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Introduction

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NEW YORK'S COMPLIANCE WITH THE CONVENTION ON THE RIGHTS OF THE CHILD: STUDENT CONTRIBUTIONS

INTRODUCTION

*by Maria Grahn-Farley*¹

The CRC is an international treaty establishing children's rights.² The Albany Law student pieces prepared for this Symposium evaluate New York State's present-day compliance with the international standards of the CRC, using the Committee on the Rights of the Child's reporting guidelines.³ Maria F. Cadagan compares New York State's reliance upon the Hague Convention and state statutes and programs addressing matters of international child abduction. Chantima Chokloikaew's contribution evaluates New York State's compliance with the child's Article 6 right to life and Article 12 right to involvement in decision-making in decisions that affect the child. Jeremy A. Cooney discusses the State's provision of preventative rehabilitation services for child prostitutes and recent passage of the Safe Harbor for Exploited Children Act. Lauren K. DeLuca examines children's legal protections in New York State adoption law under the mandates of CRC Articles 1, 2, 3, and 12. Francis K. Liu addresses provisions within New York education law, public health law, and mental hygiene regulations for compliance with Article 23. Matthew P. Miller examines state public schooling under the rubric of children's access to education, as

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² Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, *available at* <http://www2.ohcr.org/english/law/crc.htm> [hereinafter CRC].

³ At the Symposium, the following Albany Law School students also presented their findings: Heather N. Brondi, on "Juvenile Justice and Treating Children as Adults: Is This Ever in Their Best Interests?"; Samantha N. David, on "Examining Sexual Education in New York State Public Schools and Abortion Laws under New York State Law and its Compliance with Articles 24 and 16 of the United Nations Convention on the Rights of the Child"; Marwa E. Elbially, on "Violation of the Optional Protocol on the Involvement of Children in Armed Conflict and Its Effect on the Military Recruitment of New York Children"; and Tina M. Velekei, on "Treatment of Parental Abused and Neglected Children: Articles 19 and 39 of the UN Convention on the Rights of the Child."

implemented through state provisions relating to cost, resources, English language proficiency, school discipline, and student decision-making. Jessica M. Vaughn undertakes a federal-state analysis of New York's ability to provide for the physical and psychological recovery of former child soldiers. Finally, Clare Wiseman examines a state party's Article 2 obligation to provide protection against discrimination in opportunity for children as well as to affirmatively prevent disparate outcomes caused by discrimination.

Section One: International Parental Abduction: New York Law and the Convention on the Rights of the Child

*by Maria F. Cadagan*⁴

In New York, one percent of the missing children reported in 2007 were abducted.⁵ Among the abduction cases, the most frequent form of abduction was by family members.⁶ In New York, Schenectady and Albany counties reported the highest number of missing children, with a ratio of 18.0 and 17.6 per 1,000 children reported missing, respectively.⁷ In 2007, there were 161 familial abductions in New York.⁸ These statistics raise the question of whether New York does enough to prevent and prosecute the crime of international parental abduction.

New York law is inconsistent with the CRC regarding the upper age limit marking the time children become adults. The Convention on the Rights of the Child ("CRC") requires that all human beings under the age of eighteen be regarded as "children."⁹ In contrast, New York Penal Law only recognizes those

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⁵ N.Y. STATE DIV. OF CRIMINAL JUSTICE SERV., MISSING AND EXPLOITED CHILDREN CLEARINGHOUSE ANNUAL REPORT (2007), <http://criminaljustice.state.ny.us/crimnet/ojsa/mcannual07/annual2007.pdf> [hereinafter MISSING AND EXPLOITED CHILDREN CLEARINGHOUSE ANNUAL REPORT].

⁶ Of children reported missing, 94% were ages thirteen or older, 61% were female, and 48% were white. The single largest group of cases involved white females thirteen years old or older, which constituted 29% of all missing cases. *Id.* at 4.

⁷ *Id.*

⁸ Of these abductees, 120 were children between the ages of one and five, 30 were between the ages of six and twelve, 7 were between the ages of thirteen and fifteen, and, lastly, 4 were between the ages of sixteen and seventeen. Of the total familial abduction cases, 71 children abducted were males and 90 were females. Furthermore, 65 of the abductees were white, while 96 were non-white. *Id.* at 6.

⁹ CRC, *supra* note 2, art 1.