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U.S. International Adoption Subsidies: Shining Light on the Dark History of the Baby “Black Market”

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U.S. INTERNATIONAL ADOPTION SUBSIDIES: SHINING LIGHT ON THE DARK HISTORY OF THE BABY “BLACK MARKET”

By: Rachael Briner*

While international adoption is a beautiful concept in theory, it often leads to dark consequences. From its inception, human trafficking has enabled international adoptions. While the United States alone cannot dismantle the entire baby “black market” and the likely black market for children’s organs intertwined with it, the U.S. can remove its large contribution. By limiting the federal adoption subsidy to only domestic adoptions, the United States can ensure it only aids systems within its control and address the needs of its own children without homes more effectively. Many other authors have also noted various human trafficking and potential organ trafficking concerns, calling for greater scrutiny and international regulation. Although international regulations would be preferred, the United States can only do so much on its own. Limiting the federal international adoption subsidy to only domestic adoptions will be one effective step to eliminating this larger issue. Additionally, it is crucial to consider the impact of aiding international adoptions on homeless American children. Despite the altruistic intentions of international adoptions, the U.S. should prioritize investing more time and resources into its own foster care system. With around 400,000 children in need of homes, a broken foster care system, and an expensive and time-consuming adoption process, there are many better uses for the subsidies currently aiding the trafficking of children abroad. This comment thoroughly analyzes the consequences of supporting international adoption, including the lack of concern for and blatant harm to domestic children, and proposes a solution for these longstanding issues.

I. Introduction

All adoptions have altruistic intentions; however, international adoptions have many ethical issues associated with the process. This comment will dive into the issues surrounding foster care and adoption around the world, including Russia, China, the Netherlands, India, and Guatemala, and the harms they have experienced and the change in attitudes towards adoption. It will also analyze the foster care and adoption program in the United States, the steps to earn a tax credit, and the actual harm that these international adoption attitudes & subsidies have on domestic foster care and adoption.

II. The Beginning of Foster Care

While the prevalence of children available for adoption has increased with the population, the adoption and fostering process is deeply rooted in tradition. In the sixth century A.D., Roman law allowed families without a male heir to adopt a son from another family.¹ This not only served the adoptive family by preserving generational wealth but also aided families with numerous sons

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¹ *What Is the History of Adoption?* GLADNEY CENTER OF ADOPTION (May 29, 2019). EN <https://adoption.org/what-is-the-history-of-adoption> [<https://perma.cc/N4VY-8Y8C>]

in preventing the dilution of their resources.² While this model persisted into the Byzantine Empire, the late Middle Ages ideology shifted due to the high importance placed on bloodlines and royalty.³

Consequently, the number of orphaned children drastically rose, surpassing orphanages' capacity to accommodate the children.⁴ To address this challenge, these institutions began placing orphans in apprenticeships or as indentured servants, marking the inception of foster care. From then on, the foster care and adoption system developed in many ways all over the globe. Yet, after many years of systemic abuse and trafficking concerns, a new movement arose—the Children's Rights Movement.

III. The Children's Rights Movement

Historically, children were viewed as economic resources available to their parents, but not as human beings themselves.⁵ Children were critical members of the workforce and were often forced to leave their parents before adulthood.⁶ In the early 17th century, society did not show concern for a child's best interests and often did not afford them basic human rights.⁷ Yet, the idea of children as property began to shift in the late 1960s after the Civil Rights Movement.⁸ An increasing number of countries became aware of the need to protect children's rights, which has ultimately influenced the adoption process.

A. THE GENEVA DECLARATION OF THE RIGHTS OF THE CHILD OF 1924

The first international effort to change the treatment of children took place at the *Geneva Declaration of the Rights of the Child of 1924*.⁹ This marked the first consensus on the fundamental principles of children's rights internationally, and was promoted by the Save the Children International Union.¹⁰ First requested by the British delegation, the document was drafted by a British social reformer named Eglantyne Jebb, the founder of Save the Children

² *Id.*

³ *Id.* (discussing how Italian and French law discouraged adoption, and English Common Law banned it).

⁴ *Id.*

⁵ *History of Child Labor in the United States—Part 1: Little Children Working*, U.S. BUREAU OF LABOR STATISTICS (Jan. 2017) Accessed at <https://www.bls.gov/opub/mlr/2017/article/history-of-child-labor-in-the-united-states-part-1.htm> [<https://perma.cc/2KQ7-455U>] (citing Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children*, PRINCETON UNIVERSITY PRESS at 6 (Princeton, New Jersey, 1994)).

⁶ *Id.*

⁷ Mary Ann Mason, *From Father's Property to Children's Rights: A History of Child Custody Preview*, COLUMBIA UNIVERSITY PRESS (May 1996). Accessed at <https://www.law.berkeley.edu/our-faculty/faculty-sites/mary-ann-mason/books/from-fathers-property-to-childrens-rights-a-history-of-child-custody-preview/> [<https://perma.cc/Q5GL-LTZ8>].

⁸ Elizabeth S. Scott, *History of Children and the Law*, THE ALI ADVISOR (July 7, 2017). Accessed at <https://www.thealiadviser.org/children-law/history-children-law/> [<https://perma.cc/4B8Y-AAXP>].

⁹ See generally, *Geneva Declaration of the Rights of the Child of 1924* adopted Sept. 26, 1924, LEAGUE OF NATIONS O.J. SPEC. SUPP. 21, at 43 (1924).

¹⁰ Katherine Stornig, *Geneva, 1924: The Geneva Declaration of the Rights of the Child*, ONLINE ATLAS OF THE HISTORY OF HUMANITARIANISM AND HUMAN RIGHTS (Dec. 2015) Accessed at <https://hhr-atlas.ieg-mainz.de/articles/stornig-geneva> [<https://perma.cc/Z3QS-K36H>]; also see Elizabeth S. Scott, *History of Children and the Law*, THE ALI ADVISOR (July 7, 2017). Accessed at <https://www.thealiadviser.org/children-law/history-children-law/> [<https://perma.cc/4B8Y-AAXP>].

Union.¹¹ World War I likely inspired this declaration, as many young adults experienced firsthand the horrors of how children were treated.¹² Rather than a list specifying a child's rights, it focused more on the innocence of children and the importance of valuing these vulnerable lives.¹³ It called on parents, organizations, and governments to further the notion that every child "may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein."¹⁴ The declaration focused on five points: the well-being of children, and their right to protection, development, relief, and assistance.¹⁵ While this text was not legally enforceable, it was a step in the right direction for the world.¹⁶ The first of its kind, the declaration called countries and parental figures to take action for those to vulnerable and young to take action for themselves.

B. UNIVERSAL DECLARATION OF HUMAN RIGHTS IN 1948

The first expansion of the Geneva Declaration of the Rights of the Child of 1924 took place in 1948 when the *Universal Declaration of Human Rights* was adopted.¹⁷ It was a direct result of World War II and the formation of the United Nations.¹⁸ Vowing "never again allow atrocities like those of that conflict to happen again," the United Nations and the Economic and Social Council considered a document drafted by various world leaders.¹⁹ Eventually, the drafting process was given to a formal committee, later known as the Commission on Human Rights.²⁰ This was chaired by none other than First Lady Eleanor Roosevelt, who is widely recognized as the propelling force for the adoption of this declaration.²¹ Ultimately, the document was adopted by over 50 members on December 10th, 1948.²² While eight nations declined to accept the declaration, no nations disagreed with the premise.²³

While this document was not specific to children, it advocated on behalf of *all* human beings. The declaration is "widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties."²⁴ The two most important expansions included the

¹¹ Stornig, *supra* note 10; *About Save the Children*, SAVE THE CHILDREN (2023) Accessed at <https://www.savethechildren.org/us/about-us#:~:text=Our%20founder%20Eglantyne%20Jebb%20saw,suffering%20across%20war%2D%20Europe> [https://perma.cc/9BQL-NVDM].

¹² Stornig, *supra* note 10.

¹³ *Id.*

¹⁴ Declaration of the Rights of the Child, G.A. Res. 1386 (XIV), 14 U.N. GAOR SUPP. (No. 16) at 19, U.N. Doc. A/4354 (1959).

¹⁵ *Declaration of the Rights of the Child, 1924*, HUMANIUM, Accessed at <https://www.humanium.org/en/geneva-declaration/>.

¹⁶ *Id.*

¹⁷ *See generally*, G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) (Article 25 states children are "entitled to special care and assistance. All children . . . shall enjoy the same social protection.")

¹⁸ *History of the Declaration*, UNITED NATIONS, Accessed at <https://www.un.org/en/about-us/udhr/history-of-the-declaration>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Drafters of the Declaration*, UNITED NATIONS, Accessed at <https://www.un.org/en/about-us/udhr/drafters-of-the-declaration> [https://perma.cc/YJ77-BS83].

²² *History of the Declaration*, *supra* note 18.

²³ *Id.*

²⁴ *Universal Declaration of Human Rights*, UNITED NATIONS, Accessed at <https://www.un.org/en/about-us/universal-declaration-of-human-rights> [https://perma.cc/E2HL-LHSN].

International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights adopted in 1976.²⁵ These declarations are legally binding on participating nations and altogether created the International Bill of Human Rights.²⁶

C. DECLARATION OF THE RIGHTS OF THE CHILD

In response to the growing recognition of the necessity to expand the original *Geneva Declaration of Human Rights* for more effective safeguarding of children, the United Nations was tasked with drafting a new declaration. This undertaking led to the unanimous adoption of the *Declaration of the Rights of the Child* by the UN General Assembly in 1959, comprising 78 different member states.²⁷ Within this declaration, the drafters highlighted the importance of legally binding measures to protect children.²⁸ Nevertheless, the United Nations declined to take a stance on when a child's life begins, likely to avoid taking a stance on abortion.²⁹

Specifically, the declaration laid out children's rights to education, health care, nutrition, shelter, and protection. Following a period of focus on a child's physical health, the United Nations decided that a more holistic approach was vital to a child's well-being.³⁰ The declaration states all children shall be entitled to protection and opportunities "by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity."³¹ This applies to all children, regardless of "race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family."³²

D. CONVENTION ON THE RIGHTS OF THE CHILD

With growing awareness of children's maltreatment, the rights of children had to be addressed leading into the 1990s.³³ The international community recognized the "rights of children and defined what constitutes the human trafficking of children, in an attempt to combat the exploitation

²⁵ *The Foundation of International Human Rights Law*, UNITED NATIONS, Accessed at <https://www.un.org/en/about-us/udhr/foundation-of-international-human-rights-law> [<https://perma.cc/2PJY-B7TR>]; see generally, G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights (Dec. 16 1966); G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights (Dec. 16 1966).

²⁶ *Id.*

²⁷ Declaration of the Rights of the Child, G.A. Res. 1386 (XIV), 14 U.N. GAOR SUPP. (No. 16) at 19, U.N. Doc. A/4354 (1959) (A child is entitled to a "happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein," and encourages "national Governments to recognize these rights and strive for their observance."); *Declaration of the Rights of the Child, 1959*, HUMANIUM, Accessed at <https://www.humanium.org/en/declaration-rights-child-2/> [<https://perma.cc/RC3U-22GJ>].

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Global Issues: Children*, UNITED NATIONS, Accessed at <https://www.un.org/en/global-issues/children#:~:text=In%201959%2C%20the%20UN%20General,%2C%20shelter%2C%20and%20good%20nutrition> [<https://perma.cc/2JDV-URY8>].

³¹ Declaration of the Rights of the Child, G.A. Res. 1386 (XIV), 14 U.N. GAOR SUPP. (No. 16) at 19 Principle 2, U.N. Doc. A/4354 (1959).

³² *Id.* at Principle 1.

³³ *Id.*

of children.”³⁴ The Convention on the Rights of the Child was adopted by the General Assembly in 1989.³⁵ One of the most swiftly adopted ratifications, this declaration altered the way children are viewed legally—children were finally given a unique set of rights.³⁶ This declaration also laid the foundation of the United Nations Children's Fund (UNICEF), which later became a permanent member of the United Nations.³⁷ This organization has also accomplished a great amount since the Convention on the Rights of the Child and continues to advocate against children in armed conflict, violence against children, child labor, and more.³⁸

Although several other countries adopted this treaty, the United States declined due to a concern that other countries would attempt to control what is in the “best interest” of United States children.³⁹ As children’s rights continue to face threats around the globe, more countries are taking their own independent stances.⁴⁰

E. HAGUE CONVENTION

In the early 1990s, nations acted on the need to address the increase in international adoptions and the issues associated with the process. With a growing concern surrounding the lack of international adoption regulations, a convention was soon held in the Hague, the Netherlands.⁴¹ Ultimately, on May 29, 1993, the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption was adopted.⁴² Currently, the Hague Convention has been accepted by 104 different countries including Australia, Brazil, Canada, China, Guatemala, India, the Netherlands, the United Kingdom, and the United States.⁴³ This agreement set forth worldwide standards and regulations for international adoptions for every participating member.⁴⁴

The Convention aims to “ensure that each adoption is in the best interest of the child and to prevent the abduction, sale, and trafficking of children.”⁴⁵ Adopting from a Convention country also safeguards the adoptive and birth parents, providing certain legal protections not otherwise

³⁴ Dorothy Franks, *The Rumor on Adopting Children for Their Organs: A Compelling Reasons to Address a Thriving Organ Black Market and the Prevalence of Children Being Trafficked Into Adoption*, 14 J. HEALTH & BIOMEDICAL L. 169, 196-97 (2018).

³⁵ Convention on the Rights of the Child, G.A. Res. 44/25 (1989).

³⁶ *Id.*

³⁷ *Global Issues: Children*, *supra* note 30.

³⁸ *Id.*

³⁹ *The United Nations Convention on the Rights of the Child*, CONGRESSIONAL RESEARCH SERVICE 9 (July 27, 2015).

⁴⁰ *See, supra* notes 190-195.

⁴¹ *Understanding the Hague Convention*, U.S. DEPARTMENT OF STATE–BUREAU OF CONSULAR AFFAIRS (Dec. 21, 2023) Accessed at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/understanding-the-hague-convention.html> [https://perma.cc/KG2Z-ZAP5].

⁴² *Id.*

⁴³ *Convention Countries*, U.S. DEPARTMENT OF STATE–BUREAU OF CONSULAR AFFAIRS (Dec. 21, 2023) Accessed at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/understanding-the-hague-convention/convention-countries.html> [https://perma.cc/7N2H-KRDD].

⁴⁴ *Id.*

⁴⁵ *Convention Adoption Process*, U.S. DEPARTMENT OF STATE–BUREAU OF CONSULAR AFFAIRS (Dec. 21, 2023) Accessed at <https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/how-to-adopt/hague-adoption-process.html> [https://perma.cc/X4RW-NPLL].

available.⁴⁶ For instance, Adoption Service Providers (ASPs) must be accredited to ensure these agencies “meet comprehensive federal standards designed to ensure that they operate using sound professional and ethical adoption practices.”⁴⁷

1. Convention Adoption Process

In the United States, adopting from a Convention state includes six distinct steps.⁴⁸ First, the adoptive family must choose an approved adoption service provider and then must be found suitable to adopt a child.⁴⁹ Next, the adopting family must be matched with a child by the adoptee’s country’s authorities and then must apply for the child’s immigration and receive approval from the United States.⁵⁰ The adopting family then must obtain legal custody of the child in their home country, and lastly receive a U.S. immigrant visa for the adopted child to bring them back to the United States.⁵¹ This process ensures that a child will be able to enter the U.S. when they are legally adopted.

IV. A Closer Look at Orphanages, Foster Care, and Adoption Internationally

Foster systems have always had problems, but the specific issues vary from country to country. Taking a closer look into how each country runs its adoption program and foster care gives insight into how these institutions permanently affect children’s well-being.

A. CHINA

With China’s one-child policy up until 2016, many families in China were not looking to foster or adopt—but rather surrender their baby girls for adoption, or worse, leave them to die on the streets.⁵² China has long suffered an enormous population, reaching almost one billion by the late 1970s.⁵³ While the country had been promoting the use of birth control and family planning, the Central Committee of the Chinese Communist Party implemented the one-child policy on September 25th, 1980.⁵⁴ The country offered “financial incentives and preferential employment opportunities for those who complied,” and invoked “stronger measures such as forced abortions and sterilizations” later in the 1980s.⁵⁵ With a culture centered around a preference for sons, this led to a gender and orphan crisis.⁵⁶ As the rise in the male population in China went up, so did the

⁴⁶ *Understanding the Hague Convention*, *supra* note 41.

⁴⁷ *Convention Adoption Process*, *supra* note 45.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *One-Child Policy*, BRITANNICA (Nov. 7, 2023) Accessed at <https://www.britannica.com/topic/one-child-policy> [<https://perma.cc/8N5Q-4LP3>].

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Tania Branigan, *China’s great gender crisis*, THE GUARDIAN (Nov. 2, 2011) Accessed at <https://www.theguardian.com/world/2011/nov/02/chinas-great-gender-crisis#:~:text=The%20roots%20of%20son%2Dpreference,a%20son%20was%20your%20pension.> [<https://perma.cc/PD32-JRCP>] (“the roots of son-preference lie deep in Chinese culture. Traditionally, the bloodline

number of female orphans.⁵⁷ While the one-child policy was abandoned in 2016, the country still faces the aftermath with its overflowing orphanages.⁵⁸

1. Orphanages in China

Even though the extreme need for orphanages rose after the passing of the one-child policy, orphanages have existed in China ever since Emperor Wu's founding of the government-run facility in 521 A.D.⁵⁹ This orphanage not only cared for children but also for elderly adults without children.⁶⁰ This altruistic founding soon turned brutal. It has been discovered that Shanghai orphanages have horrifically abused their children, including "deliberate starvation, torture, and sexual assault, continued over a period of many years and led to the unnatural deaths of well over 1,000 children between 1986 and 1992 alone."⁶¹ The public soon grew concerned about these children, and the government faced pressure to fix the systemic abuse of the children.⁶² Nevertheless, many government officers "knowingly suppressed evidence of child abuse at the orphanage, persistently ignored the institute's high monthly death figures, and in 1992, quashed an investigation into orphanage practices."⁶³ It was easy for them to cover their tracks, as the Bureau of Affairs could easily dispose of the horrifying evidence with the crematoria under their control.⁶⁴ After years of public outrage, the Shanghai orphanage has undergone some changes since 1993.⁶⁵ Yet, the focus just shifted to the promotion of adopting "orphans by visiting foreigners," or sending the orphans "to the Chongming Island institution."⁶⁶ This institute remains highly secretive, and Human Rights Watch has "collected credible reports of severe mistreatment and of staff impunity."⁶⁷

2. Foster Care in China

While orphanages have been around for a long time in China, foster care recently gained traction

passes through the male side. Women also "marry out", joining their husband's families and looking after their in-laws, not their own parents. For a long time, a son was your pension.")

⁵⁷ *Id.*

⁵⁸ Olivia Martin, *A Glimpse of China's Foster Care System*, CHINA FOCUS (Aug. 1, 2014) Accessed at https://chinafocus.ucsd.edu/2014/08/01/foster_care/ [https://perma.cc/3TH6-LL5W] ("China has at least the same need (if not more need) for this type of the system, especially because so many girls [were] abandoned due to the one-child policy . . . [adoption] is not nearly enough to deal with China's hundreds of thousands of orphans.").

⁵⁹ Hatty Liu, *Orphan's Ordeals in Ancient China*, THE WORLD OF CHINESE (Nov. 5, 2022) Accessed at <https://www.theworldofchinese.com/2022/11/orphans-ordeals-in-ancient-china/>.

⁶⁰ *Id.*

⁶¹ *Death By Default: A Policy of Fatal Neglect in China's State Orphanages*, HUMAN RIGHTS WATCH, (Jan. 1996) Accessed at

<https://www.hrw.org/legacy/summaries/s.china961.html#:~:text=The%20brutal%20treatment%20of%20orphans,between%201986%20and%201992%20alone> [https://perma.cc/MS98-HCH7].

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

in the 1990s.⁶⁸ Some children reside in a foster care community system and are divided amongst houses in a more rural community.⁶⁹ For example, a foster care community in Shenyang, China places two children within each home.⁷⁰ One of these children is easily mobile, but the other is often disabled and needs assistance to move.⁷¹ Disabled children surrendered to the government often include those with Down Syndrome or cerebral palsy.⁷² Many of these families will have these children for years, and care for them as if they were their own.⁷³ It is clear that China's care of orphans still has many issues, but many citizens are also taking it in the right direction by providing support for the foster care system.

B. GUATEMALA

Guatemala has one of the most corrupt adoption systems and recently shut down its international adoption due to many reports of abuse and child trafficking. Without the fraudulent adoption scheme, it is estimated there are now more than 500,000 orphans who are subject to the "worst types of forced labor, such as sexual exploitation as a result of child trafficking" by gangs and traffickers.⁷⁴ Known as the "destination country for child sex tourists from Canada, the United States, and Europe," this leaves orphans significantly vulnerable.⁷⁵ Additionally, "more than 200,000 children between the ages of 7 and 14 are engaged in child labor," which forms the backbone of the Guatemalan economy.⁷⁶ This population of susceptible children only continues to grow, as 17,000 children every year continue to be abandoned, orphaned, or taken into the custody of the government due to abuse, neglect, or child trafficking.⁷⁷

To compound the challenges, there is a significant absence of support for these orphaned children. Due to the recent halt of international adoptions, the foster care system is almost non-existent. Although Guatemala does have orphanages, referred to as "protection homes," they are a result of the collaborative effort involving many non-profit and non-governmental agencies.⁷⁸ In a country with 500,000 children in need of homes,⁷⁹ there are only approximately 105 licensed foster families.⁸⁰ Out of this number, only about eighty families are willing to adopt, and three-fourths only will take a single child under four years old.⁸¹ Despite efforts by Guatemala to reform its

⁶⁸ Yujia Feng, *Foster Care: A Solution to Child Abuse and Neglect in China?*, THE YALE GLOBALIST (Dec. 19, 2013) Accessed at <https://globalist.yale.edu/in-the-magazine/roots/foster-care-a-solution-to-child-abuse-and-neglect-in-china/> [https://perma.cc/AJ46-U3KV].

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Feng, *supra* note at 68.

⁷³ Martin, *supra* note at 58.

⁷⁴ *Protecting Vulnerable Children in Guatemala*, THE Borgen Project (Apr. 14, 2023) Accessed at <https://borgenproject.org/vulnerable-children-in-guatemala/> [https://perma.cc/C7MV-ZZZK].

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *New Life Children's Home*, New Life Advance International (Feb. 16, 2023) Accessed at <https://nlai.org/about-us/nlch>.

⁷⁸ *CTWWC Guatemala*, CHANGING THE WAY WE CARE (2023) Accessed at <https://www.changingthewaywecare.org/project/guatemala/> [https://perma.cc/57AS-GMJF].

⁷⁹ *Protecting Vulnerable Children in Guatemala*, *supra* note 74.

⁸⁰ *New Life Children's Home*, *supra* note 77.

⁸¹ *Id.*

foster care system, many government officials and orphanages continue to refuse to take credit for their actions.⁸²

C. INDIA

India's foster care system is more decentralized compared to other nations, as it is set up around different voluntary and public institutions.⁸³ Along with orphanages and children's homes, there are also non-conventional institutions.⁸⁴ The most popular non-conventional alternative is SaiKripa Homes.⁸⁵ Instead of a traditional family model, these homes encourage the older foster youth to take care of the younger youth. While the boys and girls are separated, they are taught to protect each other.

Along with different institutions, India also has implemented many laws to combat child abuse and neglect.⁸⁶ The Guardians and Wards Act of 1890 first set the basic duties of guardians of a person.⁸⁷ It also enacted the process for becoming guardian of a child, otherwise known as adoption, or surrendering a child that one has not properly taken care of.⁸⁸ Almost one hundred years later, The Hindu Adoptions and Maintenance Act of 1956 laid out the foundation for what a valid adoption encompasses, who has the ability to adopt a child, and the obligations that follow adoption.⁸⁹ Yet, the provisions focus on Hindus domiciled in India, only allowing Hindu males and females to adopt.⁹⁰ In tandem, The Women's and Children's Institutions (Licensing) Act of 1956 was also enacted.⁹¹ While not focused on adoptions, this act aimed for the betterment of women and children's welfare, requiring a lengthy process for institutions caring for them to get licensed.⁹² Lastly, the Juvenile Justice Act of 1986, also didn't address adoption directly.⁹³ Instead, it focused on the rehabilitation of neglected children who end up participating in delinquent activities.⁹⁴ This is just as vital of an enactment as the ones directly surrounding foster care, because many foster children do not have the support they need to navigate life. Rehabilitation is imperative for these children, as they have likely never had role models to guide them through right and wrong. Over the past two hundred years, it is clear the legislature has been attempting to reform the foster care system and the dire outcomes the program can have on the children.⁹⁵

⁸² Isabella Rolz and Jorge Rodriguez, *Guatemala's Forgotten Voices: Children who were fraudulently adopted share their stories*, THINK GLOBAL HEALTH (Mar. 27, 2023) Accessed at <https://www.thinkglobalhealth.org/article/guatemalas-forgotten-voices> [https://perma.cc/Q54X-S6NH].

⁸³ M. Basheer Ahmed Khan, *The Foster Care System in India*, 70 SPECIAL ISSUE: CHILD WELFARE AROUND THE WORLD 2, 243, 250 (1991).

⁸⁴ *Id.*

⁸⁵ Lillian Beaudet, *Foster Care in America Compared to Other Nations' Systems*, THROUGH TEEN LENSES (Aug. 10, 2020) Accessed at <https://www.throughteenlenses.com/post/foster-care-in-america-compared-to-other-nations-systems> [https://perma.cc/THB2-VBUE].

⁸⁶ Khan, *supra* note 83 at 252.

⁸⁷ *See generally*, The Guardians and Wards Act, 1890 Act No. 8 of 18901.

⁸⁸ *Id.* at 7, 12.

⁸⁹ *See generally*, The Hindu Adoptions and Maintenance Act, 1956 Act No. 78 of 19561.

⁹⁰ *Id.* at 7-8.

⁹¹ *See generally*, The Women's and Children's Institutions (Licensing) Act, 1956 No. 105 of 1956.

⁹² *Id.*

⁹³ The Juvenile Justice Act, 1986, No. 53 of 1986, 1167.

⁹⁴ *Id.*

⁹⁵ *Id.*

Even with various programs to try to encourage adoption, major problems still exist within the system. A staggering one-fourth of Delhi's homeless are children, and one out of every hundred prostitutes is a child under the age of fifteen.⁹⁶ Additionally, many abandoned babies are left out on the street to either starve or die from various animal' attacks.⁹⁷ Even when children are "adopted" by homes, many of these adoptions turn out to be part of a black market scheme, selling the babies as children or organs.⁹⁸

D. NETHERLANDS

The Netherlands chose to adopt a foster care approach for orphans and other children surrendered to the government.⁹⁹ The government has various organizations and administrations to manage the foster care system, including the Child Care and Protection Board and the Ministry of Health, Welfare and Sports.¹⁰⁰ The Child Care and Protection Board conducts investigations into the family life, and if the board "consider[s] the situation not in the interest of the child, [they may include] a request for termination of the custody of the parents."¹⁰¹ The Ministry of Health, Welfare, and Sports oversees children and family services, but fostering services are managed by local authorities.¹⁰² The local authorities are divided into forty-two regions, which are responsible for caring for and supporting foster children; advising schools, social work, and youth facilities; implementing child protection programs, and qualifying children for foster care.¹⁰³

All programs and adoptions are governed under the Dutch Civil Code, Book 1 Law of Persons and Family Law, Title 1.12. The code notes the important factors to consider in adoption, such as the "best interest of a child" and the likelihood that the biological parents will take responsibility in the future.¹⁰⁴ It also lays out the requirements for the adopting a child, when the adoption legally takes effect, and the process of a revocation of adoption.¹⁰⁵ Although international adoption was previously available for Dutch children, a Dutch news source published in 2019 stated many children have been "subject to widespread abuse . . . [and] 'insufficiently protected' against physical, mental and sexual abuse."¹⁰⁶ As many as 10 in 200,000 children in some form of foster or institutional care have experienced extreme abuse.¹⁰⁷ Ministers have stated the country must

⁹⁶ *Id.* at 243.

⁹⁷ *Id.*

⁹⁸ *Id.* at 244.

⁹⁹ Gera ter Meulen, *The Field of Foster Care in the Netherlands*, KNOWLEDGE BUREAU TER MEULEN FOR FOSTER CARE AND ADOPTION.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *See generally*, Dutch Civil Code, Book 1 Law of Persons and Family Law, Title 1.12 (3).

¹⁰⁵ *Id.* at Article 1:228, 1:230, 1:231.

¹⁰⁶ *Children in care were subjected to widespread abuse, report says*, DUTCH NEWS (June 12, 2019) Accessed at <https://www.dutchnews.nl/2019/06/children-in-care-were-subjected-to-widespread-abuse-report-says/> [<https://perma.cc/RGG7-J8YA>].

¹⁰⁷ *Id.*

“make sure that children in care today do not become the victims of tomorrow.”¹⁰⁸ Consequently, intercountry adoption of children in the Netherlands is now unavailable.¹⁰⁹

E. RUSSIA

Russia’s foster care system is based around orphanages, in which foster families can become an integral part of maintaining the children and the support required to raise them. Russian orphanages are known as “Baby Houses,” for children from three to five, and “Detsky Dom’s,” for children ages seven to sixteen.¹¹⁰ With over 700,000 orphans currently living in Russia, the number continues to increase by 113,000 every year.¹¹¹ This number includes about 95% of social orphans, meaning a living parent surrendered them to the state. Even if children are in their parent’s care, sometimes the government assigns them to orphanages if the parents have refused to enroll them in an educational institution.¹¹² Yet, some of these orphanages only provide children with education up to the sixth grade, which ends up limiting orphans to low-education opportunities once they age out of the system.¹¹³

1. A System of Abuse

Furthermore, many of the Russian orphanages are known to be “psychosocially depriving Russian institutions that provided adequate physical resources but not consistent, responsive caregiving.”¹¹⁴ For instance, in these orphanages “caregivers rarely initiat[e] social interactions, respon[d] to infants’ social bids, respon[d] promptly to emotional distress, or provi[de] warmth and affection.”¹¹⁵

Neglect and abuse are only heightened when the children are disabled, which represents about 45% of the children living in orphanages.¹¹⁶ For example, Human Rights Watch reported how many children who aged out of the orphanages describe how “orphanage staff beat them, used physical restraints to tie them to furniture, or gave them powerful sedatives in efforts to control behavior that staff deemed undesirable.”¹¹⁷ According to one young woman, the “staff used to hit

¹⁰⁸ *Id.*

¹⁰⁹ *The Suspension of Intercountry Adoption by the Netherlands, Defence for Children - ECPAT Netherlands*, INTERNATIONAL CHILD DEVELOPMENT INITIATIVES AND COMENSHA (June 2021).

¹¹⁰ *Kazakhstan Adoption Program*, HELPING HAND ADOPTION AGENCY (2013) Accessed at [https://ahelpinghandadoption.org/adopt-a-child/kazakhstan/#:~:text=They%20are%20called%20Detsky%20Doms,\(ages%207%2D16\)\[https://perma.cc/JC2E-7W5X\]](https://ahelpinghandadoption.org/adopt-a-child/kazakhstan/#:~:text=They%20are%20called%20Detsky%20Doms,(ages%207%2D16)[https://perma.cc/JC2E-7W5X]).

¹¹¹ *Statistical Snapshots: Russia’s Children at Risk*, RUSSIAN CHILDREN’S WELFARE SOCIETY (2012) Accessed at https://web.archive.org/web/20130310072245/http://www.rcws.org/aboutus_statistics.html [https://perma.cc/8GXZ-ESH3].

¹¹² *Kazakhstan Adoption Program*, *supra* note 110.

¹¹³ *Id.*

¹¹⁴ Emily C. Merz and Robert B. McCall, *Behavior Problems in Children Adopted from Psychosocially Depriving Institutions*, 38 ABNORM. CHILD PSYCHOL. 459-470 (May 2010) Accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892211/> [https://perma.cc/6GFQ-9HMT].

¹¹⁵ *Id.*

¹¹⁶ *Abandoned by the State: Violence, Neglect, and Isolation for Children with Disabilities in Russian Orphanages*, HUMAN RIGHTS WATCH (Sept. 15, 2024) Accessed at <https://www.hrw.org/report/2014/09/15/abandoned-state/violence-neglect-and-isolation-children-disabilities-russian> [https://perma.cc/6SA4-84QK].

¹¹⁷ *Id.*

[her] and drag [her] by the hair.¹¹⁸ They gave [her] pills to calm her down.”¹¹⁹ Another young man noted the staff “constantly gave [children] injections, and then they sent [them] to the bedroom so that [they] would sleep.”¹²⁰

Recently, outrage sparked in Russia after a seven-year-old boy died after staff “used cloth diapers to tie him to his bed . . . the boy may have choked on his own vomit and [being] tied down stopped him from rolling over to breathe.”¹²¹ Children’s Rights Commissioner Pavel Astakhov called Russia to take action, bringing attention to the fact other children have died in a similar manner.¹²² Overall, it is well reported that “many children also experienced poor nutrition and lack of medical care and rehabilitation, resulting in some cases in severely stunted growth and lack of normal physical development . . . and can constitute inhuman and degrading treatment.”¹²³

Russia also faces child trafficking, which is a major concern in international adoption. Even after the return of young victims of trafficking from Syria, the government has declined to meet “the minimum standards for the elimination of trafficking and is not making significant efforts to do so.”¹²⁴ This only opens more avenues for abuse, including ethical issues in international adoption.

2. *Aging Out of the Orphanage*

An estimated fifteen thousand sixteen or seventeen-year-old children age out of the Russian orphanage every year.¹²⁵ Due to their lack of education, mental well-being, and physical care, statistics have shown that “50% of orphans after graduation fall into a high-risk category, 40% become involved in crime, 10% commit suicide, 33% stay unemployed, 20% become homeless, only 4% are admitted to universities.”¹²⁶ This is a direct psychological result of the years of abuse these children faced in the orphanage, as “severe institutional deprivation is associated with a higher percentage of behavior problems after a shorter duration of exposure.”¹²⁷

3. *Russian Federal Government Initiatives*

Even though Russia is not concerned with human trafficking, the federal government has recently become concerned with the systemic abuse within the orphanages. Now a party of the Convention on the Rights of the Child (CRC), the Convention against Torture, the European Convention on Human Rights (ECHR), and the Convention on the Rights of Persons with Disabilities (CRPD), Russia is legally bound to protect disabled children from all types of abuse and violence.¹²⁸ The

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Tatiana Ermoshkina, *Astakhov took control of the case of a child’s death in a Nizhny Novgorod children’s home* [Астахов взял под контроль дело о гибели ребенка в нижегородском детдоме], ROSSISKAYA GAZETA (2014) Accessed at <http://www.rg.ru/2014/04/29/reg-pfo/detdom-anons.html> [<https://perma.cc/MYJ4-PAJZ>].

¹²² *Id.*

¹²³ *Abandoned by the State*, *supra* note 116.

¹²⁴ 2023 *Trafficking in Persons Report: Russia*, U.S. DEPARTMENT OF STATE (2023) Accessed at <https://www.state.gov/reports/2023-trafficking-in-persons-report/russia/> [<https://perma.cc/WV8U-UY8P>].

¹²⁵ *Id.*

¹²⁶ *Statistical Snapshots: Russia’s Children at Risk*, *supra* note 111.

¹²⁷ Merz, *supra* note 114.

¹²⁸ See generally, Convention on the Rights of the Child (CRC), G.A. Res. 44/25 (Nov. 20, 1989) entered into force September 2, 1990, ratified by Russia on August 16, 1990; see also Convention on the Rights of Persons with

“National Action Strategy in the Interests of Children for 2012-2017” was recently implemented in an effort to return children with disabilities to their birth families and provide more inclusive communities to prevent child abandonment. In addition, the government is also starting to place more emphasis on foster families.¹²⁹ Overall, the government believes this will help avoid the abuse taking place within the orphanages.

When in foster care, children will be inspected by a Psychologo-Medical-Pedagogical Commission (PMPC).¹³⁰ This commission will “medically and psychologically examine children, identify developmental delays, and formulate a structured plan for a child’s further education and upbringing.”¹³¹ The children will then either remain in their foster care placement or be placed in a different foster home or institution.¹³²

All in all, it is clear that each country faces a lot of issues when it comes to adoption and foster care. While many adoptive parents believe they are helping these children when they choose to adopt internationally, recent findings have shown the humanitarian effort often ends up hurting children, families, and communities across the globe.

V. Issues Associated with International Adoption

Even before the formal recognition of international adoption, there was a questionable beginning. Americans often “adopted” children from other countries through “gray” markets, “networks of doctors, lawyers, midwives, and clergy who connected adopters and birth mothers.”¹³³ Through a darker route, families could also buy a child through the black market, the children often being “illegitimate children of unwed mothers, [who] were quietly adopted and taken out of the country from the 1940s to the mid-1960s by wealthy American Catholics.”¹³⁴ The early 1900s World Wars were highly influential in international adoption, as United States soldiers told “heartbreaking stories of war-torn countries and orphaned children” in need of families, which ultimately inspired Americans to adopt internationally.¹³⁵ Additionally, soldiers who had fathered Korean children during the Korean War and brought the children home sparked further inspiration.¹³⁶ These fathers had a profound effect: “Americans adopted approximately two-thirds of the 150,000 children that

Disabilities (CRPD) G.A. Res. 61/106 (Dec. 13, 2006), entered into force May 3, 2008, ratified by Russia on September 25, 2012, art. 15 and art. 16, para 1. UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc A/RES/49/36 (1984), entered into force June 26, 1987, ratified by Russia on March 3, 1987. European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953. Russia became a party to the ECHR on May 5, 1998. See article 3.

¹²⁹ *Abandoned by the State*, *supra* note 116.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ Arissa Oh, *TO SAVE THE CHILDREN OF KOREA: THE COLD WAR ORIGINS OF INTERNATIONAL ADOPTION 2* (1st edition, 2015).

¹³⁴ *Id.*; See PHILOMENA (Pathé, BBC Films, et. al., 2013) (based on the book by Martin Sixsmith, *The Lost Child of Philomena Lee: A Mother, Her Son and a Fifty Year Search*, MACMILLAN (2009)).

¹³⁵ Katherine Herrmann, *Reestablishing the Humanitarian Approach to Adoption: The Legal and Social Change Necessary to End the Commodification of Children*, 44 Fam. L. W. 409, 411 (2010) (suggesting WWII veterans' stories about orphans increased adoption).

¹³⁶ *Id.* at 409-28.

Korea sent . . . Korea was the number-one sending country of children to the United States until 1995.”¹³⁷ These historical moments were fundamental to international adoption’s increasing popularity.

Yet, the World Wars were not the only influences on international adoptions, as there were many celebrities that heightened the demand for international children. Some of the first celebrities to adopt internationally were *The Sound of Music*’s Julie Andrews and *The King and I*’s Yul Brenner.¹³⁸ These friends both adopted a pair of children from Vietnam in the 1970s, and celebrities Mia Farrow and Andrew Pelvin adopted children from Korea.¹³⁹ Hollywood adoptions carried into the twenty-first century, as seen with Angelina Jolie and Brad Pitt. This couple adopted children from Cambodia, Ethiopia, Malawi, and Vietnam.¹⁴⁰ While celebrity adoptions do not make up the mass percentage of adoptions, they opened the eyes of the American public to the possibility and arguably created a “trend” for adopting international children.¹⁴¹

Further, religion has been an influence on international adoption, seen as a way to spread faith and love to countries that are particularly suffering.¹⁴² For certain religious sectors, it is not a trend, but a duty.¹⁴³ Regardless, many religions and churches find beauty in all forms of adoption, viewing it as a way to provide the unconditional love only a parent can give to a child. International adoption faces several issues, even though many of them may be unintended. Such problems facing international adoption include human trafficking as well as potential organ trafficking and harvesting. Furthermore, the increased focus on children overseas directly ignores the children in our own domestic foster care systems.

A. THE ECONOMICS BEHIND ADOPTION

Although human trafficking has historically been a prevalent industry, it has become a concerningly large part of international adoptions due to modern-day technology and ease of travel. As the popularity of international adoptions increased in the late 1900s, the demand for adoptable children rose as well.¹⁴⁴ Eventually, as economics tends to manifest, the great demand

¹³⁷ Oh, *supra* note 133 at 2.

¹³⁸ DeLeith D. Gossett, *If Charity Begins at Home, Why Do We Go Searching Abroad? Why The Federal Adoption Tax Credit Should Not Subsidize International Adoptions*, 17 LEWIS & CLARK LAW REV. 3, 839 at 858 (2013).

¹³⁹ *Id.*

¹⁴⁰ *Id.* at 858-60.

¹⁴¹ *Id.* at 860 (“After Jolie adopted her daughter [from Ethiopia], U.S. adoption agencies noted that inquiries about Ethiopian babies doubled.”) See also *Angelina Jolie Inspires International Adoptions*, ABC NEWS (Oct. 1, 2005) <https://abcnews.go.com/GMA/story?id=1175428&page=1> [<https://perma.cc/3V2K-EVEQ>] (“Watt and her husband, Jason Hillard, residents of Athens, Ohio, wanted to adopt a child. When they saw Jolie on that magazine cover with her adopted daughter, their decision to raise a child from Ethiopia was clear.”).

¹⁴² 8 Baptists Freed by Haiti Arrive in Miami, CBS NEWS (Feb. 18, 2010) <https://www.cbsnews.com/news/8-baptists-freed-by-haiti-arrive-in-miami/> [<https://perma.cc/5A5B-CMH6>]; *What You Need to Know About the History of Adoption*, *supra* note 5; Oh, *supra* note 133 at 79.

¹⁴³ Herbie Newell, *Giving Hope and Receiving Hope: Why Christians Should Still Care about International Adoption*, BETTER SAMARITAN (Nov. 5, 2021), Accessed at <https://www.christianitytoday.com/better-samaritan/2021/november/giving-hope-and-receiving-hope-why-christians-should-still-.html> [<https://perma.cc/8QYP-CFG7>] (“International adoption teaches about the beauty of God’s adopting grace . . . International adoption shows the power of hope . . . International adoption reveals God’s redeeming work”).

¹⁴⁴ Franks, *supra*, note 34 at 200.

exceeded the available children for adoption in these countries.¹⁴⁵ As contraceptives became more readily available and the stigma surrounding unwed mothers decreased, there were even fewer children available to adopt worldwide.¹⁴⁶ Now, as countries progressively decriminalize abortion, there likely will be even fewer children available.¹⁴⁷

B. THE SHIFT AWAY FROM HUMANITARIAN EFFORTS

Initially, adoption was “driven by a humanitarian response,” but prospective parents who were desperate to have children started paying substantial amounts of money to acquire children. This humanitarian effort was soon overtaken by the “reali[z]ation that intercountry adoption was a means of family formation.”¹⁴⁸ Beginning in the late 1970s, there was no “effective legal framework in place . . . children were being taken across borders, their identities completely wiped out. The process became increasingly tainted by deliberately illegal, demand-led, nasty actions.”¹⁴⁹ These parents didn’t always care whether the child was legally up for adoption, and this ignorance and desire for children created the black market that now heavily permeates the world.¹⁵⁰ In the past decade, countries have begun to address “adoption” trafficking, but the trafficking continues without an effective regulation system in place.¹⁵¹

C. THE LEGAL AND ILLEGAL EXCHANGE OF CHILDREN INTERSECT

The industry of the “baby trade” has only continued to grow, as many have recognized that “illegal adoptions bring as much as \$10,000 a head.”¹⁵² This “business” is also widely unregulated, because neither “child trafficking nor baby buying in [specifically] Chinese international adoptions are widely studied.”¹⁵³ Researchers cannot be certain how many children are kidnapped and trafficked each year compared to how many are legally put up for adoption internationally.¹⁵⁴ Yet, the worldwide issue is “a lot more serious than most people know.”¹⁵⁵

¹⁴⁵ *Id.*

¹⁴⁶ Rosie Swash & Thaslima Begum, ‘My mother spent her life trying to find me’: the children who say they were wrongly taken for adoption, *THE GUARDIAN*, Aug. 11, 2023, Accessed at <https://www.theguardian.com/society/2023/aug/11/the-children-who-say-they-were-wrongly-taken-for-adoption> [<https://perma.cc/EL4R-37A2>]; see also Simon Romero & Emiliano R. Mega, *Mexico’s Supreme Court Decriminalizes Abortion Nationwide*, *N.Y. TIMES*, (Sept. 6, 2023) Accessed at <https://www.nytimes.com/2023/09/06/world/americas/mexico-abortion-decriminalize-supreme-court.html> [<https://perma.cc/D64D-JZKH>].

¹⁴⁷ See generally, Romero, *supra* note 146.

¹⁴⁸ Swash, *supra* note 146.

¹⁴⁹ *Id.*

¹⁵⁰ Herrmann, *supra* note 135 at 410–13 (stating the demand for children creates an “economic incentive for criminal actions”)

¹⁵¹ See Franks, *supra* note 34 at 229.

¹⁵² Victor Perera, *Behind the Kidnaping of Children for Their Organs*, *LOS ANGELES TIMES* (May 1, 1994), <https://www.latimes.com/archives/la-xpm-1994-05-01-op-52449-story.html> [<https://perma.cc/YP8X-KBG4>].

¹⁵³ Charlie Custer, *Kidnapped and Sold: Inside the Dark World of Child Trafficking in China*, *THE ATLANTIC*, <https://www.theatlantic.com/china/archive/2013/07/kidnapped-and-sold-inside-the-dark-world-of-child-trafficking-in-china/278107/> [<https://perma.cc/7EU7-CLZD>].

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

In one story uncovered by Charlie Custer in *THE ATLANTIC*, a family adopted a child from China.¹⁵⁶ The adoptive parents started investigating the origins of their adopted daughter after noticing some irregularities in the adoption process.¹⁵⁷ When the parents were finally able to get in touch with the man who “found” the little girl, he admitted the child was purchased. Stunned, the parents then heard about the director of the orphanage, who seemed to confirm the adoption agency bought the baby.¹⁵⁸ In another interview published by *THE GUARDIAN*, two adoptive parents exclaimed:

“[N]o one seemed to care that our adoptive daughters might have been, in effect, kidnapped,” he says. “The agency did not seem to care, the governments did not seem to care, other adoptive parents did not seem to care . . . you could have stolen children in your home and no one would think that was a problem.”¹⁵⁹

The same article also interviewed Bangladesh women whose children were missing, and many similarly expressed the belief that their children were kidnapped.¹⁶⁰ One witness “claims to have seen a truckload of children being driven away from Tongi in the summer of 1977 as parents chased the vehicle, crying,” while another “claims that her newborn baby went missing weeks after she turned down men claiming to work for [Terres des Hommes Netherlands]; that she returned from the bathroom to find the baby gone from its cot.”¹⁶¹

In these countries, the fraudulent adoption system is often perpetuated by ensuing years of “state corruption, insecurity, extreme poverty, and a lack of socioeconomic opportunities” for individuals¹⁶². For example, Guatemala was engaged in a civil war in the late 20th century, which resulted in more than 250,000 disappearances. During this time and the years following, “thirty-five thousand minors were given for fraudulent adoption and delivered without verifying they had a family.” Exploiting the impoverished and war-ridden area, many children were stolen or bought from their parents to become part of this system.

D. INSTITUTIONAL CORRUPTION

Agencies often work around orphanage and agency fee regulations, charging adoptive parents significantly more than legally required.¹⁶³ For example, in India “only \$5,000 USD of adoption agency fees from potential parents can go to the orphanages, but adoption agencies charge \$20,000 USD or more.”¹⁶⁴ This leads to a high profit for the agencies, and a grand incentive to kidnap or buy more children. Yet, adoption agencies usually cannot supply enough children for the demand. Consequently, orphanages in many impoverished communities have adopted the system of paying

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Swash, *supra* note 146.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Rolz, *supra* note 82.

¹⁶³ *Id.* at 201–202.

¹⁶⁴ *Id.*

people “finders fees,” a payment for children brought to their agency.¹⁶⁵ Traffickers often recruit Finders with a promised payment, increased status, or less abuse.¹⁶⁶

Even the government is not safe from corruption, as many government officials have taken part in the scheme.¹⁶⁷ For instance, one of the “largest rings [in Guatemala] is allegedly headed by a top government official.”¹⁶⁸ The ring included the orphanage itself, as it “‘belonged to the government, and many [children] who went through this institution were sent to Canada or the United States, illegally, because there was an agreement between the Guatemalan government and the orphanage.’”¹⁶⁹ According to one Guatemalan man who was fraudulently put up for adoption, “[t]he real perpetrators were those in power . . . They took advantage of the vulnerability of young mothers who were extremely poor and encouraged them to abandon or sell their children to give them up for adoption.”¹⁷⁰ Unfortunately, it is difficult to enforce any consequences for these officials, as parliamentary immunity and influence over the court system and its judges prevent others from doing so.¹⁷¹

These kinds of abuses are incredibly prevalent in countries that continue to be affected by wars, natural disasters, political turmoil, or medical crises.¹⁷² When poverty is at an all-time high, individuals may become desperate to provide money and stability for their children. Finders then prey upon desperate parents trying to ensure the best for their children. As a result, adoptions that occur in impoverished countries, are influenced by the poverty and abuse in an adoptee’s life. Consequently, the coercive tactics used by Finders and the susceptibilities of impoverished parents result in an abusive impact on the process of intercountry adoption.¹⁷³

E. THE POTENTIAL (AND LIKELINESS) OF CHILD ORGAN TRAFFICKING

In 2007, the World Health Organization estimated that 5–10% of organ transplants worldwide are conducted illegally.¹⁷⁴ In 2011, the illegal organ trade was projected to yield profits ranging from 600 million dollars to 1.2 billion dollars annually.¹⁷⁵ Yet, the reported numbers and actual numbers likely diverge substantially because “what can be seen is just the tip of the iceberg, since available data concerns reported cases only.”¹⁷⁶ Despite organ trafficking being recognized by scholarly and governmental interest, “the crime remains a hidden, underground activity and seems to be

¹⁶⁵ Patricia J. Meier, *Small Commodities: How Child Traffickers Exploit Children and Families in Intercountry Adoption and What the United States Must Do to Stop Them*, 12 J. GEND. RACE & JUSTICE 185, 194 (2009).

¹⁶⁶ *Id.*

¹⁶⁷ Perera, *supra* note 152.

¹⁶⁸ *Id.*

¹⁶⁹ Rolz, *supra* note 82.

¹⁷⁰ *Id.*

¹⁷¹ Perera, *supra* note 152.

¹⁷² Herrmann, *supra* note 135 at 409-28.

¹⁷³ Denise Cuthbert, *Waiting for a Better World: Critical and Interdisciplinary Perspectives on Intercountry Adoption*, 11 SOCIAL POLICY AND SOCIETY 3, 375-80 (Cambridge University Press, May 23, 2012).

¹⁷⁴ TRAFFICKING IN PERSONS FOR THE PURPOSE OF ORGAN REMOVAL, UNITED NATIONS OFFICE ON DRUGS AND CRIME 11 (2015).

¹⁷⁵ Jeremy Haken, *Transnational Crime in the Developing World*, GLOBAL FINANCIAL INTEGRITY 22 (Washington D.C., 2011).

¹⁷⁶ *Id.* at 12.

greatly underreported.”¹⁷⁷ Reports and individual stories reveal middlemen’s plots to “coerce, deceive or otherwise exploit vulnerable persons into selling their organs,” which results in the victim’s “damage to health, stigmatization, and further impoverishment.”¹⁷⁸

Victims are often enticed into organ trafficking schemes with the promise of payments that would allow them to escape their impoverished lives.¹⁷⁹ Nevertheless, victims rarely obtain their promised money, and instead receive barely anything or no money at all.¹⁸⁰ Since this is an illegal practice, this leaves the victims with no legal recourse and causes them further suffering and economic disadvantage.¹⁸¹ While the notion of selling children for their organs is a distressing thought, the statistics and objectives of such black-market industries are hard to dispute.¹⁸² This assertion only is supported by the statistics that show those engaged in organ selling consistently overlap with those who report the kidnapping of their children by “adoption” agencies.¹⁸³

Yet, some diplomats assert these organ trafficking claims are only rumors in an attempt to destabilize government administrations.¹⁸⁴ Particularly in Guatemala, diplomats suggest an underlying motive for a country that has faced lingering insecurity after a civil war, where “more than 100,000 people have been killed, [and] an estimated 40,000 disappeared.”¹⁸⁵ Yet, even if these are simply rumors, this is a despicable claim to make. It would be wise for nations to investigate this matter, “because if something so egregious is believed globally, then it logically follows that its foundations in reality are really concrete and concerning.”¹⁸⁶

While there are current efforts to combat these issues, many countries are on different pages as to what regulations best suit a child’s needs. The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (“the Convention”) took place on May 29, 1993, in the Netherlands. The Convention implemented an international agreement to help safeguard intercountry adoption and establish international adoption standards.¹⁸⁷ The Conference boasts many 91 members, including the United States which became an implementing country on April 1, 2008.¹⁸⁸ Nevertheless, international adoptions have “declined since 2004 due to stricter adoption regulations from foreign countries and, perhaps, a better understanding of the domestic vs. international adoption processes.”¹⁸⁹

¹⁷⁷ *Id.* at 6.

¹⁷⁸ *Id.* at 12.

¹⁷⁹ *Id.* at 25.

¹⁸⁰ *Id.*

¹⁸¹ Haken, *supra* note 175 at 25.

¹⁸² *Id.*

¹⁸³ Franks, *supra* note 34 at 221-22.

¹⁸⁴ *Foreigners Attacked in Guatemala*, NEW YORK TIMES at A10 (Apr. 5, 1994), Accessed at <https://www.nytimes.com/1994/04/05/world/foreigners-attacked-in-guatemala.html> [https://perma.cc/K5UR-Y4A4] (For example, diplomats assert that organ trafficking rumors in Guatemala are mainly an effort to destabilize the governmental administration and the United States’ influence and support).

¹⁸⁵ *Id.*

¹⁸⁶ Franks, *supra* note 34 at 225.

¹⁸⁷ *U.S. Hague Convention Treaty Partners*, U.S. DEPARTMENT OF STATE — BUREAU OF CONSULAR AFFAIRS, <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/hague-abduction-country-list.html> [https://perma.cc/PC4A-59VE].

¹⁸⁸ *Id.*

¹⁸⁹ *What You Need to Know About the History of Adoption*, *supra* note 5.

As a result of increasing awareness regarding child trafficking and abuse of adoptions within their own borders, countries such as Paraguay,¹⁹⁰ Turkey,¹⁹¹ Guatemala,¹⁹² and the Netherlands,¹⁹³ have either reduced or completely banned intercountry adoptions. Additionally, international adoptions continues to decrease as a result of tarnished relationships between the United States and foreign countries, such as Guatemala¹⁹⁴ and Russia,¹⁹⁵ due to rumored trafficking and proven abuse of adopted children.¹⁹⁶ Nevertheless, in the wake of many international adoption freezes, the United States continues to assure that “[i]ntercountry adoption is one of the Department of State’s highest priorities,”¹⁹⁷ and has implemented statutes to help combat international adoption fraud.¹⁹⁸

VI. Domestic Foster Care

Domestic foster care took many forms in the early American colonies due to the many Englishmen who came over with young, indentured servants.¹⁹⁹ Orphaned, indentured servants became part of the first forms of foster care within the United States.²⁰⁰ Although this form of foster care often led to child labor and abuse, it was a better alternative to learning no trade and ending up on the

¹⁹⁰ Franks, *supra* note 34 at 214 (“Paraguay stopped its international adoption program.”).

¹⁹¹ *Id.* (“Turkey cancelled all international adoptions due to the adoption organ rumor”).

¹⁹² *Id.* at 213 (“Guatemala had an extensive network of ‘snatchers,’ caretakers, and lawyers, and a complicit state government willing to ignore reports of baby theft . . . The legislation incorporated the Adoption Hague Convention into their adoption system, but currently Guatemala is still conducting a review of its policies to be in compliance.”).

¹⁹³ Anuradha Sharma, *The story of two women, adopted by Dutch families, in search of their birth parents in India*, THE HINDU (Mar. 27, 2021), <https://www.thehindu.com/society/the-story-of-two-women-adopted-by-dutch-families-in-search-of-their-birth-parents-in-india/article34168059.ece> [<https://perma.cc/DP8C-XGPU>] (the “Netherlands announced a total freeze on all international adoptions after an official inquiry exposed systemic abuses in the past, including baby theft, child trafficking, fraud and corruption . . . the government was aware of but had done nothing to stop.”); *Dutch freeze international adoptions after abuses uncovered*, AL JAZEERA, (Feb. 8, 2021), <https://www.aljazeera.com/news/2021/2/8/dutch-freeze-international-adoptions-after-abuses-uncovered> [<https://perma.cc/BTV5-RATX>] (“The Netherlands is freezing international adoptions after a government commission found some children had been stolen”).

¹⁹⁴ Perera, *supra* note 152 (“ancient fears have resurfaced with the rise of a baby-trafficking.”); *Foreigners Attacked in Guatemala*, *supra* note 61 at A10 (reporting on an Alaskan tourist that was beaten by a mob in Guatemala due to fears of kidnapping).

¹⁹⁵ Kristin M. Hall, *Grandmother: Adopted boy was terror*, NBC NEWS, (Apr. 10, 2010), <https://www.nbcnews.com/id/wbna36367227> [<https://perma.cc/J5FT-D3Q9>] (“after a string of foreign adoption failures . . . Moscow ha[s] called for a suspension of all U.S. adoptions.”)

¹⁹⁶ Diane Clehane, *U.S. Mother Who 'Returned' Her Adopted Son To Russia Ordered To Pay Child Support*, FORBES (May 31, 2012), <https://www.forbes.com/sites/dianeclehane/2012/05/31/u-s-mother-who-returned-her-adopted-son-to-russia-ordered-to-pay-child-support/?sh=100bd91d521f> [<https://perma.cc/VM35-445A>] (“Hansen put Artyom Saveliev, the seven year-old boy she adopted from Russia, on an 11-hour flight and shipped him back to his homeland. ‘I no longer wish to parent this child.’”).

¹⁹⁷ *Intercountry Adoption*, U.S. DEPARTMENT OF STATE—BUREAU OF CONSULAR AFFAIRS, <https://travel.state.gov/content/travel/en/Intercountry-Adoption.html> [<https://perma.cc/AF6K-UHEQ>].

¹⁹⁸ Rasor, K., Rothblatt, R. M., Russo, E., & Turner, J. A. *Imperfect Remedies: The arsenal of criminal statutes available to prosecute international adoption fraud in the United States*, 3 N.Y. L. REV. 55, 804 (2010).

¹⁹⁹ *History of Foster Care in the United States*, NATIONAL FOSTER PARENT ASSOCIATION, Accessed at <https://nfpaonline.org/page-1105741> [<https://perma.cc/KHE7-EW4X>].

²⁰⁰ *Id.*

streets.²⁰¹ The nation soon advanced, as in 1636 a seven-year-old became the first recognized foster child.²⁰²

Still, adoption regulations were not implemented until the mid-1800s when Massachusetts passed a statute focusing on child welfare in the adoption process.²⁰³ Following shortly, Charles Loring Brace, the director of the New York Children's Aid Society, began the foster care system movement in 1853.²⁰⁴ Due to this organization's placements, many states and social agencies began to get involved in the matter—furthering the legal protections of these children.²⁰⁵ Three states led the movement: Massachusetts, Pennsylvania, and South Dakota.²⁰⁶ Massachusetts began subsidizing families who took in a foster child, and South Dakota began subsidizing the Children's Home Society.²⁰⁷ Pennsylvania passed a foster licensing law, making it mandatory to obtain a license before fostering more than one child.²⁰⁸ It wasn't until the 1900s that government agencies began to keep records on foster children, perform home investigations, and determine the best interest of the child.²⁰⁹

A. ISSUES ASSOCIATED WITH DOMESTIC FOSTER CARE

Even after years of implementation, the foster care still faces major issues. With about 443,000 foster care children in the United States, the numbers have continued to rise over the last ten years.²¹⁰ These children have extremely traumatic lives to start off, including instances of child abuse, neglect, parental substance abuse, and parental behavioral issues.²¹¹ These continued traumatic events early in life directly result in massive structural, neuroendocrine, and neurobiological changes in the brain.²¹² Instead of learning that the family is a safe environment, the brain adapts to the harsh environment, interpreting everything as a threat.²¹³ These repercussions and additional lack of health resources in these children's early lives often lead to exceedingly high rates of behavioral, emotional, learning, and developmental delays.²¹⁴ This includes attention disorders, attachment disorders, bipolar disorder, aggression, criminal activity, and higher risk of psycho-pathology abnormalities.²¹⁵ Foster children also are four times more likely to attempt suicide, three times more likely to suffer from depression, five times more likely

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *What You Need to Know About the History of Adoption*, AMERICAN ADOPTIONS.

[https://www.americanadoptions.com/adoption/history-of-](https://www.americanadoptions.com/adoption/history-of-adoption#:~:text=Adoptions%20After%201851%3A%20The%20%E2%80%9CModern,welfare%2C%20rather%20than%20adult%20interests)

[adoption#:~:text=Adoptions%20After%201851%3A%20The%20%E2%80%9CModern,welfare%2C%20rather%20than%20adult%20interests](https://www.americanadoptions.com/adoption/history-of-adoption#:~:text=Adoptions%20After%201851%3A%20The%20%E2%80%9CModern,welfare%2C%20rather%20than%20adult%20interests) [https://perma.cc/QXH2-LT8A] (“Adoption of Children Act directed judges, for the first time, to ensure that adoption decrees were ‘fit and proper’”).

²⁰⁴ *History of Foster Care*, *supra* note 199.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ Paula Barbel, *Addressing health needs of children in foster care*, 50 *NURSING* 2020 3, 18 (2020).

²¹¹ *Id.*

²¹² *Id.*

²¹³ UK Trauma Council, *Childhood Trauma and the Brain*, YouTube (Sept. 16, 2020),

<https://www.youtube.com/watch?v=xYBUY1kZpf8> [https://perma.cc/H23G-ZKUM].

²¹⁴ *Id.*

²¹⁵ Barbel, *supra* note 210.

to suffer from drug abuse, three times more likely to be prescribed psychotropic medications, and twice as likely to suffer from post-traumatic stress disorder compared to non-foster care youth.²¹⁶ Not only can these children struggle with these often unseen diseases, but also are more likely to struggle with asthma, obesity, dental, or speech problems.²¹⁷ Almost two-thirds of foster children who enter foster care at a young age are diagnosed with a developmental delay, and almost half of those children are placed in special education.²¹⁸

These drastic impacts are largely due to the importance the first five years holds for each child's development, which many developmental psychologists revere as the most important developmental years of one's life because it is "crucial to their health, well-being, and the overall trajectory of their lives."²¹⁹ During this time of their lives, children's brains develop the most rapidly—over 90% of one's brain develops by their fifth birthday.²²⁰ If a young child does not reach developmental milestones, such as learning to attach to their parent, communicating their needs, or expressing their emotions, the areas of the brain responsible for these milestones may never fully develop.²²¹

B. POLICIES ADDRESSING DOMESTIC ADOPTION

In recent years, there have been several subsidies addressing the need for adoptive families. Starting in 1978, the federal government began various initiatives to encourage families to adopt foster children.²²² The first incentive enacted was the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, which laid out incentives for adopting children with special needs.²²³ Yet, this did not just include disabilities, but also those qualities that made it more difficult for a child to get adopted.²²⁴ The legislation allowed for the term "special needs" to include the adoption of older foster children, minorities, siblings that could not be separated, etc.²²⁵ A decade later, the Adoption Assistance and Child Welfare Act of 1980 provided "adoption and foster care assistance for children under title IV (Aid to Families with Dependent Children and Aid to Child Welfare Services) of the Social Security Act."²²⁶ This act required states participating in the program to make adoption assistance payments to the adoptive or foster families of children, but once again only limited this assistance to families adopting or fostering youth with special needs.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Why The First 5 Years of Child Development Are So Important*, CHILDREN'S BUREAU (2024) Accessed at <https://www.all4kids.org/news/blog/why-the-first-5-years-of-child-development-are-so-important/> [<https://perma.cc/XRD4-2ZSG>].

²²⁰ *The First Five Years*, FIRST THINGS FIRST, Accessed at <https://files.firstthingsfirst.org/why-early-childhood-matters/the-first-five-years> [<https://perma.cc/5WG3-KVQ9>].

²²¹ *Id.*

²²² Mary Eschelbach Hansen, *Using Subsidies to Promote the Adoption of Children from Foster Care*, 28 J FAM ECON ISSUES 3, 377 (Feb. 24, 2009) Accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2646856/> [<https://perma.cc/6ZTL-LFLJ>].

²²³ Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, H.R. 6693, 95th Cong. (1977-1978).

²²⁴ Hansen, *supra* note 222.

²²⁵ *Id.*

²²⁶ *See generally*, Adoption Assistance and Child Welfare Act of 1980, H.R.3434 96th Cong. (1979-1980).

Drawing nearer to the twenty-first century, the federal government's spending on adoption and fostering assistance continued to expand. The Tax Reform Act of 1986 covered the preliminary costs of the adopting a child from the foster care system,²²⁷ and the Economic Recovery Tax Act of 1981 created an "income tax deduction for adoption expenses, including fees, court costs, attorneys' fees and other necessary expenses."²²⁸ In 1996, the Adoption Promotion and Stability Act was enacted to further promote adoption, providing an additional tax credit for court, attorney, and adoption costs.²²⁹

By the early 2000s, "federal spending on adoption was \$1.3 billion . . . [and the] subsidy allowance increased by 30%" within a couple of years.²³⁰ Research shows that federal and state adoption assistance subsidies are correlated with a quicker turnover of children in the foster care system.²³¹ The Economic Growth and Tax Relief Act of 2001 increased the financial assistance from \$5,000 to \$10,000 per adoption,²³² and The Adoption Assistance and Child Welfare Act continued to provide subsidies for adoptions, and continued to make a demonstrative impact.²³³ Within just the first six years of the new century, almost eighty-seven percent of children adopted out of the foster care system received a subsidy.²³⁴ One year later, the federal government provided two billion dollars for almost 400,000 children, and states spent about one and a half billion in addition.²³⁵ In 2008, legislation removed the income standards to receive the subsidy, and the American Reinvestment and Recovery Act of 2008 procured another \$98 million for adoption and fostering assistance.²³⁶

While these numbers seem beneficial for children in America, the U.S. Treasury found that adoption subsidies were being claimed for international adoptions rather than domestic adoptions. Additionally, the study showed the tax credit was excessively supporting higher-income families, which tend to adopt internationally, in comparison to lower-income families. The study also reported that "82% of the adoption tax credit dollars were being claimed by those who adopted internationally and privately," and the State Department reported "those who adopted internationally accounted for 45% of the claimed tax credit in 2004." Almost "all foreign adoptions were supported by the adoption tax credit, but only 1 in 4 foster care adoptions were."²³⁷ This directly impacts the foster care system in the United States, as already less than eighteen percent was funding domestic adoptions for special needs children prior to the formal federal funding of international adoptions. Further, the study found that the credit was not effective in fulfilling its original purpose of subsidizing adoptions from the foster care system.

²²⁷ Hansen, *supra* note 222.

²²⁸ See generally, Economic Recovery Tax Act of 1981, H.R.4242, 97th Cong. (1981-1982).

²²⁹ Rob Geen, *The Adoption Tax Credit: Is It an Effective Approach to Promote Foster Care Adoption?*, CHILD TRENDS 3-4 (Aug. 2007).

²³⁰ Hansen, *supra* note 222.

²³¹ *Id.*

²³² Geen, *supra* note 229.

²³³ Kasey S. Buckles, *Adoption Subsidies and Placement Outcomes for Children in Foster Care*, 48 J. HUMAN RESOURCES 3, 596-627 (2013). <https://www.jstor.org/stable/23799097>

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ Geen, *supra* note 229.

Not only are the main tax credits meant to help foster children in America mainly being utilized for international adoptions, but Congress has recently enacted international adoption tax credits as well. In 2013, President Obama passed the American Taxpayer Relief Act of 2012.5, which expanded the adoption tax credit to all domestic and international adoptions.²³⁸ Consequently, now international adoptions are receiving the same benefits as domestic adoptions and the incentive to adopt domestically has essentially disappeared. What was originally meant to save domestic foster children now instead incentivizes placing international children in available homes.

VII. Solutions

While all adoptions are intended to be selfless, the United States needs to devote more time and money to the only system they can ensure is ethical—their own foster system. Therefore, the United States should reallocate the federal subsidies currently used for international adoptions to the domestic foster care program. Instead of encouraging families to adopt from impoverished countries with a black market for children, the government should use these finances to implement awareness campaigns, increase funding for support, training, and recruitment for foster care families, and expand the programs that support foster children themselves.

A. FOSTER CARE RESOURCES

Investing in even basic resources for foster children could do wonders for their wellbeing throughout their lives, as many are prone to massive structural, neuroendocrine, and neurobiological changes in the brain due to prolonged abuse and neglect²³⁹ Implementing these resources for children likely would reduce their higher risk of suicide, depression, post-traumatic stress disorder (PTSD), drug abuse, and would get the medication they need more quickly.²⁴⁰ Not only would there be more mental health resources, but better mental health could lead to less physical problems, as the mind and body are often intertwined.²⁴¹ Funds for extra resources such as educational opportunities could also help with the high likelihood of developmental delays, and provide more assistance in special education opportunities.²⁴² Not only could these resources help the foster children in the system, but it could also help adoptive families who don't have the resources to provide private school, efficient mental health care, and other large expenses often not anticipated.

Additionally, there can be many more resources to make the adoption process more seamless. States should lay out clearer requirements and expectations to help families know what to expect,

²³⁸ DeLeith D. Gossett, *If Charity Begins at Home, Why Do We Go Searching Abroad? Why The Federal Adoption Tax Credit Should Not Subsidize International Adoptions*, 17 LEWIS & CLARK LAW REV. 3, 839 at 841 (2013).

²³⁹ Paula Barbel, *Addressing health needs of children in foster care*, 50 NURSING2020 3, 18 (2020).

²⁴⁰ *Id.*

²⁴¹ *Physical health and mental health*, Mental Health Foundation, Accessed at <https://www.mentalhealth.org.uk/explore-mental-health/a-z-topics/physical-health-and-mental-health#:~:text=Physical%20health%20problems%20significantly%20increase,most%20often%20depression%20or%20anxiety> [https://perma.cc/QT62-Z3P3].

²⁴² *Id.*

as many adoptive families have to learn along the way.²⁴³ Providing upfront legal requirements could help families and children be connected more quickly, and help the family plan for the financial requirements. Further, many foster families are unaware of the trauma foster children have faced and how it could affect them.²⁴⁴ Providing more comprehensive training and educational resources to the potential adoptive families would inform them on what to expect once they have a child in their home.²⁴⁵

B. INCREASING AWARENESS

While has been a trend to adopt internationally ever since the World Wars, there are many ways to give the public more insight to what children down their streets are facing. Advertising, while expensive, has been proven to be incredibly effective for social issues.²⁴⁶ One non-profit, “Adopt US Kids”, created the “National Adoption Recruitment Campaign” twenty years ago to raise awareness about the need for adoptive families.²⁴⁷ The most recent advertisements feature “actual adoptive families sharing their adoption from foster care stories, detailing how rewarding the journey has been for both parents and teens.”²⁴⁸ Although fostering and adoption can be a difficult journey, its tagline “You Can’t Imagine the Reward” emphasizes that these families have experienced an immense love and joy that can only come from adoption.²⁴⁹ This use of emotion can be incredibly effective, as well as showing people that may not know about domestic adoption more about the process. Shifting these federal subsidies to more promotional campaigns could recruit many foster parents, giving many more foster children a loving home.

C. STREAMLINING ADOPTION PROCESSES

The adoption process in the United States can be a lengthy and expensive process, but the process could be much more efficient if there were more resources devoted to the process. While the adoption process is governed by state law, there are other contributing factors as to why the process is so burdensome.²⁵⁰ Many potential adoptive parents and children are often waiting for years to be matched, but there are many forms of technology that could make matches based on needs,

²⁴³ Laurie Todd-Smith, *Improving the Foster Care and Adoption Systems in the United States*, AMERICA FIRST POLICY INSTITUTE (Jan. 8, 2024) Accessed at <https://americafirstpolicy.com/issues/improving-the-foster-care-and-adoption-systems-in-the-united-states> [https://perma.cc/YH77-XYTP].

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ See Gerald Hanks, *The Role of Advertising in Social Awareness*, CHRON, Accessed at <https://smallbusiness.chron.com/role-advertising-social-awareness-71512.html> [https://perma.cc/5ELA-KNBQ] (the Auto Safety campaign results showed “[t]he use of seat belts increased from 14 percent up to 79 percent” and the Anti-Smoking advertising campaign surveys that showed “[i]n 14 of the 17 nations surveyed, intent to quit was closely tied to awareness of anti-smoking advertisements found in multiple media outlets, when compared viewers with no awareness of the campaigns.”).

²⁴⁷ *Raising awareness of the need for adoptive families*, ADOPT US KIDS, Accessed at <https://www.adoptuskids.org/about-us/national-ad-campaign> [https://perma.cc/EK5N-WSB5].

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Important Adoption Laws*, NATIONAL COUNCIL FOR ADOPTION, Accessed at <https://adoptioncouncil.org/resources-and-training/important-adoption-laws/> [https://perma.cc/AY2V-EQ43]. (“[t]here is not a uniform adoption code that governs all adoption law in the United States. Each state has its own set of regulations for intercountry adoption, domestic adoption, and post adoption.”)

family characteristics, and other factors that play into adoption. Many artificial intelligence technologies have been used to develop matching sites for children and families, similar to dating site services.²⁵¹ Investing in these types of programs could lead to more children being placed with families sooner.

Another way to make the process more efficient would be to devote resources to creating a more community-based foster care system. Creating partnerships between the state foster care or adoption agencies and private community organizations leads to various benefits for the foster children and families.²⁵² Not only does it hold the states accountable when engaging with the communities and private organizations, but it also gives the state access to localized data. This helps agencies improve management, identify children at risk of entering the system, and evaluate the effectiveness of their progress.²⁵³

In 2017, Texas was the first to officially begin this reformation when its legislature passed Senate Bill 11.²⁵⁴ This bill provided for the transition of the Child Protective Services (CPS), the Department of Family and Protective Services (DFPS), and the traditional foster care system into a “Community Based Care.”²⁵⁵ Cities such as Fort Worth, Arlington, San Antonio, Abilene, Wichita Falls, Amarillo, and Lubbock have recently began the process, and are already reaping the benefits.²⁵⁶ Overall, the program provides more stability for children by keeping them in their local communities, and has garnered immense support from private companies and local communities.²⁵⁷

VIII. Conclusion

Adopting a child is often beautiful demonstration of unconditional love, but can have detrimental and unethical effects when children are adopted internationally. Due to the high demand for international adoptions since the mid twentieth century, the baby “black market” is often present in these international adoption agencies. Many countries have recently banned intercountry adoptions due to these realizations, and the United States should follow suit and limit international adoptions.

²⁵¹ Sally Ho and Garance Burke, *Inspired by online dating, AI tool for adoption matchmaking falls short for vulnerable foster kids*, AP NEWS, Accessed at <https://apnews.com/article/ai-adoption-investigation-eharmony-child-welfare-f803bf3faa02bc90d285e68b1d2bc560> [<https://perma.cc/FH63-DFQU>] (an AI tool that “can predict which adoptive families will stay together. . . [and] could boost successful adoptions across the U.S. and promote efficiency at cash-strapped child welfare agencies.”).

²⁵² Todd-Smith, *supra* note 243.

²⁵³ *Id.*

²⁵⁴ S.B. No. 11 Section 17 (Sept. 1, 2017).

²⁵⁵ *Community Based Care*, TEXAS ALLIANCE OF CHILD AND FAMILY SERVICES, Accessed at: <https://tacfs.org/community-based-care/#:~:text=CBC%20transforms%20the%20way%20foster,its%20network%20of%20community%20organization> s [<https://perma.cc/YB7Q-8437>] (“CBC transforms the way foster care services are provided in Texas. CBC transfers functions related to foster care services from the Department of Family and Protective Services (DFPS) to a lead non-profit organization and its network of community organizations”).

²⁵⁶ *Id.*

²⁵⁷ *Id.*

The United States does not have the power to control other countries' adoption systems, but it does have the power to control its own. Regardless of the United States economy's benefits from international adoptions, the public interest and concern for children's safety should exceed any interest in profits.²⁵⁸ Furthermore, due to estranged international adoptions and cases of United States citizens abusing their internationally adopted child, tensions with other countries have markedly increased. Thus, it is prudent for the United States to not to entrust its relations with countries to parents who abuse or unethically acquire their children.

Not only is international adoption often complicit with human trafficking, but it also directly harms the children in the United States. Prioritizing subsidies for domestic adoption, rather than international adoption, plays a significant role in aiding the children down the block. Redirecting resources to domestic adoption enables streamlining the adoption process, raising awareness for domestic foster children, providing increased and basic support for children and families, and promoting ethical adoptions. Every child deserves a loving home, not only those oceans away.

²⁵⁸ Kristina Wilken, *Controlling Improper Financial Gain in International Adoptions*, 2 DUKE J. OF GEND. L. & POLICY 85, 87 (1995).