

Us law protections against child laundering



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Child Laundering: Is U. S. Law Doing Enough?

Introduction

The paper is an in depth examination of the issue of child laundering in the United States of America. This is done by first defining what child laundering is, how it work in the country, bringing forth some vital statistics concerning its prevalence as well as its ill-effects. Additionally, the existing laws in land that help combat child laundering as well as relevant statistics on whether the current laws have been effective or not are brought to light. Lastly, a set of recommendation are brought forth to help make the law better in addressing the problem of child laundering.

Due to globalization, mainly characterized by free movement of people, goods, services and capital due to advent in technology, there are a number of benefits as well as drawbacks associated with it. Political, social, cultural, economic as well as environmental aspects of mankind have been impacted in either way. One social; ill that has been catalyzed by globalization is child laundering. By definition, child laundering has been thought of as;

[The practice of illegally using children for exploitative purposes like labor, prostitution, and adoption after stealing and selling a child to adopting parents under false pretenses. The children that are trafficked in or out of a country mostly come from poor and backward families who may willingly give them over for laundering in the hope of earning money or providing a better place to the child. However, most of these children end up in neglect, abuse, and torture at the hands of their recipients] (Garrison, 2000)

It is worth noting that this act also known as child trafficking is done mainly by agencies that facilitate adoption mainly against the will of the parents as well as the involved child. The offender does hide or falsify the kids' details for instance controlling the origin of the child with the aim of making such children legitimate orphans (Jerome, 2001). On the same note, offenders are capable of manipulating birth certificates, intake records, or even records concerning death of parents who may be alive. Generally speaking, the phenomenon entails unlawfully attaining children by kidnapping or buying for reasons of adoption.

As suggested by Zimmerman, 2005 child laundering has been associated with a number of social ill such as sexual abuse, removal of some vital body organs, child labor, illegal adoption, prostitution and slavery among others. For these reasons, governments locally and in collaboration with their international counterparts have set laws that make the act a serious crime that is punishable. Persons under the age of 18 years are deemed to be children accordance to the international law and recruit, transport, harbor and or to obtain such person to be exploited is seen as child trafficking. Although the laws of the land seem to have helped curb the problem, it is evident that there are some loopholes that need to be sealed to successfully and effectively help America address the issue of child laundering.

Child laundering in United States of America

It is a difficult task to succinctly establish the exact number of children being 'laundered' which is characterized with kidnapping, stealing buying and trafficking children. in the United States of America, child laundering is mainly accomplished by the following ways or mechanism, child buying,

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intra-familial kidnapping, traditional kidnapping, kidnapping children place into orphanages, hostels or schools for purposes of being educated or cared for, obtaining children through false pretenses, lost children and finally taking children in payment of debts 'your money or your baby'. The children are elated unlawfully to cities within a given country and or trafficked foreign countries (Smolin, 2005).

Children, both males and females are culprits, though the reason of laundering does vary for the genders involved. Child buying involved an interconnected link that may constitute independent facilitators, directors of orphanages as well as attorney who are corrupt. They form a system that enables them buy kids from their families. An individual with skills and knowledge is at the realm of the whole scandal and recruits scouts to help him carry out his/her plans. The target here are the poorest families, money is the inducing factor (Smolin, 2006). It is estimated that person at the realm of the whole thing gets between 2, 000 and 20, 000 US dollars per child. Paying the family, the recruiters as well as bribing the relevant authorities obviously leaves him/her with something substantial.

Kidnapping of children placed in homecare, schools or hostels has been another way of child laundering. Parents from very poor background due to financial constrain may relinquish their responsibility of housing, caring and educating their kids to an institution that provide the same. This has been used by facilitators and scouts to convinced parents to place more kids into such systems. It is sad to not that upon entering such institutions, the children are made 'orphans' and transferred to adoptees usually without the consent of the child's parents.

Smolin, 2007 held the view that child laundering has been made possible through obtaining minors through false pretense. This entails inducing parents to give custody of their children to a number of agencies. Parents are made to understand that their children are taken to have a better life and are promised they will be constantly updated about the wellbeing of their children. Financial gain from adopting persons or agencies as well as the possibilities of going to America to live there with their children makes thing easier for the perpetrators especially when the parents are naïve and poor. What follows after the parents have given custody of their kids is adoption which is done through manipulation of the kids' origin as well as parents' whereabouts. Parents in the end loss the family contact with their kids forever.

There are also cases where a family is forced to surrender the custody of their child due to inability to settle debts. This happens especially with regards to failure in settling medical bills associated with giving birth. Similarly, a woman who is poor is in debt with individuals or agencies that give loans, failure to repay makes the agency to force such women to place their kids to orphanages where the illegal adoption is then done without her consent (Zimmerman, 2005).

Additionally, familial kidnapping where one parent takes away the kid from the other and place him/her in another location especially orphanages. This is usually motivated by financial gain and evading the responsibility of raising children due to lack of adequate resources. Countries where parent have to incur cost of marrying of daughter are at more risks. Traditional kidnapping of children especially from hospitals, schools homes, playing

grounds, streets for sale has been on thrive as one major way of fostering child laundering. Lastly, cases involving lost children have been capitalized to enhance child laundering. It is common knowledge that once a child is established to be lost; efforts opt to be made too establish his/her family and rejoin them. However, according to Landes & Posner 1978 in the wake of lust for money, such efforts are not made and involved children are deliberately given false name as well as manipulated background eventually adopted in an illegal manner where they may languish in sex abuse, child pornography, and child labor among others.

Statistics

Child laundering is deemed to be the second most serious crime in the United States only after drugs. It is the fastest growing crime globally. Globally, about 1. 2 million children are stolen and illegally adopted a business that run in excess of \$12 billion annually (Wuiling, 2006). Above 2. 8 million children are brought to America annually, upon setting foot on U. S soils a third of these children are coerced to engage in prostitution and child pornography, these individuals are 12 years on average. It is asserted that 300, 000 children in America are at risk of being exploited via commercial sex. Although foreigners are trafficked into the country, the number of American kids being laundered is much higher with close to 200, 000 children of American origin being lured into commercial sex business Zimmerman et al. 2006).

Statistic has it that a perpetrator of child laundering can make up to \$200, 000 annually from one young girl. Additionally, child pornography has been on the rise and threatens the moral stability of the country. According to FBI <https://assignbuster.com/us-law-protections-against-child-laundering/>

there has been an increase of 2500% in arrests in the last 10 years (Zhang, 2007).

The concept of intercountry adopting has been hailed to create room for child laundering. Between 1990 and 2003, intercountry adoption into U. S tripled up to 21, 654 from 7, 093.

Table 1 Intercountry adoption to U. S Statistics.

Year

Intercountry adoption to U. S

2003

21, 654

2004

22, 990

2005

22, 734

2006

20, 680

2007

19, 609

2008

17, 475

2009

12, 753

2010

<10, 000

2012

Projected to be <8, 000

Source; Smolin, D. (2010). Child Laundering and the Hague Convention on Intercountry Adoption. The Future and Past of Intercountry Adoption.

Retrieved on 15 March 2011 from <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=48+U.+Louisville+L.+Rev.+441&srctype=smi&srcid=3B15&key=997ad293e589e3af1af27ed695146555>

III-effect of child laundering

It is no doubt that child laundering has a lot of negative attributes to the involved children as well as the society as a whole. As stated previously, laundered children are subjected to exploitative conditions such as prostitution, child pornography, child labor, illegal adoption, slavery and to extreme ends removing vital body parts (Landes & Posner, 1978). The children involved under go serious sufferings at the hands of their adoptees.

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They are inflicted with mental/psychological torture as well as physical torture impacting on various aspects of their lives (Lifton, 1975).

Child laundering usually denies the involved kids the opportunity of growing up with their blood sibling as well as sharing the bliss of life with their biological parents. Such incidences usually impact on their perception especially towards parents when they come of age and realize that where they are is not their home and their parent cannot be traced (Mabry & Kelly, 2006). In incidences that the child was taken from the mother forcefully or by being threaten, the mother will live in guilt for the rest of her life for failing to defend her child. Such traumatic events psychologically torture the victim that it may escalate to her day to day way of living. The emotion associated with losing family ties can be very detrimental to the health of the victim as they may spent a better part of their time crying and thinking about home, siblings, friends and parents (Tyuryukanova, 2002).

In cases where the children are subjected to sexual abuse for instance prostitution and child pornography, there are potential possibilities of them contacting sexual transmitted diseases and more seriously HIV and AIDS. It is no doubt that these kids have seen to it that the spread of such diseases are on the rise posing danger not only to them but also to the general public (Marshall & Gerald, 2002). Additionally, when molested at such early ages as 12 years, they stand a chance of holding lower esteem of themselves ending up withdrawing from sexual activities even with their beloved partners once they are grown ups. The problem with intimacy can also be along with problems with their kids. Survivors more often than not push away those individual close to them which is seen to be a disturbing issue to one of the

spouse. It has been established that close to 80% of children engaging in sexual abuse and child pornography if not saved earlier and put into rehabilitation will definitely engage in prostitution in future especially when they are adults (Williams, 1999).

Where the culprit is physically abused, by their recipients there are chances that they may turn to be violent when they grow to adulthood. When the same goes to the extreme, such children are at times physically and permanently deformed. Additionally, the children that are abused physically lose some body senses and cannot feel anything which is dangerous to their growth and development (Wolfe, 2005).

On the same note, despite the fact that when facilitators are trying to induce the biological parents of children to be adopted by promising better life, education, provision of basic need, in reality, these children end up languishing in more trouble as compared to before being taken. Basic needs such as health, shelter, food among others are poorly administered. It is only a small fraction that is lucky to have a better shelter over their heads. Lack of education in most cases renders such individual useless later in life as they cannot secure better jobs and for this reason, most of them have ruined life (Torgoley, 2006).

It is also a fact that these individuals are subjected to social ills such as drug use/abuse and other forms of crime. The involved children when growing up in such an environment approach adulthood already mentally polluted and corrupted. The end result is having a society that is full of crime, irresponsible and holding negative views on themselves as well as others.

Strictly speaking, when children are trafficked to urban centers which is usually the norm, it is obvious that the surging numbers are not in line with the available resources (Vu, 2004). This does contribute to overcrowding of the existing infrastructure in states that are striving to provide financial as well as other resources to meet children needs. As noted by Lindsey Biel, author of " Raising a Sensory Smart Child,"

[Internationally adopted children demonstrate higher incidences of sensory integration and health problems than domestically adopted children. The crowded adoption facilities typically lack adequate medical, educational and nutritional care for children, leading to cognitive, emotional and behavioral disorders in adopted children].

Another social ill that is associated with child laundering is irresponsible parenting. Once couple are given the room to 'sell' their children, this will be the norm hence making the society have irresponsible individual who are not capable of taking care of young individuals and providing them with basic needs. This will provide a wider avenue for the illicit business deemed lucrative to thrive at the expense of values of any given society. Similarly, there are problems faced by the children trafficked to new areas especially if they are from a foreign country. It will take them time to fully adjust to the environment as well as the culture of destination area (Wolthuis & Mirjam, 2001).

Laws addressing child laundering and their effectiveness

Laws that address child laundering especially in US depend on the state.

However, it has to meet accreditation law from Hague convention adoption

law. It is also affected by the human rights laws to ensure that in legal adoption process is catered for to curd child laundering.

The Hague convention is put in place to affect all the adoptions that take place within the countries that signed the treaty with it. Therefore, such countries as US, which signed this Convention in 1994, that came into force in April 2008 must comply with their laws during international adoption to ensure that child laundering is avoided. Therefore, Hague convention ensure that each country respect human right in their laws of adoption (Vu, 2004).

Hague adoption process

The adoption process from a convention country may differ from a non-conventional country in various ways. However, the numbers of the countries that ascertain adoption process from the Hague statute are about seventy-five where US is a member. To eliminate child laundering among conventional countries during adoption, Hague Conventional Adoption process should be followed (Zhang, 2007).

Each person should complete six steps during convention process. First, one should ensure that he/she choose accredited adoption agencies that provide this service. Second, apply to them to ensure that they find you legible to adopt. This is to make sure that one is able to be given right to acquire an adoptee legally reducing chances of child laundering. For example According to adoption laws in New York State, a person to be legible to undertake adoption process must be an adult. He/she can be married or unmarried (Williams, 1999). Persons who had married but living separately from each other either under or in pursuant of the decree of separation or through a

written separation statement is also legible. A minor husband with an adult wife or a minor wife with an adult husband can together adopt a child. Other groups according to legal proceeding can still adopt provided there is an adult to take care of the adopted child.

An adaptor will be referred to a child who she/he is required to adopt.

According to the law, adoption should be done with the consent of the adoptee if fourteen years and above with sane mind, from their parents if below that age or incapacitated or from the court of law IdeaConnection (2011). After getting the consent, one is supposed to apply for the child to ensure that one is eligible to immigrate to US. After immigration documents are offered, now the person can adopt the child. The immigration visa for the child is processed as the final process of the adoption.

According to the Hague adoption process, it was meant to provide protections to the prospective parents, children and the birth parents. The key principle of Hague adoption convention process follows the interest of the child (Wolfe, 2005). It is meant to ensure that there is no child laundering during inter-country adoption. According to US, the federal government upholds these laws with utmost faith where Inter-country Adoption Act of 2000 and its implementation regulations govern them.

According to the Hague convention law, the adoptive service should be accredited, temporarily accredited or should have been approved in a national level to carry out conventional adoption services. Through this, the adopting parents learn about the agency through the adopting lawyer. This ensure that the selected agency have comprehensively been evaluated

based on standards contained in the federal regulations. This eliminates the tendencies that develop cartels that propagate child-laundering process. The standards provided for the accredited agencies are meant to address unprofessional adoption practices (Kristof, 2000).

The other principle of the Hague adoption process is to address immigrant visa petition and application process. This ensures that the children are notified about potential problems that pose legal bar of children from getting to US before following due adoption process to be adopted by the prospective adopter. This is to ensure that the child especially who have been adopted from overseas is given a legal permit to reside in the US after adoption. This regulates the illegal child trafficking as the children from other countries are identified by the federal government (Wolfe, 2005).

Conventional process

The first step in the adoption process is choosing accredited agency in the US. This will help in connecting one with the other country where one is required to adopt the child. It will also offer legal adoption law of that country to ensure that no children laundering (Spangenberg, 2002). Adoption service providers should have complied with federal regulation (22 CFR Part 96). The adoption process is monitored by the Council of Accreditation (COA) and Colorado Department of Human Services. In addition, the Office of Children's Issues monitors accrediting entities in compliance to Inter-country Adoption Act (IAA).

To ensure that legal adoption is followed and child laundering is minimized, IAA outlines services that the agencies should provide to their client as follows.

The agency should identify child for adoption and ensure that they arrange on the due adoption process this regulating irregularities that lead to child laundering. The agencies should also ensure that it secure necessary consent terminating parental adoption right. It should also do home study to ensure that it offers a report on prospective adoptive parents and child background (Zimmerman et al. 2006).

The accredited agencies are supposed to perform child non-judicial determination of a child best interest and the appropriate adaptor. They are supposed to ensure that they are capable of providing healthcare to children and any other social care if need arises. This is in accordance to the rights protecting the welfare of the children.

After getting an accredited agency, one is required to apply to ensure that legibility. This done through the help of the accredited agency chosen to ensure that the whole process follow the required laws and child adoption laws. For example, if a US citizen is applying to adopt a child from other country he/she must be found legible by US citizenship and Immigration Service (USCIC). They will access the ability of one to hold capability to cater for the child (Wolthuis & Mirjam, 2001). The application is done through a form called 1-8000A. It ensures that one is suitable to adopt the child and ensure that legal process is followed. The form is applied in conjunction with a form showing in detail once health, finances, background among others

details. This is mandatory for adoption process to ensure that no child laundering.

The agency will help the adoptive parent through referring him/her to the child after being convinced that he/she is legible for adoption. This will depend with the law put in place by the federal government of each country or state. Each country has its adoption law that has to comply with human rights regulation (O'Halloran, 2009). Therefore, the agency through the attorney will be sending a report showing determining once legibility.

Legibility is determined by article 4 of the Hague Conventional Adoption Process. It says that the child adoption should be done to meet the child interest. It postulate that the legal custodian should be counseled to ensure that he/she understand the repercussion that underlay the adoption and especially illegal adoption otherwise child laundering (Kristof, 2000). The law also provides that the person who give adoption consent on behalf of a child who is not capable of giving own consent does this in writing after counseling. This will offer a legal background incase any undue process is cited elsewhere. It will in addition reduce any child-laundering occurrence. If the child is above 14 years and is capable of giving her/ his adoption consent is counseled on adoption effects and gives consent afterwards in writing. This reduces cases where parents conspire to have child laundering (Spangenberg, 2002). The law also provides that there should be no payment or inducement that should be offered prior to the completion adoption process to ensure that the process is not compromised whatsoever.

For the report to be offered to prospective adoptive parent, it should be accompanied by a translated to ensure that everything in the report is duly understood. It will also be accompanied with birth certificate of the child or secondary evidence showing child age (Wuiling, 2006). Duly signed irrevocable consent by the legal custodians and other entities or individuals who have are entitled to give adoption consent on behalf of the child as provided for in article 16 of the Hague Adoption Convention, the federal law of the country and the habitual certified report. This is to ensure that the adoption process follows legal order to eliminate irregularities (Marshall & Gerald, 2002).

The next thing is to apply for the legitimacy of the child to the Immigration to the United State after accepting the referral proposed. This is where the USCIS under the department of homeland security come in to approve the adoption of the child through form 1-800 (Smolin, 2003). USCIS makes the provisional determination whether the child is legible to be adopted in US according to the law and in accordance to the information enclosed therein. For a child to be adopted in US, he/she must meet a convention adoptee to ensure that she/he is legible to migrate to US. This will help in controlling the number of children getting in the country illegally consequently curbing child laundering.

If Consular Officer finds that the child is legible for adoption, the net thing is the prospective parent adopting him/her. Finally, the application of immigrant visa for the child is done after legal adoption is carried out. This ensure that the child become a citizen of US by adoption. Visa is a necessary document to ensure that the child trafficking is regulated (Torgoley, 2006).

Recommendations to better curb the menace

As suggested by O'Halloran, 2009 no matter how much the child trafficking act is combated; this has been a thorny issue due to some loopholes that have been there for a long time. United State of America being the chief anti children trafficking agents in the world has to some level failed to come up with laws that are concrete to combat completely this vice (Lifton, 1975). To the contrary, it is the highest recipient of the adopted child which most of them are from the same vice. Therefore, from the study that is done herein, some of the recommendation have been proposed to ensure that the vice is reduced if not eliminated.

To ensure that the child laundering is combated in US, the federal government of US should work together with State of Department to overcome the confusion that has ever existed in the approach of the child trafficking (Jerome, 2001).

First, the project propose to congress to extended the mandate of the Office to Monitor and Combat Trafficking to include trafficking in purpose of adoption in addition to their normal mandate of labor and sex trafficking (Mabry & Kelly, 2006). If its mandate is extended, it should include buying children with adoption purpose as child trafficking contrary to its normal counter-productive approach. Congress and the Office of the Children Issues that is within the Department of the State should implement the Hague Convention depending with its fundamental purpose as anti-trafficking treaty. This will call fro the federal government to review critically the incidences caused by child trafficking within the intercountry adoption system (Garrison, 2000).

The US government should provide regulatory measures to ensure that the US consular and immigration being used as child laundering mechanisms. This is through provision of comprehensive criminal and civil actions towards children trafficking and children laundering and remedies within the intercountry adoption system (IdeaConnection, 2011). US government should concern themselves in the aftermaths brought by the vice of children trafficking and children laundering. This is through offering resource support to the prone countries as most of this vice is driven by poverty.

Conclusion

From the review of the issue of child laundering, it is apparently that it entails illegal stealing and selling of children to adopting parents under false pretenses. The phenomenon has been prevalent thanks to globalization which is free movement of people, capital, goods and services due to technological advancement. Coming second after drug trafficking, child laundering is serious crime in the United States. Globally, about 1. 2 million children are stolen and illegally adopted a business that run in excess of \$12 billion annually. Above 2. 8 million children are brought to America annually, upon setting foot on U. S soils a third of these children are coerced to engage in prostitution and child pornography, these individuals are 12 years on average.

The ill-effects of child laundering are both physical and psychological. It is evident that children are subjected to social ill such as pornography prostitution, child labor among other which in the long run impact on their health, how they perceive themselves as well as others, some grow to be abusers and lone rangers even if they are in an intimate relationship.

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America does have numerous laws that have been put in place to curb child laundering. It is worth noting that each and every state do have varied version of how to tackle the menace. From the statistics, it seems the laws have helped curb the problem as there was a decline on the number of children being adopted. However, the laws have not been effective in successfully addressing the matter. For that matter, there is need for U. S to tighten the mechanisms it uses to verify the validity of the children in question, collaborate with other countries and involve other relevant state organs in fighting the menace, coming up with better proposal that will help curb poverty which seems to be the root cause of child laundering. The later can offer a long term solution if successfully adopted.