

2014

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Recommended Citation

Jade Glory *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).

Available at: <http://lawcommons.luc.edu/lucilr/vol11/iss2/4>

UNDERSTANDING THE DECLINE IN TRANSNATIONAL ADOPTION CHANNELS: WHETHER THE CHILDREN IN FAMILIES FIRST ACT IS AN EFFECTIVE RESPONSE TO THE EXPLOITATION OF ORPHANS

Jade Gary*

I. Introduction

In less than ten years, the number of transnational adoptions throughout the world has plummeted by fifty percent.¹ What could explain such a rapid decline in transnational adoptions? Perhaps a low demand from prospective parents seeking children? Not likely. During the 1990s, the opening of transnational adoption proceedings in China and Russia alone caused a dramatic surge in transnational adoptions that lasted well into the 21st century.² Could the recent decline in transnational adoptions be due to a decreasing number of available orphans? Again, this is unlikely. In fact, many developing nations have experienced a rise in the number of children living without families or permanent homes.³

The decline stems from the indefinite suspension of transnational adoptions in several developing nations.⁴ These adoption moratoriums are implemented in an effort to encourage adoption reform in impoverished countries; however, they

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¹ Peter Selman, *The Rise and Fall of Intercountry Adoptions in the 21st Century*, 52 INT'L SOC. WORK 575, 578 (2009) [hereinafter Selman 2009]; see also Peter Selman, Key Tables for Intercountry Adoption: Receiving States 2003-2012, available at <http://www.hcch.net/upload/selmanstats33.pdf> (A survey by Newcastle University of the top 23 nations that adopt children from abroad reported approximately 23,601 transnational adoptions in 2011, a decline from the recorded 45,299 in 2004).

² Peter Selman, *Global Trends in Intercountry Adoption: 2001-2010*, 44 ADOPTION ADVOC. 1, 4 (2012) (Between 2000 and 2010, citizens from 27 countries adopted more than 400,000 children, the highest number for any decade).

³ Kevin Voigt et al., *International Adoptions Decline as Number of Orphans Grows*, CNN (2013), <http://www.cnn.com/2013/09/16/world/international-adoption-main-story-decline/> (An increase in the number of orphans is evident in developing nations experiencing political or societal instability such as Russia, following the break-up of the Soviet Union, and China, where the nation's One-Child Policy left a surplus of abandoned infant girls. Since 2004, the number of children in Chinese orphanages has risen nearly fifty percent).

⁴ Selman, *supra* note 2, at 14 (For example, the decline of transnational adoptions to the United States in the 21st century is largely due to the continuing moratorium on adoptions from Guatemala); see also Selman 2009, *supra* note 1, at 590 (Transnational adoptions from countries like Romania, Bulgaria, Russia, and Belarus rapidly decreased for many western nations partially due to pressures from the European Union as well as an overall reaction in the global community to nations following poorly controlled adoption practices).

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usually have no such effect.⁵ Instead, most orphaned children remain in subpar foster-care facilities, waiting years for adoption suspensions to be lifted.⁶ Others become homeless, forced out of orphanages once they surpass the legal age to qualify for adoption.⁷ These children are not only susceptible to exploitation but are also influenced by crime in their environment.⁸

This Comment will address whether the proposed Children in Families First Act (“CHIFF”) will effectively counter the decline in transnational adoption channels, address corrupt transnational adoption practices, and accelerate the transnational adoption process for deserving families. In addition, this Comment will determine if the Act serves as an effective model for further transnational adoption reform. While the issue of regulating transnational adoption practices is complex, it is an important initiative to address because providing a safe environment for orphaned children will require a global effort that extends beyond the legal realm.

Part II – Background of this Comment will detail the landscape of transnational adoption and how foreign adoptions rose in popularity in the United States.

Part III – Around the World will explore how the industry has spawned a black market consisting of child exploitation and commodification, through examining adoption issues in various countries around the world.

Part IV – Transnational Adoption Legislation will examine current adoption legislation, which serves as the foundation for future reform and the impact current policy has had on the transnational adoption arena.

Part V – The Breakdown of CHIFF will look at the CHIFF bill and describe its provisions that are most relevant to transnational adoption reform.

Part VI – Analysis will provide an analysis of the impact CHIFF will have on transnational adoptions and the global community in implementing social and policy reform.

Part VII – Proposal will recommend necessary changes to legislation and social norms that will address corrupt adoption practices and enable the reopening of adoption channels.

Part VIII – Conclusion will close by emphasizing that while CHIFF sets forth effective legislative measures to address child exploitation and the decline in transnational adoption channels, additional steps are necessary to produce long-lasting change.

II. Background

The demand for transnational adoptions is directly correlated with domestic living conditions and international relations, such as periods of war and civil

⁵ See Yemm, *infra* notes 113 and accompanying text.

⁶ See National Council for Adoption, *infra* note 112 and accompanying text.

⁷ See Thompson, *infra* note 9, at 451.

⁸ *Id.* at 450.



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unrest.⁹ Often, these periods leave impoverished nations in turmoil and families dismantled.¹⁰ As a reoccurring and long-standing trend, war-torn nations typically experience an increase in the number of children left homeless and parentless.¹¹ Fortunately, transnational adoption acts as an avenue for outside nations to provide assistance to these children.¹² The aftermath of World War II left numerous Belgian, Polish, German, Greek, and Italian children displaced, resulting in the first major wave of transnational adoptions.¹³ In the years following the Korean War, specifically between 1953 and 1981, a second wave ensued as many Korean children were products of interracial relationships between United States soldiers and Korean natives.¹⁴ In the past few decades, transnational adoptions have continued to grow in popularity, particularly among American families.¹⁵

Acts of child exploitation, such as prostitution, trafficking, and kidnapping, plague the current landscape of transnational adoptions as nations try to meet high demands.¹⁶ Commodification of human beings, specifically within the sex trade, is a rapidly growing industry that generates billions of dollars in profit worldwide.¹⁷ Understanding the current landscape of transnational adoption is imperative in order to facilitate effective change that could potentially address the wide range of concerns various nations have.

III. Around the World

In recent years, the detection of corrupt practices in transnational adoption has prompted legislative reform by political leaders seeking to promote domestic adoption efforts in their countries over the interests of foreign adoptive parents.¹⁸ In examining the landscape of transnational adoption, this Comment will first explore the transnational adoption programs in the parts of the world that are most plagued by corrupt adoption practices.

Asia

Today, China is the world's largest provider of orphans for transnational adoption, and American families have adopted approximately 80% of the nation's

⁹ Notesong-Srisopark Thompson, *Hague is Enough?: A Call For More Protective, Uniform Law Guiding International Adoptions*, 22 WIS. INT'L L.J. 441, 441 (2004).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 442.

¹³ *Id.* at 445.

¹⁴ Thompson, *supra* note 9, at 445.

¹⁵ *Id.* at 444.

¹⁶ *Id.* at 448.

¹⁷ Richard Poulin, *Globalization and the Sex Trade: Trafficking and the Commodification of Women and Children*, 22 CANADIAN WOMAN STUD./ LES CAHIERS DE LA FEMME 34, 38 (2003).

¹⁸ Jorge L. Carro, *Regulation of Intercountry Adoption: Can the Abuses Come to an End?*, 18 HASTINGS INT'L & COMP. L. REV. 121, 133 (1994).

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adoptees since China instituted its adoption program in the 1990s.¹⁹ In 2013 alone, American families adopted 2,306 Chinese children.²⁰ China's efforts to control its population growth caused many families to abandon their children during the nation's "One-Child Policy," which limited urban families to one child in order to avoid harsh fines by the Chinese government.²¹ In addition, the nation's societal preference for birthing boys resulted in an overwhelming amount of orphaned girls.²² This deluge of orphans has been the primary factor in the government's history of promoting foreign adoptions.²³

In 2005, the Chinese government uncovered a baby trafficking ring involving six orphanages of the Hunan province in what became known as the Hunan Baby-Trafficking Scandal.²⁴ These orphanages matched thousands of Western adoptive parents with children procured from traffickers, and while it is unknown exactly how the traffickers obtained the children, abduction is a common method.²⁵ Traffickers often target poor, migrant workers and offer to purchase their children for meager compensation.²⁶ The Hunan Baby-Trafficking Scandal resulted in the prosecution and conviction of nine known traffickers and the suspension of all Hunan Province adoptions for several months.²⁷ Since the incident, media outlets have reported numerous cases of baby-buying and abduction in the Chinese transnational adoption program.²⁸

Cambodia's adoption system is substantially more anarchic than that of China. A 2006 End Child Prostitution, Child Pornography and Trafficking ("ECPAT") International report identified children living within the seven provinces of Cambodia as particularly vulnerable to adult predators due to cultural and sociological factors.²⁹ The country has been subjected to decades of societal turmoil and political unrest stemming specifically from a period known as the Khmer Rouge.³⁰ From 1975 to 1979, the Cambodian government committed a nationwide genocide of two million people leading to the systematic destruction of all religious,

¹⁹ Patricia J. Meier & Xiaole Zhang, *Sold Into Adoption: The Hunan Baby Trafficking Scandal Exposes Vulnerabilities in Chinese Adoptions to the United States*, 39 CUMB. L. REV. 87, 93 (2008-2009).

²⁰ *Adoption Statistics*, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE (2013) http://adoption.state.gov/about_us/statistics.php (last visited Sept. 30, 2013).

²¹ *Id.* at 95.

²² *Id.*

²³ *Id.* at 97.

²⁴ Meier, *supra* note 19, at 88.

²⁵ *Id.* at 90, 97.

²⁶ *Id.* at 109.

²⁷ *Id.* at 89.

²⁸ *Id.* at 90.

²⁹ ECPAT GLOBAL MONITORING REPORT ON THE STATUS OF ACTION AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: CAMBODIA, ECPAT INTERNATIONAL 11 (2006), available at http://resources.ecpat.net/A4A_2005/PDF/EAP/Global_Monitoring_Report-CAMBODIA.pdf (ECPAT or End Child Prostitution, Child Pornography and Trafficking, is a global non-profit organization dedicated to protecting children from all forms of commercial sexual exploitation).

³⁰ Tim Hunn, *Child Sex Trafficking: Why Cambodia?*, CNN (Dec. 12, 2013), <http://www.cnn.com/2013/12/09/world/asia/cambodia-cfr-why-history-child-sex-trafficking/index.html?iref=allsearch>.



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educational, and social structures, including the family unit.³¹ With this deterioration, the country has essentially lost and not yet recovered the moral compass that Buddhism once provided.³² The instability left many children and families vulnerable to black market sellers.³³ Such widespread baby trafficking, child prostitution, and adoption fraud led the United States to halt all adoption proceedings with Cambodia in 2001.³⁴

The International Human Services (“INS”) reported that adoption services and orphan visa petitions for the children of Cambodia would remain suspended until the country partook in more transparent practices that were consistent with transnational adoption standards.³⁵ Twelve years after the moratorium was initially issued, Cambodian adoptions remain banned in the United States and the country is still subject to lengthy adoption investigations.³⁶ Furthermore, Cambodian law prohibits children over the age of eight from being adopted, forcing many orphans to care for themselves in substandard living conditions after they have outgrown their right to be adopted.³⁷

Latin America

In Latin America, particularly Guatemala, parental-consented and non-consented child commodification is common.³⁸ Typically, when children are sold for a profit to orphanages, the facilities falsify birth documentation to depict a legitimate adoption to prospective parents.³⁹ Similar to the predicament in countries like China and Cambodia, years of civil unrest in Guatemala have resulted in widespread poverty and an increased number of orphaned children.⁴⁰ The average Guatemalan woman bears six children in her lifetime and in recent years, transnational adoption has been a means to fulfill the needs of many of these children who are eventually abandoned.⁴¹ Initially, Guatemala’s adoption system was comprised mostly of private adoptions negotiated by facilitators, attorneys, and government actors, which made the process quick for prospective parents.⁴² The system consisted of unregulated foster care providers who lacked any train-

³¹ *Id.*

³² *Id.*

³³ Thompson, *supra* note 9, at 448 (Black market sellers that partake in selling orphaned children typically operate by persuading desperate families to sell their children for a profit).

³⁴ *Id.* at 448-49.

³⁵ *Id.* at 449.

³⁶ *Id.*

³⁷ *Id.* at 451.

³⁸ Lisa M. Yemm, *International Adoption and the “Best Interests” of the Child: Reality and Reactionism in Romania and Guatemala*, 9 WASH. U. GLOBAL STUD. L. REV. 555, 569-570 (2010).

³⁹ Karen Smith Rotabi et al., *Intercountry Adoption Reform Based on the Hague Convention on Intercountry Adoption: An Update on Guatemala in 2008*, SOC MAG NEWS MAG. (Nov. 29, 2008), <http://www.socmag.net/?p=435>.

⁴⁰ Yemm, *supra* note 38, at 568.

⁴¹ *Id.*

⁴² *Id.* at 568-69.



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ing or standards of care.⁴³ Providers were recruited and paid by private attorneys who often failed to report the number of children in care, information about the caregiver, or the amount of money exchanged for services.⁴⁴ This laxity in Guatemala's system fostered an environment for baby trafficking, and in 2000 the United Nations concluded:

[L]egal adoption appears to be the exception rather than the rule. . . The child has become an object of commerce rather than the focus of the law. It would seem that in the majority of cases, transnational adoption involves a variety of criminal offenses including the buying and selling of children, the falsifying of documents, [and] the kidnapping of children.⁴⁵

The United States has since halted all adoptions from Guatemala.⁴⁶ In 2008, Guatemala formed a central adoption authority and began taking steps to reform its system by complying with transnational adoption standards.⁴⁷ The moratorium left thousands of adoption cases pending.⁴⁸ Like most countries, Guatemala only recently took legislative measures to combat child commodification.⁴⁹

Not until 1990 did Brazil impose legal restrictions aimed specifically at the practice of baby selling, which was deep-rooted in many of its transnational adoptions.⁵⁰ Under Brazil's Statute of the Child, prospective parents must obtain approval for adoptions through the juvenile court system and must live with the child in Brazil following approval for a period of fifteen to thirty days depending on the child's age.⁵¹ In addition, the statute eliminates all involvement of attorneys and other middlemen to ensure that all requirements are met and that the process is free of corruption.⁵² Furthermore, priority for adopting is given to Brazilian citizens.⁵³ While these measures are aimed at the right concerns, im-

⁴³ Rotabi et al., *supra* note 39.

⁴⁴ *Id.*

⁴⁵ U.N. Commission on Human Rights, *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Ofelia Calcetas-Santos*, E/CN.4/2000/73/Add.2 (Jan. 27, 2000), available at <http://www.refworld.org/docid/3ae6b0fe0.html> (Ms. Calcetas-Santos has since admitted she could not substantiate her assertion that "legal adoption appears to be the exception rather than the rule" with any statistical evidence).

⁴⁶ Yemm, *supra* note 38, at 571.

⁴⁷ *Id.* at 572.

⁴⁸ *Id.* at 571.

⁴⁹ Rotabi et al., *supra* note 39 (In 2006, the Guatemalan government established a pilot foster care program, which recruited, trained, and monitored foster caregivers using clear professional standards. In addition, all childcare institutions were required to complete an accreditation process and undergo monitoring by government authorities. By 2008, the Guatemalan government overhauled its adoption laws and the U.S. suspended all new adoptions from Guatemala while the nation worked to clean up its adoption proceedings).

⁵⁰ Carro, *supra* note 18, at 133.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*



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plementation of the statute has proven to be unsuccessful as enforcement of its provisions is weak.⁵⁴

Europe

In some countries, such as Romania, child abandonment and child commodification is a socially acceptable cultural practice to which parents resort when they can no longer care for their children.⁵⁵ This practice has led to a constantly growing pool of orphaned children living as outcasts in society.⁵⁶ In 1991, transnational adoptions were suspended in Romania following the discovery of a baby trafficking scandal that lasted for more than 25 years.⁵⁷ During this period, referred to as the Romanian Baby Bazaar, the Romanian government banned contraception and legal abortions in an effort to increase the nation's population.⁵⁸ As a result, approximately 100,000 children were left abandoned in orphanages and other institutions, some of which included inhumane warehouses.⁵⁹ Birth parents were willing to sell their children to the highest bidder, and even worse, desperate adoptive parents were willing to pay any price to black marketers and baby brokers.⁶⁰

In 1990, the Romanian government passed an inter-country law to help ensure that there was proper authorization for adoptions of Romanian children.⁶¹ The legislation made it mandatory for parties to obtain consent from the child's natural parents, guardian, or legal custodian prior to adoption.⁶² However, due to a lack of international guidelines to abide by, the law failed to have any lasting impact or serve its intended purpose.⁶³ In 1991, the Romanian government passed legislation that required the Romanian Adoption Commission to process all adoptions.⁶⁴ Furthermore, under the new law, children were only eligible for transnational adoption if, after six months, attempts to place the child in Romania proved unsuccessful.⁶⁵ The new law's intended purpose was to establish an organized, government-run adoption system and encourage domestic adoptions.⁶⁶ However since its enforcement, Romania has placed severe limitations on transnational adoptions.⁶⁷ Countries seeking Romanian orphans are now restricted to

⁵⁴ *Id.*

⁵⁵ Carro, *supra* note 18, at 137.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at 138.

⁶¹ Carro, *supra* note 18, at 137.

⁶² Carro, *supra* note 18, at 138.

⁶³ *Id.*

⁶⁴ *Id.* at 139.

⁶⁵ *Id.* at 139-40.

⁶⁶ *Id.*

⁶⁷ *Id.*



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no more than five pending adoption applications at any one time.⁶⁸ In addition, family size and age restrictions are placed on prospective parents seeking to adopt from the country.⁶⁹

Similar to Romania, the black market for transnational adoptions has long thrived in Russia.⁷⁰ Following the overthrow of communism, Russia's economy suffered great instability with many of its people living below the poverty line.⁷¹ As a result, many families surrendered their children for adoption.⁷² However, Russia's government lacked the resources and funds required to care for its growing population of orphaned children.⁷³ Today, Russia aims to limit transnational adoption to those children who cannot be successfully placed with families through domestic adoption.⁷⁴ However in many cases, Russian adoptive parents wait years for their adoption applications to be approved, while foreign applications are approved within a few months.⁷⁵ This discrepancy may be largely due to the fact that Russia's desperate economy benefits more from the fees associated with transnational adoptions when wealthy foreigners seek to adopt.⁷⁶ Foreign adoptions in Russia typically cost between USD 10,000 and USD 26,000 and require a donation to the local orphanage ranging between USD 1000 and USD 3000.⁷⁷ Russia has yet to create any significant safeguards or barriers for transnational adoption because for each child adopted, the nation's financial burden decreases.⁷⁸ Some of these same facilities partake in the black market baby trade by seeking out bribes and kickbacks from foreign parents to pay local bureaucrats who process the adoption.⁷⁹ Unfortunately, a lack of stringent law prevents the Russian government from monitoring illegal activities and effectively controlling the high costs of transnational adoptions.⁸⁰

IV. Transnational Adoption Legislation

While global legislative efforts have continuously been taken to regulate transnational adoption, they are often ineffective in directly addressing child exploita-

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Carro, *supra* note 18, at 141.

⁷¹ Kimberly A. Chadwick, *The Politics and Economics of Intercountry Adoption in Eastern Europe*, 4 J. INT'L LEGAL STUD. 113, 131 (1999).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Carro, *supra* note 18, at 141.

⁷⁵ *Id.* at 142.

⁷⁶ Chadwick, *supra* note 71, at 132.

⁷⁷ Chadwick, *supra* note 71, at 130.

⁷⁸ *Id.* at 132.

⁷⁹ Shannon Thompson, *The 1998 Russian Federation Family Code Provisions on Intercountry Adoption Break the Hague Convention Ratification Gridlock: What Next? An Analysis of Post-Ratification Ramifications on Securing a Uniform Process of International Adoption*, 9 TRANSNAT'L L. & CONTEMP. PROBS. 703, 725 (1999); *see also* Chadwick, *supra* note 71, at 121.

⁸⁰ *Id.* at 718.

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tion and corrupt adoption practices. Common frustrations surrounding current adoption legislation include vagueness in the language of most policies and a lack of concrete measures that combat corruption.⁸¹

The Hague Adoption Convention

The Hague Adoption Convention on the Protection of Children and Cooperation in Respect of International Adoption (“Hague Convention”) serves as the cornerstone for transnational adoption policy.⁸² The Hague Convention, implemented on May 1, 1995, is a multilateral treaty that serves as a blueprint for the transnational adoption process.⁸³ As of October 2013, ninety countries have ratified the Hague Convention, including the United States.⁸⁴ In addition, to help interpret and implement the Hague Convention, the United States adopted the International Adoption Act of 2000 (“IAA”).⁸⁵

The main objectives of the Hague Convention are to ensure that transnational adoption is sought only if it is in the child’s best interest, to form and uphold a system of global cooperation in an effort to curtail child exploitation, and to ensure recognition of transnational adoptions that abide by the Convention’s rules.⁸⁶ In addition, the Convention acts as a safeguard to ensure that transnational adoptions are conducted in the best interests of the children involved with respect to their fundamental rights as set out in international law.⁸⁷ Furthermore, it aims to establish cooperation among contracting states to prevent child abduction, sale, and trafficking.⁸⁸ A nation need not ratify the Convention, however, to be recognized as a cooperating state.⁸⁹ Signing the treaty signals intent to eventually ratify the Hague Convention and prohibits the signatory from acting contrary to the Convention’s guidelines.⁹⁰

While the Hague Convention has proven to provide a foundational structure for regulating transnational adoptions and facilitating global cooperation between participating countries, it fails to provide a uniform system that can realistically grapple with the negative by-products of a rising demand for transnational adoptions.⁹¹ The Hague Convention functions as a set of guidelines and is only appli-

⁸¹ See *infra* notes 86 and 88.

⁸² Thompson, *supra* note 9, at 442.

⁸³ *Id.*

⁸⁴ *Hague Adoption Process*, BUREAU OF CONSULAR AFFAIRS, http://adoption.state.gov/adoption_process/how_to_adopt/hague.php (last updated Oct. 2013).

⁸⁵ Intercountry Adoption Act of 2000, 42 U.S.C. §14901 (2000).

⁸⁶ Intercountry Adoption Act of 2000, 42 U.S.C. §14901 (2000).

⁸⁷ Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption, May 29, 1993, available at http://www.hcch.net/index_en.php?act=conventions.text&cid=69.

⁸⁸ *Id.*

⁸⁹ Thompson, *supra* note 9, at 457.

⁹⁰ *Id.*

⁹¹ Thompson, *supra* note 9, at 443 (Critics of the Hague Convention contend that the treaty “fails to provide a uniform standard which can be applied efficiently, realistically, and safely” and “lacks any kind of evaluation process for participating states to rely on to ensure that internationally adopted children are adequately protected”).

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cable to those nations that affirmatively ratify the treaty.⁹² It attempts to extend its reach to non-signatories by granting participants the means to enforce its principles against non-participants who formally accede to it.⁹³ However, the Convention lacks any specific enforcement mechanisms, such as an evaluation process to help participants determine whether adoption agencies are taking illegal measures to secure children.⁹⁴ While the IAA intends to aid in effectuating the Hague Convention, it sets out incredibly vague standards and applies strictly to the United States, similar to other adoption legislation.⁹⁵

The Immigration and Nationality Act

To deal with countries that operate outside of the Hague Convention, the United States employs The Immigration and Nationality Act (“INA”), which provides procedural guidelines for carrying out some of the same international policies articulated in the Hague Convention.⁹⁶ Currently, the INA is the only federal law governing transnational adoptions between the United States and non-signatories to the Hague Convention.⁹⁷ Unfortunately, the INA’s exceptionally vague provisions invite misinterpretation and poor execution.⁹⁸ For example, the INA fails to define terms such as “reasonable expenses.”⁹⁹ This is problematic because coercion and financial incentives plague the transnational adoption arena.¹⁰⁰ This type of vagueness in regulation prevents government officials from identifying illegal activities and holding parties accountable for perpetuating exploitative adoption practices.¹⁰¹ In addition, the INA sets an unrealistically high burden for proving immoral practices.¹⁰² It requires concrete evidence or an admission of guilt to prove child buying.¹⁰³ This high standard of evidence renders enforcement of the INA exceptionally difficult and acts as a “barrier preventing the INA from deterring child trafficking or any other unethical practices associated with transnational adoption.”¹⁰⁴

⁹² Thompson, *supra* note 9, at 461, 466.

⁹³ *Id.* at 459.

⁹⁴ *Id.* at 466.

⁹⁵ 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, 426 (2010).

⁹⁶ Herrmann, *supra* note 95, at 425.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 426.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 422, 427.

¹⁰² *Id.* at 427.

¹⁰³ *Id.*

¹⁰⁴ *Id.*



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The United Nations' International Convention on the Rights of the Child

The United Nations' International Convention on the Rights of the Child ("CRC") is as vague as The Hague Convention and the INA. The United Nations intended the CRC to regulate several steps of the adoption process to meet the best interests of the child involved.¹⁰⁵ The treaty was entered into force in 1990 as the first instrument addressing the full range of children's rights, including civil, cultural, economic, political, and social rights.¹⁰⁶ Currently, the 193 signatories to the CRC include all United Nations member states except Somalia and the United States, which have merely signed the treaty and expressed an intention to ratify it.¹⁰⁷ The United Nations Committee on the Rights of the Child monitors the practices of all signatory nations to ensure compliance with international law.¹⁰⁸

A unique initiative under the treaty is its proposal to monitor the process by which adults surrender children for adoption. Articles 9 and 10 of the CRC delegate the responsibility of ensuring that a child is not unwillingly separated from his or her birth parents to the parties involved in the adoption proceeding.¹⁰⁹ Addressing this stage of the adoption process is critical because parents who are living in poverty and are desperate for income often relinquish their children for meager financial gain to individuals who exploit the adoption market.¹¹⁰ While the CRC's approach is necessary to ensure that an adoption does not stem from a circumstance of kidnapping or coercion, critics of the CRC emphasize that it lacks an effective enforcement mechanism.¹¹¹

The Impact of Current Transnational Adoption Legislation

The collective effort by developed countries to halt child exploitation in the transnational adoption process has often had negative effects.¹¹² Currently, transnational adoption legislation promotes moratoriums on transnational adoption in nations where human rights violations are common in the adoption pro-

¹⁰⁵ Yemm, *supra* note 38, at 560.

¹⁰⁶ *Convention on the Rights of the Child: Frequently Asked Questions*, AMNESTY INT'L USA (2007), <http://www.amnestyusa.org/our-work/issues/children-s-rights/convention-on-the-rights-of-the-child-0> [hereinafter AMNESTY INT'L USA].

¹⁰⁷ AMNESTY INT'L USA, *supra* note 106; *see also* Convention on the Rights of the Child, G.A. Res. 44/25, 1577 U.N.T.S. 3, art. 9-10 (Nov. 20, 1989) [hereinafter Convention on the Rights of the Child].

¹⁰⁸ AMNESTY INT'L USA, *supra* note 106.

¹⁰⁹ Convention on the Rights of the Child, *supra* note 107.

¹¹⁰ Thompson, *supra* note 9, at 448.

¹¹¹ Herrmann, *supra* note 95, at 424.

¹¹² Yemm, *supra* note 38, at 563 (There is considerable debate as to whether international mechanisms and adoption legislation, intended to support the best interests of children, have instead hindered those interests by requiring expensive and time-consuming systems, such as effectuating moratoriums on transnational adoptions); *see also* Thompson, *supra* note 9, at 449-450 (When moratoriums are in place, children must wait for an indefinite time frame until suspension is lifted and endure subpar living conditions. In Cambodia, since the suspension of transnational adoption services in 2001, the mortality rate of orphans under the age of five has consistently increased as children suffer from malnutrition and other illnesses related to the conditions of their environment).



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cess.¹¹³ Moratoriums that result from the implementation of the Hague Convention, the INA, and the CRC, are intended to encourage nations to “develop the appropriate administrative structures and capacity”¹¹⁴ to ensure that adoption functions in the best interests of the children involved. However, “in reality, compliance with the Hague and other adoption reforms seems to do little to serve the best interests of children and more to improve international perception of the sending country.”¹¹⁵ For example, implementation of the Hague Convention stalled all transnational adoption proceedings between participants of the Convention and Guatemala.¹¹⁶ The freeze of adoptions from Guatemala became effective in 2007.¹¹⁷ While the Guatemalan government made significant reforms in its legislation, including taking steps to conform to the Hague Convention, five years passed before the United States lifted the moratorium.¹¹⁸ Throughout this process, the international community offered no solutions to the conditions, nor did it make any efforts to help Guatemala expedite legislative reform.¹¹⁹

Similarly, the United States and several other nations suspended Cambodian adoption proceedings in 2001 due to allegations of fraud and child trafficking.¹²⁰ In 2013, the U.S. Department of State Bureau of Consular Affairs made an official statement on its website stating that concerns were still high regarding Cambodia’s implementation and enforcement of the Convention’s ethical guidelines despite Cambodia’s adoption of the Hague Convention and attempts to reform its child welfare system.¹²¹

Freezing transnational adoption proceedings is often detrimental to the well-being of the child.¹²² Stalling adoption proceedings leave orphans vulnerable to countless risks in their native countries including crime, drug abuse, and child prostitution.¹²³ For example, thousands of adoption cases remained pending due to the temporary hold on adoption programs during the five-year moratorium

¹¹³ Yemm, *supra* note 38, at 562; *see also* National Council for Adoption, *Country Updates*, <https://www.adoptioncouncil.org/intercountry-adoption/country-updates.html> (last visited Feb. 11, 2014) (To date, several countries have suspended all intercountry adoptions until further notice due to non-compliance with transnational adoption laws. These include Bhutan, Cambodia, Ghana, Russia, Rwanda, Vietnam, Guatemala, Haiti, Kazakhstan, Kyrgyzstan and Montenegro).

¹¹⁴ COMMISSION OF THE EUROPEAN COMMUNITIES, 2001 REGULAR REPORT ON ROMANIA’S PROGRESS TOWARDS ACCESSION 24-25 (2001), *available at* http://ec.europa.eu/enlargement/archives/pdf/key_documents/2001/ro_en.pdf.

¹¹⁵ Yemm, *supra* note 38, at 563.

¹¹⁶ *Id.* at 562.

¹¹⁷ *Id.* at 571.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 572.

¹²⁰ Thompson, *supra* note 9, at 448-49.

¹²¹ *Cambodia — Intercountry Adoption*, BUREAU OF CONSULAR AFF., U.S. DEPARTMENT OF STATE (Oct. 2009) http://adoption.state.gov/country_information/country_specific_info.php?country-select=cambodia (last visited Jan. 2, 2013).

¹²² Thompson, *supra* note 9, at 451.

¹²³ *Id.* at 448.

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imposed on Guatemala.¹²⁴ Without any concrete timeline, children wait for suspensions to be lifted with the risk that they may not qualify for adoption by the time the moratoriums are removed.¹²⁵ For example, Cambodia's domestic law prohibits the adoption of children over the age of eight.¹²⁶ Therefore, while a Cambodian child may satisfy the age requirement for adoption today, his chance of finding a new family is ruined if he is too old for adoption once the moratorium is lifted. Such laws complicate the adoption process even further and only harm the children involved. In addition, children are left to live in sometimes violent and corrupt environments, deprived of the necessary and deserved care.¹²⁷ Given that these children usually originate from impoverished regions of the world, they experience poor hygiene, unsanitary water supply, low quality medical treatment, and malnutrition, leaving them susceptible to disease and infection including malaria, dengue fever, acute respiratory infection, typhoid, tuberculosis, and anemia.¹²⁸ For these reasons, the mortality rate of Cambodian children has risen since the moratorium was instituted in Cambodia.¹²⁹

V. The Breakdown of CHIFF

In September 2013, United States Senators Mary Landrieu and Roy Blunt introduced the Children in Families First Act ("CHIFF") to the United States Senate and in October 2013, United States Representatives Kay Granger and Karen Bass introduced the bill to the United States House of Representatives.¹³⁰ While Congress has not yet voted on the bill, Senator Landrieu and her supporters continue to garner co-sponsorship.¹³¹ CHIFF's primary goal is to timely match children in need of homes with adoptive parents.¹³² The Act further stresses the importance of providing children with safe homes and relieving them of the subpar conditions often associated with their current environment.¹³³ In addition, it strengthens transnational adoption within the United States and around the world to ensure that it becomes a viable and fully developed option for families.¹³⁴

¹²⁴ Yemm, *supra* note 38, at 572.

¹²⁵ *Id.*

¹²⁶ Thompson, *supra* note 9, at 451.

¹²⁷ Poulin, *supra* note 17, at 39-40 (Millions of teenagers and children are brought into the sex trade annually and live in the red-light districts of urban metropolises in their own countries or those nearby including the Philippines, Indonesia, India, Malaysia, Vietnam, Poland and Germany. These environments are plagued with acts of violence, kidnapping, and rape); *see also infra* note 156 ("Every day, all over the world, more children find themselves living without families – on the streets, in orphanages, in refugee camps").

¹²⁸ Thompson, *supra* note 9, at 450.

¹²⁹ *Id.* at 449.

¹³⁰ Children in Families First Act of 2013, H.R. 3323, 113th Cong. (2013) [hereinafter CHIFF]; *see also Support CHIFF- Get Involved*, CHILDREN IN FAMILIES FIRST, <http://childreninfamiliesfirst.org/support-chiff-get-involved/>.

¹³¹ *Legislation: Children in Families First Act*, CHILDREN IN FAMILIES FIRST (Apr. 8, 2014), available at <http://childreninfamiliesfirst.org/legislation-chiff/>.

¹³² CHIFF, *supra* note 130, at 6.

¹³³ *Id.* at 1.

¹³⁴ *Id.*

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Specifically, CHIFF proposes various measures to achieve its goals through realignment of certain international child welfare responsibilities and functions (Title I), annual reporting (Title II), promotion of a comprehensive approach for children in adversity (Title III), and funding and effective dates (Title IV).¹³⁵

Within Titles I, II, and IV of CHIFF seven sections pertain specifically to transnational adoption.¹³⁶

Title I – Realignment of Certain International Child Welfare Responsibilities and Functions

- Section 101 of Title I establishes a Bureau of Vulnerable Children and Family Security in the Department of State, which develops and implements child welfare laws, regulations, and policies in foreign nations.¹³⁷ The Bureau also creates policies to ensure that children involved in both domestic and transnational adoptions are provided with permanent family care in a timely manner.¹³⁸
- Section 102 of Title I briefly lays out the responsibilities of the United States Citizenship and Immigration Services (“USCIS”) for the accreditation of adoption service providers.¹³⁹ The accreditation process is adopted from the IAA and the responsibilities assigned to the USCIS include, in part, working with the Secretary of State to operate a publically accessible database of adoption service providers.¹⁴⁰ Under the provision, the database must include detailed information regarding international and domestic adoption agencies, including the accreditation status of an agency, descriptions of any sanctions filed against the agency, and the number of applications filed, denied, and approved at the agency.¹⁴¹
- Section 104 of Title I addresses the responsibilities of the Director of the USCIS for adoption-related case processing.¹⁴² This includes the responsibility to make case-specific decisions on all transnational adoption cases prior to the application process for the adopted child’s immigrant visa.¹⁴³ In addition, the Director of the USCIS ensures that each child is eligible to immigrate to the United States before the adoption or grant of legal custody is issued and prior to the removal of the child from his or her country of origin.¹⁴⁴ Section 104 also ad-

¹³⁵ *Legislation: Children in Families First Act*, *supra* note 131, at 2.

¹³⁶ CHIFF, *supra* note 130, at 2.

¹³⁷ *Id.* at 12.

¹³⁸ *Id.* at 16.

¹³⁹ *Id.* at 22.

¹⁴⁰ *Id.* at 24, 27.

¹⁴¹ *Id.* at 28.

¹⁴² CHIFF, *supra* note 130, at 41.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 42.



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dresses steps the United States would take in cooperating with foreign governments, specifically non-Hague Convention countries.¹⁴⁵ The Act specifies that the Department of Homeland Security may accept adoption petitions on behalf of children living in a non-Convention country, but the Department may only interact directly with that country's central adoption authority in conducting adoption affairs.¹⁴⁶

Title II – Annual Reporting

- Sections 201 of Title II delegates the Secretary of State and Director of the United States Agency for International Development with the task of creating detailed annual reports pertaining to children living without families and countries where severe forms of child trafficking is prevalent.¹⁴⁷ These reports are submitted to Congress for review and later discussed between the parties in more detail.¹⁴⁸ The reports covered by Section 201 include a vast range of information including child nationality, living conditions, documentation type, parental status, the average time required for completion of immigration proceedings, and the range of adoption fees associated with transnational adoptions.¹⁴⁹ The Agency for International Development is responsible for reviewing trends to determine the highest areas of concern for parentless children and for proposing programs to address these areas.¹⁵⁰ The Act lays out a very specific timeline as to when the reports will be submitted, as well as when all parties will meet to discuss their contents.¹⁵¹
- Section 202 of Title II aligns itself with provisions previously set out in the Foreign Assistance Act of 1961 (“FAA”) and further requires an in depth trafficking report that details specific steps foreign governments have taken in reducing the number of orphaned, abused, neglected, and exploited children of those countries.¹⁵²

Title IV – Funding and Effective Dates

Sections 401 and 402 of Title IV provide proposals for financial funding and programming to help newly orphaned children.¹⁵³ This includes the

¹⁴⁵ *Id.* at 45.

¹⁴⁶ CHIFF, *supra* note 130, at 45.

¹⁴⁷ *Id.* at 56, 61.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 57-60.

¹⁵⁰ *Id.* at 58.

¹⁵¹ *Id.* at 56.

¹⁵² CHIFF, *supra* note 130, at 61.

¹⁵³ *Id.* at 71.



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establishment of an emergency fund for children in adversity.¹⁵⁴ These funds are intended to address situations of civil unrest and disaster in foreign countries with rapid impact programs.¹⁵⁵

VI. Analysis

CHIFF will likely be an effective mechanism to advance the transnational adoption process. However, additional reform is critical to create lasting change for many countries. CHIFF takes unprecedented steps toward creating material change by addressing the risks associated with transnational adoption such as child commodification, adoption fraud, and the prolonged adoption process.¹⁵⁶

Legislative Reform Stemming from CHIFF

Resolving the issue of prolonged transnational adoption proceedings extends beyond reforming domestic government procedures.¹⁵⁷ Two methods are necessary toward reforming the transnational adoption arena. The first is facilitating change in the law and policy of nations from which adoptees originate. Parties must ensure that investigative measures are taken to verify the legitimacy of transnational adoptions. The second step consists of changing the law and policy of the United States and nations that are accepting adoptees. These nations have a duty to provide a second opportunity for verifying the legality and legitimacy of adoption proceedings in foreign nations.

CHIFF works to detail program initiatives, set project deadlines for these initiatives, delegate the tasks and procedures laid out in its provisions to specific government roles, and establish concrete budget restrictions.¹⁵⁸

CHIFF sets out a plan to establish model programs for developing nations that aim to integrate health, nutrition, developmental protection, and caregiving support for vulnerable children and families.¹⁵⁹ The government's role in providing assistance to these programs will manifest through international, nongovernmental, and faith-based organizations.¹⁶⁰ Furthermore, CHIFF provides adoption re-

¹⁵⁴ *Id.* at 71-2.

¹⁵⁵ CHIFF, *supra* note 130, at 71-2.

¹⁵⁶ *Legislation as Part of the Solution*, CHILDREN IN FAMILIES FIRST – CHIFF (2014), available at <http://childreninfamiliesfirst.org/wp-content/uploads/2014/03/Children-in-Families-First-one-pager-2014-03-18.pdf> (CHIFF focuses on streamlining, simplifying, and consolidating responsibilities involved in transnational adoptions for a more efficient process and implements a plan aimed specifically at children living in adversity that provides authority and oversight of resources).

¹⁵⁷ Richard Carlson, *Seeking the Better Interests of Children with a New International Law of Adoption*, 55 N.Y.L. SCH. L. REV. 733 (2010).

¹⁵⁸ *Legislation: Children in Families First Act*, *supra* note 131, at 2 (Titles I through IV of CHIFF set out steps for realigning certain international child welfare responsibilities and functions, reporting of the transnational adoption landscape annually, generating funding to implement CHIFF's goals, and establishing project time-frames (i.e. effective dates)).

¹⁵⁹ Carlson, *supra* note 157.

¹⁶⁰ CHIFF, *supra* note 130, at 65.

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form in low-income nations it considers target countries.¹⁶¹ In an effort to ensure long-term assistance, CHIFF facilitates measures for the Administrator of the United States Agency for International Development and Secretary of State to carry out action plans for a minimum of five years in at least six countries that the government classifies as priority nations.¹⁶²

The Act works as a model for global reform by establishing specific programs and initiatives in developing nations that need guidance (i.e. priority nations).¹⁶³ In addition to setting up international programs, the Act gathers information on foreign orphanages and orphaned children from annual reports and data.¹⁶⁴ The Act acknowledges that while many governments in other countries seek models that promote child placement, they often “lack the resources or infrastructure to adequately address this need.”¹⁶⁵ In addition, the Act provides very specific proposals, budgeted costs, and timelines unlike previous legislation that consists of ambiguous language.¹⁶⁶

Social Reform and Global Outreach Efforts Stemming from CHIFF

Transnational adoption is often viewed as a nuisance rather than a solution for orphaned children as evidenced in countries like Romania and Russia, which push for domestic over foreign adoptions.¹⁶⁷ Furthermore, issuing moratoriums tends to strain relationships between nations, especially because members of the global community often refuse to help developing nations reform once an adoption moratorium is in place.¹⁶⁸ However, orphaned children suffer indefinitely when nations issue moratoriums and refuse to permit adoptions from a foreign nation.¹⁶⁹ Once adoption is no longer an option, orphans return to a life of poverty and become vulnerable to exploitation.¹⁷⁰ Efforts to aid developing countries in adoption reform will enable the global community to keep adoption channels open and ensure that orphaned children are afforded the right to a family. To achieve transnational adoption reform, the global community must implement strategies that promote comity between nations and make transnational adoption an appealing and safe option. The implementation of CHIFF would act as a catalyst for this reform, encouraging other nations to clarify ambiguous language in adoption legislation and turn policy into tangible results. By simplifying the domestic procedure for screening the legitimacy of transnational

¹⁶¹ Kathryn Whetten, *What's Wrong with the Children in Families First Act*, DUKE GLOBAL HEALTH INST. (Nov. 1, 2013), <https://globalhealth.duke.edu/media/news/whats-wrong-children-families-first-act>.

¹⁶² CHIFF, *supra* note 130, at 69.

¹⁶³ CHIFF, *supra* note 130, at 69.

¹⁶⁴ *Id.* at 28.

¹⁶⁵ *Id.* at 3.

¹⁶⁶ CHIFF, *supra* notes 130 and 149.

¹⁶⁷ Carro, *supra* note 18, at 134, 140-41.

¹⁶⁸ Yemm, *supra* note 38, at 572.

¹⁶⁹ Thompson, *supra* note 9, at 448.

¹⁷⁰ *Id.*

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adoptions, CHIFF has the potential to strengthen transnational adoption domestically and globally.¹⁷¹

Efforts to address corruption in transnational adoption have traditionally consisted of penalizing those nations that violate international human rights by implementing moratoriums.¹⁷² However, this approach has continuously failed to address underlying issues of corruption and as a result, orphaned children in these nations suffer more than their offenders.¹⁷³ It often takes decades for countries with moratoriums in effect to effectuate and fully implement policies that abide by international standards because they are usually working alone with no assistance or guidance from the global community.¹⁷⁴ Children remain in orphanages with inferior living conditions indefinitely, eventually growing beyond the legal age requirement to qualify for adoption.¹⁷⁵

Promoting uniform and unambiguous adoption legislation, as well as encouraging the global community to assist developing nations in adoption reform, is essential to create diplomacy between nations. Creating a supportive environment for nations that need adoption reform is crucial to ensure nations cooperate and abide by transnational adoption standards. There is no doubt that CHIFF will be a more efficient mechanism than the current adoption policy in providing homes for children in need. However, further government efforts are necessary, in countries sending and receiving adoptees, to address the underlying issue of corrupt adoption practices.

VII. Proposal

Current adoption policy lacks consistency and demonstrates a need for uniformity amongst various transnational adoption laws to ensure that nations are held accountable for regulating adoption practices and promoting ethical norms.¹⁷⁶ Developing uniform standards “involves a fusion of international norms of human rights with different domestic, political and social policies [because] adoption, although a legal process, is dependent in many ways on the cultural aspects of a country’s population.”¹⁷⁷

¹⁷¹ *Legislation as Part of the Solution*, *supra* note 156 and accompanying text.

¹⁷² Yemm, *supra* note 38, at 563; *see also* National Council for Adoption, *supra* note 113 (Indefinite suspension of transnational adoptions is a common response from the global community when a nation violates transnational adoption laws).

¹⁷³ *See* Poulin, *supra* note 127 and accompanying text.

¹⁷⁴ Yemm, *supra* note 38, at 571-72 (Reforms led by the Hague Convention require poverty-stricken countries, like Guatemala, to revamp their adoption systems without the financial means to do so. In attempting to comply with transnational adoption standards, the Guatemalan Department of Social Welfare started building a foster care system; but as of 2010 it had only recruited 45 domestic foster families in a country of 13 million. In addition, the Guatemalan National Council on Adoptions notified the U.S. of its desire to launch a “limited two-year pilot adoption program”. While expressing a desire for Guatemala to expedite reforms, the U.S. government and State Department have not offered any solutions to remedy the conditions).

¹⁷⁵ Thompson, *supra* note 9, at 451.

¹⁷⁶ *See* Thompson, *supra* note 91 and accompanying text.

¹⁷⁷ Stephanie Zeppa, “*Let Me In, Immigration Man*”: *An Overview of Intercountry Adoption and the Role of the Immigration and Nationality Act*, 22 HASTINGS INT’L & COMP. L. REV. 161, 163 (1998).



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Changing Legislation

Fortunately, CHIFF will implement several procedures necessary to bring about effective change where previous global legislation has failed, including providing clarifications for vague language to help participants better interpret and implement adoption practices. However, further measures, beyond those set out in CHIFF, are necessary to accomplish lasting reform. For example, legislation should require mandatory licensing to establish foreign facilitators as employees of adoption agencies for international and domestic accountability. Furthermore, establishing a routine review process is essential for nations and organizations to uphold the standards set by adoption policies. Such a review process will also ensure conformity because all parties will be held equally accountable for their efforts in implementing ethical practices. In addition, legislation must institute a concrete and consistent system of enforcement mechanisms to address parties partaking in immoral practices at every level of the adoption process, without sabotaging adoption proceedings nationwide whenever discrepancies are discovered. In addition to subjecting violators to constant close monitoring, these methods should include enforcing monetary sanctions on specific agencies that violate transnational adoption law.

Changing Social Norms

Community outreach is an essential component in resolving underlying human rights violations in adoption. While legislation like CHIFF is a step toward addressing the human rights issues surrounding transnational adoptions, policy reform alone will never be a solution to such a complex global crisis. Instead, policy makers must consciously link new adoption reform with efforts to improve living conditions for children being adopted, as well as their birth parents.¹⁷⁸ In many impoverished nations, there is widespread acceptance of disregarding orphans' well-being in exchange for compensation.¹⁷⁹ One of the only ways to counteract this mindset is to remove financial incentives associated with transnational adoption, which fuels corrupt practices. It is just as important for adoption agencies to educate prospective adoptive parents on the importance of giving back to their child's birth country. Not only will doing so help familiarize adoptive parents with the customs of their child's birth country, but it will help improve the living conditions of other families and children experiencing severe hardship. Lastly, agencies must educate parents on how to recognize signs of corrupt practices in transnational adoption proceedings and take steps toward reporting this activity.

¹⁷⁸ Elizabeth Bartholet, *International Adoption: Thoughts on the Human Rights Issues*, 13 BUFF. HUM. RTS. L. REV. 151, 196 (2007).

¹⁷⁹ Kevin Voigt, *International Adoption: Saving Orphans or Child Trafficking*, CNN (2013), available at <http://www.cnn.com/2013/09/16/world/international-adoption-saving-orphans-child-trafficking/> (Brokers, who source children for adoption agencies, typically earn as much as 5000 USD per child that they deliver, substantially more than they would otherwise earn. As a result, whole economies tend to emerge when transnational adoption starts to thrive in a developing nation and many individuals see adoption as a lucrative business).



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Due to the rise in child commodification, there is a need for continued community outreach in addition to legislative policy that takes measures to change societal attitudes regarding transnational adoption. Only by addressing each nation's underlying human rights issues in transnational adoption can adoption channels be safely reopened. The United States government should ratify CHIFF because the Act is an effective mechanism in regulating transnational adoption practices.

VIII. Conclusion

Both community outreach efforts and legislative reform are critical toward effectively addressing issues of child commodification and reopening transnational adoption channels for prospective parents. To date, the global community has used international laws and policies to combat human rights violations in adoption by penalizing developing countries. However, this approach fails to result in permanent transformational change.

To ensure global cooperation, nations must work to build supportive environments that consist of providing necessary aid to other nations instead of severing ties. Nations must stop resorting to moratoriums as a default response to child exploitation and adoption fraud without taking initiative to proactively aid in reform. The process of reopening adoption channels is prolonged when developing countries must navigate without any outside assistance. As a result, orphaned children remain without a permanent home and family. Assisting nations with a long history of corrupt adoption practices will not only promote comity, but it will also encourage uniformity in policy and procedure.

The legislative aspect of adoption reform is equally important in addressing corruption. Aside from uniformity in policy, nations must work together to achieve more unambiguous laws that are easy to interpret and produce concrete results. Reforming legislative efforts is crucial in mitigating child commodification and reopens transnational adoption channels, making transnational adoption more accessible for families.

If enacted, CHIFF will operate as a guide for future adoption legislation that provides specific initiatives, goals, and measures for globally effectuating reform. However, adopting the Children in Families First Act will not alone eradicate the many injustices in inter-country adoptions. Global commitment to reforming societal standards within developing nations is a critical component in mitigating the commodification of orphans and reopening transnational adoption channels.