
Volume 12 | Issue 2

Summer 2009

Section Four: The Availability of Preventative Rehabilitation Services for Children Engaged in Prostitution; CRC Article 34 and Its Optional Protocol

Jeremy A. Cooney
Albany Law School

Follow this and additional works at: <https://academicworks.cuny.edu/clr>

 Part of the [Law Commons](#)

Recommended Citation

Jeremy A. Cooney, *Section Four: The Availability of Preventative Rehabilitation Services for Children Engaged in Prostitution; CRC Article 34 and Its Optional Protocol*, 12 N.Y. City L. Rev. 521 (2009).
Available at: 10.31641/clr120216

The CUNY Law Review is published by the Office of Library Services at the City University of New York. For more information please contact cunylr@law.cuny.edu.

would not be limited to after-school programs such as the Youth Justice Board. The CRC advises that a coordinating body be responsible for overseeing group participation as well as individual child participation in decision-making. This is just one of the many ways in which New York could do more to benefit children, their families, and communities.

Section Four: The Availability of Preventative Rehabilitation Services for Children Engaged in Prostitution; CRC Article 34 and its Optional Protocol

by *Jeremy A. Cooney*³⁷²

*“Trafficking and exploitation plague all nations, and no country, even ours, is immune.”*³⁷³

The numbers of trafficked children are staggering. The federal State Department estimates that each year approximately 400,000 children are trafficked across international borders as sexual commodities.³⁷⁴ Alarming, while the number of trafficked children is progressively increasing, the age of entry into prostitution is steadily decreasing. The average age of girls who enter into the sex trade is between twelve and fourteen years old, while for boys and transgender youth it is between the ages of eleven and thirteen years old.³⁷⁵ As a result, there has been an international response to this “modern form of slavery”³⁷⁶ and to help combat commercial sexual exploitation of children.

Significant disparities exist between the international child rights movement and the laws of the United States with respect to formulating a meaningful response to protecting children from exploitation. Despite growing pressure from the global community,

³⁷² J.D. Candidate, Albany Law School, 2010; B.A., Hobart College, 2004.

³⁷³ Letter from Condoleezza Rice, Former U.S. Secretary of State, in *TRAFFICKING IN PERSONS REPORT 3* (2008), available at <http://www.state.gov/g/tip/rls/tiprpt/2008/105375.htm>.

³⁷⁴ *Id.* at 23.

³⁷⁵ U.S. Dep’t of Justice, Child Exploitation and Obscenity Section, Child Prostitution, <http://www.justice.gov/criminal/ceos/prostitution.html> (last visited Mar. 29, 2010).

³⁷⁶ Dorchen A. Leidholdt, *Prostitution: A Modern Form of Slavery*, in *MAKING THE HARM VISIBLE: GLOBAL SEXUAL EXPLOITATION OF WOMEN AND GIRLS: SPEAKING OUT AND PROVIDING SERVICES* (Donna M. Hughes & Claire M. Roche, eds., 1999), available at <http://www.uri.edu/artsci/wms/hughes/mhvslave.htm>.

the United States has yet to provide a number of special rights for children who are exploited for commercial sex. While recognizing the need to provide for children who are victims of international trafficking, Congress has not passed any measures or provided adequate rehabilitation services for children who have been trafficked domestically.³⁷⁷

Recently, New York State has become a national leader and advocate for sexually exploited children. In 2008, Governor David A. Paterson boldly signed the Safe Harbor For Sexually Exploited Children Act (“Safe Harbor Act”) into law.³⁷⁸ For the purposes of this analysis, the Safe Harbor Act will be the comparative benchmark for New York law. The legislation fundamentally changes how New York courts and government agencies view and treat children involved in the commercial sex trade by decriminalizing prostitution acts by minors and instead directing family courts to designate children as Persons in Need of Supervision (“PINS”).³⁷⁹ Additionally, by recognizing these children as “victims,” the law provides and funds specialized rehabilitative services for sexually exploited children.³⁸⁰ Set to go into effect on April 1, 2010, the Safe Harbor Act is anticipated to be a catalyst for nationwide change in the treatment of child involved in prostitution.³⁸¹ Nevertheless, the Safe Harbor Act is only part of the solution and is still lacking some of the necessary services that are mandated under existing interna-

³⁷⁷ The United States has devised and enforced special federal protections for *internationally* trafficked children, such as the Victims of Trafficking and Violence Protection Act of 2000 (TVPA), 22 U.S.C. § 7101 *et seq.* The TVPA aimed to combat human trafficking within the United States, and offered welfare and rehabilitative services to foreign-born victims of trafficking, including foreign-born child prostitutes. See John Tanagho, *New Illinois Legislation Combats Modern-Day Slavery: A Comparative Analysis Of Illinois Anti-Trafficking Law With Its Federal And State Counterparts*, 38 LOY. U. CHI. L.J. 895, 913–18 (2007).

³⁷⁸ Safe Harbor for Sexually Exploited Children Act, A. 5358, Gen. Assem., 231st Sess. (N.Y. 2008).

³⁷⁹ The use of the term “child prostitute” has been heavily debated. Child advocates have opposed the labeling of children as prostitutes because it suggests that these children have voluntarily chosen to engage in prostitution. Some advocates argue that children are victims of sexual exploitation and abuse by adults, and the majority of children involved in prostitution are forced to engage in sexual conduct by pimps or organized crime organizations and thus are not profiting or benefiting from performance. For clarity, this article will utilize the term “child prostitute,” but not for the purpose of acknowledging any willingness by children to sell sex.

³⁸⁰ Safe Harbor Act, *supra* note 378.

³⁸¹ See Thomas Adcock, *Legal, Social Services Communities Prepare for Enactment of Safe Harbor Act*, NEW YORK LAW JOURNAL, Oct. 3, 2008 (quoting Rachel Lloyd, Executive Director of Girls Educational & Mentoring Services, as saying the Safe Harbor Act “is huge . . . a tipping point . . . it will impact other states”).

tional law.³⁸²

Part I of this Section will compare existing international law, specifically the U.N. Convention on the Rights of the Child (“CRC”),³⁸³ with New York State law. The Section will examine the U.N. Optional Protocol to the Convention for the Sale of Children, Child Prostitution and Child Pornography (“Optional Protocol”),³⁸⁴ and the United States’ adherence to the principles of the Optional Protocol as a signatory.³⁸⁵ The Section will also highlight discrepancies in child protective services between international and New York State law. In conclusion, I will argue that while New York is on the path to meeting the requirements of the Convention,³⁸⁶ its failure to provide social services to child involved in prostitution before conviction is both troubling and inconsistent with international standards.³⁸⁷

I. THE CRC AND COMMERCIAL SEXUALLY EXPLOITED CHILDREN

The CRC admonishes the commercial sexual exploitation of children and emphasizes the criminal nature of child prostitution.³⁸⁸ The criminal focus, however, is not placed upon the child, but rather on the system that enslaves and sexually abuses these children.³⁸⁹ Under international law, children engaged in prostitution are viewed as the victims of the adults and other individuals involved in their sexual exploitation; therefore, these children are to be rehabilitated rather than criminalized.³⁹⁰

Four core principles form the basis of child rights within the CRC: (1) non-discrimination; (2) devotion to the best interests of the child; (3) the right to life, survival, and development; and (4) respect for the views of the child.³⁹¹ Guided by these principles, the CRC sets a threshold standard to ensure that each child’s human rights are fully protected under international law. Among other

³⁸² See generally CRC, *supra* note 2.

³⁸³ *Id.*

³⁸⁴ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, G.A. Res. 54/263, U.N. Doc. A/RES/54/263 (May 25, 2000), available at <http://www.unhcr.org/refworld/docid/3ae6b38bc.html> [hereinafter Optional Protocol on the Sale of Children and Child Prostitution].

³⁸⁵ *Id.*

³⁸⁶ See generally CRC, *supra* note 2.

³⁸⁷ *Id.*

³⁸⁸ *Id.* art. 34.

³⁸⁹ *Id.*

³⁹⁰ See generally CRC, *supra* note 2; see also Optional Protocol on the Sale of Children and Child Prostitution, *supra* note 384.

³⁹¹ UNICEF IMPLEMENTATION HANDBOOK, *supra* note 89.

human rights issues, the CRC is unequivocally opposed to the exploitation of children for commercial sex.³⁹² However, before evaluating the CRC articles specifically relating to the commercial sexual exploitation of children, it is important to note four foundational CRC articles that generally define the rights of children as a group.

A. *Article 1: Age and Definition of a Child*

Article 1 of the CRC defines a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”³⁹³ Therefore, children engaged in prostitution are protected by the CRC and the Optional Protocol until they reach the age of eighteen.

New York law generally adheres to this standard of minority. To be classified as a “sexually exploited child” under New York law, the child must be under the age of eighteen years old.³⁹⁴ However, not all children under the age of eighteen are eligible for services and protections in New York. For example, some important protections in the Safe Harbor Act are only available to children older than fifteen years old at the discretion of the courts.³⁹⁵ Therefore, it is possible for some children under the age of eighteen in New York who are involved in prostitution to be criminally prosecuted and denied social services aimed at rehabilitation. The same scenario would not occur under the CRC for any child under the age of eighteen.

B. *Article 2: Anti-Discrimination Protection For All Child Prostitutes*

Article 2 of the CRC is essentially an anti-discrimination provision, which states that a child’s rights must be enforced “irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”³⁹⁶

³⁹² The CRC strictly forbids “the inducement or coercion of a child to engage in any unlawful sexual activity [and] . . . [t]he exploitative use of children in prostitution or other unlawful sexual practices.” CRC, *supra* note 2, art. 34.

³⁹³ *Id.* art.1.

³⁹⁴ “The term ‘sexually exploited child’ means any person under the age of eighteen” N.Y. SOC. SERV. LAW § 447-a(1) (McKinney 2006).

³⁹⁵ When passing the Safe Harbor Act, the New York State Legislature specifically included discretion for family court judges to criminally prosecute children ages sixteen and seventeen for committing an act of prostitution if the child had previously been deemed a repeat offender or had not complied with court-ordered rehabilitative services. *See* Safe Harbor Act, *supra* note 378.

³⁹⁶ CRC, *supra* note 2, art. 2.

This anti-discrimination provision calls upon States Parties to enforce protections under the CRC to all children regardless of factors that historically have led to inequity and sometimes even persecution. Under the CRC, children who are sexually exploited are afforded protection and services without prejudice based on their life experiences.

New York exceeds this standard under the Safe Harbor Act by prohibiting discrimination against children involved in prostitution³⁹⁷ and also affording protection to children irrespective of their sexual orientation.³⁹⁸ The specific provision protecting transgender children in the Safe Harbor Act is one way in which New York's protections surpass those of the CRC.³⁹⁹

C. Article 3: Best Interests of the Child

Article 3 enshrines a core principle of the CRC—namely, that government actions impacting children must be done in the “best interests of the specific child.”⁴⁰⁰ The best interests standard requires that all laws affecting children's rights be created in a setting where the children's interests are fully appreciated and evaluated by the government entity promulgating and enforcing the law. Basically, if the law will affect a child, then it must be done in a manner consistent with what is the best possible choice or option. Laws aimed at addressing the commercial sexual exploitation of children, therefore, must be created for the benefit of the children involved in prostitution and not for other interested parties, such as law enforcement or district attorney associations.⁴⁰¹

³⁹⁷ See Safe Harbor Act, *supra* note 378 (noting the inclusion of transgender youth in the legislation).

³⁹⁸ *Id.*

³⁹⁹ Transgender youth are particularly vulnerable to entering prostitution because of their high likelihood of running away from home and need for survival once they are on their own. See Gender Advocates, Transgender Youth At Risk, <http://www.genderadvocates.org/Tyra/TYRARisk.html> (last visited Mar. 29, 2010). While society at large may at times label transgender youth as “social outcasts,” the Safe Harbor Act specifically protects transgender youth and recognizes the need to provide specialized care and treatment for these children. Safe Harbor Act, *supra* note 378.

⁴⁰⁰ CRC, *supra* note 2, art. 3.

⁴⁰¹ When the Safe Harbor Act was first proposed, several prominent district attorney and law enforcement organizations lobbied against its passage. Their opposition to the legislation was that without a criminal enforcement mechanism, children involved in prostitution could easily return to the trade and refuse to help in the prosecution of their abusers. See, e.g., Nat'l District Attorneys Ass'n, National Center for Prosecution of Child Abuse, Update: Shifting the Paradigm from Prosecution to Protection of Child Victims of Prostitution, http://www.ndaa.org/publications/news_letters/update_vol_21_no_8.pdf. This position reflects an important interest, but one that is not in the best interests of the child victim. See Safe Harbor Act, *supra* note 378.

New York upholds the best interests of the child standard within several different aspects of its laws. For example, in matters concerning custody of children, the courts are directed to act in a manner that is consistent with the child's best interests.⁴⁰² Likewise, under the Safe Harbor Act, children involved in prostitution as characterized as victims, not criminals, and their needs for rehabilitation are central to the Act's provisions. In the juvenile justice context, New York has developed a number of different juvenile detention settings, and children in the juvenile justice system are placed according to their rehabilitation needs.⁴⁰³ In these myriad ways, New York meets the best interests of the child standard in many of its programs and services.

D. Article 12: Child Participation In Decision-Making

Article 12 of the CRC, which mandates a child's participation in any judicial or administrative proceeding affecting their welfare, is critical to the advancement of child rights.⁴⁰⁴ Under the CRC, children involved in adjudication proceedings must be able to have their voices heard and be able to express their views as part of the court's determination of their best interests. Children involved in prostitution must also be allowed to be active participants in any action affecting their interests.

New York successfully meets this requirement by providing children with law guardians or an attorney for the child during proceedings in family court.⁴⁰⁵ The court-appointed attorneys are assigned to minors to advocate the child's best interests in court.⁴⁰⁶ Accordingly, when sexually exploited children are charged with for acts of prostitution, they are assigned counsel who will represent not what society feels is best for the child, but, rather, the individual child's specific needs and wants. As a result of this process, chil-

⁴⁰² N.Y. FAM. CT. ACT § 241 (McKinney 2009).

⁴⁰³ Juvenile detention facilities are essentially jails for children. In New York, the State Office of Children & Family Services (OCFS) operates over thirty facilities designed to incarcerate and rehabilitate adjudicated youth. *See* New York State Office of Children & Family Services, Division of Juvenile Justice and Opportunities for Youth, <http://www.ocfs.state.ny.us/main/rehab/> (last visited Mar. 30, 2010). The placement of a child in such a facility is traditionally reserved for children convicted of committing a juvenile delinquency offense. *Id.*

⁴⁰⁴ "A child with the capacity to communicate his or her own views must be given the chance to express those views freely in matters concerning the child. Judicial and administrative proceedings should include direct or representative representation of the affected child." CRC, *supra* note 2, art. 12.

⁴⁰⁵ "[T]o help protect [children's] interests and to help them express their wishes to the court." N.Y. FAM. CT. ACT § 241.

⁴⁰⁶ *Id.*

dren are given a voice in determining their future and advocating for their own needs.

E. Article 34, 39, And 40: Commercial Sexual Exploitation of Children

Three articles of the CRC address the issues surrounding Commercial sexual exploitation of children: Articles 34, 39, and 40. Under Article 34:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices⁴⁰⁷

Article 39 addresses the need for States Parties to sponsor rehabilitation and “social reintegration” services for victims of sexual exploitation.⁴⁰⁸ Article 40 requires States Parties to recognize the “fundamental freedoms” of children who are accused or convicted of breaking the law.⁴⁰⁹ More specifically, Article 40 requires States Parties to “take [] into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.” These three Articles form the basis of the CRC’s Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (“Optional Protocol”), in which the U.N. Committee on the Rights of the Child⁴¹⁰ provided comprehensive guidelines on addressing the problem of commercial sex trafficking of children.⁴¹¹ Analysis of how New York’s laws reconcile with CRC articles 34, 39, and 40 and the Optional Protocol will be discussed in Part II.

⁴⁰⁷ CRC, *supra* note 2, art. 34.

⁴⁰⁸ *Id.* art. 39.

⁴⁰⁹ *Id.* art. 40.

⁴¹⁰ Office of the United Nations High Commissioner for Human Rights, Committee on the Rights of the Child: Monitoring Children’s Rights, <http://www2.ohchr.org/english/bodies/crc/> (last visited Mar. 30, 2010). “The Committee on the Rights of the Child (CRC) is the body of independent experts that monitors implementation of the Convention on the Rights of the Child by its State parties. It also monitors implementation of two optional protocols to the Convention, on involvement of children in armed conflict and on sale of children, child prostitution and child pornography.” *Id.*

⁴¹¹ Optional Protocol on the Sale of Children and Child Prostitution, *supra* note 384.

II. OPTIONAL PROTOCOL TO THE CRC

In addition to the formal CRC treaty, there are two optional protocols—the Protocol on the Involvement of Children in Armed Conflict, and the Protocol on the Sale of Children, Child Prostitution and Child Pornography. The United States is a signatory on both of these optional protocols, but has yet to ratify the CRC, upon which both optional protocols are based.⁴¹²

The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (“Optional Protocol”) expressly prohibits States Parties from condoning any activities that result in the sexual exploitation of children. With regard to children involved in prostitution, States Parties are required to take all appropriate legal and administrative actions to prohibit and criminalize the “offering, obtaining, procuring, or providing of a child” for prostitution.⁴¹³

A. *Article 8: Protecting Children in Prostitution From Abusive Legal Systems*

Article 8 of the Optional Protocol provides protection for children who are in the criminal justice system as a result of involvement in the sex trade. Under Article 8, children should be apprised of their rights and the status of their case, as well as given the right to express themselves throughout their legal proceeding.⁴¹⁴ The Article also provides children with the following rights: to have their identity protected, avoid undue delay in their proceedings, access to appropriate support services throughout the process, safety for the child and his or her family throughout the proceeding, and, finally, the right to ensure appropriate training for persons who work with children who have been sexually exploited for commercial gain.⁴¹⁵

With the passage of the Safe Harbor Act, New York has legally recognized children involved in prostitution as victims. Under the Safe Harbor Act, a child arrested by the police and charged with committing an act of prostitution is arraigned within one day and, in most cases, ordered to participate in rehabilitative services at

⁴¹² U.N. Convention on the Rights of the Child, Status Report, <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11.en.pdf>.

⁴¹³ Optional Protocol on the Sale of Children and Child Prostitution, *supra* note 384, arts. 2, 3.

⁴¹⁴ *Id.* art. 8.

⁴¹⁵ *Id.*

designated safe-houses for child victims of sexual exploitation.⁴¹⁶ Mandatory services for children include “housing, diagnostic assessment, individual case management, medical services including substance abuse services, counseling and therapeutic services, educational services including life skills services and planning services to successfully transition residents back to the community.”⁴¹⁷ Throughout the court process, children may express their preferences through a court-appointed law guardian or attorney for the child.⁴¹⁸ Additionally, during the proceedings, children are housed in a secure facility and their identity remains hidden on the court docket to ensure their safety.⁴¹⁹ This form of judicial conduct is representative of the “victim-status” now given to children arrested for prostitution.

B. Article 9: Preventative Services For Children Involved in Prostitution

Article 9 of the Optional Protocol mandates that States Parties create laws and social policies that serve as preventative measures against child prostitution.⁴²⁰ More specifically, Article 9 requires that States Parties “take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offenses, including their full social reintegration and their full physical and psychological recovery.”⁴²¹ Therefore, the Optional Protocol creates the expectation that States Parties will ensure children access to social services *before* their involvement in the criminal justice system.

The purpose of Article 9 is to facilitate a safe alternative for children to the commercial sex trade. Moreover, it allows children who have been sexually exploited the opportunity to access preventative services without involvement in the criminal justice system. Examples of preventative measures include a public awareness campaign on the dangers of prostitution and advertising the availability of social services. The Optional Protocol mandates the availability of these kinds of services to rehabilitate children.⁴²²

New York does not comport with the requirements under the Optional Protocol since it fails to provide preventative services to

⁴¹⁶ See Safe Harbor Act, *supra* note 378.

⁴¹⁷ *Id.*

⁴¹⁸ N.Y. FAM. CT. ACT § 241.

⁴¹⁹ Telephone Interview with Katherine Hamann, Assistant Corporation Counsel, Manhattan Family Division, New York City Law Department (Feb. 8, 2009).

⁴²⁰ Optional Protocol on the Sale of Children and Child Prostitution, *supra* note 384, art 9.

⁴²¹ *Id.* art. 9(3).

⁴²² See generally *id.*

children who are involved in prostitution. While several private organizations⁴²³ across the State provide services to children before they are formally involved in the criminal justice system, the New York Legislature has not created a specific funding stream to support those services.⁴²⁴ Presently, the State provides some funding for preventative and rehabilitative services,⁴²⁵ but the funding is “systems-based,”⁴²⁶ which means that it is contingent upon judicial determination by the family court system. Essentially, the only way that children involved in prostitution can access these state-funded services is through adjudication in court. For obvious reasons, this means that many children are excluded from services, and others may only receive them too late.

In order to fully meet the requirements of Article 9 of the Optional Protocol, New York must create a new public funding stream to provide social services to children before they are prosecuted or convicted of prostitution. The new funding stream must also provide specialized programs to child prostitutes without any conditions, such as placing blame, punishing the child, their parents, or legal guardians.⁴²⁷ This would only dissuade children from accessing those services. The reality of constraints upon the State’s budget, coupled with the lack of political support for such mea-

⁴²³ Several organizations across New York State are actively involved in providing services to child prostitutes. For example, in New York City, Girls Educational & Mentoring Services (GEMS) is a Harlem-based agency offering counseling and rehabilitation for teenage victims of prostitution. *See* Girls Educational & Mentoring Services, <http://www.gems-girls.org/about/programs> (last visited Mar. 30, 2010). Shared Hope International is a national anti-trafficking non-profit organization with a branch office in Buffalo, New York. *See* Shared Hope International, <http://www.sharedhope.org/dmst/buffalo.asp> (last visited Mar. 30, 2010).

⁴²⁴ In a symposium discussion on the importance of preventative services for child prostitution, Gladys Carrión, Commissioner of New York’s Office of Children and Family Services, noted the importance of investing in community-based advocacy strategies to address the root problems underlying child prostitution. Gladys Carrión, Comm’r of the New York State Office of Children & Family Serv., Panel Discussion at the Albany Law School Symposium: Convention on the Rights of the Child (Mar. 6, 2009) (on file with author).

⁴²⁵ Children involved in prostitution can only access public funding for rehabilitative services under three scenarios: first, if the child has been charged as a juvenile delinquent and is court-ordered to such services; second, if the child has been charged as a “person in need of supervision” (PINS); and, third, if the child has been found to be a victim of child abuse and neglect. Jacquelyn Greene, Address at Albany Law School for Students in the International Rights of the Child Course (Feb. 18, 2009) (on file with author).

⁴²⁶ Jacquelyn Greene, Assistant Deputy Counsel of Bureau of Legislation and Special Projects at the New York State Office of Children and Family Serv., Panel Discussion at the Albany Law School Symposium: Convention on the Rights of the Child (Mar. 6, 2009) (on file with author).

⁴²⁷ *Id.*

tures, makes it difficult to foresee the availability of these services in the near future.

New York State is to be commended for passing the Safe Harbor Act, which definitively recognizes and responds to the sexual exploitation and abuse of children for commercial gain. New York has become a model for national reform by encouraging other states to formally recognize children involved in prostitution as victims, not criminals. Furthermore, New York's leadership in providing children with rehabilitation services is a giant leap towards meeting the international standards of the CRC and Optional Protocol. The New York Legislature must devise a strategy for continuing to fund rehabilitation services for children involved in prostitution, and extend those vital services to children well before they are involved in the criminal justice system.

Section Five: New York State Adoption Law and the Convention on the Rights of the Child

*by Lauren K. DeLuca*⁴²⁸

Unfortunately, many children all over the world need the help and protection of their governments. Many of these children in New York State will receive that help through the foster care system. In 2007, there were approximately 27,785 children in foster care in New York State.⁴²⁹ Approximately 47% of children in foster care were African American, 20% were Latino/Hispanic, and 19% were white.⁴³⁰ Of these children, 41% were age fourteen or older.⁴³¹ Approximately one-third of the children in foster care—31%—were between the ages of six and thirteen.⁴³² The youngest children, those five years old or younger, comprised the smallest group, constituting 28% of the total foster care population.⁴³³ For many of these children, adoption is the only way out of foster care and into a stable, home-like environment. The goal for just over 7,000 of these children is adoption, and about 1,500 of them have

⁴²⁸ J.D. Candidate, Albany Law School, 2010; B.S., Cornell University.

⁴²⁹ N.Y. STATE OFFICE OF CHILDREN & FAMILY SERV., CHILDREN IN CARE AND CUSTODY OF LDSS—QUARTER ENDING 03/31/07 (2007), <http://www.ocfs.state.ny.us/main/reports/qrcare-2007-03.pdf>.

⁴³⁰ *Id.* The remaining 14% of these children are classified as "Other/Unknown."

⁴³¹ *Id.*

⁴³² *Id.*

⁴³³ *Id.*