

EXAMINING INTERCOUNTRY ADOPTION AFTER THE EARTHQUAKE IN HAITI

by Megan Lindsey

In January 2010, the earthquake in Haiti and its aftermath brought the longstanding debate over intercountry adoption and its place in the wake of an emergency to the public attention. This article summarizes and evaluates the United States' response in Haiti relating to intercountry adoption, highlighting mistakes and successes in order to better prepare us for future events. It examines first two significant events relating to intercountry adoption following the earthquake, then reviews the Humanitarian Parole program offered by the U.S. government, and finally provides some recommendations for continued U.S. support in meeting the needs of children adopted through the Humanitarian Parole program.

Background

On January 12, 2010, a 7.0 magnitude earthquake shook Haiti. This disaster caused over 222,000 deaths and over 300,000 injuries.¹ The effects were devastating in this already impoverished nation. It is estimated that there were already 380,000 orphans (children with one or two deceased biological parents) in Haiti in 2007.² Additionally, many children with living parents live outside parental care due to poverty. Placing children in institutions or as *restaveks*³ is common practice in Haiti. The numbers of children in these forms of alternative care is unknown, but estimates are over 300,000. It is likely that these numbers have increased drastically in the face of this

tragedy, but as efforts for family reunification are ongoing, the exact statistics remain unknown.

Timeline

The timeline of the major events pertaining to U.S. intercountry adoption after the earthquake in Haiti is as follows:

- January 12th – Earthquake hits Haiti
- January 18th – Special Humanitarian Parole Program announced
- January 19th – 53 children arrive in Pittsburgh on a flight with Pennsylvania Governor, Ed Rendell
- January 29th – 10 missionaries from the U.S. attempt to escort 33 Haitian children across the border to the Dominican Republic

¹International Social Services (2010). “Expediting” intercountry adoptions post-earthquake in Haiti. Retrieved from <http://www.crin.org/docs/Haiti%20ISS%20final-%20foreword.pdf>

²Joint Council on International Children’s Services (2010). *Intercountry adoption in Haiti: Safeguards and protections*. Retrieved from <http://www.jcics.org/Intercountry%20Adoption%20in%20Haiti%20%20Safeguards%20and%20Protections.pdf>

³Restavek is a Creole phrase which means “stay with.” Restavek children are placed in the care of a family other than their own and work as domestic servants in exchange for room, board, and an education. Restavek Freedom Foundation. (nd). *What is a Restavek*. Retrieved from <http://www.restavekfreedom.org/index.cfm?fuseaction=cms.page&id=1020>

- April 14th – U.S. closes Humanitarian Parole Program at request of Haitian Government
- April 29th – Haiti’s adoption authority the *Institut du Bien Etre Social et de Recherches* (IBESR), alerts the U.S. government that they are accepting new adoption applications for Haitian children who were documented as orphans before January 12, 2010 or who have been relinquished by birthparents since January 12th.

Reactions to the Earthquake and Lessons Learned

Major U.S. media outlets gave much attention to two events involving efforts to remove children from Haiti: a flight bringing 53 Haitian children to Pittsburgh, Pennsylvania on January 19th and the arrest of a group of U.S. missionaries on January 29th that had attempted to remove 33 Haitian children to the Dominican Republic. While both events point to valuable lessons, it is important to remember that these were isolated. The media attention they received was due in part to the uniqueness of the situations, and not because they represent the overall culture of child welfare or, more specifically, intercountry adoption in the U.S.

The Pittsburgh Flight

On Tuesday, January 19th, 53 Haitian-born children and supervising adults were flown to Pittsburgh. Pennsylvania Governor Ed Rendell, travelled with the group and helped to arrange for the children to leave Haiti. Rendell was contacted by University of Pittsburgh Medical Center regarding the children who had resided in Bresma Orphanage, a Haitian home for children operated by sisters and Pennsylvania natives, Ali and Jamie McMutrie. Rendell reported that adoptions

were under way for 47 of the children: 40 in the U.S., four in Spain, and three in Canada. However, Ali and Jamie McMutrie refused to leave without all of the children and planned to find adoptive families for the remainder upon arrival. Only after special efforts by Governor Rendell and intervention by several social service agencies and the White House, was the full group given permission to travel by the U.S. embassy.⁴ By this time, the plane that had initially been arranged had returned to Miami. The group traveled on a military plane to Miami, where they met their original plane and continued the journey to Pittsburgh. In Pittsburgh, the children were bused to Children’s Hospital of Pittsburgh for medical evaluation before being united with either their adoptive parents or temporary foster homes.⁵

U.S. Missionaries

On January 29th, ten U.S. missionaries attempted to cross the border into the Dominican Republic with 33 Haitian children. The group was travelling on behalf of New Life Children’s Refuge, a non-profit started by two of the travelers. New Life Children’s Refuge states its purpose as a ministry created to support orphaned, abandoned, and impoverished Haitian and Dominican children by equipping “each child with a solid education and vocational skills as well as opportunities for adoption into a loving Christian family”.⁶ The group of missionaries was arrested by Haitian authorities while attempting to cross the border without appropriate documentation allowing them to exit Haiti with the 33 children. The children were then placed in the care of SOS Children’s Villages International. According to SOS, all 33 of the children had parents that they have since been reunited with.⁷ All

⁴CNN. (2010, January 19). *Orphans from quake-ravaged Haiti arrive in U.S.* Retrieved from http://articles.cnn.com/2010-01-19/us/haiti.orphans_1_haitian-children-adoptive-parents-adoption-cases?_s=PM:US

⁵International Social Services (2010). “*Expediting*” *intercountry adoptions post-earthquake in Haiti*. Retrieved from <http://www.crin.org/docs/Haiti%20ISS%20final-%20foreword.pdf>

⁶New Life Children’s Refuge. *New Life Children’s Refuge Haitian orphan rescue mission*. Retrieved from: <http://www.esbctwinfalls.com/clientimages/24453/pdf/haiti/nlcrhaitianorphanrescuemission.pdf>

⁷SOS Children’s Villages International. (2010). *Haiti: 33 “orphans” to be reunited with their parents*. Retrieved from <http://www.sos-childrensvillages.org/News-and-Media/News/Pages/33-children-reunited-with-their-parents.aspx>



kidnapping charges were dropped and nine members of the group were subsequently released after this charge was dropped (eight in February, and the ninth in March). Laura Silsby, the trip organizer, was charged and found guilty of trying to arrange irregular travel for children. She was sentenced to time already served and released on May 17th.⁸

Lessons from These Two Incidents

Although both groups responsible for the above events can be presumed to be acting with the best of intentions, these incidents highlight areas of concern and opportunities for improvement in the transfer of children following major crises. Caring individuals should not be discouraged to respond. They should be encouraged to remember the value of responding with respect for the laws and long term consequences of actions instead of reacting emotionally.

Rules are not made to be broken—especially in an emergency

It is human nature to react emotionally in an emergency. One example of this is the McMutrie sisters demanding that all of the children come or none of them, despite several of the children in the group being ineligible to travel based on both preexisting laws and the Humanitarian Parole guidelines. The missionary group's attempt to cross a border without any documentation for the 33 children is another example. The positive intentions of these groups are not in question; however, the stir these situations caused is of concern. It is especially important to enforce laws that were prepared by experts during times when crisis did not affect judgment.

Exceptions should be limited and based on the best interest of the children

The U.S. Humanitarian Parole Program is an example of a reasonable exception (as detailed later in this article). The number of those included was limited, and individuals were included

based primarily on the extreme likelihood that the children meeting the requirements would have been permitted to enter at a later point in time. Other temporary travel arrangements for emergency medical care were also reasonable because of the limited capacity of medical care available in Haiti following the earthquake. Governor Rendell's efforts are to be commended to the extent that the children in the group travelling with him met these requirements. However, there were several children travelling without any connection to anyone in the United States. A plan for their future was unsure, and it was not necessarily the most beneficial to them to remove them from Haiti only to place them in a new, unfamiliar place without a permanency plan. The exception made for these children was based on the political connections of Governor Rendell and the emotional response of the McMutrie sisters, when it should have been based on a plan that ensured permanent care for the children.

Small numbers does not equal small impact

Although these events directly affected only a very small number of children, these "small" incidents can have a large impact. It is important to remember that any time individuals act outside of their nation they act as representatives of it—particularly in the case of public officials such as Governor Rendell. Actions such as these have the potential to impact U.S. diplomacy with Haiti. Over time, a series of these events have the potential to build distrust, and can ultimately lead to limitations on intercountry adoption. This, in turn, could effectively cut off one potential permanency option for many children.

U.S. Humanitarian Parole Program

The U.S. Department of Homeland Security established a special parole policy as part of the U.S. government's response to the earthquake. The program specifically addressed two groups of Haitian children:

⁸The New York Times. (2010, May 18). Laura Silsby. *The New York Times*. Retrieved from http://topics.nytimes.com/top/reference/timestopics/people/s/laura_silsby/index.html



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- “those who had full and final adoption completed by United States citizen parents before the earthquake” or,
- “[those] who were far enough along in the adoption process that both the governments of Haiti and the United States could verify the identity and eligibility of the children for adoption, and the United States government could confirm the suitability of the adoptive parents.”⁹

Between January 18th and April 14, 2010 parole was authorized for more than 1,000 orphans and as of April 5th, approximately 340 cases were still being considered.¹⁰ At the request of the Haitian government, the U.S. ended the Humanitarian Parole Program on April 14th and regular intercountry adoption processes were resumed between Haiti and the U.S. on April 29th.¹¹

The Humanitarian Parole Program is noteworthy because, as Joanne Ruppel, a senior Homeland Security official explained, “It’s not in the playbook.”¹² Nothing like it has been done before. Unlike some previous responses, the program was carefully targeted to apply only to children confirmed to be available for adoption and only to adoptive parents who met U.S. requirements to adopt.¹³

Arguments have been made that international regulations were not met, particularly in the case of Category 2 parolees.¹⁴ However, if expediting should make a process “as fast and efficient as possible, with no undue delay, while

respecting the rules and process that the proper accomplishment of the task or procedure imply,”¹⁵ then it seems that this program made clear efforts to act quickly and ensure proper respect for Haiti by ensuring Haitian approval of every child who travelled. The U.S. program expedited the process only for children who were deemed appropriate for adoption and matched with a family before the earthquake, when normal procedures for matching and adoption completion were still in place. Further, it was required that both countries could confirm that children to be transferred were eligible for adoption by both Haiti and U.S. In turn, Haiti responded to this program with due care, considering the many concerns facing the nation. By January 22nd, Prime Minister Jean-Max Bellerive had taken personal responsibility for signing off on all children leaving Haiti.¹⁶

The benefits of adoption expedition through this program were many. First and most obvious, 1,000 children were removed from the immediate danger of emergent situations in Haiti including unsafe buildings, an increased risk of child trafficking, and limited access to food and medical care. Additionally, family placement offered not only permanence to children, but individualized care and attention that could help them cope with trauma suffered due to the earthquake.

Finally, many children who travelled through this program were removed from institutional care. It is well established that even in the best of institutions at the best of times institutional care cannot compare to that provided in the

⁹U.S. Citizenship and Immigration Services (2010). *Special Humanitarian Parole Program for Haitian orphan fact sheet*. Retrieved from <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=6d5135f9b29d7210VgnVCM100000082ca60aRCRD&vgnnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD>

¹⁰Ibid.

¹¹International Social Services (2010). “*Expediting*” *intercountry adoptions post-earthquake in Haiti*. Retrieved from <http://www.crin.org/docs/Haiti%20ISS%20final-%20foreword.pdf>

¹²Seabrook, J. (2010, May 10). The last babylift, *The New Yorker*. Retrieved from http://www.newyorker.com/reporting/2010/05/10/100510fa_fact_seabrook

¹³Ibid.

¹⁴International Social Services (2010). “*Expediting*” *intercountry adoptions post-earthquake in Haiti*. Retrieved from <http://www.crin.org/docs/Haiti%20ISS%20final-%20foreword.pdf>

¹⁵Ibid.

¹⁶Ibid.



structure of a family.¹⁷ The Bucharest Early Intervention Project is a long-term study measuring the impact of institutionalization vs. family foster care. Their work has shown that once previously institutionalized children are placed in family environments they typically make rapid increases in affect and social interactions, as well as demonstrating other positive signs of growth.¹⁸ The structure of family care is always superior to institutional care. This is especially true in the wake of an emergency when resources at institutions are more limited than usual and caregivers are stretched by caring for many more children due to separation from or loss of parents.

Arguably, the benefits of the program reach beyond the children who found permanence with their new adoptive families. Their efficient exit offered caregivers the opportunity to give attention to other children who may have been separated from their families or orphaned during the earthquake. Important identification, family tracing, and future planning for these children became immediately necessary when the earthquake occurred. (Estimates vary, but sources say the earthquake may have tripled the number of children living without one or both parents in Haiti.)

How Legislation Can Help

The Humanitarian Parole Program was only the beginning of helping children adopted after the earthquake in Haiti. In order to be expedient, it could not account for every variable in state laws or the individual needs of every child. Following are some recommendations for continued legislative support to eliminate legal barriers to permanence and provide access to best practice

support services that will help children and families to successfully transition past trauma, gain necessary support for any special needs they may have, and thrive as families.

Work is still in process to ensure that adoptions are finalized for every child that travelled under the guidelines of the Special Humanitarian Parole Program. One such effort to ensure this occurs is the Help Haiti Act of 2010.¹⁹ This act allows all children under age 18 who entered as humanitarian parolees to be granted legal permanent resident status and for adoption processes to be completed as necessary. Versions of the Help Haiti Act of 2010 passed the U.S. House of Representatives on July 20, 2010 and the U.S. Senate on August 4, 2010. Currently the bill is in a bicameral conference committee to reconcile differences in the versions passed by each chamber. Upon completion of this process, it will be sent to President Obama, who may sign it into law. This act will help alleviate any concerns adoptive families have about legal technicalities that may arise due to differences in state laws and the varying amounts of documentation available for children who entered the U.S. as humanitarian parolees.

Another piece of legislation that would benefit adoptive families, including those who have or will complete adoptions through the Humanitarian Parole Program, is the Supporting Adoptive Families Act. Introduced in the Senate on August 5th, 2010 by Senators Klobuchar, Landrieu, Brownback, and Johnson, this bill would help improve pre-and post-adoptive support services for American families in many ways including highlighting and providing funding for best practices developed in the private sector and

¹⁷For more data on avoiding the institutionalization of children see: Rosman, E. & Johnson, C. (2010). Continuum of child welfare services to promote permanence for children. *Adoption Advocate*, 23. Also Williamson, J. & Greenberg, J. (2010). *Families not orphanages*. Retrieved from <http://www.bettercarenetwork.org/docs/Families%20Not%20Orphanages.pdf>

¹⁸Geera, M.M., Marshall, P.J., Fox, N.A., Zeanah, C.H., Nelson, C.A., Smyke, A.T., & Guthrie, D. (2009). The effects of foster care intervention on socially deprived institutionalized children's attention and positive affect: Results from the BEIP study. *Journal of Child Psychology and Psychiatry*, 50, 246-253.

¹⁹Full text of Help HAITI Act of 2010 available at: <http://www.govtrack.us/congress/bill.xpd?bill=h111-5283> (House Bill) or <http://www.govtrack.us/congress/bill.xpd?bill=s111-3411> (Senate Bill).



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establishing a grant program for states to develop relevant mental health programs for adoptive children and families.²⁰ These services, valuable to any adoptive family, may prove especially important to families whose children have lived through a major trauma such as the earthquake in Haiti and its aftermath.

Conclusion

Continued support for both adoptive families and the children remaining in Haiti is crucial. The outpouring of care in the immediate aftermath—through financial contributions, service work, and best practice advice—should not fade away. Efforts must be made to not only meet previous standards, but to exceed them. As Kathleen Strottman, Executive Director of the Congressional

Coalition on Adoption Institute said, “We can go about making plans to provide protection to orphan children in temporary shelters until they can be returned to their orphanages, or worse, the streets, or we can take the recent outpouring of international support and use it to begin anew. Working together, we can help the people of Haiti to develop a child welfare system in which Haitian children are being raised in safe, loving and permanent families, not by institutions. Such a system could be built upon international best practices in preserving families, providing foster care, as well as promoting domestic and international adoption.”²¹ In the wake of such tragedy, Haiti deserves a fresh start and the children of Haiti deserve the opportunity to grow up in a child welfare system that other nations will aspire to.

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²⁰Senator Amy Klobuchar. (2010, August 10). Klobuchar, Landrieu, Brownback and Johnson introduce bill to improve adoption services [Press release]. Retrieved from http://klobuchar.senate.gov/newsreleases_detail.cfm?id=327152&

²¹Strottman, K. (2010, February 23). *Orphan children of Haiti Deserve a Future* [Web log post]. Retrieved from <http://ccainstitute.wordpress.com/2010/02/23/op-ed-on-haitis-orphans-from-ccais-executive-director/>

