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# Baby Migration

*Sarah Marijnen and Jeroen Doomernik*

## **Introduction**

Intercountry adoption (ICA) is a peculiar and often unnoted form of international migration. Its roots are found in the years immediately after the Second World War. Orphans from war-torn European countries were given loving homes in the United States (US). In Kapstein's words: 'after World War II, American families adopted European orphans, chiefly from Germany, Italy, and Greece; after the war in Korea they took in children from that devastated peninsula' (Kapstein 2003, 116). Lovelock (2000) argues that the practices of ICA in the post Second World War period can be conceptualized as having occurred in two waves. The first wave involved the placement of orphans from Europe, because finding families for children was both an international and a domestic issue in the post-war period. The second wave started after the mid-1970s until the present and has also been shaped by humanitarian considerations for children born into poverty. However, the second wave has also been driven by social and demographic changes in the receiving countries (Lovelock 2000, 908). The desire to have children took on an even stronger charitable character when many adopted orphans and aban-

doned children came from (former) war zones in Southeast Asia and later from other underdeveloped countries such as India, Bangladesh and Colombia. The sentimentalized idea of adoption, created by developed countries, had such a significant influence that it obscured reality. The increasing demand for children in developed countries resulted in a billion-dollar industry where children were being transferred without any form of regulatory mechanisms (Goodwin, 2010; Herrmann, 2010; Kapstein, 2003). This market consists of the demand (couples or singles who are involuntarily childless from developed countries), the supply (orphans or abandoned children) and the intermediaries (adoption agencies, but also corrupt (governmental) organizations and criminal networks). The adoption of a child costs between 20,000-35,000 euro and prospective parents are willing to pay even more in order to reduce the waiting time and to increase the chance of getting a child (Schaepmaker et al., 2008).

In this particular part of the migration business, adoption agencies, advertisers and attorneys can flourish and benefit from adoption. In 'The Eco-

nomics of the Baby Shortage' by Posner and Landes (1978), the market forces and financial exchanges that drove ICA were exposed for the first time. It was followed by a wave of criticism because opponents argued that when applying an economic framework to adoption, it would turn adoptable children into saleable objects in a mechanical economics analysis (Goodwin, 2010, 4). Moreover, within the human trafficking discourse, this issue received more attention and it became clearer that regulations were required in ICA in order to protect children (Meier, 2008; Smolin, 2004).

From this perspective, four international normative frameworks were established. First, the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, was established in 1986 and recognizes that an adopted child should not be deprived of his or her name, nationality or legal representative (art. 8). It also established the principle of subsidiarity, which means that ICA should only take place when domestic suitable adoptive parents cannot be found (art. 17).

Second, the Convention of the Rights of the Child (CRC) entered into force in 1990 and dedicates several paragraphs to the phenomenon ICA. The most important one is Article 21 (d), which indicates that State parties should take all measures to ensure that the placement of children does not result in improper financial gains for those involved. The Convention is the most widely ratified treaty in history as 193 States are party to it.

Third, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (from here referred to as the Optional Protocol) was adopted in 2000, came into force in 2002 and is ratified by 117 states. The first paragraph of article 3 calls on States parties to ensure that coercive adoption is completely covered under criminal law. Thus, the article criminalizes the act of 'improperly inducing consent, as an intermediary, for the adoption of a child' (art. 3 (c)). Furthermore, paragraph 5 of the same article demands that States parties should take all appropriate administrative and legal measures to ensure all individuals involved in ICA act in conformity with international legal instruments.

Fourth, the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention) was adopted in 1993 and came into force in 1995. It is considered as the major multilateral instrument regulating ICA. As chapter 1 (art. 1) describes, the Convention has three principal objectives:

- 'to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law;
- to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;
- to secure the recognition in Contracting States of adoptions made in accordance with the Convention.'

The second chapter (art. 4 and 5) out-

lines the requirements for ICAs. Authorities in the sending states are charged with the responsibility of determining whether a child is adoptable. The receiving states are responsible for determining whether prospective parents are suitable to adopt. The mechanisms for regulating ICA are outlined in the third and fourth chapter of the Convention. Each contracting state has to create a central authority that is required to undertake all measures required to prevent improper financial gains. These central authorities are charged with exchanging information relating to the prospective parents and the child and facilitating the ICA process. The central authorities in sending and receiving countries must both agree before the adoption can proceed. They too are required to ensure the safe transfer of the child.

This international legal framework was an attempt to restrict the profits and market forces in the ICA system. In spite of this, the large discrepancy between supply and demand has kept into effect powerful economic mechanisms, where children are being treated as commodities, at least by some actors. ICA is thus driven by its customers and money, and the system has become infected with a substantial degree of "child laundering". Child laundering occurs 'when children are taken illegally from birth families through child buying or kidnapping, and then "laundered" through the adoption system as "orphans" and then "adoptees"' (Smolin, 2004, 112). Therefore, one could wonder whether adoption agencies are in search of a loving family for a child or of children for homes in developed countries. This perversion of the adoption system is coun-

tered by the Optional Protocol which explicitly criminalizes such practices. Yet, as we will demonstrate, it is questionable whether this presents a sufficiently effective response to the policy issues posed by international adoption processes which are the substance and remainder of this article. First we will discuss the nature of international adoption and the ways in which it has taken on the features of a market with legal and illegal elements. With that knowledge in mind we then look at the stakeholders in this market discussing what the precise nature of their interests is.

### **The Structural Factors Underlying the Market for ICA**

The main reasons that have been identified for the increasing demand for children in developed countries are social and demographic changes, such as the legalization of abortion, the increased use of contraceptives, higher workforce participation of women and highly regulated domestic adoption processes (Graff, 2008). However, the increased demand for ICA is mainly the result of the significant rise in infertility rates over the last decades. More than six million Americans in the reproductive-age population suffer from infertility. Between 1968 and 1980 the number of persons who sought treatment for infertility doubled (Bartner, 2000, 406). Along with the increased number of infertile individuals came a tremendous influx of money and the creation of the 'family building' industry. As Bartner further explains: 'infertile couples seem driven to incredible lengths to bring children into their lives and to create the traditional, American, nuclear family. Cou-

**Table 1:** Intercountry adoptions to 23 Receiving States 2003-2012

	2003-11	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
USA FY	159,180	21,616	22,884	22,728	20,679	19,613	17,438	12,753	12,149	9,320	8,668
Andorra	50	2	0	0	8	3	11	7	9	2	1
Australia	2,884	278	370	434	421	405	270	269	222	215	149
Belgium	3,657	430	470	471	383	358	364	439	388	351	260
Canada <sup>a</sup>	17,053	2,180	1,955	1,871	1,535	1,712	1,916	2,129	1,970	1,785	1,367 <sup>a</sup>
Cyprus	60	3	3	3	n/a	19	16	12	4	n/a	n/a
Denmark	4,161	523	528	586	447	429	395	496	419	338	219
Finland	1,897	239	289	308	218	176	157	187	160	163	175
France	31,136	3,995	4,079	4,136	3,977	3,162	3,271	3,017	3,504	1,995	1,569
Germany <sup>b</sup>	5,509	674	650	560	583	778	664	571	504	525	415
Iceland	199	25	29	41	19	18	13	17	18	19	17
Ireland	2,945	358	398	366	313	392	422	307	201	188	117
Israel	1,572	258	226	191	176	218	148	117	117	121	88
Italy	31,749	2,772	3,402	2,874	3,188	3,420	3,977	3,964	4,130	4,022	3,106
Luxembourg	352	51	56	41	45	31	28	36	40	24	14
Malta	411	23	46	39	60	54	53	34	42	50	57
New Zealand <sup>c</sup>	810	278 <sup>c</sup>	351 <sup>c</sup>	30	20	49	30	16	19	17	22
Netherlands	7,922	1,154	1,307	1,185	816	778	767	682	705	528	488
Norway	4,174	714	706	582	448	426	304	347	343	304	239
Spain	34,661	3,951	5,541	5,423	4,472	3,648	3,156	3,006	2,891	2,573	1,669
Sweden	7,889	1,046	1,109	1,083	879	800	793	912	729	538	466
Switzerland <sup>b</sup>	3,895	664	567	389	410	394	367	349	388	367	314
UK	2,475	301	333	369	363	356	225	200	175	153	120
<b>TOTAL (23)</b>	<b>324,641</b>	<b>41,535</b>	<b>45,299</b>	<b>43,710</b>	<b>39,460</b>	<b>37,249</b>	<b>34,785</b>	<b>29,867</b>	<b>29,127</b>	<b>23,601</b>	<b>19,540</b>
					(22)					(22)	

a) Provisional figures for 2012 b) Totals for Germany and Switzerland are for non-relative (nicht verwandt/non-familiale) adoptions only  
c) Totals for New Zealand for 2003 and 2004 include relative adoptions from Samoa which are no longer classed as intercountry.

ples pour tens of thousands of dollars into infertility treatments in frenzied attempts to become pregnant' (Ibid.: 407). However, treatment fails for about thirty five percent of infertile couples in developed countries. Such couples may then turn to ICA as their last chance to create a family (Ibid.: 408).

In addition to the social and demographic changes in developed countries, there are long-term processes in developing nations that come into the equation. The same factors that drive irregular migration to the US and the European Union are creating significant numbers of adoptable children: a high incidence of poverty, poor governance or downright failed states, restrictive abortion regulations, high fertility rates and unplanned births. It is a great paradox of our times that the youngest migrants are welcome whereas those who seek to migrate on their own account, i.e. when they are

older, are not. In sum, the structural demand for children comes from developed countries and the structural supply from underdeveloped ones (Graff, 2008). ICA has gradually been shaped by demand and supply, which belied its humanitarian and altruistic nature especially when it became infected with large amounts of money. Thus, as Graff states, 'unless we recognize that behind the altruistic veneer, international adoption has become an industry -- one that is often highly lucrative and sometimes corrupt -- many more adoption stories will have unhappy endings' (Ibid.: 66).

Selman (2013) has analyzed the recent tendencies in ICA and identified several factors and trends behind the numbers. *Table 1* shows the ICAs from 2003 to 2012 for 23 receiving states. As *Table 1* demonstrates, the global number of ICAs peaked in 2004 with around 45,000 children.

**Table 2. 15 Countries Sending Most Children for Intercountry Adoption to the 23 Receiving States in Table 1 above, 2003-2011 - TOP 5 in bold for each year; peak year for each state of origin highlighted –**

	2003-11	2003	2004	2005	2006	2007	2008	2009	2010	2011
China	79,577	11,226	13,409	14,493	10,744	8,748	5,975	5,084	5,480	4,418
Russia	51,142	7,743	9,379	7,480	6,765	4,880	4,140	4,033	3,395	3,327
Ethiopia	25,708	858	1,527	1,778	2,172	3,033	3,905	4,564	4,404	3,456
Guatemala	24,138	2,676	3,424	3,872	4,232	4,851	4,186	799	58	40
South Korea	14,653	2,308	2,241	2,121	1,815	1,223	1,392	1,438	1,153	961
South Korea <sup>a</sup>		2,287	2,258	2,101	1,899	1,264	1,250	1,125	1,013	916
Colombia	14,631	1,750	1,734	1,466	1,639	1,635	1,617	1,415	1,798	1,577
Ukraine	13,984	2,052	2,019	1,987	1,046	1,614	1,577	1,517	1,094	1,073
Vietnam	10,927	936	488	1,198	1,370	1,695	1,739	1,518	1,279	704
Haiti	10,457	1,056	1,159	958	1,096	783	1,368	1,241	2,601 <sup>b</sup>	195
India	7,708	1,173	1,083	873	847	1,003	759	727	615	628
Kazakhstan	6,145	863	888	843	714	779	732	659	518	149
Philippines	4,591	418	414	503	476	569	600	583	516	509
Brazil	4,106	472	478	473	518	485	490	462	380	348
Thailand	3,613	490	501	465	419	440	384	339	314	261
Poland	3,371	347	406	409	395	381	408	402	325	298
Total sent from all countries	324,641	41,535	45,299	43,710	39,460	37,249	34,785	29,867	29,127	23,609

Source: Statistics for 23 Receiving Countries ;

a) Korean figures in red are from Ministry of Health & Welfare

b) includes ISS estimate for Germany (62) and 1,090 humanitarian visas to US.

This fall was marked by contrasting factors and trends in receiving countries. For instance, in Italy, the total number of adoptions in 2010 was about 20 per cent higher than in 2004. From 2006 to 2009 the numbers of Canada have been rising as well. While most receiving countries shared the general trend of a rise in numbers up to 2004 followed by a decline since, the story is very different for sending countries where the pattern of change over the period from 2003 to 2012 varies greatly. *Table 2* shows the 15 countries from which most children are adopted.

Adoptions from China peaked in 2005 and adoptions from Russia in 2004. The reduction in the number of children sent from Russia and China is partly compensated by the continuing growth in the number of children sent by Ethiopia and the large rise in numbers from Guatemala and Vietnam. For instance, adoptions from Ethiopia rose

by 98.5 per cent and from Vietnam by 250 per cent between 2001 and 2007 (Selman, 2009, 581).

### Globalization

Increased globalization has a direct bearing on ICA's supply and demand. It would have been hard for previous generations to adopt a child from the other side of the world, whereas, these days, such adoptions are "normal" and something celebrities advocate. Masson (2001) identifies three perspectives on the "normalization" of ICA. Promoters, abolitionists and pragmatists stand for three normative positions. Promoters consider ICA as a way to help individual children who are in need of loving homes. In their view, the problem of ICA is the presence of too much bureaucracy. Therefore, 'like natural parents, those seeking to adopt should not be subject to assessment or restrictions' (Ibid.: 149).

In contrast to the promoters' view about the positive impact of ICA, the abolitionists have focused on the negative impact because they stress that it is a product of neo-colonialism and ethnocentrism. Children are being adopted from poor states for the need of people in rich, powerful states. In addition, abolitionists argue that if the money spent on adopted children would be spent on children's services in the sending countries, the lives of many children could be improved. Abolitionists are in particular concerned about whether abuse is increasing to meet the demand for children, and that 'accepted practices such as requiring donations to orphanages, can easily develop into corruption, possibly even the selling of children' (Ibid.: 149).

Pragmatists accept ICA because they believe it can be controlled. It is controllable by a range of unilateral, bilateral and international measures and statements, the Hague Convention in particular. According to pragmatists, legislative action alone is not enough because it will not raise standards. Therefore, 'new practices will have to displace existing ones, challenge the beliefs of applicants, agencies, the judiciary of and immigration services, and focus on the attention of governments' (Ibid.: 150).

Consumption patterns are also being altered by globalization. The world has become a consumer society where desires and tastes have become essential parts of our lives. The ICA system also satisfies desires and tastes. An overwhelming preference for children of a certain age, sex, and ethnicity exists (Graff, 2008; Goodwin, 2010; Kapstein, 2003; Meier, 2008; Zamostny et al., 2003). As Her-

rmann notes, the ICA process is seen 'as "shopping" for a child, with parents selectively seeking a child that best fits their personal needs' (2010, 414).

In short, the ICA market is strongly related to the outcomes of globalization. It has become a global practice where in discussions three positions are present (promoters, abolitionists and pragmatists). A preference for particular children is a market element because it involves valuing and pricing, as the next section shows.

### The Intermediaries

In case of a competitive market, there are many buyers and sellers exchanging the same goods. ICA is governed by such a market because the demand of its customers creates an upward pressure on the supply. This became evident at a meeting for prospective adoptive parents organized by a Dutch agency (Vereniging Wereldkinderen) we witnessed.<sup>1</sup> A representative explained that the staff has to be in the office at 1.30 A.M. once every month, i.e. when the list of adoptable children in China is being updated. This list is consulted by adoption agencies all over the world. Therefore, as the employee explained, it needs to be checked immediately. All the children would otherwise already been placed by the time the office opens. Thus, the children are matched to parents by adoption agencies in a split second, in order to secure the supply of children and to complete the mediation between the parents and the adoption agencies.

Completing the mediation is very important for adoption agencies. According to Professor Emeritus of Adoption Dr. René Hoksbergen<sup>2</sup>, adoption

agencies have to mediate in a minimum number of adoptions in order to retain their business viability. The profit principle has become the most important concern for adoption agencies. Jan Wierenga, the former director of the Supervisory Board of Wereldkinderen, acknowledged in an interview<sup>3</sup> that due to the competitive character, adoption agencies cannot spend sufficient time on adoption cases. Therefore, they run the risk of conducting the adoption process less accurately and thus putting the interest of the adopting parents above the interest of the adoptive children. For example, as Wierenga explains, while the best interest of a child can be domestic adoption, driven by commercial interests adoption agencies may choose not to investigate this option.

The commercial aspect is visible when we look at the costs for an adoption, which vary widely. According to Goodwin (2010), the adoption of a child costs between 20,000 – 50,000 USD. All the adoption agencies in the Netherlands are accredited under the Hague Convention and therefore required to inform adopting parents about the costs involved in ICA. An analysis of the websites of the six Dutch agencies that have a license from the Ministry of Security and Justice to mediate in ICA shows differences in fees. Different fees apply to different countries. For instance, adopting a child from China with the mediation of Wereldkinderen costs around 20,000 euro (excluding travel costs and such), while the costs of adopting a child from Morocco, South-Africa and the Philippines are no more than 13,000 euro.<sup>4</sup> Fees also vary between the adoption agencies for adoptions from the

same country. For example, Vereniging Wereldkinderen charges 14,713 euro for the adoption of an Ethiopian child, while Stichting Afrika charges 16,000 euro.<sup>5</sup>

The price differentiation as presented above is another market feature in ICA. The Hague Convention stipulates that costs and fees should be reasonable and improper financial gains are prohibited. However, the adoption agencies that publish their costs and fees online do not specify these. Therefore, it is impossible to know where the money goes. Speaking with Vereniging Wereldkinderen, we learned that prospective parents have to donate to the orphanages a sum of money of up to 4,000 euro for the care of their child before the adoption.<sup>6</sup> It is up to the sending side to ask for a certain donation and it is in their power to ask for large amounts, as prospective parents are willing to pay because of their deeply rooted wish to have children. The donation is included in the agency's fee, together with the cost of foreign salaries and operations and staff travel. This encourages corruption (Graff, 2008, 59). In the Dutch case, because of the high costs involved the Dutch Ministry of Social Affairs and Employment provides a subsidy of 3,700 euro per adopted child.<sup>7</sup> In this way the Dutch government is partly responsible for allowing and stimulating massive financial flows into the ICA system. According to Goodwin (2010), the donations by prospective adoptive parents to orphanages and government agencies in countries of origin create valuable contacts and therefore, it secures the supply of children for the adoption agencies.



## Preferences

Prospective parents are faced with various choices to make. For instance: which sending country (or race) to choose, the age and gender of the adoptable child and whether to be open to a child with special medical needs. With such considerations adoptive parents exercise a key element of the market: the ability to make a choice (Goodwin, 2010, 10). Based on the analyzed Dutch websites of adoption agencies, parents can express their preferences, but there seems to be no variation in the price related to gender, race or age. However, Higgins & Smith (2002) and Goodwin (2010) state that in the US race-based baby valuing occurs. As Goodwin argues: 'Couples may spend upward to fifty thousand dollars to adopt a healthy white infant. Black infants, however, are adopted for as little as four thousand dollars. Adoption agencies attempt to clarify this discrepancy by explaining that black children are more difficult to place than white children' (2010, 6). This logic seems incorrect, because even if black children are harder to place, why is more work cheaper? Also biracial children attract higher prices than black babies. Graff even states that not only black babies are cheaper, but older children or special needs children can be adopted with a 'discount' (2008, 59). Thus, preferences matter in the ICA market. This could explain the fact that the US has the biggest demand for Chinese and Korean babies, because they are 'almost white' and very young (Selman, 2009). According to Dorow (2006), Chinese babies are attractive for US prospective adoptive parents because they are racially flexible. In the interviews she had with

US adoptive parents, she was surprised how several parents fantasized that their Chinese adopted children were not 'all Chinese'. Evidence for some 'whiteness' was red highlights in their hair and how they fit well into a private all-white school (Dorow, 2006:375).

Several scholars claim that in Europe racial preferences also play a role. For example, according to Herrmann (2010) and Selman (2012), European countries such as Spain, Germany and France are adopting Russian children in large numbers. This is likely because of the availability in Russia of 'Eurasian children' and that Russia is able to meet the desires of the prospective parents (Herrmann, 2010, 414). Hilbrand Westra of United Adoptees International (UAI), an organization that criticizes the adoption market and its tendency towards child trafficking, confirms in an interview<sup>8</sup> that racial categorization occurs in the ICA market. The white children are most wanted, followed by the light colored Asian children, biracial children, the dark colored Asian children and last, the African children.

Conversely, there are some mechanisms involved in the ICA process that go against the idea of choice because some parents are considered as being incompetent in the ICA market. Their financial, medical and personal status defines whether they are suitable candidates or not. Especially their financial status plays a significant role (Graff, 2008). Due to the high costs involved it is impossible for persons with a low income to adopt a child. Therefore, it can be said that with market mechanisms within ICA, the (white) rich always outbid the poor or low-income

parents when it comes to the adoption of white babies. Consequently, social and economic inequalities within society are being maintained. Moreover, the whole adoption market is only possible because of, and as well reproducing, the structural inequalities between underdeveloped and developed countries. Thus, only the rich in the developed countries adopt babies from the underdeveloped or semi-developed countries and are seeking children that best fit their preferences (Hermann, 2010).

### Commodification

As analyzed above, the demand by the prospective parents creates an upward pressure on the supply and on the economic value per adopted child. Thus, the value of a child is determined by the mechanisms of supply and demand. As a result its "commodification" lies just around the corner.

According to Radin (1996), commodification can be identified in terms of four characteristics; 1) exchanges of things in the world (2) for money, (3) in the social context of markets and (4) in combination with four conceptual indicators which characterize complete commodification. As previous sections demonstrated, children are being exchanged in the world for sizeable amounts of money in a market that is driven by its customers. The four conceptual indicators which characterize complete commodification, which Radin is referring to, are: objectification, exchangeability, commensurability and monetization (Ibid.: 118-120). First, objectification is taking place by adoptable children because they are being separated from 'their holder', which can be

defined as the biological mother or father. Second, adoptable children are exchangeable for money. Third, the value of adoptable children is being scaled, which is defined as commensurability. Fourth, this ranking involves a financial value (monetization), because adoptable children are ranked and have different prices.

This commodification of children is particularly visible in the use of advertising by adoption agencies. Several adoption agencies use a catalogue to present the availability of adoptable children to the prospective parents (Higgins & Smith, 2002). For example, the American adoption organization All God's Children is using a catalogue for presenting their 'waiting children' to the audience. The catalogue contains profiles and pictures of adoptable children from all over the world. Underneath the picture are the child's name and a profile. The profiles amount to between 200-300 words and features information about the level of affection, social skills, age, disabilities and the racial requirements of the prospective adoptive parents.<sup>9</sup> By making use of these catalogues, prospective parents are in a position 'to shop' for a child that best fits their preferences. Higgins & Smith even claim that the marketing of adoptable children can be compared 'to fast food, an industry where qualities of the standardized product have receded into the background, replaced with a singular concern for effective distribution' (2002, 187).

Following from the above, it seems accurate to argue that because of the large amounts of money involved and because there is a market driven by the

demand, children are seen and treated as commodities in the ICA system (Goodwin, 2010; Kapstein, 2003; Meier, 2008).

The question we now turn to is how states are involved in this adoption market. On the surface it may seem that the practice of ICA is achieved by individuals who are motivated by their own needs and that the concerns of a nation, as manifested in policies, are somehow different from their nationals. However, as Lovelock states, 'it is misleading to conceptualize the needs and concerns of prospective parents as being somehow outside of or separate from the needs and concerns of the nation. Individuals who adopt from abroad do so within a particular domestic/international/political context' (2000, 910). Therefore, the practice of individuals often serves national purposes, especially when these individuals are powerful in terms of finance and influence.

Lovelock (2000) concludes that all three states she studied (US, Canada and New Zealand) have been prioritizing their national needs over the needs of child migrants from the underdeveloped countries for a long time. A clear demonstration of this reality is Operation Baby Lift, which refers to a large scale adoption program initiated by the US. This program airlifted more than 2000 Vietnamese babies, mainly to the US, for adoption and was considered a heroic humanitarian response to children in the war-torn Vietnam (Bergquist, 2009:622). However, the motivations of the US behind this operation became quite controversial. The operation encountered several problems. For instance, one of the helicopter

lifts crashed and all the children died. Another example is how the adoption processes were completed in a very short period of time and therefore lacked an accurate background check of the children. It turned out that some of the babies who were classified as 'orphans', still had one or two parents (Ibid.: 623). Many Americans were convinced that Operation Baby Lift was 'a cynical attempt on the part of the U.S. government and the government of South Vietnam to gain sympathy for the war' (Lovelock, 2000:923). Thus, the national concerns, in this case the domestic political concerns in the US about the diminishing support for the war, shaped the migration of Vietnamese babies.

### **The State: Legal Responses**

Lovelock claims that the decision to ratify the Hague Convention by states was clearly shaped by the need to secure the supply of and access to adoptable children for their citizens (2000, 944). As discussed earlier, the Hague Convention seeks to take measures to ensure that ICA is conducted with respect for the fundamental rights of the child and in its best interests. In addition, it should prevent the abduction, sale or trafficking of children (Kapstein, 2003, 122). However, the Hague Convention does have a number of shortcomings and as a result it is up to the state to define, regulate and act on irregularities (Lovelock, 2000, 942). Regulating independent adoption agents and agencies, and assuring that they are not involved in any improper practices is problematic. Karin van Doorn from adoption agency Stichting Afrika explained in an interview<sup>10</sup> that the sending states are in a position

to use the Hague Convention to their own advantage because the Convention does not include strict rules. This is not least the case while many key terms are left undefined, such as ‘non-profit objectives’ and ‘adoptability’, nor clear definitions of what constitutes a ‘reasonable fee’ or ‘improper financial gain’ are included in the Convention (Herrmann, 2010; Lovelock, 2000). The Convention’s implementing in effect is left to the political will of sending states, which is shaped by the ongoing political realities that creates the demand for ICA. Given its history, the responses to conventions and the contemporary practices of ICA, it seems ‘reasonable to question the potential implications of this reliance on ‘political will’” (Lovelock, 2000, 941). Finally, children from non-contracting states obviously are not protected in the first place. There are 32 states involved in ICA that have not ratified the Hague Convention, mostly sending states, such as Ethiopia, South-Korea and Haiti. In these states, the political will to protect children’s interests as all decisive.

The international adoption organization UAI has little faith in the political will of states to protect the interests of adoptees. It claims that only those of prospective parents are served. According to Westra of UAI, despite of all the mistakes made by adoption agencies, the Dutch government never closed any of them. Once adoption agencies have been licensed states fade into the background of the ICA system. Adoption organizations are subject to minimal inspection and mistakes are easily made. Nicolas from UAI argues that in between 60 to 70 per cent of all ICAs, the birth parents did not give permission for

the adoption of their child. Therefore, child trafficking plays a much larger role in the ICA market than states want to admit.

In sum, states may choose to prioritize the needs of their citizens over those of child migrants from underdeveloped countries. Despite the Hague Convention’s goal to protect the rights of adoptive children, in actual fact it allows receiving states to secure the supply of adoptable children for their citizens and for sending states to be the beneficiary of a billion-dollar adoption industry.

### The Agencies

In order to justify the need for ICA, adoption agencies widely quote the statistics on institutionalized children and orphans by UNICEF. In 2006, this organization reported an estimated 132 million orphans in underdeveloped and semi-developed countries. However, UNICEF’s definition is different from that employed in many industrialized countries, where only a child which has lost both parents is an orphan. UNICEF’s definition includes children who have lost the father or the mother. Only ten percent of the total has lost both their parents.<sup>11</sup> In most cases these orphans are living with their extended family (Graff, 2008, 61).

Some scholars argue that because adoption agencies are in competition, their prime objective is to find adoptable children rather than to identify caring families (Herrmann, 2010; Lovelock, 2000; Schaeppmaker, 2008). Although Wierenga (the former director of the Supervisory Board of Wereldkinderen) acknowledges the competition on the demand side (between adoption agen-

cies), he does not recognize competition to exist on the supply side. Yet because the agencies work in a demand-driven market, in which some children are more popular than others, this cannot but result in some kind of competition on the supply side as well (Graff, 2008; Hermann, 2010).

According to Wierenga, adoption agencies are aware of the changed nature of ICA and have become 'more businesslike'. He recalled that before ICAs became popular, there were many children available and more and more parties appeared on the adoption market. <sup>12</sup>Nowadays, adoption agencies are doing everything they can to mediate in as many adoption cases as possible. This corresponds with the observations at the information meeting of Wereldkinderen.<sup>13</sup> The agency's representative explained how the Dutch Council for Children's Protection (Raad voor de Kinderbescherming) is doing family research in the Netherlands. The Council investigates the needs, capacities and motivations of prospective adoptive parents. The aim of the Council is to understand the ability of the applicants to raise an adopted child.<sup>14</sup> In addition, to be eligible for the adoption of children from China, the Chinese authorities set a number of requirements to prospective parents. For instance: an annual (combined) gross income above the modal income for Dutch households (30,000 euro). Prospective parents must furthermore have attained certain educational levels. When the agency's representative enumerated these requirements, one prospective parent expressed her concern about the fact that she and her husband might not be able to prove a combined

income of more than 30.000 euros. The representative replied that 'she does not have to worry because people can add up all their possessions' and 'also sneak in a few thousand dollars extra because of the minimum inspection'. He continued by saying that 'there is no need to worry about the educational level either, even if you only finished secondary school. Because when the prospective parents show to the Council that they finished secondary school, Wereldkinderen will make sure that their education will meet the requirements of China'.

These observations demonstrate how an adoption agency is doing everything in its power to make sure that prospective parents can proceed with the adoption. This may mean abusing its powerful position, because according to the sending country, their infant citizens should not be matched to prospective parents if these do not meet all requirements. The adoption agency makes sure that this is the case and the adoption process can be completed. The use of online marketing by adoption agencies also shows that adoption agencies are intend on selling the idea of adoption in order to have as many mediations as possible and thus to maintain their business viability.

### **Associations with Trafficking**

The demand-driven character make adoption agencies more aware of the fact that they should not be associated with child buying practices. As Wierenga notes, 'a rumor is fatal for adoption agencies'. Nevertheless, as he argues, is it almost impossible to control everything because adoption agencies are dependent upon the authorities of the sending countries.<sup>15</sup> These authorities are

responsible for determining if the children are orphans or not. Even when a scandal hits the news, according to Irene van Ark of Wereldkinderen, it does not always involve child trafficking. As she explains, ‘in some cases the media depict adopted children as being sold because it turns out that they were not orphans, but in fact they were living on the streets for years and maybe the mother has a better life now and therefore she wants to reclaim her child’.<sup>16</sup>

It can be concluded that adoption agencies are in a powerful position because they benefit from the ICA market, as the above stakeholder analysis has demonstrated. As market agents they do everything in their power to strengthen their market position. Even when this includes being in the shadow of, or maybe even being involved, in child trafficking practices.

## The Adoption Triangle

### *Adoptees*

Voices not often heard in academic discussions are those of the adoptees. At least in some ways they possess expert knowledge, notably of the outcomes international adoption practices. For this reason we interviewed ten people who migrated to the Netherlands in this way.<sup>17</sup> During the interviews, most adoptees expressed their discontent about the way adoption is framed in society. According to adoptee Nadia<sup>18</sup>, adoption is wrongly seen as a way to rescue children. Adoptee Rodrigo also stated: ‘others decide that this [adoption] is right for you, however adoption is nothing more than a way to meet the demands of involuntarily childless people’.

The fact that the adoption market is

driven by the demand of involuntarily childless people in developed countries was discussed by half of the interviewed adoptees. Adoptee Iris expressed her concern about the importance of economics in the world and in ICA: ‘The market [in ICA] facilitates the demand and the supply of children, there are parties who deal with the demand and supply and this makes us the products because the demand will always be present’. Adoptee Graciella argued that ‘everything in the world is made into a commercial business, in which the demand is determinative. The adoption of children is made into a business where norms and values are not playing a role’.

The commodification of children is indeed a practice in which norms and values do not seem to matter. Children from underdeveloped countries are considered as something that is saleable. Adoptee Rogrigo noted, ‘we are living in a consumption society where people appropriate the right of having children by buying a child’. Within this commodification process the rights of adoptees are at stake because not the interest of the children has priority, but the huge amounts of money and the demand that drives this market. All adoptees that were interviewed made it clear that the rights of adoptees are at stake and could and should be reinforced.

This echo from the interviewees is not unusual. Since decades, adoptees have been making themselves heard by establishing organizations to defend their rights. Two examples are the Dutch organization Los Hijos and Arierang. Both organizations were established to improve the rights of either Colombian or Korean adoptees in the Netherlands.

In the interviews<sup>19</sup> both organizations state that organizing 'roots travels' is one of the most important activities of their organization. Adoptees who want to search for their biological family can sign up for a 'roots travel' and during their search they receive assistance in order to find their biological families and travel with the organization and other adoptees to their country of birth to meet their family. UAI is another organization which makes itself heard on the position of adoptees by criticizing the adoption market and its tendency towards child trafficking. According to Nicolas Yoon Gelders of the UAI, the supply in the ICA market is dwindling, while the demand is rising<sup>20</sup>. This results in a massive pressure on the sending countries to meet the demand and therefore corruption plays a big role on the ICA market. The financial incentives involved in the ICA market stimulate corruption. As Westra of the UAI explains: 'The intercountry adoption market is full of corruption. Especially on informal corruption there is no control and therefore children are easy victims of child trafficking practices.'<sup>21</sup>

### *(Prospective) Adoptive Parents*

As already mentioned, prospective parents are responsible for the high demand for young adoptable infants. Therefore, 'prospective parents continue to contribute large sums of money into a potentially corrupt system in order to find adoptable children abroad' (Herrmann, 2010:417). Not all prospective parents are aware of the existence of corruption and have this misconception that orphanages in underdeveloped countries contain an endless supply of healthy

infants (Ibid.: 412, 427). In addition, adopting a child is an emotional experience for prospective parents and the immense need for getting children makes them not want to look to practices that do not seem to be totally legal.

Once they have become adoptive parents and a scandal is revealed with disturbing news about their little ones, adoptive parents can only say in their defense that they trusted their adoption agencies. Graff gives an example of an American mother who adopted a little Cambodian girl and her adoption agency told her that her Cambodian daughter was an orphan. However, when her daughter could speak English well enough after a year, she spoke about her mommy and daddy and her brothers and sisters, all of which have been found to be alive (2008:65).

In short, adoption agencies and (prospective) adoptive parents have motivations to ignore evidence of child laundering practices. Nonetheless, this is becoming increasingly apparent in the ICA system, and the patterns are obvious for those with eyes willing to see. Thus, 'credulous Westerners, eager to believe that they are saving children, are easily fooled into accepting laundered children -- for there is no fool like the one who wants to be fooled' (Smolin, 2005:135).

### *Biological Parents*

Scholars have been dealing with the well-being of adoptees or with the position and demand of prospective parents in the ICA market. Unfortunately, there is a lack of research about the position of the adoptees' biological parents in this demand-driven market. Herrmann and Kasper (1992) argue that the mere ac-

ceptance of ICA overlooks the negative impact on birth mothers. They argue that in some underdeveloped countries illegal baby trade is seen as a solution to the problem of inadequate prenatal services and care. In this view, women are considered as 'breeders', who produce healthy babies for the ICA market (Ibid.: 48). The responsibility of the governments of sending states to provide for family planning services and improve the position of (teenage) mothers is avoided by participating in the ICA market.

Therefore, as Schaeemaker et al. (2008) argues, ICA often comes down to exploitation of vulnerable families who have no other choice. Parents are often persuaded by tricks to give their children away, without understanding exactly what adoption means and assuming that their children will come back (Ibid.: 33). Anthropologist Shellee Colen (1995) believes that adoption is a product of 'stratified reproduction', which refers to reproductive labor by women structured by political, economic and cultural forces and results in unequal hierarchies of race, class, place and gender in the global economy. Known from the trafficking of children for sexual exploitation are cases in which parents see themselves forced to sell one or more children in order to be able to support the remaining household members (Doomernik, 2006) and doing so for adoption would appear a humane option in comparison.

To conclude, the consequences of a demand-driven market for adoptees are painful because not only the interest of the costumers in the market are put first, the adoptees are being commodified and

therefore it is questionable whether their adoption cases were processed in a fair and legal manner. The prospective parents are responsible for the high demand but at the same time are not aware of the negative impact on the ICA market, because they are easily fooled into putting their trust in adoption agencies who again may be tricked into accepting orphans who actually are not.

## Conclusions

When migration takes on market features, we can differentiate, like Salt & Stein (1997) have done before us, between legal and illegal sides of the business. Among the legal aspects of ICA we can list instances where a child is truly an orphan, cannot domestically be matched with suitable adoptive parents and therefore migrates to another country thus serving its best interests. On the other end of the spectrum we find deceptive practices and children being sold and bought in order to satisfy the needs of prospective adoptive parents abroad. In between these two positions we find a grey area in which both worlds seem to meet and in which it seems often unclear whose interests are served in what particular manner. It also has become clear that attempts to bring and keep the market in international adoption above board by means of (international) legal interventions are not easy. This appears not least to be so while policies at the receiving end (the countries of adoptive parents) aim to serve different needs that are at odds to each other, at least to some extent. Adoption should not fall under the restrictive regimes that as a rule govern migration from developing nations while it fulfills affective needs



among citizens. Otherwise a full stop to the practice and alternative protection of vulnerable orphans - in the country of origin - would be a viable consideration.

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## Notes

- 1 Meeting for prospective adoptive parents at Wereldkinderen on 22-03-2014, the Hague, the Netherlands.
- 2 Interview with Dr. René Hoksbergen, Professor Emeritus of Adoption on 24-04-2014, Soest, the Netherlands.
- 3 Interview with Jan Wierenga on 05-05-2014, Gouda, the Netherlands.
- 4 [www.wereldkinderen.nl/websites/implementatie](http://www.wereldkinderen.nl/websites/implementatie) last accessed on 13-05-2014.
- 5 [www.stichtingafrika.nl/images/pdf/kostenethio-pie.pdf](http://www.stichtingafrika.nl/images/pdf/kostenethio-pie.pdf) and [www.wereldkinderen.nl/websites/implementatie](http://www.wereldkinderen.nl/websites/implementatie), last accessed on 13-05-2014.
- 6 Interview with Irene van Ark, working at Wereldkinderen on 19-05-2014, using Skype.
- 7 [www.agentschapszw.nl/subsidies/tegemeetking-adoptiekosten](http://www.agentschapszw.nl/subsidies/tegemeetking-adoptiekosten), last accessed on 14-05-2014.
- 8 Interview with Hilbrand Westra on 27-05-2014, using Skype.
- 9 [www.allgodschildren.org/adoption/our-adoption-programs/waitingchildren](http://www.allgodschildren.org/adoption/our-adoption-programs/waitingchildren) (received username and password waitingchildren) Last accessed on 15-05-2014.
- 10 Interview with Karin van Doorn on 26-05-2014, using Skype.
- 11 [http://www.unicef.org/media/media\\_45279.html](http://www.unicef.org/media/media_45279.html), last accessed on 19-05-2014.
- 12 Interview with Jan Wierenga on 05-05-2014, Gouda, the Netherlands.
- 13 Meeting for prospective adoptive parents at Wereldkinderen on 22-03-2014, the Hague, the Netherlands.
- 14 [http://www.adoptie.nl/p/1564/adoptieprocedure\\_stap\\_voor\\_stap/](http://www.adoptie.nl/p/1564/adoptieprocedure_stap_voor_stap/), last accessed on 20-05-2014.
- 15 Interview with Jan Wierenga on 05-05-2014, Gouda, the Netherlands.
- 16 Interview with Irene van Ark on 19-05-2014, using Skype.
- 17 The interviews with ten adoptees took place between 01-04-2014 and 20-05-2014.
- 18 Nadia is a fictitious name for an adoptee who requested to remain anonymous.
- 19 Interview with Los Hijos on 12-05-2015, using Skype. The interview with Arierang on 08-05-2015, Amsterdam, the Netherlands.
- 20 Interview with Nicolas Yoon Gelders on 27-05-2014, using Skype.
- 21 Interview with Hilbrand Westra on 27-05-2014, using Skype.

