

- child trafficking is deterred;
- sham adoptions are thwarted (i.e., that the purpose of the adoption is to form a bona-fide parent-child relationship --*suspicion of adoptions by uncles and aunts is evident in the case law*); and
- the law of the state of the adopter(s)' residence, the child's country of origin, and applicable international treaties are satisfied.<sup>2</sup>

## I. International Treaties

Three conventions form the centerpiece for the global regulation of intercountry adoption:

- the Convention on the Rights of the Child (CRC), Nov. 20, 1989, 1577 U.N.T.S. 3;
- the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography (CRC Protocol), May 25, 2000, S. Treaty Doc. No. 106-37 (2000), G.A. Res 54/263, Annex II, U.S. GAOR 54<sup>th</sup> Sess., U.N. Doc. A/54/L.84; A/54/49; and
- the Convention on Protection and Cooperation in Respect of Intercountry Adoption (Hague Intercountry Adoption Convention), May 29, 1993, S. Treaty Doc. No. 105-51, 32 I.L.M. 1134.

The CRC is a human rights treaty to which virtually every nation in the world except the United States is a party.<sup>3</sup> In Article 21 it sets broad parameters for intercountry adoption, but implementation was left to the two subsequent treaties to which the United States is a party, the CRC Protocol and the Hague Intercountry Adoption Convention.

The CRC Protocol on the Sale of Children, which currently has 176 states parties and was

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8 U.S.C. §1151. U.S. citizens seeking to adopt a child from abroad will therefore seek to qualify that child as an immediate relative, in order to obtain a visa not subject to numerical limitation. 8 U.S.C. §1151(b)(2)(A). As will be discussed below, permanent residents of the United States who are not yet citizens may seek family preference visas for children they are adopting from abroad, but those visas are subject to numerical limitation allocated by country. 8 U.S.C. § 1151(a)(1).

<sup>2</sup> See Elizabeth Bartholet, *International Adoption: Overview*, in 2 *Adoption Law and Practice* §10.03[2][c][iii] (Joan Hollinger ed. 2019)

<sup>3</sup> For a list of states parties, see [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en). The United States signed the treaty on Feb. 16, 1995, but has never ratified it.