INTERNATIONAL ADOPTION: PROPRIETY, PROSPECTS AND PRAGMATICS

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Propriety, Prospects and Pragmatics†

by
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I. Introduction

International adoption is a very important part of the total adoption picture.¹ How various nations of the world shape the rules governing international adoption will define to a great degree adoption’s future role as a parenting alternative. This is because the world divides into essentially two camps for adoption purposes, one consisting of countries with low birthrates and small numbers of children in need of homes, and the other consisting of countries with high birthrates and huge numbers of such children. In the United States and other Western, industrialized countries, the number of babies surrendered or abandoned by birth parents has been limited in recent decades by contraception, abortion, and the increased tendency of single parents to keep their children. As a result of these and other factors, very few children are available for adoption in comparison with the large number of people who, for infertility and other reasons, are

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eager to adopt. In the poorer countries of the world, war, political turmoil, and economic circumstances contribute to a situation in which there are very few prospective adopters in comparison with the vast number of children in need of homes.

For the infertile people who want to parent, international adoption constitutes the major alternative to infertility treatment and infertility "by-pass" arrangements such as donor insemination and surrogacy. These prospective parents meet the common refrain that "there are no babies available for adoption." There is some truth to this assertion, if the focus is limited to babies born in the United States. But there are many millions of infants and young children in other countries available for adoption, and many more not technically freed up for adoption who are desperately in need of homes. For potential adopters ranked low on domestic adoption agency eligibility lists, international adoption significantly increases the range of parenting choices. Other countries have their own screening systems, but the criteria vary enormously from one country to another. As a result, the single person or the over-40 couple, whose adoption opportunities in the United States are significantly limited, can expand their options by looking abroad. From the child's perspective, international adoption is also advantageous. For most of the homeless children of the world, international adoption represents the only realistic opportunity for permanent families of their own.

Controversy surrounds the topic of international adoption. To some, it presents in extreme form problematic issues they see at the heart of all adoption. It can be viewed as the ultimate form of exploitation, the taking by the rich and powerful of the children born to the poor and powerless. It does tend to involve the adoption by the privileged classes in the industrialized nations, of the children of the least privileged groups in the poorest nations, the adoption by whites of black-and brown-skinned children from various Third World nations, and the separation of children not only from their birth parents, but from their racial, cultural, and national communities as well.

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2 It has been estimated that in the United States upwards of a million families are interested in adoption, although only about 200,000 are currently taking steps to pursue it. See Elizabeth Bartholet, Where Do Black Children Belong? The Politics of Race Matching in Adoption, 139 U. Pa. L. Rev. 1163, 1166 n.5 (1991) [hereinafter Bartholet, Race Matching].
To others, however, international adoption is a particularly positive form of adoption. Prospective parents reach out to children in need, rather than fighting over the limited number of healthy infants available for adoption in this country. The fact that these families are built across lines of racial and cultural difference can be seen as a good thing, both for the parents and children involved and for the larger community. These are families whose members must learn to appreciate one another’s differences, in terms of racial and cultural heritage, while at the same time experiencing their common humanity. And as discussed, the evidence indicates that they succeed in doing so.

The tensions between the different visions of international adoption are evident in recent developments. There has been a vast increase, during the past few decades, in the number of children placed for adoption across national borders. The number rose from near zero in the era prior to World War II to 10,000 per year in the 1980s. The 1990s have seen major fluctuations as South Korea, China, Russia and various countries in Eastern Europe have opened, closed, and reopened international adoption programs in response to the variable political winds.

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3 United States Dep’t of Justice 1985 and 1986 Yearbooks. (Although there were year to year fluctuations, the data reveal a definite increase since 1973, when 4,323 immigrant orphans came here.) See National Committee for Adoption, Adoption Factbook 71 (1989) [hereinafter Adoption Factbook].

International adoption now comprises roughly one-sixth of all non-relative adoptions in this country. Worldwide, there are an estimated 15,000 to 20,000 international adoptions per year.

Increasing interest in international adoption has collided with a new hostility to such adoption. The politics are similar to those involved in the debate about transracial adoption in this country. Political forces in the “sending countries” have been condemning in increasingly loud voices the practice of giving their countries' children to the imperialist North Americans and other foreigners. The notion that there is something shameful in sending homeless children abroad rather than taking care of “one's own” has gained widespread acceptance. The future trajectory for international adoption is unclear.

The controversy over international adoption has little to do with children's “best interests,” although their interests are always said to be the determinative issue by those engaged on the battlefield in the policy arena. When children cannot be raised by their birth parents their interests are quite clearly served by placement in an adoptive home, whether in their country of origin or abroad. Opposition to international adoption is rooted in a political understanding of children as “belonging” to their racial, cultural, and national groups of origin, and in a related concern that those groups will be weakened by loss of these “resources.” This article argues that this political understanding is misguided. The article reviews current barriers to international adoption, discusses developments in international law, and addresses myths surrounding international adoption. It concludes with recommendations for reform looking to a system of law which would facilitate rather than impede the placement of children who need homes with the parents who want to provide them.

5 See Adoption Factbook, supra note 3, at 61 (one-sixth of all unrelated adoptions in 1986).


II. Barriers and the Role of Law

Significant barriers now exist between children in other countries in need of homes and adults in this country eager to become their parents. A central issue for the future is whether these barriers should be reduced or made even more impregnable. At present, the law poses as the protector of children, but to a great degree functions as their enemy. The problem is that the law focuses only on the negative potential of international adoption and ignores its positive potential. The law addresses the dangers to children and birth parents that might be involved in removing them for adoption abroad, but ignores the dangers to children involved in growing up on the streets or in institutions. Many supporters of the law seem genuinely unaware of its costs. The common assumption is that more law will mean more protection against abuse for more children. Few recognize that legal procedures designed on paper to protect children against abuse often become in practice legal barriers that deny children the loving homes they need to escape a life of abuse.

There is, of course, a need for law to ensure that children are not improperly taken from their birth parents or transferred to situations in which they will be mistreated or exploited. But the law should also guarantee children the fundamental right to grow up in a nurturing environment. By focusing exclusively on the negative potential of international adoption, the law fails in its overall obligation to serve children’s best interests.

III. Foreign Laws and Policies

Although there is great variation among nations in the way they deal with international adoption, few countries have designed their laws in a way that facilitates the placement of children in need of homes with adoptive parents in other countries. Islamic countries prohibit all adoption, whether foreign or domestic. Some countries prohibit international adoption, and others place special restrictions on it. And although today most countries allow such adoption, their laws and policies are not

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designed to accommodate its unique features, and therefore effectively prevent many prospective parents who would be interested in adopting across borders from doing so.

When international adoption is allowed, the foreign country applies its law to decide what children are available for adoptive placement. It decides whether adoptive parents must come to the child's country to be screened and to process the adoption, or whether the child can be sent abroad for adoption. Requirements that the adoption take place in the child's country of origin add significantly to the financial and other costs of an international adoption, particularly when lengthy or uncertain periods of time abroad are involved, or multiple trips. Many Latin American countries require that adoptive parents from abroad go through essentially the same process as is required in the context of a domestic adoption. The process that might not be unduly burdensome for the person who lives locally may be overwhelmingly difficult for the foreigner who will be required to leave home and family and job to live abroad for the duration of the adoption, which may range from two weeks to several months.

IV. United States Laws and Policies

Most of the countries that function primarily as "receiving" rather than "sending" countries have done little to adapt their adoption, immigration, and citizenship laws to accommodate the realities of international adoption. As a result these laws pose unnecessary hurdles in the foreign adoption process. The United States' restrictive approach to immigration, together with the complications of the federal system, mean that would-be adoptive parents face a particularly challenging series of hurdles in accomplishing a foreign adoption. They must satisfy the laws and policies of their home state and of the United States government, in addition to those of the foreign country at issue. Because of the absence of coordination among these jurisdictions, the parents and their future child will be screened repeatedly, subject to overlapping and often inconsistent standards.

At the state level, prospective parents must initially satisfy their home state's requirements with respect to parental fitness, since a satisfactory home study is a prerequisite under federal law for all international adoptions.
At the federal level, immigration rules must be satisfied before a child placed by a foreign country for adoption will be permitted to enter the United States with its adoptive parents. These rules allow the issuance of the “preferential visas” that permit the immediate entry of foreign-born adoptees only where adoptive parents can demonstrate that they have fulfilled all requirements under the applicable laws of the parents’ home state and of the child’s country of origin. These requirements create additional levels of significantly duplicative processing.

In 1994 INS regulations were revised to impose somewhat more stringent requirements for assessing the ability of prospective adoptive parents to provide an appropriate home and parenting. The new regulations mandate that the home study include an assessment of not only the prospective parents but also any additional adult members of the household, that the home study, or its most recent update, be not more than six months old at the time it is submitted to the INS, and that specific checks be made for a prior history of abuse or violence, as well as any criminal history. The thrust and tone of the new restrictions are extremely negative, as exemplified by the requirement that prospective adoptive parents be disqualified if there is evidence of “child-buying” activity.

A. The Orphan Restriction

In addition, Congress has severely limited the scope of foreign adoption by permitting entry only to foreign adoptees who fit a narrow “orphan” definition. For an adoptee to qualify, both parents must have died or have abandoned the child, or the “sole or surviving” parent must be unable to care for the child. Chil-
Children may be disqualified simply because they appear to have two living "parents," even if the only evidence of the father's existence is a name on a birth certificate and even if the parents are demonstrably unable or unwilling to care for the child and are interested in adoptive placement. Moreover, children who have already been adopted in foreign countries in accordance with the laws of those countries, are permitted to enter the United States with their legal adoptive parents only if they are found to satisfy the orphan definition.

The orphan restriction is an anomaly. Virtually all jurisdictions within this country and throughout the world permit children to be surrendered for adoption without regard to whether a child has one parent or two, or whether the parents are able to care for the child. 16

The orphan restriction causes many problems. It prevents the adoption of many children who are in need of homes and free for adoption under the laws of their own country. It means that birth parents may feel compelled to abandon their children rather than surrender them in an orderly way, in the hope of making them eligible for adoption in the United States. And it can add significantly to the emotional difficulties involved when the adoption takes place abroad. The visa decision will not be made until the parents have completed the adoption and are ready to return home. And the facts that determine whether a child satisfies the orphan definition often cannot be known until late in the adoptive process. 17 Adoptive parents must therefore go through the entire process of becoming the child's emotional and legal parents without knowing for sure whether at the end they will be permitted to bring the child home with them to the United States.

16 Harry D. Krause, Creation of Relationships of Kinship, in INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW, 85-86 (Aleck Chloros Chief Editor, (under auspices of the International Association of the Legal Science Editorial Committee)(1976)).

17 The 1994 INS regulations discussed supra text at p. 107 may be somewhat useful in this regard in that they attempt to define terms such as 'abandonment,' 'disappearance of both parents,' 'incapable of providing care,' 'loss from both parents,' 'separation from both parents,' 'sole parent,' and 'surviving parent.' See 8 C.F.R. § 204 (1996).
B. Unnecessary Adoption and Citizenship Requirements

After a child has been brought into the United States, additional legal steps are required to fully protect the child and regularize the new parent-child relationship. A United States adoption is necessary if the child has not been adopted abroad and is advisable even if such an adoption has taken place. A foreign adoption decree is not entitled to the same "full faith and credit" accorded a decree issued by courts within the United States. A United States adoption is therefore important to guarantee the child fully protected legal status as an adoptee. In addition, the United States decree will generally be necessary to obtain a United States birth certificate. It can be very important as a practical matter for adoptees to have their key birth and adoption documents issued by United States agencies in a language and style that will be familiar to other United States agencies and to be able to obtain copies of these documents with relative ease should the need arise. Although a second adoption in the United States is usually no more than a formality, state law requirements will have to be satisfied. Only a few states have designed their adoption laws to facilitate recognition of foreign adoption decrees.\footnote{See Richard R. Carlson, *Transnational Adoption of Children*, 23 TULSA L.J. 317, 355-70 (1988).}

For most adoptive parents, the final step in the foreign adoptive process involves helping their child acquire United States citizenship. Foreign adoptees do not become citizens by virtue of their adoption by United States citizens. They must apply for citizenship, a process that ordinarily takes from six months to a year. This final bureaucratic hurdle appears to have no substantive meaning. Quite clearly the goal is not to determine which of these foreign-born infants and young children are fit to become United States citizens, but simply to provide citizenship status for all foreign-born adoptees who apply.

From start to finish international adoption involves an enormous amount of process with very little substance. Parent and child must be screened on multiple occasions by numerous agencies, dozens of documents must be accumulated, notarized, certified, stamped with official stamps, copied, and translated. For prospective parents with sufficient resources and determination,
international adoption can be accomplished. There are many who are able and willing to endure a great deal for the opportunity to adopt. Moreover, many United States adoption agencies have established ongoing programs with foreign agencies, and for parents who are able to work through these programs, a foreign adoption may be no more difficult than many domestic adoptions. But the bureaucratic process creates very significant costs in financial and other terms. The expenses generally range upwards of $10,000, with many international adoptions costing $15,000 to $30,000 even when no major obstacles arise. Prospective parents can easily devote years of their lives to adoptive efforts that turn out to be futile. The children who are eventually adopted will generally have spent significant periods of their young lives in orphanages or other institutions waiting for adoptive placement. Most important, large numbers who could have been adopted will not be since, for most prospective adoptive parents, the barriers are too great to surmount.

Despite its complexities, the process provides less protection than it should for the children who manage to get adopted. The lack of coordination between the different jurisdictions means that some children fall through the cracks and are denied fully protected adoptive or citizenship status. Furthermore, the difficulties of the process provide incentives to find ways to take short cuts around the legal system. 19

V. International Law and the Hague Convention

There is very little international law governing adoption across borders. Most of what exists is designed primarily to protect against potential abuses in international adoption, rather than to facilitate such adoption.

The United Nations has in recent years taken some significant action, with the passage by the General Assembly of the

19 See Hague Report, supra note 1, at 188 (noting the connection between irrational legal barriers and abusive adoption practices. The report argues that internationally agreed to standards ensuring "straight forward and well-structured procedures for intercountry adoption" should contribute to combating child trafficking, and further asserts that "if prospective adoptive parents are offered an alternative which provides them with guidance, avoids needless costs and minimizes bureaucratic procedures, they will be less tempted to have recourse to dubious intermediaries."). Id.
Declaration on Social and Legal Principles Relating to Adoption and Foster Placement of Children Nationally and Internationally in 1986, and the Convention on the Rights of the Child in 1989 [hereinafter U.N. Adoption Declaration and the U.N. Convention, respectively]. These documents recognize the legitimacy of international adoption and demonstrate the international community’s support for a number of basic principles regarding such adoption, for example, that there should be safeguards against abduction and against trafficking for profit and that there should be guarantees of citizenship and other appropriate legal status for the children when adopted. But these documents do not establish standards for the processing of international adoptions, and they relegate such adoptions to “last resort” status, with the preferred options being adoption or foster care or other “suitable” care in the child’s country of origin.

Some countries have, in the past few decades, developed bilateral treaties or other agreements designed to govern adoption between a particular sending and a particular receiving country. But most of the significant intercountry cooperation that exists

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22 See U.N. Declaration, supra note 20, Art. 17 at 1101 (“If a child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the country of origin, intercountry adoption may be considered as an alternative means of providing the child with a family.”); U.N. Convention, supra note 21, Art. 21(b) at 1464 (States recognizing adoption shall “recognize that inter-country adoption may be considered as an alternative means of [a] child’s care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child’s country of origin.”).

23 See Hague Report, supra note 1, at 174-78 (describing agreements between governments, and between governments and nongovernmental organizations, that exist between the Philippines on the one hand, and Australia, Sweden, the Netherlands, and Norway on the other, between Sweden on the one hand and Ecuador and Greece on the other, and between El Salvador and Canada).
today occurs not on the governmental but on the adoption agency level.

In the Spring of 1993 the Hague Conference on Private International Law adopted, by unanimous vote of the 55 countries present at the final Conference proceedings, the final text of a proposed “Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption” [hereinafter Convention], designed to cover all adoptions between countries that become party to it. This represents a very important development in the realm of international adoption law. Almost all the countries significantly involved today in sending or receiving children for international adoption were involved in drafting and approving the text of the Convention. The Convention will, to the degree it becomes operable, establish as a matter of international law specific standards and procedures governing international adoption, thus going far beyond the kinds of general principles incorporated in the United Nations declarations discussed above. And the Convention represents a far more enthusiastic endorsement of international adoption as a good solution for children without parents than any previous international agreement.

As of July 5, 1996, a total of twenty-six countries, including the United States, have signed the Convention. While signing has no legal significance, it does indicate some level of support and interest in moving forward to consider ratification. Eleven countries have actually ratified the Convention as of this date: Mexico, Romania, Sri Lanka, Cyprus, Poland, Spain, Ecuador, Peru, Costa Rica, Burkina Faso, and the Philippines. The Convention applies to all adoptions between countries that become parties to the Convention by ratifying it, but only to such adop-

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Adoptions involving any country that does not become party may continue without regard to the Convention's provisions.

The Convention represents a significant new level of endorsement for international adoption by virtue of the language indicating that adoption abroad is preferable to all other solutions except for adoption in the child's nation of origin. The Convention's opening preamble states that the child "should grow up in a family environment,"26 and states further that intercountry adoption "may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin."27 This represents a very significant rejection of the principles incorporated in the U.N. Adoption Declaration and in the U.N. Convention, in which international adoption was formally designated as less desirable than foster care and perhaps even institutional care in the country of origin.

The Convention establishes certain minimum standards and procedures governing international adoptions between ratifying countries. For example, each country must establish a "Central Authority," which will be responsible for certain functions either directly or by delegation to other appropriate bodies or persons.28 Sending countries must take certain steps to ensure that children placed for adoption abroad have been appropriately separated from their birth parents.29 Receiving countries must take certain steps to ensure that adoptive parents have been appropriately screened.30 Agencies and persons operating to facilitate international adoptions must be appropriately accredited or designated.31

While what is known as "private" international adoption is not prohibited, it is significantly restricted. Individual intermediaries and accredited agencies may operate only if they are specifically authorized by the country at issue and their names are submitted to the Hague Conference Permanent Bu-

25 Convention, supra note 24, Art. 46(2)(b) at 1144.
26 Convention, supra note 24, Preamble at 1139.
27 Id.
28 Convention, supra note 24, Art. 6-9 at 1140.
29 Convention, supra note 24, Art. 4 at 1139-40.
30 Convention, supra note 24, Art. 5 at 1140.
31 Convention, supra note 24, Art. 10-13, 22 at 1140-41, 1142.
Prospective adoptive parents are forbidden to meet with birth parents until certain key steps of the adoption process have been completed, unless the country of origin has provided otherwise. In addition, Article 22(4) of the Convention specifically permits any nation to mandate that adoptions of its children take place only through public authorities or accredited agencies.

One important section of the Convention has to do with recognition of foreign decrees. Articles 23 and 24 provide that an adoption certified by the competent authority in the state of the adoption as having been made in accord with the Convention, must be recognized in other states party to the Convention unless they find the adoption “manifestly contrary to ... public policy.” This should eliminate the need for readoption in the receiving country.

Countries that become party to the Convention are free to create additional requirements governing international adoption, and are free to make agreements with other parties to the Convention “improving the application of the Convention.”

It is very hard to predict what future role the Convention will play. As indicated above, the Convention will be applicable only between countries that do ratify. It is hard to predict how many more countries will ratify, although the high level of participation in the Hague negotiations, and the number of countries that have moved promptly to indicate their support, has been encouraging to Convention enthusiasts.

Nor is much known about what impact the Convention will have among countries that do ratify. If a country ratifies but then fails to create a Central Authority or take some of the other minimal steps required by the Convention, international adoption between that country and another Convention country will be illegal. If ratifying countries do take those minimal steps, international adoption might operate in much the same way it does today.

However it might be significantly more difficult to accomplish an international adoption under the Convention if countries

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32 Id.
33 Convention, supra note 24, Art. 29 at 1143.
34 Convention, supra note 24, Art. 22(4) at 1142.
35 Convention, supra note 24, Art. 24 at 1142.
36 Convention, supra note 24, Art. 39(2) at 1143.
choose to apply and adapt the Convention in a restrictive man-
ner, focusing solely on the risks presented by adoption and not
on the opportunities. The required Central Authority could eas-
ily cause problems, leading to the kind of state take-over of the
adoption process that has often seriously curtailed international
adoption activities.

On the other hand countries might find in the Convention
reason to develop new adoption procedures designed to facilitate
international adoption. The Convention does constitute power-
ful endorsement by the international community of such adop-
tion, not only because of the specific language noted above, but
also because of the broad level of participation by sending and
receiving countries, as well as by various international children's
rights organizations. By establishing new safeguards governing
the adoption process and protecting against child trafficking, the
Convention provides political protection for those who believe
that such adoption serves children's best interests, but might pre-
viously have been afraid to promote such adoption because of
concerns about potential abuse. Also the Convention suggests,
even though it does not mandate, a model for international adop-
tion that would vastly simplify the process. It would allocate re-
sponsibility for decisions freeing children for adoption to the
sending countries, and for decisions screening prospective par-
ents for fitness to receiving countries, and thereby eliminate the
duplicative decision making typical of today’s procedures.

Many countries will be watching to see whether the United
States, as the major receiving country in the world, takes action
to ratify the Convention. The United States Department of
State, which was responsible for negotiating the Hague Conven-
tion, is in the process of developing implementing legislation and
regulation. It plans to present the Convention to the United
States Senate for advice and consent to ratification, and to pre-
sent implementing legislation for passage by the United States
Congress sometime in the Winter of 1996-97. Assuming that the
Convention is ratified and appropriate implementing legislation
is passed, the State Department would then deposit the Conven-
tion at The Hague and it would become operable for the United
States.

There has been some indication by officials within the State
Department and the Immigration and Naturalization Service that
the federal government might be interested in including in any implementing legislation provisions that would finally eliminate the orphan restriction, at least in the context of Convention adoptions. The Convention implementation phase of activities may as a general matter stimulate efforts at reform of laws within the United States related to international adoption. The Hague effort has already focused new attention on ways in which our immigration, citizenship, and state adoption laws should be changed to make international adoption work better.

At best, however, the Hague Convention will do little to establish the kind of new legal regime needed to make the international adoption process work effectively. It will be left to the various nations of the world to take the initiative, either under the aegis of the Convention, or apart from it, to develop their own treaties or other arrangements with each other.

VI. Real Problems and Mythical Concerns

The problems that should be seen as central to the international adoption debate are the misery and deprivation that characterize the lives of huge numbers of the children of the world. Millions of children die regularly of malnutrition and of diseases that should not kill. Millions more live in miserably inadequate institutions or on the streets. Their situations vary: some institutionalization is far more common than foster care in the poor nations of the world, as well as in South Korea. See Hague Report, supra note 1, at 64, where it is noted that institutions “often poorly staffed, managed and supervised, are a major, perhaps the major, ‘source’ of children being adopted abroad.”

Estimates of the numbers of street children — children who essentially live in the streets — vary from thirty-one to eighty million, with roughly one half located in Latin America. While most of these children are thought to have “continuous” contact with their biological families, it is estimated that some 25% have only “occasional” contact or no contact whatsoever. See Hague Report, supra note 1, at App. B, Exploitation of Working Children and Street Children, UNICEF Executive Board, U.N. Doc. E ICEF/CRP3 at 16 (1986). Others have estimated the total number of street children at 100 million, and project that this total will double in the next decade. Estimates of the number

37 See Pfund, Intercountry Adoption, supra note 4, at 71.
38 See, e.g., UNIF. ADOPTION ACT §§ 1-108, U.L.A. (1996) (providing that a foreign adoption decree shall have the same effect as a decree issued by a state court in the United States, and be similarly entitled to full faith and credit).
39 Institutionalization is far more common than foster care in the poor nations of the world, as well as in South Korea. See Hague Report, supra note 1, at 64, where it is noted that institutions “often poorly staffed, managed and supervised, are a major, perhaps the major, ‘source’ of children being adopted abroad.”
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Institutions are worse than others; some “street children” maintain a connection with a family while others are entirely on their own. But there can be no doubt that overwhelming numbers of children in the poor countries of the world are living and dying in conditions which involve extreme degrees of deprivation, neglect, exploitation, and abuse. These are the real problems of the children of the world. International adoption should be seen as an opportunity to solve some of these problems for some children. It should be structured to maximize this positive potential by facilitating the placement of children in need of nurturing homes with people in a position to provide those homes.

International adoption can, of course, play only a very limited role in addressing these problems. Solutions lie in reallocating social and economic resources both among countries and within countries, so that more children can be cared for by their birth families. But, given the fact that social reordering on a grand scale is not on the immediate horizon, international adoption clearly can serve the interests of at least those children in need of homes for whom adoptive parents can be found.

A. Adoption and Underlying Social Ills

Some have suggested that international adoption programs might conflict with programs designed to improve the lives of the millions of children now in need, or with efforts to accomplish the kind of social reordering that might help the children of the future. For example, some argue that instead of promoting and pursuing adoption, governments and individuals in the well-off, industrialized countries should devote increased resources to more cost-effective programs designed to promote the well-being of children in their native lands. These efforts could include im-

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of street children in Brazil alone range from ten to thirty-six million. In addition, there are said to be more than ten million refugee children. UNICEF, Memo from Richard Jolly, Deputy Executive Director, to Regional Directors, discussing “Policy on Abandoned and Destitute Children” at annex p. 2 (Apr. 12, 1984); Jupp, From Needs to Rights: Abandoned and Street Children, 19 Non Governmental Organizations Forum 1 (1984), BENDER, ADOPTION LAW AND PRACTICE, p. 10-35 § 10.04[3], Vol. 2, 1995.

41 General economic, health, and related conditions for children in Africa and Latin America have been getting worse in recent years, and this trend is likely to continue. UNICEF, The State of the World’s Children, 1989.
proving foster care arrangements, sponsoring orphanages, and supporting various UNICEF projects.

Such efforts, however, are not inconsistent with supporting foreign adoption. Indeed, the opposite is true. Foreign adoption programs are likely to increase awareness in the United States and other receiving countries of the problems of children in the sending countries. Those who adopt have reason to identify, through their children, with the situations of other children not lucky enough to have found homes. Foreign adoption is thus likely to help create a climate more sympathetic to wide-ranging forms of support for children abroad.

Another argument voiced against international adoption is that it might relieve pressure within some sending countries to deal with social problems that need attention. But this argument also collapses upon analysis. Sending children abroad for adoption tends to highlight rather than to hide the fact that there are problems at home. Indeed, it seems likely that a major reason for the hostility exhibited by many sending countries toward foreign adoption relates to their governments' embarrassment at having domestic problems spotlighted by this public confession of their inability to take care of their children.

Although speculative arguments can always be mounted, it is unlikely that adoption of a relatively small number of the world's homeless children will interfere with efforts to assist those other children who remain in their native countries. The nations of the world are in general agreement that "the best interests of the child" should be the paramount principle governing the placement of children outside their biological families.42 Given the real problems confronting the world's children, it should be clear that this principle requires laws and policies designed to facilitate the international placement of children in need of homes.

42 See U.N. Adoption Declaration Art. 5 ("In all matters relating to the placement of a child outside the care of the child's own parents, the best interests of the child, particularly his or her need for affection and right to security and continuing care, should be the paramount consideration.") See also U.N. Convention supra note 21, Art. 21 at 1464.
B. The Risk of Abuse and Exploitation

Care should be taken, of course, to prevent international adoption from creating new problems. Adoption must not be used to break up viable birth families, and those who want to adopt must not be allowed to use their financial advantage to induce impoverished birth parents to surrender their children. There is a need for the laws that prohibit baby buying, and for rules governing the process by which a child is removed from one parent to be given to another. The rules should ensure that the birth parents have voluntarily surrendered or abandoned their child, or have had their parental rights terminated for good reason.

But it is patently absurd to talk as if the real dangers for children were the dangers that they might be taken from their birth parents for purposes of abuse and exploitation. Nonetheless, public discourse about international adoption focuses overwhelmingly on its alleged risks. Concern is regularly expressed in this country and abroad about the dangers that children will be kidnapped or bought from their birth parents for sale to rich North Americans; the media in this country give headline coverage to stories of “kidnapping rings” and “baby trafficking.” There are, of course, some documented instances of kidnappings and of improper payments to birth parents. But there is no evidence that these practices are widespread, and it is quite unlikely that they are. Current law makes it extremely risky for adoption intermediaries and would-be adopters to engage in baby buying or kidnapping. Even if some might be willing to engage in such activities if these were the only way or the easiest way to

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43 A publication on “Intercountry Adoption and Trafficking in Children” put out by Defence for Children International, an organization that has focused almost entirely on the negative aspects of international adoptions, concedes that trafficking cases are extremely limited in number.

The vast majority [of birth parents] do not part with their child for money, but out of despair or with the hope to ensure the child’s welfare or survival. . . . [Trafficking] cases are reported from time to time but not well documented. No doubt they constitute only a tiny proportion of the displacements of children for adoption purposes.

Marie-Francoise Lucker-Babel, Intercountry Adoption and Trafficking in Children: An Initial Assessment of the Adequacy of the International Protection of Children and Their Rights, DEFENCE FOR CHILDREN INT’L. 2 (1990),
accomplish an adoption, the fact is that they are not. The world is, sadly, all too full of birth parents desperate to find homes for the children they cannot care for, and of children who have already been surrendered or abandoned. When one looks beneath the surface of most media and other stories of child trafficking, it becomes clear that the term “trafficking” is used very loosely. The stories sometimes involve claims that what is characterized as a “bribe” has been paid to an official, without disclosing the fact that small payments are traditional in the conduct of all official business in the country at issue. Often the trafficking headlines involve stories that reveal no more than that the adoptive parents paid a good deal of money to agencies or other adoption intermediaries, without indicating whether anything beyond legitimate fees for services were involved. Rarely is there any evidence that birth parents have been paid, or that children have been taken from birth parents capable of and interested in raising them.

C. Romanian Adoption

My point is not to justify everything that has been done in the name of international adoption, but that we need to look at even such abuses as occur in perspective. Recent events involving Romanian adoption are illustrative. The foreign adoptions that followed the fall of the Communist regime in Romania in 1989 became the source of the major adoption “scandal story” of the early 1990s. The story became a focal point for media discussions of international adoption and was used effectively by opponents of such adoption in the context of the Hague Convention negotiations and more generally. Would-be adopters from the United States and other countries were described as wandering through Romanian villages offering payments to induce baffled villagers to give up their children for adoption. There undoubtedly were some number of cases involving illicit

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payments to Romanian birth parents for their children, and I would agree that such transactions deserve condemnation. But the real story of the children in Romania, and the role of international adoption in their lives, is one in which baby buying deserves a limited amount of space. The real story has to do with a country in which tens of thousands of children lived in orphanages and state hospitals, where thousands acquired AIDS. It has to do with institutional conditions so horrible as to stun even the jaded reporters who first revealed them to the world. It also has to do with the fact that once news of the situation in Romania got out, thousands of people came forward who were eager to adopt some of the children they read about and saw on television. Thousands of children were adopted, both from these institutions and from birth parents who were unable to care for them.

It is true that international adoption was mishandled in Romania and that some abuses occurred. But the real scandal was that, when would-be adopters came forward, there was no system in place to handle adoptions in a way which would have facilitated placement while preventing abuses. The real tragedy has to do with the conditions in which Romanian children were and are living and dying, not with the fact that a limited number of birth parents received illegal payments. Recent “law reform” initiatives in Romania may or may not eliminate certain abuses, but they will almost surely prevent large numbers of Romanian children from escaping the desperate situations of their lives to live in loving adoptive homes.

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45 See Pollitt, supra note 44, at 45-49. See also Nigel Cantwell, Who said “Best Interests”? Int’l. Human Rts. Monitor, 7, 1/2:4 (165,000 children in Romanian orphanages, with the condition ranging “from being unacceptable to constituting grossly inhuman treatment”). A documentary film is moving testament to some of the horrors. See Videotape: Lost and Found, (Joshua Seftel 1992) (on file with Seftel Productions, P.O. Box 440432, Somerville, MA 02144; e-mail: Seftel@tiac.net).

46 See Pollitt, supra note 44, at 49-50. Some 5,000 children were adopted from December 1989 through July 1991; 1,500 of these were adopted by people from the United States, with roughly half the children coming from institutions.

47 See Pollitt, supra note 44, at 58-63, for a description of legal “reform” moves in Romania. See also Cantwell, supra note 45. Paulo David, Romania: Is the Adoption Jungle a Thing of the Past?, 8 Int’l. Human Rts. Monitor, Special Issues Nos. 29-30, 29 (1991); Moira Farrow, Romanian Orphans Suffer
D. Loss of Roots Versus Opportunities for Better Lives

Critics of international adoption often voice concern that children will not receive appropriate care in their new families and countries. Arguments are made that it is unfair to separate children from their racial, ethnic, cultural, and national groups of origin. Loss of the group link and sense of group heritage is said to be a deprivation in itself. And growing up in a foreign land is said to pose risks of discrimination.

Those who voice these concerns again ignore the realities of children's current situations. International adoption represents an extraordinarily positive option for the homeless children of the world, compared to all other realistic options. Most of these children will not be adopted otherwise. They will continue to live in inadequate institutions or on the streets. Foster care is available only to a limited degree and sometimes results in little more than indentured servitude. The homeless children who survive to grow up often will face virulent forms of discrimination in their own country, based on their racial or ethnic status, or simply on the fact that they are illegitimate or orphaned.

The empirical studies that have focused on international adoption provide no basis for concern as to the welfare of the vast majority of international adoptees and their families. The studies show these children and their families functioning well, and comparing well on various measures of emotional adjustment with other adoptive families, as well as with biologic families. See, e.g., Barbara Tizard, Intercountry Adoption: A Review of the Evidence, 32 J. Child Psychol. and Psychiatry 743 (1991) (a review of studies on international adoption outcomes concludes "results similar to those found in studies of in country adoption"); Jan Linowitz & Neil Boothby, Cross-Cultural Placements, in Unaccompanied Children 181, 183-85 (Everett M. Ressler et al. eds., 1988) (review of the research finding that all the major follow-up studies "stress the successful adaptations of most [international] adoptees").
international adoptees have had problematic preadoptive histories that could be expected to cause difficulties in adjustment. The studies show that adoption has for the most part been extraordinarily successful in enabling even those children who have

159-62 (Praeger Publishers) (1983) (Feigelman's and Silverman's study of Korean adoptees in the U.S. dealt with adoptees in their adolescent and young adult years, when it is generally thought adoptee identity and other problems are likely to surface if they have not before. The student revealed extremely successful adjustment, with the Korean adoptees measuring as better adjusted than their white American counterparts.) Earlier students of Korean adoptees had shown consistently high success rates. See, e.g., id. at 151 (summarizing the results of studies conducted between 1963 and 1975 as showing that “the overwhelming majority of these children adjust well to American society.”); Kim Dong Soo, How They Fared in American Homes: A Follow-up Study of Adopted Korean Children in the United States, CHILDREN TODAY 2-6 (1977) (Analysis of long-term outcomes of Korean adoption reports “overwhelming satisfaction” by the parents, satisfaction would was found to be “based on realistic assessments of the children’s overall good adjustment.”) Id. at 4; Teri Baccall, Amerasian Adoptees Adjust Well in American Families, JORC. CHILD. SERV. BULL. 3 (Feb. 1985) (survey of Amerasian adoptees reveals high success rates as reported by families). Simon and Altstein summarize their study on intercountry adoptees in the U.S. as follows:

Studies of intercountry adoptees in the United States suggest that children who are adopted as infants make positive adjustments to their new environments.

Parents are eager to have these children, and the children perceive themselves as fully integrated family members. American parents make considerable efforts to maintain multiethnic environments in their homes. When problems arise they are usually almost completely a function of trauma the children experienced in their native countries prior to adoption.

HOWARD ALTSTEIN & RITA J. SIMON, INTERCOUNTRY ADOPTION 184 (Howard Altstein & Rita J. Simon eds., 1991). See also M. Rorbech, Mit land der Denmark [Denmark — My Country, Copenhagen 1990] SOCIAL FORSKNINGS INST., Copenhagen 1989, reported in the Hague Report, supra note 1. (A major nationwide study undertaken in Denmark and published in 1989 is similarly positive. It dealt with 19 to 25 year-old foreign adoptees, concluding that they had adjusted well to their Danish environment, that the great majority had not been subjected to discrimination, and that they had experienced satisfactory identity development.) For other major studies, similarly positive in their findings, see Torben Melchior, Adoption in Denmark, in ADOPTION IN WORLDWIDE PERSPECTIVE 218 (R.A.C. Hokesbergen ed. 1986) and G. Anderson, The Adopting and Adopted Swedes and Their Contemporary Society, in ADOPTION IN WORLDWIDE PERSPECTIVE 27 (R.A.C. Hokesbergen ed. 1986).

49 Tizard, supra note 48, at 748.
suffered extremely severe forms of deprivation and abuse in their early lives, to recover and flourish. Thus one major study involved children caught up in the Vietnamese War who arrived in Norway for adoption at ages ranging from two to five. “Many could not walk. They were passive, apathetic, retarded and malnourished.”\(^{50}\) At ages seventeen through twenty-two, these children were found to be in remarkably good shape: they were basically well-adjusted and strongly attached to their families.\(^{51}\) Some of the studies illuminate special challenges that many of these families face — challenges that have to do with adjusting to a new language and culture, or with overcoming the effects of traumatic preadoptive experiences and of early health problems.\(^{51}\) Other studies hint at the complex issues involved in being part of a biracial, bicultural, binational family.\(^{52}\) These families do have to deal with issues of discrimination. And the children do have to deal with complex identity issues in working through what it means to be an “Asian American” or a “Peruvian American” or a “Mexican American.” But the problems of

\(^{50}\) Thus Feigelman and Silverman found that Colombian children raised by U.S. adoptive parents, who had medical problems requiring extensive treatment at the time of adoption, adjusted “remarkably well,” and better overall than white children born in the United States and raised by adoptive parents. Feigelman & Silverman, supra note 48, at 140-42, 144-45.

\(^{51}\) See Tizard, supra note 48, at 747-50 (citing M. Dalen & B. Saetersdal, Transracial Adoption in Norway, 11 Adoption and Fostering 41 (1987). See also Ian J. Harvey, Adoption of Vietnamese Children: An Australian Study, 18 Austl. J. Soc. Issues 55, 59-61, 65-68 (1983) (major study of international adoptees in Australia, finding high rates of adoptive success among Vietnamese adoptees who arrived suffering from malnutrition, deprivation and other traumatic early experiences). The studies generally indicate that age at placement and pre-adoptive trauma are the most powerful indicators for problems in adoptive adjustment. See Altstein & Simon, supra note 48, at 78 n.122-24. These studies tend nonetheless to show that after some period of time for adjustment, the adoptees and their families generally function very well. See Lowitz & Boothby, supra note 48, at 183, 185; Juliet Harper, Intercountry Adoption of Older Children in Australia, 10 Adoption and Fostering 27, 28, 30-31 (1986).

\(^{52}\) See Tizard, supra note 48, at 747-50; Antoinette Leenen & Rene Hoksbergen, Intercountry Adoption: The Netherlands, 10 Adoption and Fostering 22-23 (1986).

\(^{53}\) See Tizard, supra note 48, at 52-54; Feigelman & Silverman, supra note 48, at 141-43, 145, 154-62 (indicating that Colombian and Korean adoptees involved had developed a limited sense of identity with culture of origin).
discrimination are not different in nature than the problems many of these children would face in their own lands. The challenges involved in developing an appropriate sense of group identity are not different in nature from those that all immigrants face. The studies provide no evidence that the challenge of establishing a satisfactory ethnic and cultural identity causes psychological harm to the international adoptee.\textsuperscript{54} These findings are consistent with the findings in the transracial adoption studies involving racial identity issues. Those studies have shown transracial adoptees emerging with an apparently strong sense of black identity. They have also shown, however, that many of the adoptees have what might be characterized as a bicultural or multicultural orientation. They exhibit an unusual degree of comfort in both black and white worlds, and appear unusually committed to a future life in which they would relate to both those worlds. The studies thus indicate that transracial adoptees may be likely to develop "group identities" and attitudes about racial relations that are somewhat different, on the whole, from those of black children raised in a same-race family and environment. But the studies indicate that there is no apparent detriment to the children involved in growing up with a less exclusively black group identity orientation. These children are flourishing in all the terms in which psychic health and social adjustment can be measured. A multicultural identity simply cannot be assumed to be problematic from the perspective of the children involved.\textsuperscript{55} Again, the identity issues for international

\textsuperscript{54} See Tizard, supra note 48, at 755. The only study Tizard cites as providing such evidence is inapposite, since it is a study making some negative findings about the in-country adoption of Native children in Canada. See C. Bagley, Adoption of Native Children in Canada: A Policy Analysis and Research Report, in INTERCOUNTRY ADOPTION (Altstein & Simon eds. 1991). (This study has serious methodological problems which undercut the significance of its findings in any event). Compare Feigelman & Silverman, supra note 48 at 140-42, 144-45, 159-62 (finding that the Korean and Colombian adoptees involved had high rates of adoptive success).

\textsuperscript{55} For an extensive discussion of the studies relating to transracial adoption, see Bartholet, Race Matching, supra note 2; Elizabeth Bartholet, Race Separatism in the Family: More on the Transracial Adoption Debate, 2 DUKE J. GENDER L. \\& POL’Y 99 (1995); ELIZABETH BARTHOLET, FAMILY BONDS: ADOPTION AND POLITICS OF PARENTING, 86 (1993); Jim Chen, Unloving, 80 IOWA L. REV. 145 (1994); Kim Forde-Mazrui, Black Identity and Child Placement: The Best Interests of Black and Biracial Children, 92 MICH. L. REV. 925
adoptees are not so very different from those dealt with by many others. Many children in this country grow up with parents who have crossed various lines of racial, religious, ethnic and national difference. All children in all countries will face throughout their lives issues as to which groups they choose to identify with and what importance they choose to place on their group identities.

So the studies reveal no real negatives inherent in international adoption as compared to domestic adoption. From a real-world perspective, that is of course not the most relevant comparison. The key comparison would be between children adopted internationally and children denied the possibility of adoption — children destined for the most part to grow up in institutions or on the streets. But there is no need for comparative studies of this kind. They would simply bolster what common sense and professional opinion tell us already. A permanent adoptive family is vastly preferable from the child's perspective to even the best foster or institutional care. Most of the children without permanent families in the poor countries of the world are not living in "the best" temporary care situations, but rather in situations ranging from seriously inadequate to desperate.

There has been no focus in the studies on determining what special positives might inhere in international adoption for the children, their adoptive families, or the larger society. But some studies hint at the rich quality of the experience involved in being part of an international adoptive family, and the special perspective its members may develop on issues of community. One ma-


56 A large body of empirical studies confirms this. See, Barbolet, Race Matching, supra note 2, at 1224, n.163.

57 See Hague Report, supra note 1, at 64 (nothing the many reports on the destructive impact of institutional care on children, and citing for example International Investigation Into the Rights of Abandoned Children, DEF. FOR CHILDREN INT'L 8-9 (Mar. 1989).
A major nationwide study found that one-half of the international adoptees involved felt that as a result of their status, "they may be bridge-builders between the nations." Cheri Register's study of United States families with children adopted from abroad gives a powerful and moving description of the special qualities involved for parents and children in living life as part of an international adoptive family. "We, like these children whom we claim so adamantly as our kids, have deeper roots than we knew, an enlarged sense of family, another place in the heart, and a rich and varied history of facing life issues we would never have encountered without them." She writes that the answer for parents and children in such families to the question "What are you?" is: "We are an internationally adoptive family. This is the heritage we truly have 'given' our children." She writes that a dual heritage can be seen "not as confusing, but as life-enhancing."

It seems clear that the debate over international adoption has little to do with genuine concerns over risks to children. Children are being sacrificed to notions of group pride and honor. As Tizard has described:

It is argued that the practice is a new form of colonialism, with wealthy Westerners robbing poor countries of their children, and thus their resources. National pride is involved. However poor the country, they find the implication that they cannot care for their own children to be undignified and unacceptable.

Thus poor countries feel pressure to hold on to what they term "their precious resources," and rich countries feel embarrassed to do anything that looks like colonialist exploitation.

But there is no real conflict between the interests of the sending and those of the receiving nations. International adoption simply serves a symbolic function for those in power. Send-

60 Register, supra note 59, at 182.
61 Id. at 205.
62 See Tizard, supra note 48, at 746.
ing countries can talk of their homeless children as “precious resources,” but it is clear that the last thing these countries actually need is more children to care for. At the same time, the well-off countries of the world have no burning need for these children. Their governments might be willing to permit the entry of adoptees from abroad to enable those struggling with infertility to parent, but international adoption is not seen as serving any strong national interest. So the homeless children end up as “resources” that the receiving countries of the world are quite willing to forgo to improve relations abroad.

VII. Directions for the Future

The starting point should be agreement that children are not to be thought of as “resources,” belonging in some fundamental way to their racial or ethnic or national communities of origin. The world should take seriously the sentiments enunciated in international human rights documents that children are entitled to a loving, nurturing environment, and that their best interests should be the guiding principle in structuring the rules governing international adoption.

Receiving countries need to take action to build trust. They must recognize that there are genuine concerns about exploitation, as well as a long history of resentment abroad. Good faith could be demonstrated and children’s interests served through offers to develop and fund programs to benefit children’s welfare within a sending country, in conjunction with any international adoption programs that are instituted. Mechanisms could be developed to provide sending countries with regular feedback on what has happened to the children sent to other countries for adoption. Regular reports could help assure sending countries that their children are receiving good treatment in their new adoptive homes.

Sending and receiving countries need to agree on a legal framework for international adoption that would facilitate placement. The model should be one in which each of the key decisions in the adoptive process is made carefully by a responsible agency and then deferred to by all others. All duplicative processes should be eliminated. Several agreements already exist between particular sending and receiving countries which provide examples of how the laws of two nations can be coordinated.
to facilitate the adoption process. Receiving countries should revise their adoption, immigration, and nationalization laws to remove impediments to international adoption, and to ensure fully protected status to all foreign adoptees.

For the United States this would mean the following:

- Development of agreements with other nations on a legal framework facilitating international adoption. This could be done either under the auspices of the Hague Convention or apart from it.
- Recognition in such agreements of the principle that children's best interests require that children in need of homes be placed for adoption as expeditiously as possible. Children deserve nurturing homes now and not simply at some distant point in the future. Delay hurts and may do permanent injury.
- Elimination of the immigration law provisions that now restrict the children available for adoption by United States citizens to those satisfying the narrow "orphan" definition.
- Qualification for entry into the United States of all children that appropriate sending country authorities designate as being available for adoptive placement.
- Revision of United States laws to ensure that foreign agency decisions releasing children for adoption and foreign adoption decrees are honored by United States agencies and courts. This would help ensure fully protected adoptive status to children adopted from abroad and would eliminate the necessity for duplicative adoption proceedings.

64 The adoption studies demonstrate uniformly that delay in placement is a key factor negatively affecting adjustments. See studies cited in supra note 48.
65 See UNIF. ADOPTION ACT, supra note 38. A variety of proposed and existing laws dealing with the registration, recognition, and enforcement of judgments entered by foreign jurisdictions could be looked to as models. New Hampshire has legislation which specifically provides for recognition of a "Foreign Decree of Adoption."
A decree of court terminating the relationship of parent and child or establishing the relation by adoption issued pursuant to due process of law by a court of any other jurisdiction within or without the United States shall be recognized in this state and the rights and obligations of the parties shall be determined as though the decree was issued by a court of this state.

N.H. REV. STAT. ANN. § 170-B: 23 (1973). See also UNIF. ENFORCEMENT OF FOREIGN JUDGMENTS ACT (1964 Revised Act) (providing for filing and enforcement of judgments entered by other courts within the U.S.); UNIF. FOREIGN MONEY JUDGMENTS RECOGNITION ACT (1962) providing for recognition and enforcement of judgments entered by non-U.S. courts. See generally Carl-
• Development of simple procedures to ensure that every foreign adoptee receives an English-language birth certificate from a United States agency upon submission of a foreign adoption decree.
• Revision of United States citizenship laws to make citizenship automatic upon completion of a foreign-born child's adoption by a United States citizen, just the way citizenship is now automatic upon birth of a child to United States citizens whether they are living here or abroad.

VIII. Conclusion

The current tendency to glorify group identity and to emphasize the importance of ethnic and cultural roots combines with nationalism to make international adoption suspect in this country as well as in the world at large. But restricting international adoption does not promote the interests of children or of their countries of origin. It does not put poor countries in a better economic or a better power position with respect to foreign governments. It is simply a symbolic gesture “for” the nation and “against” the foreigners that is easy and cheap to make. The children themselves have little political influence. Their voices are not heard.

The nations of the world should move beyond political hostilities and symbolic acts to focus on the real needs of children. If they did, they would accept international adoption as a good solution for at least some group of the world's homeless children and could begin to restructure their laws and policies so as to facilitate rather than impede such adoption. One side benefit would be that many more of the infertile who want to parent would be given the opportunity to do so through adoption. These people now feel under significant pressure to pursue biological parenthood through high-tech infertility treatment or complicated surrogate arrangements — pressure that makes little sense in a world suffering in myriad ways from overpopulation. Another side benefit would be enrichment of our understanding of the meaning of family and of community.

son, supra note 8 (recognition of foreign decrees regarding relinquishment and adoption).