A VERY LONG ENGAGEMENT: THE CHILDREN’S ACT 38 OF 2005 AND THE 1993 HAGUE CONVENTION ON THE PROTECTION OF CHILDREN AND COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

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Abstract

This article analyses the intercountry adoptions provisions contained in Chapter 16 of the Children’s Act 38 of 2005, against the standards of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoptions, 1993. After a brief overview of the two leading South African cases on intercountry adoption, which stress the importance of having this institution statutorily regulated, the author proceeds to analyse the most significant clauses pertaining to intercountry adoptions contained in the Act, in order to identify the strengths and weaknesses in this new statutory framework. The author concludes that the Children’s Act is a dramatic improvement on the current regime of intercountry adoptions and that it has the potential to make this institution work in the best interests of children.

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