



# International Adoption and Migration: Complex Intersectionality in the Name of Love and Crime

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## Abstract

There is a gap or perhaps more of a blind spot in legal theory regarding how to explain the relationship between socially constructed identities and non-socially constructed biological vulnerabilities in the meeting with the law. This has always been the methodological challenge of child rights. The Complex Intersectionality of the child as both a social construction and at the same time, it is an undisputable truth that an infant or a small child is vulnerable due to its biological development regardless of its social construction. The focus of this text is on the vulnerability of the child when it comes to adoption and its parallel to the socially constructed understanding of the migrant. There is a complex coexistence between populist anti-migration positions, socially constructed identities of childhood, race and gender, combined with biological vulnerabilities, all channeled through the principle of the child's best interest, and a tension of the Western idea of the East when it comes to international adoption. The large wave of adoptions and the framing of the adoption as being an act of goodness and care from altruistic childless westerners in the desire to save unloved children in Korea relies on several socially constructed imaginaries about the East and the West, but at its core what makes these socially constructed concepts take hold is a real biological vulnerability. A small child is completely dependent on adults' love and care for its survival.

### Keywords:

Complex Intersectionality, Adoption, Migration, Populism, Child Rights, Vulnerability

## A Homecoming of Sorts

It is not only a great honor to be invited to speak at this event for me as a legal academic on Stage at Soongsil University in Seoul. It is also a significant moment on a personal note. I am one of the thousands of children that were sent away from Korea to be adopted by Western families in the 1970s.<sup>1</sup> Korea is the largest sender country of adopted children to Sweden.<sup>2</sup> All in all, there are 9,798 persons born in South Korea that have been sent for adoption to Sweden. Sweden is the third largest recipient country of Korean children, following the USA and France.<sup>3</sup> The year of my adoption in 1974 there were 659 children in addition to myself

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<sup>1</sup> Formalized adoptions from South Korea to Sweden began in 1966, see SOU part II, page 573.

<sup>2</sup> Sveriges internationella adoptionsverksamhet – lärdomar och vägen framåt, SOU 2025:61 (Sweden's International Adoption Activities – Lessons learned and a way forward) [hereinafter SOU 2025:61], page 573.

<sup>3</sup> SOU 2025 :61part II, page 576.

that were adopted from Korea to Sweden.<sup>4</sup> This coincides roughly with the time when Sweden became a recipient country for the Chilean refugees in the aftermath of the military coup of the Pinochet regime, sending a wave of leftist refugees to Sweden. This was followed by the wave of Iranian refugees after the revolution in 1979, followed by the wave of refugees from the Iran-Iraq war in the 1980s, later came the Bosnian refugees in the 1990s, to be followed by the Eritreans, the Somalis, the Syrian and Afghanis in 2015, and now the Ukrainians. It is impossible to disconnect the international adoption from the broader questions of migration to Sweden. When it comes to the adopted children, as opposed to migration, racism has no place to hide. The racism cannot hide behind language (saying they don't speak Swedish), and racism cannot hide behind culture (saying their values are not Swedish), and it can never be said that these children came to Sweden as a free choice and that if they don't like it, they can leave – this even though it has been said to my face more times than I can remember growing up. The adopted children are just like Swedish-born children but for the color of their skin, the texture of their hair, and the shape of their eyes. But the life in Sweden for children adopted from places from outside of Europe is different compared to the Swedish children, and the way it is different is because of racism. The experience of Swedish racism is what internationally adopted children share with everyone of the waves of migrants and refugees that have arrived in Sweden over the years.

Although racism or the Swedish political context is not the focus of the Commission tasked with examining Swedish international adoption, it is significant that the opening of international adoption in the 1960s took place at the same time as the beginning of international migration to Sweden, and that now in 2026 international adoption is set to close at the same time as the current rise of anti-migration populism in Sweden is being represented by the second largest political party in parliament.<sup>5</sup> This article in no way argues that the Commission has any anti-migrant intentions or sympathies. Instead, this text is just a reflection over how the beginning and end of international adoption follows the curve of migration into Sweden. The commission has suggested putting a stop to international adoptions at the same time as Sweden is going through a paradigm shift in its migration policy, from having been one of the most generous countries per capita since the 1970s in terms of letting refugees in, to now having a zero-migration vision. These are times when the

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<sup>4</sup> SOU 2025:61 part II, page 577.

<sup>5</sup> SOU 2025:61.

Swedish government calls a press conference in order to celebrate that more people are emigrating from than are immigrating to Sweden.<sup>6</sup> Even though it is a coincidence that the governmental commission finds it necessary to propose an end to international adoptions at the same time as the Swedish government celebrates the reverse direction of population movement and does all it can to make people with migrant backgrounds leave the country, it is still worthy of notice that the timing coincides between the stopping of international adoption and the rise of anti-migration populism.

The suggestion to stop international adoption is justified by the prevention of child trafficking and exploitation, and there is no doubt that this intention is what guided the commission to propose the end of international adoption. However, it is a sign of the times that the proposal was not met by a national opposition or more critique from the people of Sweden, there were very few voices raised in the defense of an international adoption for the sake of the children. This is either because Swedish people now know themselves a little bit better, that they know that they cannot protect internationally adopted children from their own racism, or it might be a combination of this insight and the fact that saving these children is no longer the main narrative. Instead, the narrative of crime and trafficking has taken over as the main narrative leading the adoption debate.

After decades of knowledge of abuse, exploitation and child trafficking through an international adoption regime, it is in this time, when there is a populism-driven nationalist wave against immigration in general, that one wants to hit the brakes on international adoption. The Conservative party (in Sweden they call themselves the Moderates) of Sweden is campaigning against “mixing” and with that they mean mixing of the Swedish population with the population in the segregated, often urban, areas with migrant backgrounds.<sup>7</sup> It is an odd timing that the crimes connected with the international adoption now are seen as so overwhelmingly serious and widespread that international adoption must be stopped, because abuse and criminality in international adoption have been known to the Swedish government

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<sup>6</sup> Press conference held by the Swedish Government by the then Migration Minister Maria Malmer Stenrgard on the 8<sup>th</sup> of August 2024.

<sup>7</sup> The Editorial Board of Dagens Nyheter (DN), Moderaterna fortsätter att skrämma upp svenskarna med ”tvångsblandning”. Vad är det egentligen som de inte vill blandas med?, (The Moderates continue to scare the Swedes with "forced mixing". What is it that they don't want to mix with?) 11 May 2026.

since the 1970s. Swedish public authorities have known about the abuse for decades. Our current Prime Minister Ulf Kristersson, the leader of the Conservative party, the same political party that now campaigns against what it describes as *tvångsblandning* “forced mixing,” has himself adopted children from China, and used to be the Chair of the Adoption Center (2003-05), a non-profit adoption agency founded in 1917 which began facilitating international adoption in 1969. Over 25,000 children from 60 countries have been adopted through the Adoption Center.<sup>8</sup>

## Altruism as the Cloak Hiding Trafficking and Exploitation

Sweden has just concluded a governmental commission mapping international adoption from the 1960s to our current times.<sup>9</sup> The Commission has found what we as adopted children have already known for decades: that a lot of these adoptions were the result of criminal child trafficking of stolen children. This has been known to the Swedish governments since the 1970s, but the narrative that was promoted was still that the adoptions from Korea and other non-Western countries were a way for Swedish couples to save children that were unwanted and came from barbaric places where they could not be loved, at least not in the way they would be loved by Swedish parents.

The official Swedish narrative reflected in the Swedish law was that adoption was done for the sake of the children and not for the sake of the Swedish couples adopting them. In this narrative the adults that wanted children were hidden from view by the cloak of altruism, the focus is on these unwanted children who were to be given a better life in Sweden.

Altruism was to become the hiding place for systematic trafficking in and exploitation of children. The Swedish government (both right and left) have continuously turned a blind eye to the trafficking and the exploitation that took place within the Swedish adoption program. In this way the accountability of the Swedish government and the adults who wanted children was transformed into an inscrutable act of altruism, since adoptions were understood to mean saving a child and had nothing to do with the desires and interests of adults on either side of the adoption process.

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<sup>8</sup> <https://www.adoptionscentrum.se/ac/om-oss>

<sup>9</sup> SOU 2025:61.

# The Gap between Intersectionality, Law, and Vulnerability

There is a gap or possibly more of a blind spot in legal theory regarding how to explain the relationship between socially constructed identities and non-socially constructed vulnerabilities in the meeting with the law.<sup>10</sup> This has always been the methodological challenge of child rights. Children are both a social construction and at the same time it is an undisputable truth that an infant or a small child is vulnerable due to its biological development regardless of socially constructed vulnerabilities and, in the end, it is the law that establishes the sharp line between being a child and an adult. It is also true that many of the vulnerabilities projected onto children are indeed socially constructed, such as the lack of legal capacity due to age limitations in various laws, which can both serve as protection and make a child more vulnerable than adults with the capacity to enter into legal agreements of, for example, employment. If a child has a secure financial situation through its family, it is a protection for children not to be able to enter employment, but if a child does not have a family or proper caretakers to support it financially, employment regulated by law will be more protective than making employment a relationship that exists outside of the legal framework altogether.

The theoretical gap in managing the complex intersection of law, social construction in combination with socially constructed imaginations of why children were sent from Asia to Europe for adoption, and biological vulnerability becomes visible when it comes to the adoption of all these children from Korea to the West in the 1970s. The justification for the adoption is based on vulnerability, that it is in the best interest of the child because it needs both love and care by parents in the West, and in contrast, the lack of loving and caring parents in Korea. It is not completely easy to always separate the biological and the socially constructed vulnerabilities of small children. The Swedish Commission describes the poor physical conditions many of the children sent from Korea to Sweden were in when they arrived in Sweden.<sup>11</sup> The child transport contracts from Korea to Sweden were handed out to

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<sup>10</sup> For a further development of Complex Intersectionality see, Hsun-Hui Tseng, NCKU, Taiwan, in Human Rights Justifications (HRJs): and empirically developed methodology for the reinvigoration of an inclusive Civil Society and a complex intersectional critique of HRJs. DOI: 10.5281/zenodo.19858387, D 7.5 in the Horizon funded HRJust project, Project ID, 101094346, open source.

<sup>11</sup> SOU 2025:61 part II, page 594.

the airlines KLM, Lufthansa and SAS.<sup>12</sup> The Commission report mentions both that the medical exams of the children before they were sent to Sweden seemed to have been lacking in rigor, and that there might not have been enough medicine onboard the plane in case children would fall ill during transit.<sup>13</sup> This example demonstrates the difficulty of untangling the biological universal vulnerability with the socially constructed vulnerability – but also its connection to social identity and law.

The focus is on the vulnerability of the child, but what is in the child's best interest is based on the social construction of both the ideal version of parents and a Western idea of the East. The large wave of adoptions and the framing of the adoption as being an act of goodness and care from altruistic childless westerners in the desire to save unloved children in Korea relies on several socially constructed imaginaries about the East and the West, but at its core what makes these socially constructed concepts take hold is a real biological vulnerability. A small child is completely dependent on adults' love and care for its survival.

## Complex Intersectionality: Competing Universalities

What we have learned from intersectionality theory is how different binaries compete within a person and as lawyers one must make decisions based on what strategic litigations route one takes.<sup>14</sup> Most commonly this is described with the example of women of color having to make a choice between a legal claim of discrimination based on gender or race, instead of being able to argue the intersectional discrimination where both race and gender are interconnected as discriminatory factors.<sup>15</sup>

This article addresses what I have named Complex Intersectionality, differing from intersectionality, Complex Intersectionality addresses the competing universal constructions of social constructions, in competition with the legal universal construction of categories, and the universal vulnerability constructions. In other words, Complex Intersectionality is a

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<sup>12</sup> SOU 2025:61 part II, page 595.

<sup>13</sup> SOU 2025:61 part II, page 595-96.

<sup>14</sup> See generally, Jessica Clarke, *They, Them, and Theirs*, Harvard Law Review, 894 (2019).

<sup>15</sup> See for example: Patricia Williams, *The Alchemy of Race and Rights*, Harvard University Press (1991); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 Stanford Law Review (1990), pp. 581-616.

theoretical rather than an empirical dilemma. It is not about making strategic choices but rather about explaining incompatible universal phenomena. Each theoretical approach is today coexisting and is intertwined with every other approach without there being a theoretical model available for explaining the complex intersectionality between mutually exclusive and universal constructions. This article describes the interconnectedness between competing universalities and how their weight in relation to each other can be dependent on their political context.

## Social Construction

The universal foundation is the totalizing dichotomy between the dominating and the subjugated.

Not only has the Global World order been thrown into question in the last years with the Russian full-scale invasion of Ukraine, the recent U.S. claim to take over Greenland, and with what many fear is an immanent Chinese invasion of Taiwan, but at home the Trump administration is also launching a full-scale war on academic freedom and has thrown what has been a liberal democratic hegemonic position that discrimination should be condemned by society, out the window. Discrimination in context can have different meanings, in a strict legal sense this is usually referred to as when someone, often already included in a protected category, is being treated worse than similar persons not belonging to the protected category but belonging to a favored identity.<sup>16</sup> One of the most important legal theoretical innovations to challenge social blind spots and to help both to visualize and to understand the social process that goes into creating an identity through social subjugation has been critical race theory.<sup>17</sup>

Intersectionality as defined in critical race theory presumes that identities are social construction and not biological or predetermined by, for example, your gender or race-specific traits and practices. In other words, critical race theory takes an anti-essentialist position to identities and the discrimination of such identities. Instead of using biology to

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<sup>16</sup> See the examples of Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, Ga. Res. 2016 (XX), adopted December 1965, entered into force Jan. 1969.

<sup>17</sup> Derrick Bell, *Faces at the Bottom of the Well*, Basic Books (1992); Adrien K. Wing, *Global-Critical-Race-Feminism*, New York University Press (2000).

explain the specificity that creates a category or rather an identity, it is the performance of social behaviors and values that is taking place through subjugation and domination that creates these identities. It is this common experience of a specific form of subjugation (for example of consistently being treated as a woman or as a person of color) that also constructs the group consciousness of being a woman and a person of color. In similar ways the common experience among men or white persons of dominating other groups of people is what creates enough of a common experience between these persons that they can be identified as white men. This is how we have been used to critiquing discrimination – both from its construction of identities through the process of domination and subjugation but also through the inequality in outcome that follows these categories. Not only are you constructed as an identity through subjugation – but its construction will also (wrongfully) justify further discrimination, whereas if your identity is forged out of privilege the outcome in life will be more in your favor on a systemic level. Intersectionality did not only teach us to manage the competing binaries of race and gender, but it also taught us how to deconstruct binaries that were presumed to be competing. When it comes to the Korean adoption, it began in the aftermath of the war, as well as the socially constructed concept of race and, even more relevant, the social concept of race-mixing. The first children being sent for international adoption were the children with Korean mothers and mostly American fathers.<sup>18</sup> By the 1980s the reason for why children were given up for adoption had changed from interracial parents to single mothers.<sup>19</sup> But race remained a central reason for international adoption. In 1976 there was a Korean attempt to phase out the international adoptions, with the exception of children that were disabled or of mixed-race.<sup>20</sup>

## Law Constructed Identity

The universal foundation is the monistic power of law.<sup>21</sup> The child, in accordance with the UN Convention on the Rights of the Child, is every human being below the age of 18 years. This is not a social construction but a legally constructed identity. This is an identity construction unique to children. It is the only form of identity construction uniquely based on only one set of facts, the age of a person, and is what I have termed “monist” meaning that

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<sup>18</sup> SOU 2025:61 part II, page 578.

<sup>19</sup> SOU 2025:61 part II, page 579.

<sup>20</sup> SOU 2025:61 part II, page 588.

<sup>21</sup> Maria Grahn-Farley, *Child Rights, Legal Theory and Social Advocacy*, Cambridge University Press (2024).

the whole identity construction through law only relies on one single fact, the age of a person.<sup>22</sup> The age of 18 as the age of majority is to be distinguished from age limits for driving or drinking alcohol for example. These age limits create a social understanding of the child because these limitations shape the social life of children, but they are irrelevant when it comes to the legally constructed identity of being a child.

## Vulnerability

The universal foundation in vulnerability theory is the decaying body and is described by Fineman as a post-identity theory.<sup>23</sup> This is a particular characteristic of the understanding of what it means to be a child, that their vulnerability and need for additional rights places obligations upon adults and by extension the State. But the obligations are not sprung out of identities, in fact vulnerability theory makes claims to be a post-identity theory, and instead its categories are founded in how vulnerabilities of the biological body create obligations and rights. This is most clearly expressed in the Paris Agreement but also in child rights even though the origin of child rights pre-dates vulnerability theory, vulnerability as such has been at the core of child rights from its origin and the adoption of the first Child Rights declaration in 1929.

The obligations of adults towards children and the obligation of the State towards children came together for the first time as an international law in 1989 when the UN Convention on the Rights of the Child was adopted. Obligations upon adults are generated at this juncture between a vulnerability constructed by biological and legal constraints. In many municipal legal systems these obligations are transformed into legal obligations. And with the Child Rights Convention the municipal legal obligations of adults towards children are turned into legal obligations upon States and the rights of children.

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<sup>22</sup> Id.

<sup>23</sup> Martha Fineman, *The Vulnerable Subject: Anchoring Equality in the Human Condition*, 20 *Yale Journal of Law and Feminism* (2008), pp 1-23, 1.

## How can trafficking and exploitation become symbols of altruism?

The legal obligations of adults towards children can be understood as being necessitated by the fact that children are both biologically more vulnerable than adults and, in many cases, according to the law without power or authority to take the actions that would be needed for leading a secure life without adults caring for them. This makes children, as a group, more vulnerable and dependent on adults both for their physical and mental maturity and for their legal capacities. In 1989 the obligations of adults were recognized as generating children's rights in the UN Convention on the Rights of the Child.

Neither Sweden nor Korea can be free from responsibility for the thousands and thousands of children sent away. I want to address this place of a distorted love that seems to affect children to a larger degree than adults.<sup>24</sup> It is a love that causes pain but is explained as a pain that is justified by love, and because love is its source it is understood in law as a good type of pain and therefore not by law condemned or sanctioned by, for example, penalties which other forms of deliberately induced pain would be. Good pain will be protected by virtue of the altruistic source of its origin, differing from the bad form of pain which originated in bad ideals and is met by criminal sanctions. The way that this pain can be understood to be a good type of pain is its grounding in love instead of its grounding in trafficking and exploitation. For a long time, the complex intersectionality between law, social constructions and vulnerabilities meant that a blind eye was turned towards the crimes behind many of the adoptions and instead the focus was on the believed altruistic reasons for why Western couples wanted to adopt Korean children. This reading of the sources of international adoption has changed in recent times. The shift from reading the sources of the adoptions as love is now understood to be a source of crime (trafficking and exploitation). This coincides with the populist fear following the extreme-right wing theory of population replacement, promoted by members in the political party called the Swedish Democrats, which is political party with neo-Nazi origins and is now the second largest party in the Swedish parliament. The Conservative party's fear of forced mixing is a milder version of the replacement theory.

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<sup>24</sup> This line of reasoning is inspired by the exploration of harm and parental love by Toni Morrison, in *Beloved*, Random House (2008). Further explored in Maria Grahn-Farley, *Child Rights, Legal Theory and Social Advocacy*, Cambridge University Press (2024).

At this time, the complex intersectionality of law, social constructed identities and vulnerabilities leads to the conclusion that it is the trafficking and the exploitation that is the dominating factor – overriding any altruistic reasons for an international adoption program, in other words the source of the pain is now to be understood as a bad source, and no longer a good source of pain. The facts and the knowledge remain the same from the altruistic era to today's migration-hostile Swedish society. The facts and the knowledge have not changed, what has changed is their meaning from previously representing love to now representing crime.

## International Adoption and Migration as National Agendas

The idea that the destiny of the nation and the World rest with the children and the youth, and that tomorrow will be a better day because justice and democracy is to be carried forward by the more progressive values of the next generation, runs like a red thread through the child rights movement's early days.<sup>25</sup> The Swedish adoption of Korean children took place within a framework of Swedish self-gratulatory praise. It means that you were a good person who sacrificed the option of having your own children by saving an unwanted child from a poor country. Growing up in Sweden during this period, the moments when strangers would come up to me in tears to declare how much they felt that Sweden was such a good country for having adopted me, are countless.

## The Parental Sacrifice

Now as a mother myself, but even when I was a child, the idea that it is for the love towards a child you have never met living in a place on the other side of the globe, where you have never been, that you are giving up the dream of your own biological children, seemed to me a complete hypocrisy.

The many beautiful and loving relationships that flow out of the international adoption, as well as the many irreplaceable relationships forged out of a generous Swedish migration politics is as beautiful and as powerful as the proponents of both international adoption and

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<sup>25</sup> See for example, Brian Gran, *The Sociology of Children's Rights*, Polity (2021).

liberal migration politics believe and promote. Beautiful connections and relationships will appear when people meet. These bonds and relations will for ever change the future of coming generations. When a child is sent away for an international adoption the destiny of that child is forever changed, and the decision can never be undone nor its effects unmade. Mixed with all this genuine love and affection and appreciation is also the irreparable harm. The permanent cut of a future that will never be, the permanent decision of never fully belonging, and a condemnation to a never-ending life of racism and struggle against prejudices.

From this perspective of love as a justification for causing harm, this type of love seems to be interlinked with power, or rather the lack of power and the presence of concrete and substantial vulnerabilities, but it is only through law that this can gain the force of truth. This is also why vulnerability theory, without an understanding of how domination and subjugation is intertwined with vulnerabilities in ways that cannot be disentangled without one element distorting the other, will provide no direction, vulnerability theory without intersectionality will not help us understand how people become vulnerable.<sup>26</sup>

It is an odd coincidence that the proposal to stop international adoption in Sweden, with the motivation of all the crimes committed against children, the trafficking and exploitation, the fundamental changing of their lives, and the entire process that took place under the cloak of ideas of altruism and the child's best interests, is being made just now. This although Sweden has been aware of the abuse and trafficking of children that took place within international adoption since the 1970s, when the image of altruism prevailed. Crime has become understood as the root of international adoption. This change in the narrative of international adoption is happening at a time when Sweden's second largest political party, the Swedish Democrats, with origins in the neo-Nazi movement, warns against population replacement and the Conservative party of the current Prime Minister campaigns against "forced mixing."

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<sup>26</sup> Hsun-Hui Tseng, NCKU, Taiwan, in Human Rights Justifications (HRJs): and empirically developed methodology for the reinvigoration of an inclusive Civil Society and a complex intersectional critique of HRJs. DOI: 10.5281/zenodo.19858387, D 7.5 in the Horizon funded HRJust project, Project ID, 101094346, open source. Dr. Tseng in her work explains how vulnerability cannot on its own explain the levels or the causes of even biological universal vulnerabilities, to fully understand even the vulnerabilities of a pandemic one must understand how race, class and gender also play a role in understanding vulnerability itself. See also, Maria Grahn-Farley, *Child Rights, Legal Theory and Social Advocacy*, Cambridge University Press (2024).

This is the time when Sweden, after decades of abuse within the international adoption sector, has come to the conclusion that it is in the child's best interests to no longer allow for international adoptions.