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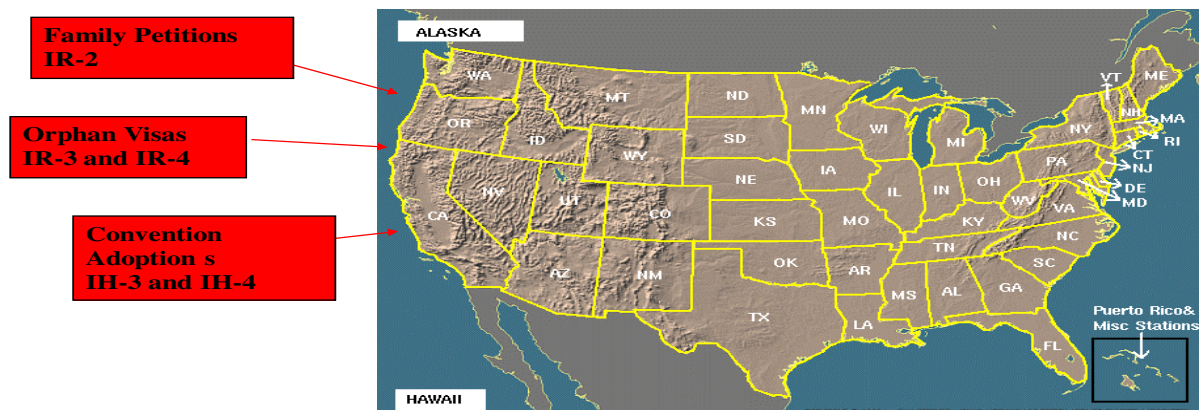
## **Family Petitions for Adopted Children**

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# Family Petitions for Adopted Children

## I. Overview

### Three Pathways for Adopted Children



Immigration attorneys use the Family Petition, I-130 route more than any other route for adopted children. This presentation focuses on Family Petitions with form I-130. The simple regulations that once governed form I-130 no longer exist. The implementation of the CONVENTION ON THE PROTECTION OF CHILDREN & COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION,<sup>1</sup> through the INTERCOUNTRY ADOPTION ACT<sup>2</sup> has morphed Family Petitions. If one studies the three (3) legal mechanisms used for adopted children, a trend may be noticed by the federal government to bring uniformity among these three very different statutes and routes. A detailed table is attached as EXHIBIT A: it illustrates the differences and similarities of the three (3) routes below:

Family Petitions: I-130 INA 101(b)(1)(E)	Orphan Cases: I-600 INA 101(b)(1)(F)	Convention Adoptions: I-800 INA 101(b)(1)(G)
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<sup>1</sup> Hague Conference on Private International Law drafted the CONVENTION ON THE PROTECTION OF CHILDREN & COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTIONS, xxxiii, frequently referred to herein as the Adoption Convention.

<sup>2</sup> INTERCOUNTRY ADOPTION ACT of Oct 6, 2000, Pub. L. No. 106-279, 114 Stat. 825. 42 USC 14901

After the ratification of the convention with the full force of the Intercountry Adoption Act, the US perspective of the world changed. As of April 1, 2008<sup>3</sup>, the world was divided into two (2): countries, that had ratified the convention: to date 89 countries, who are referred to as **convention countries** and countries that did not ratify the convention, who are referred to as **non convention countries**. Once a country ratified the convention, it utilized the convention process for all of its intercountry adoptions. Such countries also limited intercountry adoptions from and to other convention countries . . . except for the United States. The United States continued to process *adoptions from non convention countries*<sup>4</sup> by using the I-600 process or the Orphan Route.

Another layer of confusion occurred when many countries, including the United States allowed foreign nationals to adopt by way of domestic adoptions. Hence, in addition to the Orphan Route and the Convention Route, Americans may adopt children in convention and non conventions countries, if they habitually reside in those countries. When American citizens adopt children using a country's domestic process, the I-130 is the applicable petition that yields immigrant status to the adoptee.

Two statutes severely curtailed the role of immigration attorneys in intercountry adoptions: first, the INTERCOUNTRY ADOPTION ACT, April 1, 2008, and second, the UNIVERSAL ACCREDITATION ACT,<sup>5</sup> July 14, 2014. At the same time, it is interesting to note two (2) concurrent events: a staggering decline in the numbers for adopted children immigrating to the United States and an extreme decline in the number of attorneys. See, EXHIBIT B. The number of the attorneys processing intercountry adoptions is less than a dozen.<sup>6</sup>

At the same time, it is interesting to note two (2) concurrent events. EXHIBIT B shows the staggering decline in the statistics for adopted children immigrating to the United States. Simultaneously, one observes that the number of attorneys processing intercountry adoptions is less than a dozen.<sup>7</sup> Eliminating or greatly curtailing the role of immigration attorneys has caused a huge decline in advocacy.

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<sup>3</sup> The United States came into force with the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoptions on April 1, 2008.

<sup>4</sup> Pakistan, all of the Caribbean Islands and most of the African countries

<sup>5</sup> Public Law 112-276

<sup>6</sup> Only one AILA attorney is an Approved Person. Additional immigration attorneys and AILA members represent a handful of accredited agencies.

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"Do Intercountry Adoptions Still Exist? New Regulations, Procedures, and Mandatory Requirements"