

Inter-Country Adoption Legitimacy Essay

Introduction

The postwar humanitarian objective attached to the concept of adoption and fostering of children has over the years been gradually corrupted and influenced by self-interest. The legitimacy of the entire concept has changed from a reactive response to postwar effects to an illegal and self-interest motivated child trade that is aimed at selling the children to wealthy families who do not have children or who for one reason or another wish to increase their family size.

This flies in the face of the numerous legal moral and social laws that condemn such acts including the UN convention on child rights. The child rights legal regime has over the years made remarkable progress in securing worldwide compliance and observance of child rights laws including the 1993 Hague convention. However, there is still a lot to be done in as far as addressing emerging modes of child rights violation with specific regard to inter-country child trade dubbed fostering and adoption.

Literature analysis

The idea borrows heavily from the American liberalist ideologies as well as postwar prosperity concept. The proliferation of the twentieth-century adoption was accomplished alongside the capitalist consumer demand across the globe motivated by the changing societies that embraced heterosexuality and homosexuality. These setups presented a constant demand for children since it is biologically impossible for them to bear children but they still wish to reconnect with society by meeting conventional benchmarks such as those regarding family.

This turn of events opens a new window into the concept of adoption and lets in the influence of racial, political, national, economic, social, and religious and gender-based influence (Gilroy pp. 58-83). The emergence of these modernist kinship relations replaces the traditional humanitarian objective whose sole objective was the welfare of the adoptee rather than the adopting parents. The all too familiar nationalist approach to adoption in as far as human rights are concerned has gradually moved into a privatized and domestic affair.

To put the discussion into perspective, pertinent questions must be asked. These questions will provide a vivid interpretation of the legal social and moral standing of the whole adoption debate.

- What are the legitimate concerns that are presented by the inter-country adoption regime?
- What is the role of human rights jurisprudence in the motivation of the current state of affairs?
- What input has cosmopolitan and particularistic ideologies made in the adoption debate?

- What steps are to be taken in achieving greater legitimacy in the face of the changing societal concept?

Argument

Legitimacy concerns

The legitimacy of adoption in the face of the capitalist economy where the wealth may be used to create rights cannot in a strict sense be examined from a moral and legal stand. The legislative menu in as far as human rights are concerned is endless down from the UN convention on human rights and specifically the convention of child rights whose object is to ensure that children are regarded with human dignity. These rules are however obligatory and not mandatory.

Recently however several countries have made attempts at proving a yardstick in the form of bilateral agreements whose purpose is to provide regulations for receiving and sending these children across borders. These settlements are only formulated after extensive harmonization and consultation between the various interested parties in the contracting country (Eng pp1-37). In the absence of such arrangements, the adoption process is left to numerous legislations which do not give specific attention to the specific interests of children and in the process exposing them to the right violation.

From an ethical point of view, the adoption process fails with a great magnitude to meet the prescriptive requirements of social and human ethic. The process has often been accused of duress and compulsion. The right to parenting in the face of poverty has deprived the parents in third world countries of their right to exercise this duty. This leaves a conflict of interest between the parent and the need to protect the child. Even more compelling there have been accusations of child fattening to increase chances of adoption.

Child and human rights jurisprudence

Child adoption has a wild and long history since the tales of Moses and Oedipus. The motive then borrowed heavily from humanitarianism and compassion. It was a reaction to the consequences of war and civil strife. With the onset of industrialization, adoption entered a phase in which the parents adopting the children needed family attachments or expansion of these families. The humanitarian goal, therefore, moved aside. The third face came with capitalism and brought in the child trading menace.

This probed the formulation of a regulatory body the Hague convention on inter-country adoption which ushered in the new millennium inter-country adoption system (Triseliotis pp 45-54). The convention was motivated by the need to promote the observance of the basic human rights in children. The development of humanitarian laws has been based on the various human rights provisions. The growth in human rights law has caused an effectual growth in the adoption laws in as far as obligations and rights in the adoption transaction are concerned.

Cosmopolitan and particularistic ideologies

Cosmopolitan ideology advocates for a greater conception of the nation beyond the mere restrictions of the state boundaries. It has been identified with heated emotions in the advocacy of ideas and propositions. This heated argument supersedes the basic emotional boundaries of reason and self-interest and develops an attitude and feeling of nationalism. Literary writers have categorized the cosmopolitan movement into two main factions the hot and the cool cosmopolitanism.

To enable a better understanding of the nation they distinguish it from all other superficially similar groupings that are used to construct the political and economic meaning of a nation. To the very least, the national spirit is motivated by the statehood and the perception of such a state as a unified administrative entity. The nation is, therefore, a social construct with several access routes that depend on the movement that one seeks to side with between the elites and those who conform to decolonization ideals.

As it is there is no criterion for the determination of the nation and how it is created. This is therefore left to the level of independence and self-identification of the unit to warrant the tag "nation". As it were nationalism has been criticized of undermining the nations yet in the same effect creating an effectual unified concept of the people within the nation as it is. It recommends a greater approach to national interests. This means a collective response to humanitarian concerns by the various leaders in the greater nation (Nash pp506-518). Fundamentally the whole human race is put to task in the maintenance of and motivation of obedience of human rights.

As it were the particularistic national state has faced numerous drawbacks stemming from economic independence concerns as well as ideological differences. Its backbone, however, has been invested in the need for security with every state seeking to secure its citizens using the best means available (Gilroy pp. 58-83). This cooperation has been witnessed in the modern-day security crisis as was exemplified by the war on Darfur. In the same measure, it lies within the powers of the national state to promote and fund the process of ensuring that the interests of children who undergo intercountry adoption are addressed.

The purpose and objects of intercountry adoption within the cosmopolitan state defeat the economic and political interests of the nation since there lies a justification of statehood and nationalism that creates a sense of unity within the state as a unit and region. The approach to intercountry adoption has therefore benefited considerably from the cosmopolitan and particularistic movements. Through these concepts, the disputed that arise from this process are resolved for the common benefit of the state.

Conclusion

The question of legitimacy in the inter-country adoption arena can achieve progress if the various stakeholders come together and agree to restrict their transactions within a single benchmark. It obviously will vary with the various countries societal standards and requirement. Some pertinent concerns such as a child rights approach as well as a non-economic motivated adoption regime could go an extra mile in ensuring that children's rights are secured. (Triseliotis pp 45-54).

Works Cited

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