the "completely Swedish" before coming to its conclusion analyzing the concept of culture in the space of no culture.

## 2011:

- Jeff Atkinson, *The Meaning of "Habitual Residence" Under the Hague Convention on the Civil Aspects of International Child Abduction and the Hague Convention on the Protection of Children*, 63 Okla. L. Rev. 647 (2011). (19 Pages). Focuses on the lack of a fix definition of "habitual residence" which is instrumental in returning abducted children to their state of habitual residence. Includes discussions on: the need for a "settled purpose", perspective of the child vs. perspective of the parents, factors considered when determining the habitual residence, factors related to parental input, factors related to acclimatization of the child and comparison of "habitual residence" and jurisdictional principles of the UCCJEA.
- Elizabeth Bartholet, *International Adoption: A Way Forward*, 55 N.Y.L. Sch. L. Rev. 687, (2011). 14 Pages. Address the current crisis in international adoption in terms of decreasing numbers of adoptions. Includes an analysis on the trend of adoptions from 1944-2010 with statistics and an analysis of laws proposed by adoption critics who are seemingly hoping to prevent corruption and abuse in international adoptions.
- Elizabeth Bartholet, *Permanency is not Enough: Children Need the Nurturing Parents Found in International Adoptions*, 55 N.Y.L. Sch L. Rev. 781 (2011). 8 Pages. The article comes after a conference on achieving permanency for children. The article finds that permanency is not enough and that it must be combined with nurturing parenting. International adoption can serve as this solution to a large number of children throughout the world. The article suggests recognizing that international adoption is in crisis, remaining hopeful for the future, and those who believe in international adoption working together as a community while fighting for the common goal of finding early, permanent and nurturing parenting for all children which can be partially achieved by backing the Families for Orphans Act.



- Elizabeth Bartholet, *Ratification by the United States of the Convention of the Rights of the Child: Pros and Cons From a Child's Rights Perspective*, 633 *Annals Am. Acad. Pol. & Soc. Sci.* 80 (2011). 18 Pages. Discusses the US's ratification of the CRC and concludes that ratifying it would better allow the US to promote children's rights abroad and to develop domestic law that would empower children. It does also focus on the negatives of ratification which include the limitation of adoption. Includes discussions on the impact of the US ratification of the CRC and impact in other countries, the positive potential for children including children as equal right-bearing persons, specific rights in the CRC including participation, provision and protection, and the negative potential for children in and out of the US both for internationally and transracially adopted children before concluding that it would be best for the children if the CRC was ratified.
- Margaret F. Birnig, *Parents: Trusted But Not Trustees or (Foster) Parents as Fiduciaries*, 91 *B.U. L. Rev* 1231 (2011). 18 Pages. Examines the difference between biological, and adoptive parents and foster parents in the eyes of the law. Includes charts and references to the effect of children's legal relationships to parents and the risk of men's depression as a result of changes to children's living arrangements.
- Richard Carlson, *Seeking the Better Interests of Children with a New International Law of Adoption*, 55 *N.Y.L. Sch. L. Rev.* 733 (2011). 48 Pages. Evaluates the arguments against international adoption, examines regulatory reform and offers solutions to restating international law with regards to adoption. Includes an overview of the international adoption debate, vigorous supporters of international adoption, cynical opponents of adoption and their extreme positions of an absolute ban on international adoption, the arguments for preserving a child's heritage, the argument for group solidarity against out-of-country placement for a child, discounting the benefits of intercountry adoption, effects on children left behind, effects on birth parents and effects on local prospective adoptive parents then an analysis of the moderate critics of international adoption and their proposed reforms and the limits of those reforms before a discussion of whether there are orphans, then restating international law for intercountry adoption to seek the better interests of the child (and changing from "best" interests to "better"), an endorsement of adoption or equivalent forms of parenthood and a clarification of subsidiarity.
- Diane B. Kunz, *The Re-Invention of Adoption Law: A Reflection*, 55 *N.Y.L. Sch. L. Rev.* 853 (2011). 13 Pages. Provides a look at the dwindling number of international adoptions even after the enactment of the Hague Convention. The article hopes the welcoming environment of the close of the 20<sup>th</sup> Century will again become commonplace in adoption and uses publications by Professor Elizabeth Bartholet to highlight this as well as Whitney Reitz's work in Haiti to defeat notions that international adoption deprives a child of their culture and misplaced notions of fraud. The article also touches on conflicts between state and federal regulations with the tort of wrongful adoption and issues in the enforcement side of the Hague Convention. The article concludes hopeful that the crisis will soon abate and the decline of international adoptions will end.
- Katie Rasor, *Imperfect Remedies: The Arsenal of Criminal Statutes Available to Prosecute International Adoption Fraud in the United States*, 55 *N.Y.L. Sch. L. Rev.* 801 (2011). 27 Pages. Examines the possibility of criminal conviction of illegal adoptions under both the IAA and other federal laws in the wake of the Haitian earthquake.

Includes an introduction to the IAA, statutory analysis of the IAA, requirements for criminal prosecutions under the IAA, recommended changes to the IAA, other viable statutes for prosecuting illegal intercountry adoption including: the Foreign Corrupt Practices Act, statutory analysis, requirements for prosecution as applied to illegal intercountry adoption, the Travel Act, visa fraud, “tack-on” criminal statutes, including money laundering, currency structuring, mail and wire fraud, plus the less viable statutes including the Racketeer and Influenced Corrupt Organizations Act, trafficking and alien smuggling.

- Rachel M. Schupp-Star, *The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoptions: The Need for a Uniform Standard for Intercountry Adoption by Homosexuals*, 16 Roger Williams U. L. Rev. 139 (2011). (30 Pages). Addresses the weaknesses of the Hague Convention in terms of its ambiguity as to whether gays and lesbians can internationally adopt. Includes a general history of the Hague Convention, its history in the US and general success, the ambiguous question of whether same-sex couples may partake in intercountry adoption, how restricting adoption equals deficient adoption, the undeniable need for growth in intercountry adoption and their hopes for a better approach to effectively protect the well-being of children worldwide.
- Pagie Tackett, *“I Get By With a Little Help From My Friends”*: *Why Global Cooperation is Needed to Minimize Child Abductions and Trafficking in the Wake of Natural Disaster*, 79 UMKC L. Rev. 1027 (2011). 21 Pages. Focuses on how the international adoption system is ill-equipped to counter fraud during national emergencies. Uses the wake of the Haiti Earthquake as a case study and also how the US could improve its foreign policy with respect to adoption. Includes discussions on Haiti’s cultural attitudes towards children, the global effect of national disaster on international adoption, the shortcomings of the Hague Convention during national emergency, American adoption law and global disaster relief policies and humanitarian parole before outlining potential solutions including the Haitian Orphan Placement Effort Act (HOPE Act), Families for Orphans Act, the creation of an all-inclusive global adoption oversight committee and an international fraud tribunal.
- George Waddington, *A New Class of Persons: Intercountry Adoptees and Postcolonial Theories of Cultural Hybridity*, 1 Creighton Int’l & Comp L.J. 81 (2011). 27 Pages. Focuses on the misplaced goal of restricting intercountry adoption to insulate developing nations from western cultural influences and how doing so devalues and depletes poorer countries cultural resources. Includes discussions on the increasing significance of intercountry adoption, insulting the developing world against the affects of western culture and society, intercountry adoption as a loss of “authentic cultural identity”, perpetuating the imperial paradigm, accommodating the imperial paradigm, beginning to integrate postcolonialism theory into the debate over intercountry adoption, post-colonial theories of culture: Edward Said and cultural hybridity and developing the postcolonial paradigm of intercountry adoption.
- Jaci L. Wilkening, *Intercountry Adoption Act Ten Years Later: The Need for Post-Adoption Requirements*, 72 Ohio St. L.J. 1043 (2011). 30 Pages. Looks at issues which arise after the adoption including parents who were misled by brokers and orphanages and the lack of post-adoption followups. Also focuses on countries which have restricted international adoption (special focus on Russia) due to this. Includes a section on the

history of intercountry adoption, the CRC, Hague Convention, the Intercountry Adoption Act of 2000, post adoption problems not addressed by the aforementioned conventions including mental health concerns exacerbated by international context, strained relationships between countries because of a lack of post-adoption reporting, courts and state statutes not providing relief, vocal opposition to adoption and its declining support. It then lists possible solutions including requiring agencies to produce certain medical records, bringing post-adoption services under the auspices of the IAA and State Department and other solutions.

## 2010:

- Shreya Atrey, *Continuing to Meet the Parents, Through the International Adoption Law Route*, 12 J. L. & Soc. Challenges 1 (2010). 14 Pages. Looks at public international law and how its standards in international adoption as well as the standards that dictate social and political concerns in same sex adoption. Includes discussion on prevailing national standards, comprehending the incorporation of “parents”, how the “best interests” standard is nebulous in recognizing the rights of same-sex couples and lessons from the public international law regime.
- Ian Atzet, *Post-Crisis Actions to Avoid International Child Trafficking*, 12 J.L. & Fam. Stud. 499 (2010). 15 Pages. Examines how after the Haiti Earthquake the country was an example of how dire economic conditions can foster an illegal adoption market. Includes discussions on the International Haitian adoption process, an international comparative analysis featuring Romania with their issue of supply, Cambodia with their issues of high demand, the NGO Zoe’s Ark, Southeast Asia after the 2004 tsunami and concluding with the author’s recommendations of pending adoptions made temporary but otherwise suspensions on adoptions and consequences of prosecution and moratoria.
- Sara Dillion, *The Missing Link: A Social Orphan Protocol to the United Nations Convention on the Rights of the Child*, 35-SUM Admin. & Reg. L. News 7 (2010). 6 Pages (Administrative & Regulatory Law News). Examines children who are “social orphans” (a child with parents but not currently living with them) and the reasons leading to children being social orphans and possible solutions with emphasis on international adoption. Includes discussions on ad hoc children’s rights and the making of national policy, state accountability and also contains a draft protocol to the UNCRC on Social Orphans.
- Ann LaquerEstin, *Families Across Borders: The Hague Children’s Conventions and the Case for International Family Law in the United States* 62 Fla. L. Rev. 47 (2010) 64 Pages. Examines the emerging Hague system of international family law, the US’s participation in the Abduction and Adoption conventions and argues for ratification of the remaining conventions. Includes discussions on the emergence of international family law, how children’s conventions were invented in the wake of and designed to protect/prevent child abductions, intercountry adoption, child protection, family maintenance then reinventing the Hague Conference, the children’s conventions in the US, the Abduction Conference, the Adoption Conference, the Maintenance Conference, the Protection Conference, before studying the case for family law which includes discussions on transnational families and the law, federalism and the states and sovereignty and corporation.

- Katherine Herrmann, *Reestablishing the Humanitarian Approach to Adoption: The Legal and Social Change Necessary to end the Commodification of Children* 44 Fam. L.Q. 409 (2010). 21 Pages (Family Law Quarterly). The article focuses on how the demand for children leads to their commodification and child-traffickers profiting off the sale of children. Suggests the US draw a line to differentiate between children adopted via charitable means and those obtained via trafficking. Includes a discussion on the factors causing the increase demand including focusing on why foster children in the US remain in the foster system and why parents adoption internationally, the differing procedural requirements for domestic and international adoptions, how this demand leads to child trafficking, the debate over regulations and suggestions for change in law and policy in the US as well as international law and policy and for removing financial incentives to participate in child trafficking.
- Jennifer Ratcliff, *International Adoption: Improving on the 1993 Hague Convention*, 23-SPG Int'l L. Practicum 55 (2010). 22 Pages. Suggests improving on the problems that have developed since the creation of the Hague Convention as many countries lack resources and strong governmental support which is needed to create and maintain a "central authority" on adoption. The language of the convention is also vague and lacks sanctions for violators. Contains an overview on international adoption, the 1993 Hague Convention and the problems arising from it including a focus on China then a review of international oversight which can overcome these deficiencies.
- David M. Smolin, *Child Laundering and the Hague Convention on Intercountry Adoption: the Future and Past of Intercountry Adoption*, 48 U. Louisville L. Rev. 441 (2010). 51 Pages. Argues that poor practices, especially child laundering, are the biggest threat to intercountry adoption and adoption advocates are not doing enough to end this practice. The author also states that the decline in adoption is due to advocates focusing the problems on ideological ones like neo-colonialism instead of fixing the real problems. Includes discussions on the final language of the Hague Convention, the J.H.A. van Loon Report, preparatory materials beyond the van Loon report, the Hague Convention and changing demographics of adoption, the Hague Convention and the rise of intercountry adoption in the US, the Hague Convention and recent declines in intercountry adoption in the US, China, Russia and Guatemala, South Korea and declining adoptions, declining adoptions and the failure to create sustainable intercountry adoption systems in many sending nations, the Hague Convention and Latin America and finally a cautionary tale involving international adoption, the Hague Convention and India.
- Irene Steffas, *The Hague Adoption Convention and its Impact on All Adoptions*, 57-DEC Fed. Law. 34 (2010). 8 Pages. Examines the Hague Convention and what has occurred since the United States passed legislation creating the IAA. Includes sections on statutes for children adopted internationally, the three routes (E, F and G) to gaining immigration status, how procedure and sequence of procedure is paramount, a discussion on where the habitual residency of a convention child in the US is and the future of the IAA.
- Rachel J. Wechsler, *Giving Every Child a Chance: The Need for Reform and Infrastructure in International Adoption Policy*, 22 Pace Int'l L. Rev. 1 (2010). 36 Pages. Focuses on how intercountry adoption was a solution to the problem of orphaned children and implores the international adoption community to increase the efficiency and supervision of the process. Includes discussions on the supply and demand in adoptions, the effects of living in an orphanage on a child's well being, arguments for and against

international adoption, the evolution of intercountry adoption including the Geneva Declaration of the Rights of a Child (1924), UNCRC and Hague Convention, European Convention on Adopted Children (1967), Inter-American Convention on the Conflict of Laws Concerning the Adoption of Minors (1984), UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally (1986), African Charter on the Rights and Welfare of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993). The article then focuses on the problems in international adoption including discrimination, inefficiency, corruption, variance in laws among nations, lack of enforcement of current regulations, before laying out her proposed solution.

- Stephen I. Winter, *Home is Where the Heart is: Determining the “Habitual Residence” Under the Hague Convention on the Civil Aspects of International Child Adoption*, 33 Wash. U. J.L. & Pol’y 351 (2010). 43 Pages. Discusses the impact of the Hague Convention and the concept of “habitual residence” the determining of which will decide which domestic law applies to the child and whether its taking was “wrongful”. The article proposes to determine the habitual residence by focusing on the child’s acclimation and settled purpose and considering parental intent and where the child considers their home to be. Contains a look at current legal trends in the US as well as international trends, a look at the Mozes Approach, the Fredrich Approach and the Feder and Karkkainen Approach.
- Lisa M. Yemm, *International Adoption and the “Best Interests of the Child”: Reality and Reaction in Romania and Guatemala*, 9 Wash. U. Glob Stud. L. Rev. 555 (2010). 23 Pages. The article examines bans on adoption passed in Romania and Guatemala purportedly to promote the best interests of abandoned and orphaned children. Includes a history of international adoption, the “best interests of the child” as mandated by the Hague Convention, Romania ending adoption after adoption abuses followed by the implementation of the Hague Convention by the US and Guatemala. The article concludes by hoping policymakers in Guatemala will learn from the unfortunate realities of the situation in Romania which will lead to an increase in the number of orphaned and abandoned children.

## 2000-2009

### 2009:

- Erica Briscoe, *The Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption: Are its Benefits Overshadowed by its Shortcomings?* 22 J. Am. Acad. Matrim. Law. 437 (2009). 21 Pages. Focuses on the Hague Convention's failure to address crucial issues that are essential to regulating the international adoption industry. Contains a history of international adoption and a background on the Hague Convention, the background of the Hague Convention in respect to intercountry adoption, its application to member states, its purposes and objectives, its weaknesses which include: improper definitions and clarifications of important terminology, enforcing compliance with its provisions and cases involving non-member states then discussions on its implementation, a need for DNA testing to prevent abductions and improper adoption practices plus a case study on adoption in Guatemala and adoptions under its notarial system, allegations of corruption, Law 3735 and the Hague Convention in Guatemala.
- Andrew C. Brown, *International Adoption Law: A Comparative Analysis*, 43 Int'l Law 1337 (2009). 37 Pages. Examines the Hague Convention and its effects on adoption and then compares and contrasts the laws of China and Russia before highlighting the weaknesses that are still part of the Hague Convention. Contains a history of the convention, the Hague Adoption Convention and the US, criticisms of it and a response and reform in the US. Then in its focus on China, some background, Chinese Adoption Regulations, an analysis of who may adopt, who may be adopted, criticisms of Chinese adoption law and some commentary on it before a similar discussion on Russia which also includes a look at recent reluctance by Russian courts to permit adoptions due to reports of abuse. The article concludes with a personal story about issues the author's cousin ran into adopting from Kazakhstan.
- Elizabeth Burleson, *International Human Rights Law, Co-Parent Adoption, and the Recognition of Gay and Lesbian Families*, 55 Loy. L. Rev. 791 (2009). 15 Pages. Analyzes civil marriage and adoption challenges for same sex families and assesses the European Court of Human Rights and their relevance to same-sex adoptions. Includes discussions on co-parent adoption, the European Court of Human Rights Jurisprudence and the Best Interests of the Child Standard.
- Shani King, *Challenging Monohumanism: An Argument for Changing the Way we Think About Intercountry Adoption*, 30 Mich. J. Int'l L. 413 (2009). 59 Pages. Seeks to challenge a worldview where people are separated into us (Americans) and the rest of the world (the other) and argues intercountry adoption, while sometimes a good choice for the child, is not the only choice. The article considers "monohumanism" a way of thinking where no other solutions but intercountry adoption are considered for needy children. Includes a brief history of intercountry adoption, post-colonialism and intercountry adoption, myths and othering processes in other law review journals where the journals looked "through the post colonial lens", counternarratives offering an "alternative and more nuanced" history of intercountry adoption, intercountry adoption as exploitation, the post-American world, the "othering" of birth parents, an abundance of western adults seeking orphans, the UNCRC before moving on to its hopes of a world

without monohumanism which features sections on the current adoption debate and potential reforms.

- Melissa Long, *Guatemala Passes Domestic Legislation to Implement Hague Adoption Convention; But Does it Help Children?* 15 L. & Bus. Rev. Am. 631 (2009). 37 Pages. Examines Guatemala's adoption of the Hague Convention and analyzes whether it will be a benefit for a detriment to children there. Includes discussions on the "major players" in international adoption including the United States and their role, international and domestic adoptions, the adoption of the Hague Convention, the philosophy of the Hague Convention, requirements of the Hague Convention including its central authorities (and their creation and purpose), adoption process under the Hague Convention, responsibilities of the sending countries, responsibilities of the receiving countries, what occurs after the adoption, problems with the Hague Convention, a possible solution to fix flaws in the convention, intercountry adoption in Guatemala, their current adoption practices, their liberal adoption processes, corruption in the current system and types of corruption, international reaction to their corruption, possible benefits of the old Guatemalan adoption system, effect of the Guatemalan adoption policy in the US, New Guatemalan law under the Hague Convention, Effects of Decree 77-2007 including a creation of a central authority, prohibition of payments for children, issues with new law and pending adoptions, the registration process and confusion because of it, recognition of potential problems internally, criticism of their new law and the future of the Hague Convention there.
- Lisa Myers, *Preserving the Best Interests of the World's Children: Implementing the Hague Treaty on Intercountry Adoption Through Public-Private Partnerships*, 6 Rutgers J.L. & Pub Pol'y 780 (2009). 29 Pages. Focuses on how failure by some countries to implement the Hague Treaty and misinterpretations of it threaten to derail international adoptions. Includes a discussion on the growing world population and number of abandoned children, the controversy over international adoption, international diplomatic response to abandoned and orphaned children, the Hague Treaty's requirements and adoption safeguards, the responsibilities of the sending and receiving countries before arriving at its solution: allowances for Hague adoptions through public-private partnerships. The article finds that in the wake of the implementation of the Hague Convention, fully public systems are not always in the child's best interest and that public-private partnerships have numerous benefits (they keep costs manageable, people in them bring certain expertise etc.) and can foster innovation and lead to future progress. The article also contains a case study on current problems in Guatemala.
- Bethany G. Parsons, *Intercountry Adoption: China's New Laws Under the 1993 Hague Convention*, 15 New Eng. J. Int'l & Comp. L. 63 (2009). 30 Pages. Argues that due to demand elsewhere and the current state of child welfare in China (specifically, the number of abandoned children there), China should abandon their one-child policy or its international adoption laws. Includes a history of intercountry adoption, a history of child welfare in China, history of China's adoption laws, China's most recent amendments to their adoption laws, a history of the Hague Convention, major aspects of the Hague Convention and parties to the Hague Convention then looks at whether China's laws comply with the Hague Convention by focusing on public policy, the best interests of the child, whether China has less discriminatory options to maintain their

population, and concludes that the Hague Convention should amend its language to be more restrictive.

- Tai Vivatvaraphol, *Back to Basics: Determining a Child's Habitual Residence in International Child Abduction Cases Under the Hague Convention*, 77 Fordham L.Rev. 3325 (2009). 57 Pages. Suggests a uniform standard to achieve the aims of the Child Abduction Convention and 6<sup>th</sup> Circuit's objective approach which reflected the convention's aims. Includes discussions on international child abductions prior to 1980, the Hague Convention's response to child abductions, the International Child Abductions Remedies Act (ICARA), methods for achieving a uniform interpretation, the beginning of American habitual residence jurisdiction, a look at what the court should consider in determining the child's habitual residence, the 3<sup>rd</sup> and 9<sup>th</sup> circuit court's interpretations, the 6<sup>th</sup> Circuit's approach which requires objective evidence, the foreign court's approaches, precedent from *Sorensen v. Sorensen* and a suggestion on which standard should be followed.
- Elisabeth M. Ward, *Utilizing Intercountry Adoption to Combat Human Rights Abuses of Children*, 17 Mich. St. J. Int'l L. 729 (2009). 27 Pages. Argues that accessibility to intercountry adoption is a basic human right and it should be viewed as such by domestic legal regimes and international law and advocates for more advanced international regulatory framework to protect children undergoing international adoption and to further promote it. Includes a discussion on the current state of the world's children, reasons for their vulnerability including the AIDS epidemic, war, genocide and other armed conflicts, international law on adoption, the UNCRC, hierarchy of forms of care, allowance for state variance, the Hague Convention, domestic regimes, waiting periods and other restrictions then criticisms of international adoption, the human rights perspective, corruption argument, intercountry adoption as a form of Western imperialism, then intercountry adoption and its role in the prevention of human rights violations, child trafficking, prostitution and pornography, children in the military, child labor and finally their proposal to the CRC.
- Christina Yang, *Redefining and Reclaiming Korean Adoptee Identity: Grassroots Internet Communities and the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption*, 16 Asian Am. L.J. 31. (2009). 49 Pages. Suggests that the Hague Convention creates a useful framework for assessing the societal controversy around intercountry adoption of Korean-born children and its ratification improves intercountry adoption by increasing equity and efficiency for Americans adopting internationally. Includes a discussion of intercountry adoption in Korea from 1950 to the present, China from 1990 to the present, how intercountry adoption is an intersection of international and domestic law, applying law and economics to adoption, choice knowledge and the Hague Convention, in a hierarchy of interests, who prevails? Korean adoptees birth culture, race and identity, the Metzenbaum Multiethnic Placement Act of 1994, language of loss, Korean adoptees and their Asian American identity, Chinese adoptees and their Asian American identity, colorblindness, how the Hague Convention's treatment of adoptees' race, ethnicity and culture is near-colorblindness before concluding with a fresh approach to the Korean Adoptees' Race, Birth Culture and Identity and how the Hague Convention can be implemented to do just that as well as the internet grassroots empowerment of Korean Adoptees and their supporters as well as some NGOs to consider.



## 2008:

- Catherine M. Bitzan, *Our Most Precious Resource: How South Korea is Poised to Change the Landscape of International Adoption*, 17 Minn. J. Int'l L. 121 (2008). 35 Pages. Analyzes South Korea's consideration of ending all international adoption and requiring the placement of children within its borders. Includes an analysis of the state of international affairs in South Korea starting with a history of international adoption, growing opposition to adoption, economic, social and political pressures on the sending countries, laws governing domestic and international adoptions leading to South Korea's increasing support of domestic adoptions and incentives to facilitate them. The article then argues that a ban on international South Korean adoption would be premature and contrary to everyone's best interests. It finds the domestic incentives short sighted and argues that all parties would benefit from South Korea joining the International Hague Convention though it does acknowledge its weaknesses. The article ultimately ends with proposals which include increasing support to Korean birth parents, advancing stronger efforts to facilitate and promote domestic adoption in South Korea and continuing international adoption until all children have a home.
- Sara Dillon, *The Missing Link: A Social Orphan Protocol to the United Nations Convention on the Rights of the Child*, 1 Hum. Rts. & Globalization L. Rev. 39 (2008). 48 Pages. Focuses on the worldwide population of social orphans and suggests adding a Social Orphan Protocol to the UN CRC. Includes a discussion on how international adoption creates social orphans, the impunity of nations and their role with social orphans and the strange role of the UN, ad hoc children's rights and the making of national adoption policy before stressing the need for an impartial view, how hidden cameras have found social orphans, how 2008 was a time of "false object lessons", state accountability and the social orphan before concluding with a draft protocol to the UNCRC.
- Mary Eschelbach Hansen, *Tradeoffs in Formulating a Consistent National Policy on Adoption*, 46 Fam. Ct. Rev. 366 (2008). 11 Pages. Suggests devoting resources to the oversight of international adoption in accordance with child protection laws under the Hague Convention while also providing care domestically for legal orphans. Includes a discussion on the interests of the child in cases of abuse and neglect and trade-offs in international adoption.
- Patricia J. Meier, *Small Commodities: How Traffickers Exploit Children and Families in Intercountry Adoption and What the United States Must do to Stop Them*, 12 J. Gender Race & Just. 185 (2008). 45 Pages. Examines past failures of the US approach to human trafficking and suggest amending the Trafficking Victim Protection Act to make it applicable to trafficking in adoption. Includes a history of intercountry adoption in the US, opportunities and incentives for child traffickers, laws pertinent to child trafficking in international adoption (federal, state and immigration), laws that combat human trafficking (international and domestic) then the analysis which focuses on trafficking for adoption being exploitive, congressional findings support an expanded decision and how TVPA fulfills international and domestic obligations.
- Trish Maskew, *The Failure of Promise: The U.S. Regulations on Intercountry Adoption Under the Hague Convention*, 60 Admin. L. Rev. 487 (2008). 28 Pages. Examines whether the U.S. regulations fulfill the objectives of the IAA and Hague Convention and whether they provide the assurances the State Department promised prospective parents and their children. Includes a discussion on the adoption process and the essential role of

foreign facilitators, essential concerns addressed by the convention and the IAA, the process of drafting the DOS regulations, the final DOS regulations and how they represent a step forward and also their flaws including the fatal one: exempting facilitators from supervision, questioning whether the regulations are preventing child trafficking, by whose measure is the compensation reasonable, and their recommendations which include correcting the exemption for foreign facilitators, focusing on inductive or coercive payments to birth families and compensation of adoption service providers.

- Johana Oreskovic, Trish Maskew, *Red Thread or Slender Reed: Deconstructing Prof. Bartholet's Mythology of International Adoption*, 14 Buff. Hum. Rts. L. Rev. 71 (2008). 52 Pages. This entry attacks Professor Bartholet's article *International Adoption: Thoughts on Human Rights Issues* which states that anti-adoption attitudes are based on misplaced romanticisms of culture. This article strongly disagrees with Professor Bartholet's piece and calls into question her claims about how many adoptable children there are, the private agency system, regulations both foreign and in the US, the Hague Convention and adoption abuses (emphasis on Cambodia). The article concludes more emphasis must be placed on understanding how the child got to the orphanage.
- Laura Matney Shapiro, *Inferring a Right to Permanent Family Care From the United Nations Convention on the Rights of a Child, The Hague Convention on Intercountry Adoption, and Selected Scientific Research*, 15 Wash & Lee J. Civil Rts. & Soc. Just. 191 (2008). 39 Pages. The article focuses on children in need of care internationally (noting there are approximately 100,000,000 street children) and posits adoption is a solution to that need for care and that these children have a right to permanent family care as stated in the Convention on the Rights of a Child and Hague Convention. Includes discussions on those conventions, arguments against international adoption and how these arguments fail to recognize children as the bearers of rights, the potential of the Hague Convention to address current problems in international adoption and concludes by suggesting that nonprofit and governmental organizations should promote policy changes in the countries that resist intercountry adoption. It also suggests creating a new protocol on the Convention of the Rights of a Child to recognize orphans and abandoned children.
- Lynn D. Wardle, *The Hague Convention on Intercountry Adoption And American Implementing Law: Implications for International Adoptions by Gay and Lesbian Couples or Partners* 18 Ind. Int'l & Comp. L. Rev. 113 (2008). 46 Pages. Examines the Hague Convention's affect on and the implications for same sex couples looking to adopt. Includes discussions on the Hague Convention and its potential significance, the significance of intercountry adoption generally, the significance of intercountry adoptions in the United States, the origins of the Hague Convention, an overview of the Hague Convention, American endorsement of the Hague Convention, an overview of the American implementing laws and regulations, the increase in controversial adoptions by gays and lesbians, concerns about abuses, deceptions, and frauds in some international adoptions by gays and lesbians, questions about how the Hague Convention and implementing American statutes and regulations will affect intercountry adoptions by gays and lesbians, potential for influencing adoptions by gays and lesbians, the impact of HCIA and IAA on substantive and procedural adoption policies and on adoption recognition parties plus questions on whether American implementing laws or regulations

require or prohibit recognition of same sex adoptions and the constitutionality of such provisions.

- Merle H. Weiner, *Codification, Cooperation and Concern for Children: The Internationalization of Family Law in the United States Over the Last Fifty Years*, 42 Fam. L.Q. 619 (2008). 58 Pages. Explores the changes in family law in the United States over the last 50 years with a focus on the internationalization of the field. Includes discussions on perspective, new statutory provisions that address international family law disputes, child custody, adoption, child support, the Hague Protection Convention, the United States and the Hague, central authorities and special commissions and their levels of trust, cooperation and institutional dynamics and federalism as a barrier.

## 2007:

- Elizabeth Bartholet, *International Adoption: Thoughts on the Human Rights Issues*, 13 Buff. Hum. Rts. L. Rev. 151 (2007). 45 Pages. Discusses how those who disagree with international adoption on human rights grounds are misguided including UNICEF and how the Hague Convention can support the human rights of the children being adopted. Includes a discussion on history and current trends of intercountry adoption, recent legal developments including domestic and international law, the interests of existing children who could be placed in homes internationally, larger community interests, adoption abuses and reform directions for the future.
- Elizabeth Bartholet, *International Adoption: The Child's Story*, 24 Ga. St U. L. Rev. 333 (2007). Suggests that if children could advocate for their human rights instead of aid organizations dedicated to doing so, they would advocate for intercountry adoption. Includes discussions on the challenge of child advocacy, international adoption, the conflicting versions of what is in the best interests of the child and the issues at the heart of international adoption which are incorrect ideas about children (namely their belonging to their community of origin), children being used to further political or organizational goals, the wrong ideas about the state (it being an ideal parent) but how the state could act as a weapon against adoption abuses. Concludes by noting that a truly child-friendly regime would recognize the benefits to intercountry adoption instead of seeking to prevent adoptions for misguided reasons.
- Kathleen JaSookBergquist, *Right to Define Family: Equality Under Immigration Law for U.S. Inter-Country Adoptees*, 22 Geo. Immigr. L.J. 1 (2007). 25 Pages. Focuses on how scholars continue to disagree that international adoption is the solution to an overabundance of children in the sending countries as well as the merits of Equality under Immigration petition. Includes discussions on the legislative history of international adoption (state, federal, international and birth countries' law) including a table of adoption criteria comparing China and Korea, the definition of "family" in family-based immigration law and the adoptees' right to petition for "natural" family.
- Lindsay K. Carlberg, *The Agreement Between the United States and Vietnam Regarding Cooperation on the Adoption of Children: A More Effective and Efficient Solution to the Implementation of the Hague Convention on Intercountry Adoption or Just Another Road to Nowhere Paved with Good Intentions?* 17 Ind. Int'l & Comp. L. Rev. 119 (2007). 43 Pages. Looks at the cost and efficiency problems with implementing the Hague Convention in poorer countries which make the Hague Convention a less promising solution than originally hoped for. Includes a brief history of international adoption, the

current state of intercountry adoption, the current process of intercountry adoption in the US, the Hague Convention: a supposed uniform approach to intercountry adoption, requirements of the Hague Convention, a look at the most important safeguards, problems with the Hague Convention, the IAA of 2000 and its passage, a summary of its provisions, the IAA's amendment to the Immigration and Nationality Act and its long road to implementation, the treaty between the US and Vietnam, the history of adoption in Vietnam, the infeasibility of implementing the Hague Convention in poorer countries, the potential impact on other countries if the US implements the IAA and an analysis of whether the treaty between the US and Vietnam is a more efficient way to fulfill the goals of the Hague Convention.

- Alexander D. Gonzalez, *The Hague Intercountry Adoption Act and its Interaction with Islamic Law: Can an Imperfect Enforcement Mechanism Generate Cause for Concern?* 10 Gonz J. Int'l L. 437 (2007). 33 Pages. Analyzes the interaction between the Hague Convention and Shari'a Law causing adoption to no longer be recognized in many Islamic countries. Includes a history on the IAA, impetus behind international recognition of intercountry adoptions, intercountry adoption conventions as adopted by the US, an Islamic Law overview of adoption, the debate between Islamic reform and conformity to Westernization, articles of the convention: conflicts with Shari'a Law, purpose scope and requirements of the convention, recognition and effects of general provisions and final clauses of adoption, a case study on how the US is yet to ratify the convention with emphasis on the Philippines as a sending country, the intercountry adoption process in the US and closing with a question on whether there should be leeway in the convention.
- Ronald V. Ludlow, *Walking the Mine Field: The Moral Issues of International Adoption*, 9 J. L. & Fam. Stud. 401 (2007). 15 Pages (Journal of Law and Family Studies). Seeks to discuss the moral issues surrounding international adoptions. Focuses on the moral considerations including protection of children as a basic moral force, moral values of children as embodied by law, international legal developments then secondary moral values including the best interests of the child and religious conflict with international adoption. Ultimately concludes that the large scale goal of caring for children is not dependent on international adoption and should be solved internally by those countries. The families adopting should also consider making contributions to orphanages etc. in the host countries.
- Jena Martin, *The Good, The Bad & The Ugly? A New Way of Looking at the Intercountry Adoption Debate*, 13 U.C. Davis J. Int'l L. & Pol'y 173 (2007). 45 Pages. Argues that a "prism of choice" must govern the international adoption debate where all sides work together to accomplish their goals. Analyzes the Hague Convention and how it fits into their aim too. Includes sections on the context of the adoption debate, the debate itself, their arguments on "the good" and "the bad" before a look at the Hague Convention and the Indian Child Welfare Act, which includes an introduction explaining why they're being compared, a comparative analysis of the axes of debate with sections on family, the Hague Convention and Family, the ICWA and Family, culture, the Hague Convention and Culture, the ICWA and Culture, rights, the Hague Convention and Rights, the ICWA and Rights then their new paradigm and a general analysis of it, the Hague Convention and the new Paradigm,

- Molly S. Marx, *Whose Best Interest Does it Really Server? A Critical Examination of Romania's Recent Self-Serving International Adoption Policies*, 21 Emory Int'l L. Rev. 373 (2007). 47 Pages. Examines Romania's adoption ban and analyzes how they are depriving thousands of needy children of loving families. Includes a history of international adoption, arguments for and against international adoption, the situation in Romania including a history of adoption there as well as their current international adoption laws which focuses on their cultural practice of abandonment, the impact of E.U. membership on their laws, why the laws fail to provide for the children of Romania, and the media's negative impact on these laws. Next, the article examines international law in intercountry adoptions including the UN and their Declaration of Rights of a Child and the Convention on the Rights of a Child, the Hague Convention and the enforcement mechanisms of them and how the child's best interests are supposed to be paramount. This all leads up to Romania's violation of international law and its conclusion that the international community should use their powers to pressure Romania into repealing their laws banning intercountry adoptions.
- Laura McKinney, *International Adoption and the Hague Convention: Does Implementation of the Convention Protect the Best Interests of the Child?* 6 Whittier J. Child & Fam. Advoc. 361 (2007). 49 Pages. The article looks at dwindling numbers of adoptions after the Hague Convention and CRC (in particular from Guatemala) and whether international adoption is a valid solution for the world's parentless children. Includes a history of international adoption, the impact of the CRC and Hague Convention on the adoption debate, questions on whether the Hague Convention is effective and a case study of Guatemala. The article concludes by finding that individual countries have too much power in being able to manipulate the convention to their own ends leading to them shutting down international adoption. The article recognizes the need for international adoption and its ability to provide a better life.
- Kate O'Keeffe, *The Intercountry Adoption Act of 2000: The United States' Ratification of the Hague Convention on the Protection of Children, and its Meager Effect on International Adoption* 40 Vand. J. Transnat'L. 1611 (2007). 34 Pages. Looks at the United States' ratification of the IAA and how because it was poorly written children have needlessly suffered overseas. Includes a discussion on the role of national disaster and hardship in international adoption, the harmful results of the high demand for intercountry adoption, regulation of intercountry adoption (specifically, the Hague Convention, IAA and the US' attempt to implement them), then a look at the steps the US took including State Department regulations, the effects on the IAA once the House ratified it and closes with the author's solutions.
- Veronica S. Root, *Angelina and Madonna: Why all the Fuss? An Exploration of the Rights of the Child and Intercountry Adoption Within African Nations*, 8 Chi. J. Int'l L. 323 (2007). 33 Pages. Looks at the history of intercountry adoption in Africa and whether it's in the best interests of the child. Includes a discussion on circumstances leading to present-day Africa, colonialism in Africa, effects of World Wars I and II, African Independence, effects of these changes on intercountry adoption, the International Convention on Rights and Welfare of the Child, Hague Convention (this portion also has a discussion on the US's involvement with the Hague Convention and statistics on intercountry adoption in the US), the African Charter on the Rights and Welfare of the Child, the child's country of origin: a critical difference between the

adoptions by Angelina Jolie and Madonna, a South African case *Minister for Welfare and Population Development v. Fitzpatrick, Fitzpatrick* distinguished, reconciliation of *Fitzpatrick* with the African Charter, the potential problems of allowing intercountry adoption, ensuring that the rights of the birth parents are upheld, implications of trans-racial adoption, implications of gender preferences, concerns regarding child trafficking, enforcement, defining the “best interests of the child”, disallowing intercountry adoption between states without formal agreements, determining of why the child is in need of adoption, establishing standardized evaluation criteria of adoptive parents and a conclusion that a charter on the rights of the family should be presented by the OAU.

- David M. Smolin, *Child Laundering as Exploitation: Applying Anti-Trafficking Norms to Intercountry Adoption Under the Coming Hague Regime*, 32 Vt. L. Rev. 1 (2007). 49 Pages. While the article supports the Hague Convention, it feels that if a child is brought to a loving family by illegal means, it’s still a form of exploitation. The article urges changes to the trafficking laws to prevent such outcomes. Includes a discussion on adoption and the exploitation of the birth family, adoption as child exploitation with a case study of the Masha Allen case, a look at kidnapped, stolen and purchased children as examples of exploited children and closing with suggestions on how to prevent such situations.
- David M. Smolin, *Intercountry Adoption and Poverty: A Human Rights Analysis*, 36 Cap U.L. L. Rev. 413. (2007) 38 Pages. Asks the so called important question of “was the adoption really necessary?” and what could have instead been done to keep the family together. How much money was spent that instead could have helped out the family etc. Includes a discussion on the prioritizing interventions for children who cannot remain with their parents, parental rights, family preservation and choice of interventions, a look at domestic adoption, the parental rights doctrine and the state obligation of reasonable efforts, intercountry adoption, parental rights and family preservation, overcoming fundamental objections to the aid rule, overcoming practical objections to the aid rule, the aid rule in context of abandonment, funding the aid rule, the aid rule in context of wealthier sending countries and relative poverty, institutional concerns, corruption and the aid rule: what is the relationship between family welfare and intercountry adoption systems and concludes with a discussion on intercountry adoption and human dignity.

## 2006:

- Anjanette Hamilton, *Privatizing International Humanitarian Treaty Implementation: A Critical Analysis of State Department Regulations Implementing the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*, 58 Admin L. Rev. 1053 (2006). 25 Pages. Argues that the State Departments standards go against the IAA and Hague Convention as they do not set clear standards for accreditation and feature an over-extensive delegation of central authority. Includes a history of intercountry adoption in the US, the Hague Convention, the IAA of 2000, an overview of regulations, how accreditation through a substantial compliance model contravenes the IAA and Hague Convention, accrediting entities as rulemakers, assigning weights and measures to standards, accrediting entities as rulemakers, assigning weights and measures to standards, determining adverse actions and penalties, developing agreements to retain communication and accountability with the department then their recommendations.

- Mary Eschelbach Hansen, *The Regulations of Intercountry Adoption*, 45 Brandeis L.J. 105 (2006). 23 Pages. Looks at the implementation of the Hague Convention in the US and how the regulations are still problematic as only substantial, not strict compliance is required and how the US encourages cooperation between accreditors of adoption providers. Includes discussions on the economic rationale for the regulation of adoption services, the public good aspect, the imperfect information aspect, the history of the international regulation of international adoption, the involvement of the Hague, goals of the convention, the history of the US regulation of intercountry adoption services, the process of designing a regulator, specifics of the regulation, accreditation vs. licensure, substantial compliance, overlapping jurisdictions and competition between accreditors and effective regulation of intercountry adoption.
- Solangel Maldonado, *Discouraging Racial Preferences in Adoption*, 39 U.C. Davis L. Rev. 1415 (2006). 69 Pages. The article speaks to the large number of unadopted African-American babies in the US who go unadopted as white Americans state there are no healthy American babies to adopt and adopt from overseas due to racism. Contains discussions on racial hierarchy, debunks the “myths” about adoption including no healthy babies in the US, international adoptions being faster, cheaper and easier, safer and more humanitarian, discusses the barriers to adoptions of African-American children including legal barriers, concerns about society’s racism and implicit preferences then seeks to discourage preferences for non-African American children. The article concludes by stating the law has a duty to discourage parents from basing decisions to adopt on racial preferences and support multiracial families.
- Kathleen L. Manley, *Birth Parents: The Forgotten Members of the International Adoption Triad*, 35 Cap. U. L. Rev. 627 (2006). 39 Pages (Capital University). Focuses on how recently developments in international adoption are not doing enough to protect the birth parents and their rights. Advocates for greater enforcement of the promises of the Hague Convention including modifying it to include penalties for violations. Includes a history, summaries of problems in international adoption, challenges faced by birth parents, current law (US and foreign) with emphasis on the Intercountry Adoption Act of 2000 and Intercountry Adoption Reform Act of 2003, pending law and failures to protect the birth parent with references to the black market and misinformed/uninformed birth parents. Concludes that the US is failing foreign birth parents and its own citizens by failing to ratify the Hague Convention and that the Hague Convention does not go far enough to protect parents and must be modified (emphasis on making sure the adopted child is an “orphan child”).
- Carrie A. Rankin, *Romania’s New Child Protection Legislation: Change in Intercountry Adoption Law Results in a Human Rights Violation*, 34 Syracuse J. Int’l. L. & Com. 259 (2006). 30 Pages. Focuses on Laws 272 and 273 which were adopted by the Romanian Parliament which severely restrict intercountry adoption and the country’s challenges in protecting the rights of orphans because of it. Includes discussions on Romania’s orphaned and abandoned children, what led to their 2001 moratorium on international adoptions, effects on the international community, their relationship in the E.U. the drafting process of the new law, the final law, their new laws compared to existing legislation specifically the UNCRC and Hague Convention, the effects of prior child protection reforms including decentralization of institutions, maternal assistance/foster care, reintegration into the natural family and domestic adoption before a discussion on

human rights violation claims including development studies, adolescents and the Helsinki Commission calling their new laws “an undeniable human rights violation.

- Elisabeth Ryan, *For the Best Interests of the Children: Why the Hague Convention on Intercountry Adoption Needs to Go Farther: As Evidenced by Implementation in Romania and the United States*, 29 B.C. Int'l & Comp. L. Rev. 353 (2006). 37 Pages. Asserts the Hague Convention must be modified and vague language corrected to encourage countries struggling with its mandates to participate. Includes discussion on the competing viewpoints on the merits of intercountry adoption, the history of the Hague Convention, history of child welfare in Romania and that country's role in international adoption, the history of adoption in the US, major aspects of the Hague Convention, Romania's failed efforts to comply with the Hague Convention and EU membership requirements, Hague Convention implementation in the US and problems with the Hague Convention as seen by Romania and evidenced by the US. The article concludes by suggesting a regulated system of international adoption and clarification of vague language in other countries like the US.
- Katherine Sohr, *Difficulties Implementing the Hague Convention on the Protection of Children and Co-Operation 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). 33 Pages. Looks at the current adoption system in Guatemala (the Notarial system) and proposed reforms under Ortega's Law. The article concludes while Ortega's Law is a step forward, it ultimately fails to establish methods for success reforms that are in the best interests of the child. Includes discussions on the Guatemalan Adoption System, the Proposed Ortega's Law, principles of the Hague Convention and its ratification by the US (using the US as an example of ratification of a receiving country and Guatemala as ratification by a sending country) and proposed Guatemalan changes and their effect on the adoption system.
- Jenny L. Womack, *International Adoption Basics*, 69 Tex. B.J. 705 (2006). 3 Pages (Texas Bar Journal). A FAQ covering the most common questions about international adoption generally. Questions are very basic including “can I adopt from any country I want?” and “How long does it take?”.

## 2005:

- D. Marianne Blair, *Safeguarding the Interests of Children in Intercountry Adoption: Assessing the Gatekeepers*, 34 Cap. U.L. Rev. 349 (2005). 53 Pages. Focuses on the need for international and domestic regulations to be strengthened to lessen inadequacies that have harmed adopted children specifically referring to the need to curb child trafficking and displacement of domestic adoption. Includes discussions on trafficking, especially in Cambodia, intercountry adoption displacing domestic adoption, regulating at the domestic and international levels and the primacy of domestic adoption.
- Gina M. Croft, *The Ill Effects of a United States Ratification of the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption* 33 Ga. J. Int'l & Comp. L. 621 (2005). 32 Pages. Looks at problems in intercountry adoption and how past attempts to reform it have failed. The article also suggests solutions to the adoption of the Hague Convention in the US as the Hague Convention does not adequately address these problems. Includes a background on intercountry adoption, the current status of US law, development of the CRC, creation of a central authority, the



Intercountry Adoption Act of 2000, the difficulties in merging the Hague Convention into US law including flaws in the Hague Convention, why the act may be problematic and how the federal government will justify the constitutionality of the act using the commerce clause, treaty power, the anti-commandeering principle and the 10<sup>th</sup> Amendment then discussions on the viability of the Intercountry Adoption Act, the future of the Hague Convention in the US, economic consequences of Hague Convention Implementation, impact of the Hague Convention implementation on the privacy of US citizens, international consequences of US implementation of the Hague Convention and possible solutions to the convention and ICC at the international level and in the US.

- John R. Crook, *United States-Vietnam Agreement on Adoption*, 99 Am. J. Int'l L. 894 (2005). 3 Pages. Reviews an executive agreement between the US and Vietnam which set the terms on cooperation for adoption and ended a moratorium on the adoption of Vietnamese children.
- Caeli Elizabeth Kimball, *Barriers to the Successful Implementation of the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption*, 33 Denv. J. Int'l L. & Pol'y 561 (2005). 30 Pages. Uses the background of the 2005 tsunami to look at flaws in the Hague Convention and shows how there's little benefit for sending countries who ratify it. Includes discussions on interest in intercountry adoption being at an all time high, how overpopulation and domestic family policies lead orphans and unwanted children to be internationally adopted (with an emphasis on China and Korea), a look at corrupt adoption practices, child trafficking and red tape created urgency for uniformity of intercountry adoption regulations and practices, efforts to achieve unity through the CRC and the Hague Convention but how the latter fails to address important issues regarding compliance, the US enacting the IAA of 2000, US adoption laws prior to the IAA, the IAA of 2000, how concerns over financial, licensing and administrative operations issues have delayed adoption of regulations and ratification of the Hague Convention, how ratification of primary sending countries is threatened by cultural opposition and economic burdens as well as social stigmas making it unlikely for China and Korea to ratify the convention as well as their domestic policies interfering with compliance and their underlying beliefs that adoption is disgraceful making them wary of further encouraging adoption and the burden of compliance being a last reason not to ratify the treaty.
- Vicky Ku, *Intercountry Adoption: Instituting Educational Programs in the Adoption Process to Facilitate Awareness of Cultural Identity Issues*, 43 Fam. Ct. Rev. 511 (2005). 23 Pages. Looks at the concept of creating educational programs which will educate prospective parents on the intercountry adoption process and on the challenges that transracial families face. Includes an overview of international adoption, a discussion on the Hague Convention, adoption statistics and trends for China, a brief explanation of the intercountry adoption process from contacting an agency, to the home study process, continuing the adoption process in China and finalizing the adoption process in the US, then a look at the psychological aspects of adoption including a discussion of what transracial adoption is, the effects of transracial adoptions including the loss of cultural identity, how educational programs can be used to foster the cultural identity of adopted children, what the educational programs should consist of (including the P.E.A.C.E. Program), a way that the programs will differ from divorce educational programs when to implement them and finally criticisms of the programs.

- Lynn D. Wardle, *Parentless: Adoption Problems, Paradigms, Policies and Parameters*, 4 Whittier J. Child & Fam. Advoc. 323 (2005). 43 Pages. Looks at the different ways people are parentless in the world which they see as a cause of global and domestic concern. Includes a definition of and types of parentless, scope of parentless which includes global involuntary parentless and social-choice parentless in the US then shows how international adoption works as a progressive partial solution to global parentlessness by providing a definition, history and purpose of international adoption, the value of international adoption, how alternative remedies are less beneficial to parentless children than adoption, the successes and failures of international adoption which includes the scope of international adoption today, the failures of international adoption to meet global needs, challenges to international adoption today (concerns about baby buying, objections to imperialism and loss of cultural assets) and responsibilities of the legal community for the plight of the parentless, then an outline of the case for international adoption in international law before moving onto the conflicting root paradigms which affect parentlessness in the US including the conflict between autonomy and responsible parenting, same-sex couple adoption and conflicting paradigms, changing the core paradigm of responsible parenting and perpetuating the paradigm of responsible parenting before concluding that parentless can be ameliorated by promoting and preserving adoption.

#### 2004:

- Susan Ayers, *The Hand that Rocks the Cradle: How Children's Literature Reflects Motherhood, Identity and International Adoption*, 10 Tex. Wesleyan L. Rev. 315 (2004). 35 Pages. Examines how changes in international adoption are reflected in children's books as well as the role adoptive parents play in these books. Includes discussions on the kinship narrative, the as-if narrative (also known as the patriarchal narrative), the bad mother narrative, the failure narrative and the roles of single parents and same sex couples in children's books. Concludes by suggesting other narratives which could be explored in children's books such as cultures where it is a privilege to be adopted.
- Jennifer Banks, *The US Market for Guatemalan Children: Suggestions for Slowing the Rapid Growth of Illegal Practices Plaguing International Child Adoptions*, 28 Suffolk Transnat'l L. Rev. 31 (2004). 27 Pages. The article analyzes how Guatemala's adoption laws allow for child trafficking which can be abated by the passing of domestic policy reforms and entering into an agreement with the US. Includes a history of international adoption, statistics on adoptions from Guatemala to the United States, domestic laws and procedures in the two, multilateral treaties between the two, and proposals for new domestic laws and procedures and bilateral cooperation.
- Kathleen Ja SookBerquist, *International Asian Adoption: In the Best Interests of the Child?*, 10 Tex. Wesleyan L. Rev. 343 (2004). 8 Pages. A discussion of whether international Asian adoption benefits the child. Includes a history of post-WWII adoptions from Asia with a focus on Korea and China with parallels to the Indian Child Welfare Act. Concludes that current adoption practices place the interest of the receiving countries over the interests of the children and suggests receiving countries should promote the social and economic development of developing countries so children can remain in their native state.

- Jacqueline Bhabha, *Moving Babies: Globalization, Markets and Transnational Adoption*, 28-SUM Fletcher F. World Aff. 181 (2004). 14 Pages. Looks at the growing world of baby sales and how children have increasingly become commodities and how this interacts with international adoption. Includes discussions on the commonalities of trafficking and the baby market, the dilemmas of transnational adoption, the baby market, challenges to the “as-if” model of a family, the different international law approaches to transnational adoption and the international approaches to the adult and baby markets.
- Anna Mary Coburn, *International Family Law*, 38 Int’l Law 493 (2004). 6 Pages. Examines the status of the Hague Convention and how it relates to international child support enforcement and the development of new worldwide child support conventions, U.S. bilateral child support arrangements, the Meeting of the Americas on International Child Support and International Child Abduction.
- Susan Nauss Exon, *The Best Interests of the Child: Going Beyond Legalise to Emphasize With a Client’s Leap of Faith*, 24 J. Juv. L. 1 (2004). 44 Pages. Examines the standards and practices of “the best interests of the child” in international adoptions. Includes discussions on the best interest of the child in the US, international standards for the best interests of the child (emphasis on Belarus, China, Mexico and Russia), then personal revelations about international adoption which include generalizations about international adoption, a case study featuring a New York couple adopting from Romania, then another of a couple doing an private, open adoption of a special needs child in Belarus and a final case study of a couple doing an adoption from Mexico plus a section showing the value that case studies offer to the international adoption process.
- Madelyn Freundlich, *Transracial & Transcultural Adoptions: A Look at Ethical Issues*, 27 FALL Fam. Advoc. 40 (2004). 6 Pages. Looks at the growing ethical issues that arise during international adoptions. Includes discussions on domestic adoptions, who the client is, the dangers of dual representation, post-adoption needs and international adoption.
- Amy Grillo Kales, *The Intercountry Adoption Act of 2000: Are its Laudable Goals Worth its Potential Impact on Small Adoption Agencies, Independent Intercountry Adoptions, and Ethical Independent Adoption Professionals?* 36 Geo. Wash. Int'l L. Rev. 477 (2004). 21 Pages. Questions whether the implementation of the IAA may cause problems for small adoption agencies, parents pursuing independent adoptions and for adoption professionals assisting in independent adoptions. Includes discussions on the rise of intercountry adoptions as an alternative to domestic adoptions, independent adoptions and their relationship to intercountry adoptions, problems precipitating the Hague Convention (lack of uniformity, abuses such as fraud, black-market baby trades and coerced consent), goals of the Hague Convention and IAA, the central authority under the Hague Convention and IAA, the accreditation system under them then an analysis including discussions on IAA’s impact on small adoption agencies and international adoption and suggestions for improvement.
- Jini L. Roby, *Understanding Sending Country’s Traditions and Policies in International Adoptions: Avoiding Legal and Cultural Pitfalls*, 6 J. L. & Fam. Stud. 303 (2004). 22 Pages. Suggests it’s culturally important to acknowledge the sending countries traditions and policies to have a mutually respectful and dignified adoption process and also suggests adoption agencies are blocking this process. Includes discussions on interstate adoption in the US and the Indian Child Welfare Act to show these notions are “not so

foreign”, forces shaping sending countries adoption practices, cultural traditions regarding parent-child relationships, traditions regarding a full family membership, religious beliefs, past history between sending and receiving countries, national child welfare and family policies, poverty and political crises in sending countries and international conventions including the CRC and Hague Convention,

- Melody B. Royal, *Adoptions in Texas: A Brief Overview*, 42-DEC Hous. Law. 12 (2004). 7 Pages. (Houston Lawyer). Provides a brief overview of adoptions in Texas including the types of domestic and international adoptions and the pros and cons of each as well as the documentation required.
- Sarah Sargent, *Suspended Animation: The Implementation of the Hague Convention on International Adoption in the United States and Romania*, 10 Tex. Wesleyan. 351 (2004). 35 Pages. Studies the implementation of the Hague Convention and how failures to implement it led to the selling of babies. Provides a history of the Hague Convention including its key provisions, general problems in intercountry adoption with a focus on the business aspect of it, issues in the implementation of the Hague Convention, intercountry adoption in Romania including its adoption moratorium and admission into the EU, the reaction to that moratorium and issues in the United States involving intercountry adoption including financial concerns, development of and proposed regulations. The article concludes by stating that unless the US is willing to abide by both the spirit and letter of the convention abuses will continue. The issues in Romania serve as an example of the difficulties in implementation.
- Malinda L. Seymore, *International Adoption & International Comity: When is Adoption “Repugnant”?* 10 Tex. Wesleyan L. Rev. 381 (2004). 31 Pages. The article questions whether judges have the power to recognize international adoption decrees and explores the notion of comity under which judges traditionally had that power. Includes a discussion on international comity, comity in relation to “status” and international comity and international adoption. The section on when an adoption is “repugnant” focuses on adoptions that are in violation of state law or policy, there is a discussion on single adoption and gay/lesbian adoption. The article concludes by advocating for a child centered approach in recognition of the decrees of foreign adoption.
- NotesongSrisopark Thompson, *Hague is Enough? A Call for More Protective, Uniform law Guiding International Adoptions*, 22 Wis. Int’l. L.J. 441 (2004). 25 Pages. The article recognizes that international adoption is one of the best ways to end homelessness of children and how the Hague Convention has gone a long way to promote recognition of international adoptions. However, the article finds that the convention needs clarification to become a globally recognized law. Includes an introduction to international adoption, the current state of affairs in “receiving” countries, a case study on Cambodian children, the politics of international adoption, arguments against it, UNICEF’s theory that adoptions should be a “last resort” option only and the role of international law in adoption and how the Hague Convention interweaves with that role. The article concludes the Hague Convention is too vague and is not strong enough to adequately protect children and promote adoption and suggests including enforcement guidelines and provide for sanctions in the event of violations.

**2003:**

- Sara Dillon, *Making Legal Regimes for Intercountry Adoption Reflect Human Rights Principles: Transforming the United Nations Convention on the Rights of a Child with the Hague Convention on Intercountry Adoption*, 21 B.U. Int'l L.J. 179 (2003). 75 Pages. Discusses the legal confusion between the UNCRC and the Hague Convention and how neither instrument states whether a country can validly decline intercountry adoption and also hopes that new remedies for international and domestic adoption will be created. Includes discussions on how to articulate a child's right to a family of their own, identifying acceptable and unacceptable forms of care, the Hague Convention vs. the UNCRC and their basic legal question, their relationships to each other, intercountry adoption being dismissed as "market", group rights emphasis and jurisdictional questions, how concepts influence national legal regimes, orphanage worst case scenarios, complex social, economic and cultural pressures, the physiological basis for a human rights approach to intercountry adoption, best interests of the child, child psychology and international human rights and several case studies on barriers to adoption advocacy using Cambodia, Vietnam, Romania and Guatemala. The article concludes with suggestions to the US.
- Alison Fleisher, *The Decline of Domestic Adoption: Intercountry Adoption as a Response to Local Adoption Laws and Proposals to Foster Domestic Adoption*, 13 S. Cal. Rev. L. & Women's Stud. 171 (2003). 31 Pages. Examines the motivations of people who choose to adopt internationally after being unable to do so domestically. Includes discussions on the rights of women, the dramatic increase in international adoption, citizen orphan children of the US, a history of adoption, both domestic and international including the statistics and regulations over the years, recent domestic regulations and how they encourage only the adoption of "a select few", closed versus open adoptions and the move towards open adoptions, the rights of birth parents including consent and the right to revoke, no uniform or national paternal registries, federal regulation regarding international adoption, I.N.S. Adoption and Immigration Regulations, the Hague Convention on Private International Law, intercountry adoption as a response to US law which allows people to avoid America's stringent adoptive parents criteria, avoiding rights of birth mothers, avoiding rights of biological Fathers, avoiding disclosure requirements and their solution which is to encourage adoption within the US through uniform state adoption laws, less stringent criteria for adoptive parents, restrictions on open adoptions, limiting the ability of biological parents to reclaim children they relinquish for adoption, recognizing privacy rights of birth mothers, national paternal registries and recognizing the rights of adoptive parents.
- Donovan M. Steltzner, *Intercountry Adoption: Toward a Regime That Recognizes the "Best Interests" of Adoptive Parents*, 35 Case W. Res. J. Int'l L. 113 (2003). 44 Pages. Focuses on the lack of "consumer protection" of adoptive parents with specific references to adoptions from Russia and Romania. The article finds the fault lies with agencies who consider the child the sole client of the adoption and not a co-client with the parents whose needs also much be protected. Includes discussions on the myth of a "child shortage", steps to avoid delay and discrimination, problems with institutionalized children and their risks in adoption, consumer remedies for adoption placement failure, disruption and dissolution of adoptions, the Tort of wrongful adoption (both in reference to domestic and foreign adoptions), the UN Declarations on the Rights of a Child, the Hague Convention and the Intercountry Adoption Act of 2000 and its weaknesses. The

article concludes there must be a recognition of the parent's rights in intercountry adoption which should allow them full disclosure and investigation of the child's medical history and condition which must be accomplished by removing the agency's conflict of interest and increasing the amount of foreign aid targeted at institutionalized children as well as limiting the availability of the adoption tax credit, changing statutes and labeling all intercountry adoptions as "special needs".

- Barbara Stark, *Baby Girls from China in New York: A Thrice Told Tale*, 2003 Utah L. Rev. 1231 (2003). 87 Pages. Examines the forces that drive adoptions from the world's most populous country to the US and the laws that make it possible. Broken into four sections on State Narratives, Birth-Parent Narratives, Adoptive-Parent Narratives and the Child's Narratives. Includes discussions on state narratives (the Chinese population crisis, women's equality and the one-child policy), birth-parent narratives, the Laws (Chinese policy on foreign adoptions, international human rights law), disruption, the adoptive parents' narratives including a discussion on why they chose China, an examination of how they raise their children, the laws including the Hague Convention, Chinese Adoption Law, new laws, medical and social histories, U.S. adoption laws, safe haven laws, retroactive disclosure laws, adoptee narratives, and how both nature and nurture can be problematic and the struggles they go through finding their identities and the laws.
- Sara R. Wallace, *International Adoption: The Most Logical Solution to the Disparity Between the Numbers of Orphaned and Abandoned Children in Some Countries and Families and Individuals Wishing to Adopt in Others?* 20 Ariz. J. Int'l & Comp. L. 689 (2003). 42 Pages (Arizona Journal of International and Comparative Law). Identifies the number of abandoned and orphaned children in the east and the number of people willing to adopt in the west but states that adoption these children is only an immediate solution and not a long-term solution to the problem of orphaned and abandoned children in their native countries. Includes a history of international adoption, the current state of international adoption, a legal overview with a look at the Universal Declaration of Human Rights and Rights of a Child, Convention on the Protection of Children and the Hague Convention. Then looks at the effect of these international declarations, the debate surrounding international adoption with arguments in favor of and against international adoption, recent developments and China's, South Korea's and Romania's influence and the potential effects of the Hague Convention. Ultimately concludes by hoping the attention given to the Hague Convention will decrease the number of abandoned and orphaned children.
- Kelly M. Wittner, *Curbing Child-Trafficking in Intercountry Adoptions: Will International Treaties and Adoption Moratoriums Accomplish the Job in Cambodia?* 12 Pac. Rim L. & Pol'y J. 595 (2003). 41 Pages. Argues that the current U.S. and Cambodian initiatives to end fraudulent adoptions are ineffective due to improper implementation of the CRC. Includes discussions on motivations for intercountry adoptions and the rise in the black-market trade of infants, an increased demand for foreign children by American families, baby-trafficking occurring worldwide, factors contributing to baby-trafficking in Cambodia which include their legacy after two decades of war, their cycle of poverty fueling the baby trade, corruption, unscrupulous adoption brokers, Cambodia's domestic regulation of intercountry adoption, how their requirements were minimal before the CRC, how it's changed since implementation of it,

how it's an ineffective domestic policy because it lacks enforcement provisions, the Hague Convention and its requirements, how it's infeasible for development countries to implement, U.S. domestic response and initiatives to baby-trafficking, their implementation of the Hague Convention, the INS's moratorium on Cambodian adoptions, proposals to reform intercountry adoption of Cambodian children, creation of national computerized registry of adoptable and adopted children in Cambodia and the "adjudicate orphan status first" pilot program.

## 2002:

- Mary Hora, *A Standard of Service That All Families Deserve: The Transformation of Intercountry Adoption Between the United States and The Russian Federation*, 40 Brandeis L.J. 1017 (2002). 21 Pages. Looks at the tort of wrongful adoption with specific references to adoptions from Russia. Gives historical background to Russian adoptions, the impact wrongful adoption claims are having on international adoption with a discussion on the contract claims aspect of it (interpretation, reliance) and how images of Russia in the media and public perceptions of Russia are hurting adoption from there. Concludes that a combination of victimization on the part of Americans and nationalism on the part of the Russians are hurting adoptions and suggests greater regulation of the adoption process.
- Kay Johnson, *Politics of International and Domestic Adoption in China*, 36 Law & Soc'y Rev. 379 (2002). 15 Pages. Analyzes why the Chinese government embraced international adoption in the 1990's and compares them to South Korea and how the relationships between international and domestic adoptions in sending countries led to the CRC and Hague Convention to protect children's interests. Contains discussions of research findings on contemporary adoptions, the traditional basis of contemporary adoptions (Minglingzi) gender and adoption, "as if by birth", the policy context of international adoption, population control and adoption policy, revisions in adoption law and prospects for change.
- Laura A. Nicholson, *Adoption Medicine and the Internationally Adopted Child*, 28 Am. J.L. & Med. 473 (2002). 25 Pages. Looks at the common medical ailments of adoption children starting with a case study on a Romanian child. Includes discussions on international adoption in general and why it's useful and the international adoption process before moving into the medical parts of adoption including the health of the internationally adopted child especially those from former Soviet Russia, Romania and China, general medical care for adopted children, the adoption medical specialty, adoption dissolution and legislation and governmental responsibility at the federal and state levels. It concludes by highlighting the growing field of adoption medical specialists and hopes the field will continue to grow especially to try and prevent wrongful adoptions.
- Barbara Yngvesson, *Placing the "Gift Child" in Transnational Adoptions*, 36 Law & Soc'y Rev. 227 (2002). 26 Pages. Focuses on the discourses of freedom and exclusive belonging that are part of the structure of international adoption and the state practices for regulating of the industry. Includes discusses on the complex truths of the industry, commodity thinking, the price of adoption and how the product is "priceless", the production of adoptability, identity and enchainment, a case study involving a kidnapped

child from Colombia, international and national attachments and doubling and the politics of the “in-between”.

**2001:**

- Bridget M. Hubing, *International Child Adoptions: Who Should Decide What is in the Best Interests of the Family?*, 15 Notre Dame J.L. Ethics & Pub. Pol’y 655 (2001). 48 Pages. Calls international adoption the best solution to the world’s problems of children without families. Discusses who should decide what is in the best interest of the family with an emphasis on current regulations in the US. Concludes ultimately that international bodies need to regulate international child adoptions. Includes discussions on children who need families, families who need children and the joint solution of international adoption, a history of international adoptions, arguments for and against international adoption and discussion on single-parent, interracial and same-sex couple adoptions followed by a discussion on the International Declaration of Human Rights, Declaration of the Rights of a Child, Convention of the Rights of a Child, Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption as well as state ratification of these, and similar regional conventions and the American convention on human rights, relevant US federal and state laws concerning immigration. Concludes that instead of someone wanting to adopt having to satisfy the requirements of the foreign country, the INS and the state they live in, they should merely have to satisfy a supervisory body set up by the international community.
- Ryiah Lilith, *Buying a Wife but Saving a Child: A Deconstruction of Popular Rhetoric and Legal Analysis of Mail-Order Brides and Intercountry Adoptions*, 9 Buff. Women's L. J. 225 (2001). 32 Pages. Explores the parallels between intercountry adoptions and mail order brides focusing on American acquisition of Chinese girls and Filipina women. Includes a discussion on trafficking focusing on the push factors of poverty and patriarchy, U.S. Military involvement, commodification of women and girls, deception or fraud in the transaction, abuse of women and girls by their American families, disaggregating mail-order brides and prostitutes and ignoring the costs of saving a child.
- Jonathan G. Stein, *A Call to End Baby Selling: Why the Hague Convention on International Adoption Should be Modified to Include the Consent Provisions of the Uniform Adoption Act*, 24 T. Jefferson L. Rev. 39 (2001). 46 Pages. Argues that the Hague Conventions consent requirements are not strong enough to end international baby selling. Includes a discussion on adoption terminology, baby selling terminology, a history of adoption starting with the Old Testament then early American history, how baby selling increased in the US, initial domestic solutions to baby selling, then a discussion on the Uniform Adoption Act including a brief history, UAA Requirements, case studies on South Carolina, New Jersey, Vermont as well as baby selling in other states, plus baby selling in international countries, why couples choose international adoptions, why international baby selling increases and Romania, Guatemala, Russia, Hungary and China as examples of international baby selling, then international responses including the 1956 UN Supplementary Convention on the Abolition of Slavery, the 1986 UN Declaration on Social and Legal Principles Relating to the Welfare of



Children, the 1989 UN CRC and the Hague Convention. Special focus is put on the Hague Convention including a discussion on its background, consent requirements, shortcomings of the treaty then closing with their conclusion that Hague signatories should adopt the UAA's consent requirements for all adoptions to end baby selling.

**2000:**

- Rachel Bouman, *China's Attempt to Promote Domestic Adoptions: How Does China's One-Child Policy Affect Revisions in China's Adoption Law and Measure up to the Hague Convention?* 13 *Transnat'l Law*. 91 (2000). 60 Pages. Addresses China's one child policy and how it conforms to the Hague Convention and how because the OCP often fails Chinese orphanages are filled with children. Includes discussions on the evolution and implementation of the OCP, progression of international adoptions in the US (specifically between China and the US), international adoption laws, the Hague Convention, requirements for intercountry adoptions, central authorities and accredited bureaus, procedural requirements in intercountry adoptions, recognition and effects of adoptions before moving into China's adoption law and addressing its needs and requirements as well as US adoption law (federal and state). Next, the discussion of whether China can comply with both the Hague Convention and its laws, especially the "best interests of the child" part of the Hague Convention before concluding vast changes need to be made to correct the problems in China.
- Howard M. Cooper, *Enforcement of Contractual Release and Hold Harmless Language in "Wrongful Adoption" Cases*, 44-Jun *B.B.J.* 14 (2000). 8 Pages (Boston Bar Journal). Addresses the cause of action of wrongful adoption and how agencies can protect themselves against litigation. Looks at a Massachusetts Supreme Court decision which recognized wrongful adoption as a cause of action in Tort. Examines types of releases parents may have to sign to go forward in their adoptions which Massachusetts courts found do not violate public policy. Concludes with a warning that agencies may be at risk of not being able to fulfil their mission in the face of this litigations.
- Nicole Bartner Graff, *Intercountry Adoption and the Convention on the Rights of the Child: Can the Free Market Be Controlled?*, 27 *Syracuse J. Int'l. L. & Com.* 405 (2000). 24 Pages. Looks at the plight of children and the nations who are targets of international adoption and the international legal instruments that address the situation. Includes discussions on the baby boom, the demand, the commodities, human rights law, the UN CRC, the "teeth" of these laws, the Hague Convention, and then there suggestions different "teeth" and an analysis of whether they could work plus a discussion on what happens when international law fails.
- Curtis Kleem, *Airplane Trips and Organ Banks: Random Events and the Hague Convention on Intercountry Adoptions*, 28 *Ga. J. Int'l & Comp L.* 319 (2000). 34 Pages (Georgia Journal of International and Comparative Law). The journal examines changes in China in the late 1990's which led to a decrease in the number of adoptions from there and the role the Hague Convention played in the debate. Includes an overview of Chinese international adoptions including requirements and procedures for adopting Chinese children and changes in Chinese law, the pressures surrounding international adoption including it being seen as a form of new imperialism and as an admission of social failure as well as its companion practices and the Hague Convention and an analysis of it in relation to the aforementioned criticisms. The article concludes by

finding the US should ratify the Hague Convention, that international adoption professionals should perform in a way which encourages adoptions and the Hague Convention should be reviewed by the international community which could prolong its usefulness.

- Gabriel Marquez, *Transnational Adoption: The Creation and Ill Effects of an International Black Market Baby Trade*, 21 J. Juv. L. 25 (2000). 16 Pages (Journal of Juvenile Law). Discusses the rise in the international child black market and those involved in it. Contains a discussion on the demand for adoption in the US, present adoption requirements and the birth parent's rights then identifies factors which lead to the black market including: economic necessity fueling corruption in sending countries, abuse and neglect in international orphanages (Russia and China are specifically mentioned) and a lack of regulatory measures in independent adoption agencies. This leads into effects which include: price inflation in adoption cost, fraudulent adoptions, theft of children and a discussion of medical conditions including health and psychological effects, a discussion on the Hague Convention before concluding with proposed solutions which include adding the ability for the Hague Convention to impose sanctions and DNA testing.
- Rhonda McMillion, *"Save the Children" More Urgent: U.S. Delays in Ratifying Accord Could Jeopardize Adoptions by American Citizens*, 86-JAN A.B.A. J. 94 (2000). 3 Pages. Looks at potential ramifications if the US does not adopt the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Assets the US is in danger of "lagging not leading" while ratifying the protocol would provide agencies with access to vital information.

## 1990-1999

### 1999:

- Kimberly A. Chadwick, *The Politics and Economics of Intercountry Adoption in Eastern Europe*, 5 J. Int'l Legal Stud. 113 (1999). 29 Pages. Studies intercountry adoption in Eastern Europe from 1989-1999 with particular emphasis on Romania, the Ukraine, Georgia and Russia as well as how the Hague Convention affected these countries and their policies. Includes discussions on the characteristics of moving from the east to the west, medical conditions of the children, the politics of the laws regulating adoption, the economics of international adoption, the Hague Convention, the United Nations and their efforts to address intercountry adoption. The article concludes more aid needs to be given to countries which do not support international adoption as well as asserting international adoption should not be viewed any differently from domestic adoption.
- Crystal J. Gates, *China's Newly Enacted Intercountry Adoption Law: Friend or Foe?*, 7 Ind. J. Global Legal Stud. 369 (1999). 31 Pages. Focuses on an amended law that China enacted in 1998 lowering the parental age for adopters and allowing couples with children to adopt healthy, abandoned babies and analyzes whether it will reduce the number of abandoned and orphaned children. Includes a discussion on the growing need for international adoption, factors to consider in international adoption, international laws on adoption, the 1965 Hague Convention, European Convention, UN Adoption Declaration and Children's Convention as examples of ineffectual attempts at regulation, the 1993 Hague Convention and its scope and implications, China's intercountry adoption laws, their attempts to regulate the market from 1988 to the present, 1992 adoption law, 1993 procedures to adoption law, amendment to the adoption law which took effect April, 1999 and concluding with how other developing countries are lowering restrictions on adoption.
- Jordana P. Simov, *The Effects of Intercountry Adoptions on Biological Parents' Rights*, 22 Loy. L.A. Int'l & Comp. L. Rev. 251 (1999). 42 Pages. Highlights the urgent need for all sending countries to adopt uniform laws and guidelines to protect both the prospective parents and the children. Includes an overview of the adoption process, Hungary's International Adoption requirements, INS requirements, California requirements, a discussion on what rights biological parents have and if they are adequately protected, biological parents rights under federal law as well as California law and under the California Family Code, case law governing biological parents rights, biological parents rights under Hungarian Law and their recommendations.
- Shannon Thompson, *The 1998 Russian Federation Family Code Provisions on Intercountry Adoption Break the Hague Gridlock: What Next? An Analysis of Post-Ratification Ramifications on Securing a Uniform Process of International Adoption*, 9 Transnat'l L. & Contemp. Probs. 703 (1999) 30 Pages. Focuses on International adoption from Russia and advocates that the Hague Convention provides sufficient safeguards to protect the interest of all parties involved in the adoptions including the prospective parents and adoptees and governments. Includes a historical background of international adoption, a description of the adoption process (both before and after modifications to Russia's adoption code), the process of legalizing adoption in the US, the underlying international frameworks then an analysis of the problems in adoption including the child black market, how current regulations and the Hague Conventions seek to address the

black market and the lack of oversight in the screening process and how they relate to current regulations and the Hague Convention.

- Michelle Van Leeuwen, *The Politics of Adoptions Across Borders: Whose Interests are Served? (A Look at the Emerging Market of Infants from China)*, 8 Pac. Rim L. & Pol'y J. 189 (1999). 28 Pages. Examines how China came to be the largest sending country in international adoption and how the Hague Convention will serve the interests of the children and their prospective parents. Includes a background on the history and evolution of adoption from China to the US, origins of modern adoption law, China's internal welfare system, U.S. internal child welfare system, whether the U.S.-China combination is "a happy marriage" the Hague Convention, the "definition difficulty" and an analysis including short term possibilities and looking ahead.

### 1998:

- Lisa K. Gold, *Who's Afraid of Big Government? The Federalization of Intercountry Adoption: It's not as Scary as it Sounds*, 34 Tulsa L.J. 109 (1998). 31 Pages. Suggests that authorizing more federal power would simplify the international adoption process. Includes a discussion on the process of international adoption with a look at foreign governments, the federal government, the home study requirement, the orphan requirement, the citizenship requirement, individual state governments, termination of parental rights, the best interest standard, conflicts between the state and federal governments, then how authorizing more federal power over intercountry adoption would work and examining the states' interests, how federalizing eliminates the duplicative home study, eliminates unnecessary and burdensome court procedures and the constitutional challenges to federal power (under the commerce clause, the 10<sup>th</sup> Amendment, limitations to the commerce clause in *Lopez v. US*) before their proposed steps to intercountry adoption which are: the receiving country's home study, respecting sending countries' autonomy, eliminating the unnecessary orphan requirement, a single home study, the status of the Hague Convention, the effect of it on the US, the role of the federal government, what it can and cannot do, and the finalization of intercountry adoptions.
- Twilla Perry, *Transracial and International Adoption: Mothers, Hierarchy, Race and Feminist Legal Theory*, 10 Yale J.L. & Feminism 101 (1998). 67 Pages. Seeks to analyze intercountry adoption from a feminist perspective with a specific emphasis on white women raising black children. Includes a discussion on adoption and disparities in the status of mothers, black women and transracial adoption, black women and the meaning of motherhood, black women in the racial hierarchy, mothering children in a racist society, a comparison between transracial and international adoption and how they are linked through poverty, racism and patriarchy, imperialism, culture and international adoption before showing how these all move towards a feminist analysis and the scope and relevance of such an analysis. Next, a discussion on feminist theory with its centrality of themes of care, connection and nurturing, autonomy, choice and birth mothers and in the surrender of children and selection of adoptive parents, the privatization of family law, material wealth and parenthood, feminist methods, narratives and storytelling and how that relates to the argument that "children are not property" before concluding with some practical implications.

- Jessica L. Singer, *Intercountry Adoption Laws: How can China's One-Child Policy Coincide with the 1993 Hague Convention on Adoption*, 22 Suffolk Transnat'l L. Rev. 283 (1998). 28 Pages. Examines how China's one-child policy led to a flood of intercountry adoptions and how this policy is incongruous with the Hague Convention. Contains a legal history of international adoption, China's adoption policy and the availability of its children for adoption, conflicts of laws in international adoption, the Hague Convention, the United States and their laws, China and their laws, and the intercountry adoption between the two nations. Concludes by stating that for China to remain a party to intercountry adoption it will have to change its laws on family planning or the Hague Convention will have to change its principles or objectives.
- Stephanie Zeppa, "*Let me in, Immigration Man*": *An Overview of Intercountry Adoption and the Role of the Immigration and Neutrality Act*, 22 Hastings Int'l & Comp. L. Rev. 161 (1998). 25 Pages. Discusses the growth of intercountry adoption in the United States and the complexity of the current Process. Includes a history of intercountry adoption in the US, an overview of procedures and regulations including: the country of origin, international adoption in China and Russia, US requirements, adoptive parent's requirements, the child's eligibility, state requirements, the UNCRC and cooperation in respect of intercountry adoption and their conclusions.

#### 1997:

- Robert S. Gordon, *The New Chinese Export: Orphaned Children-An Overview of Adopting Children from China*, Transnational Law 121 (1997). 43 Pages. Focuses on how China has become a leader in sending countries and how practicing attorneys can best represent their clients who are seeking to adopt. Includes an overview of international adoption, the Hague Convention's role in international adoption, international adoptions in the US, the foreign adoption process in China including their historical background and the enactment of the 1992 adoption law and 1993 procedural changes. Followed by a discussion of the benefits of an agency vs. an attorney and the steps taken to secure the child, the 1996 Enforcement of Requirements, anticipated costs of adopting from China, finalizing the adoption in the US including the legal and immigration processes, parental and relinquishment requirements and obtaining a state adoption decree.
- Darya P. Jeffreys, *Intercountry Adoption: A Need for Mandatory Medical Screening*, 11 J.L. & Health 243 (1997). The article suggests congress require mandatory medical screening and treatment of all internationally adopted children. Includes a discussion on the trend of international adoption, recognition of intercountry adoption, intercountry adoption occurring in the US, different parties to intercountry adoptions, health problems commonly associated with intercountry adoption with focus on parasitosis and Hepatitis B, problems specific to China and Romania before analyzing how an exclusion has been created for adopted children and now this is incredibly dangerous. The article then discusses the INA and adoption history before concluding there is a need for uniform medical screening of all foreign adoptees.
- Erika Lynn Kleiman, *Caring For Our Own: Why American Adoption Law and Policy Must Change*, 30 Colum. J.L. & Soc. Probs. 327 (1997). Finds that international adoptions are distracting America from adopting from within America to the detriment of orphaned children here. In addition, there's a resistance by white Americans to adopt

black children. Current adoption policies are hurting children in the US and keeping them in foster care longer. Concludes that Americans must concern themselves with placing children here with families going so far as to suggest a policy of isolationism.

- Iris Leibowitz-Dory, *Womb for Rent: The Future of International Trade in Surrogacy*, 6 Minn. J. Global Trade 329 (1997). 29 Pages. Looks at the growing trend of illegal international trade in surrogacy in which there's great illegal profits and chances for abuse. Includes discussions on international trade in surrogacy, regulating surrogacy internationally, a case study of the adoption market with specific references to Romania, potential regulations of surrogacy including surrogacy as a legal trade, surrogacy regulated to protect the surrogate's rights and defining the scope of surrogacy.
- Peter H. Pfund, *The Hague Intercountry Adoption Convention and Federal International Child Support Enforcement*, 30 U.C. Davis L. Rev 647 (1997). 11 Pages. Looks at the Child Abduction and Protection of Children Conventions. Includes discussions on intercountry adoption and international child support enforcement.

#### 1996:

- Mary Angell, *Ann Rochelle*, 19-JUN Wyo. Law. 20 (1996). A featured profile of a Wyoming lawyer who adopted a child from China. Discusses her experience during the adoption and afterward.
- Elizabeth Bartholet, *International Adoptions: Propriety, Prospects and Pragmatics*, 13 J. Am. Acad. Matrim. Law. 181 (1996). 24 Pages. Discusses the controversy over international adoption and how those against it are effectively against the best interests of the child. Includes a discussion on current barriers and the role of the law, foreign laws and policies, US laws and policies, the orphan restriction, unnecessary adoption and citizenship requirements, international law and the Hague Convention. Then a discussion between what are real concerns in international adoptions and what are mythical concerns including a look at adoption and underlying social ills, the risk of abuse and exploitation, Romanian Adoption and the loss of roots vs. the opportunity for a better life before concluding with hopeful directions for the future wherein children would not be thought of as resources or belonging in a fundamental way to their racial or ethnic or national communities of origin.
- Alexandra Maravel, *The U.N. Convention on the Rights of the Child and the Hague Convention on Private International Law: The Dynamics of Children's Rights Through the Legal Strata* 6 Transnat'l L. & Contemp. Probs. 309 (1996). 21 Pages. Focuses on the adoption of children by juxtaposing the UN Convention and Hague Convention, and illustrates how the Hague Convention is a watershed for the way legal and governmental communities make and implement adoption law. Includes a discussion on possible models for the new dynamics of children's rights, the relationship between the UN CRC and Hague Convention, an analysis of the parallel process model, the multidirectional model and implementation of children's rights and possible futures.
- William L. Pierce, *Accrediting Those who Arrange Adoptions Under the Hague Convention on Intercountry Adoption as a Means of Protecting, Through Private International Law, the Rights of Children*, 12 J. Contemp. Health L. & Pol'y 535 (1996). 20 Pages Examines the considerations that must be undertaken during an adoption and the importance of accrediting those who are working with the adoptions. Includes discussions on Article 10, Article 11 and Article 32 of the Hague Convention as well as

the criteria necessary for an agency to conduct international adoption under the Hague Convention including their organization, legal sanction and regulatory compliance, their governance, finances and fees, administration and management, qualifications and training of supervisory and service personnel, facilities, quality of service, generic service delivery standards, specific adoption service standards and intercountry adoption service standards.

**1995:**

- Dan Berger, *Improving the Safety and Efficiency of Foreign Adoptions: U.S. Domestic Adoption Programs in Other Countries Provide Lessons for its Reform*, 5 Cornell J.L. & Pub. Pol'y 33 (1995). 31 Pages. Discusses why intercountry adoption programs should be reformed not abandoned in the current climate of fear of abuses and frustrations with delays. Includes a discussion on the role of intercountry adoption, state, federal and international adoption programs and their potential models for reform, domestic adoptions administered by the states, INS policy on foreign adoptions, the Hague Convention, analysis and suggestions for reform which include reform at the INS level, suggestions on how to prevent abuse of the international adoption process and how to increase the number of international adoptions.
- H. Wayne Elliot, *International Adoptions: Step by Step*, 6-APR S.C. Law 37 (1995). 6 Pages (South Carolina Lawyer). Provides a basic overview of international adoption with emphasis on research prospective parents do, regulations governing bringing the child into the US and citizenship of the child. It concludes by recommending parents readopt the child in a court in their home state even if they have adopted the child in a foreign court.
- Sara Goldsmith, *A Critique of the Immigration and Naturalization Service's New Rule Governing Transnational Adoptions*, 73 Wash. U. L.Q. 1773 (1995). 26 Pages. Examines the "1994 Regulations" and the change they may have on international adoptions. Includes an overview of the international adoption process, foreign requirements, federal requirements, the adoptive parent's suitability, children's eligibility, methods of entry into the United States, state adoption process, the new federal requirements, problems created by the 1994 regulations, the "sole parent", "abandonment", and their proposal to address these concerns.
- Lisa M. Katz, *A Modest Proposal? The Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* (1995). 35 Pages. Suggests the Convention on Intercountry Adoption fails to concentrate on the fundamental rights of the child and does not recognize the best interests of the child. Includes a discussion on the history and moral complications of international adoption, the legal history of international adoption, the political issues of international adoption and the economics of it before concentrating on the procedure including inquiry, orientation and application, process in the sending country, finalizing the process, expenses, defects of the system, bribes and kickbacks, trafficking, before moving into the convention itself and discussing friction with the UN resolutions, frictions between family environments and home country, definition of adoption, procedure, what happens if the adoption cannot take place, central authorities and other accredited bodies, central authorities' domain, independent adoptions, accreditation, safeguards for trafficking and illegal standards, access of information, the rights of the parent (biological, prospective adoptive parents,

recognition by party states) before finishing with the problems of the convention which include timing, nonuniformity of adoption requirements, the lack of an end to red tape and failing to realize that the child is paramount.

- Jennifer M. Lippold, *Transnational Adoption From an American Perspective: The Need for Universal Authority*, 27 Case W. Res. J Int'l L. 465 (1995). 43 Pages. Looks at the problems people encounter when adopting internationally due to the need to satisfy multiple jurisdictions (their state, the federal government and the foreign nation from which they are adoption). Includes a discussion on adoption definitions, US statistics on international adoptions, reasons for the increase in international adoptions, conflicts of law based on the state adoption process including when adopting from a public agency, private agency or independent agency, state regulations governing international adoption including domestic intrastate adoption, domestic interstate adoption and the ICPC, state regulations governing transnational adoption, federal regulations including federal agencies and regulations governing ICAs, conflicts of laws between nations, problems with regulations governing ICAs including the international black market and international political climate before stressing the need for a uniform international adoption law. It also discusses the Hague Convention including its advantages and disadvantages and urges the US to sign the convention and suggests additional provisions including medical disclosures.
- Jennifer Lin Newman, *Hague Conference on Private International Law, Proceedings of the Seventeenth Session, Tome II: "Adoption-Co-Operation"*, 18 Hous. J. Int'l L. 299 (1995). 9 Pages. Reviews a publication of the conference. Includes a general overview, preliminary and working documents, the convention and report of Professor G. Parra-Aranguren.
- Kristina Wilken, *Controlling Improper Financial Gain in International Adoptions*, 2 Duke J. Gender L. & Pol'y 85 (1995). 17 Pages. The article addresses failures in the US law to oversee the financial side of international adoptions, particularly failing to regulate payments made by the adoptive parents to the birth parents or agency. Includes a discussion on the Hague Convention and its goals, policies and procedures, US immigration laws and their goals, policies and procedures and how the two should interact before concluding that US immigration law should mandate an investigation into all money paid through the international adoption process.

#### 1994:

- Holly C. Kennard, *Curtailing the Sale and Trafficking of Children: A Discussion of the Hague Conference Convention in Respect of Intercountry Adoptions* 14 U. Pa. J. Int'l Bus. L. 623 (1994). 27 Pages. Examines the Hague Convention and other international bodies and their efforts to curtail the selling of children. Includes a background on the international baby black market, international responses to it, a background on the Hague Convention, its shortcomings, a look at central authorities and governing bodies, proper and improper financial gain and applications to other conventions before concluding with further steps that should be taken.
- Margaret Liu, *International Adoptions: An Overview*, 8 Temp. Intl & Comp. L.J. 187 (1994). 39 Pages. Focuses on the urgent need to improve the lives of children in need of adoption and to protect their health and welfare. Specific countries cited include Brazil, Ecuador, Romania, Croatia and the Koreas. Includes a history of international adoption,



arguments for and against, measures to protect adoptees, procedures for international adoptions, immigration and state laws and the needs for them and concludes with hope to increase the number of international adoptions.

**1993:**

- Mary Ann Candelario McMillian, *International Adoption: A Step Towards a Uniform Process*, 5 Pace Int'l L. Rev. 137 (1993). 31 Pages. Reviews the international adoption process in the United States and the conflict of laws that are a part of that process. Examines adoptions from Latin America, Romania and Russia as well as the federal, state and foreign elements that impact adoption as well as the international treaties and conventions in the adoption practice. Includes discussions on the foreign adoption process, federal immigration requirements, the state adoption process, federal naturalization requirements, the conflict of laws including the principle of comity, the role of international treaties and conventions, international cooperation and protection of children in respect of intercountry adoption before concluding that there is a need to create a uniform process governing international adoption.
- Suzanne Beck Nichols, *Private Adoptions Overseas: When your Client Wants to Adopt a Foreign Baby*, 15-SPG Fam. Advoc. 54 (1993). 5 Pages. A Short guide to lawyers whose clients want to undertake an international adoption. Includes a list of common questions, a list of requirements, what steps to take and the basic steps towards adoption.