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A Running Commentary on the News

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**Haiti's Children and the Adoption Question**By *THE EDITORS*

Mario Tama/Getty Images The Foyer de la Patience des Infantes orphanage in Port-au-Prince, Haiti. Haitian officials have detained 10 Americans for [trying to take 33 children](#) out of the country and into the Dominican Republic. The officials said that the church-affiliated group lacked the proper authorization and that some of the children, who ranged in age from 2 months to 12 years, might have parents. Members of the church group said they traveled to Haiti to rescue children from orphanages destroyed in the quake.

While foreign adoption is legal in Haiti, according to Joseph Philippe Antonio, former foreign minister of Haiti, the formal process is complex and long, and it is not always respected. What rules should be followed in approving adoptions from Haiti? A lot of children are in orphanages and their lives could be saved or improved by quicker adoptions. But in the chaos, are there additional reasons to be cautious about such efforts?

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**A False Dilemma**

***David Smolin** is a professor at the Cumberland Law School at the Samford University in Birmingham, Ala. He has [written extensively about adoption](#).*

Views of intercountry adoption vacillate between the positive, in which it is portrayed as a humanitarian act of goodwill benefiting both child and adoptive family, and the negative, in which it is portrayed either as child trafficking or as a neo-colonialist child grab.

The American mind has been shaped by the positive vision of families saving bereft orphans from a grim life in a Dickens-esque institution or from death on the streets. Increasingly, however, adoption trafficking reports from Cambodia, China, Vietnam, India, Guatemala, Nepal and Samoa are substantiating the negative view.

Jean-Philippe Ksiazek/Agence France-Presse — Getty Images  
A sister with the children at the Croix Glorieuse orphanage in Port-au-Prince.

Adoption trafficking has continued because the adoption community has chosen to minimize

the problems, rather than fix the system. Since you can't fix what you will not admit is broken, there is a perverse tendency to repeat, over and over again, the same mistakes in intercountry adoption.

Trying to move children quickly out of a country in the aftermath of a disaster, particularly for adoption, is one of the old mistakes.

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International organizations have warned against it in past disasters such as the Indonesian Tsunami of 2004, just as they are doing so currently for Haiti.

It is difficult enough in a country like Haiti, with a history of corruption, limited government capacity, child trafficking and adoption trafficking, to guard against adoption trafficking in normal times. In the midst of a disaster, where government capacity has been destroyed, many children have been separated from their families, and illicit schemes can flourish amid the chaos, it would be virtually impossible to guard against both mistakes and criminal misconduct.

The risks are very high that children with families would be "adopted" into families in the United States, based on the pretense that they are "orphans." We know from past history that those children most likely would never be returned to their original families, even if those original families were able to find them and sought their return.

It may be appropriate to complete adoptions which were already in process, with the children already identified as adoptable, if the children can be reliably identified. The determination of whether to move forward with those adoptions is initially the responsibility of the Haitian government.

All too often, intercountry adoption advocates suggest a choice between a child being adopted, or nothing being done. In the midst of the huge relief effort for Haiti, this is a false dilemma. The people of Haiti need our help; taking their children is not the right response to their time of crisis.

## Put Children's Safety First

*Elizabeth Bartholet is a professor and the faculty director of the Child Advocacy Program at Harvard Law School. She is the author of "Family Bonds" and "Nobody's Children."*

For most unparented children — children with no prospect of living with birth parents — the best option by far is early placement in adoption, and for children in poor countries adoptive homes will generally exist only internationally.

There are apparently now hundreds of thousands of unparented children in Haiti — children who were living in institutions or on the streets before the earthquake, and children newly orphaned since. Their interests demand prompt action to remove them to safe places, investigate whether they have birth relatives ready to provide homes, and place them either in birth or adoptive homes.

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The children exploited for sex slavery and domestic servitude are those abandoned to the streets.

Opponents of international adoption always cite the risk of abuses. But it is hypocritical to delay or shut down such adoption in the name of protecting children. The real risk of abuses occurs when unparented children are *not* placed for adoption.

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The children exploited for sex slavery and domestic servitude are those abandoned to the streets and aging out of institutions. Those interested in protecting children should focus on the people who perpetrate these crimes, not those trying in good faith to help unparented children find homes.

Five decades of social science demonstrate that institutions systematically abuse children. Children die at high rates in poor institutions, and even the best institutions destroy children's life prospects by damaging their intellectual and emotional potential. The risks to unparented children in Haiti today are drastically heightened by the earthquake's aftermath.

Investigations should, of course, be conducted to find any living relatives who might be able to care for children, but this can be done with the children safely outside Haiti, using photographs and D.N.A. evidence. Prospective adoptive parents should, of course, be screened for parental fitness. But all this should be expedited so that children are not held for unnecessary months or years. The social science makes clear that international adoptees are extremely well treated, with their prospects for overcoming early deprivation dramatically improved by early placement.

**Needed: A Moratorium**

*Cynthia R. Mabry is a professor at the Howard University School of Law, where she teaches adoption and family law, as well as civil procedure and pretrial litigation. She is the co-author, with Lisa Kelly, of "Adoption Law: Theory, Policy and Practice."*

I agree that parents who had begun to adopt children before the earthquake should be able to continue the adoption process, especially those who have identified and established a relationship with a particular child.

On the other hand, the stage of the adoption process for each prospective parent should be examined on an individualized basis. If a prospective parent has not undergone proper security and background checks, for example, no child should be placed with that prospective parent until the Haitian officials are satisfied of the applicant's suitability for adoption. Placement with that family may not be in the child's best interests.

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The danger is that, as in Guatemala, some children who are not orphans will be removed.

For the rest of the children who may be waiting for adoption, the Haitian government should declare a moratorium on adoptions until it can ascertain which of the children actually are orphaned.

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The most obvious danger of speeding up the process is that, as in Guatemala, some children

who are not orphans will be placed for adoption. So many families have been displaced and separated. Relatives who are willing and able to care for the children may be in Haiti.

One thing that the government can do is similar to what we did for New Orleans residents: set up a databank where all children are registered and make an effort to match them with relatives or others on the island of Haiti who are willing and able to care for them. When no one is available for a particular child for a designated period, then that child may qualify as an orphan.

When some children qualify, the process may be shortened to enable them to come to the United States quickly but there should be frequent home visits and post-placement reports to ensure that the child is thriving in that home and not being exploited in any way.

Another very important factor that often is overlooked is that these children may be placed in loving homes in the United States but they will be placed with people who do not share their race, culture, heritage or language. This will be a huge adjustment for the children as well as their new families.

Adoption agencies facilitate thousands of adoptions each year, and new families are created without incident. However, some adoption agencies have engaged in fraudulent conduct. The team that removed 33 children from Haiti reportedly without proper paperwork has engaged in conduct that is highly suspect. One 8-year-old girl reportedly said that she was not an orphan and that her mother thought that she was taking a short vacation.

These accusations are similar to the adoption fraud that happened in Samoa where adoption agency personnel received birth parents' permission to place a child based on misrepresentations that the child would be educated and cared for in the United States and returned to the birth parents when the child reached the age of 18. In short, the children were stolen from their parents.

We must move quickly but with caution as we endeavor to find permanent homes in which these children will thrive.

### **The Crisis Before the Quake**

***Diane B. Kunz**, a lawyer, is the executive director of the **Center for Adoption Policy**, a nonprofit group that provides research and advice on domestic and international adoption.*

International adoption must be one of the options available for children without parents. But such adoptions must follow the rules and regulations of the sending and receiving countries.

The Haitian and U.S. governments are assessing the suitability of potential adoptive parents, who applied to make adoptions prior to the earthquake, and the availability of potential adopted children, who were referred to specific parents before the earthquake. The reported attempt by members of New Life Children's Refuge to circumvent the proper procedures was wrong, even if their motives were pure.

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Separating children permanently from their birth parents or relatives would be a mistake.

As someone who has been involved in efforts to grant Haitian children humanitarian parole and

to bring qualifying children to the U.S., I completely understand the call to disregard normal adoption practices.

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Indeed both governments have sped up the normally lengthy three-year Haitian adoption timeline. But the best interests of Haitian children must be safeguarded. That includes a careful assessment of their status as children without parents and thorough vetting of potential adoptive parents.

To separate children permanently from their birth parents or relatives, from whom they were separated by the earthquake, would be a mistake. On the other hand there are, according to reliable sources, thousands of children languishing in Haitian orphanages who were available to be adopted prior to the earthquake.

These children are not now eligible for international adoption because they have not been matched with adoptive parents. We hope that the Haitian and U.S. governments will extend the option of international adoption to this category of children.

If these children can be placed in permanent loving families, then orphanages in Haiti will be better able to care for the earthquake's littlest victims.

### Misunderstanding "Orphan" and "Orphanage"

*E.J. Graff is the associate director and senior researcher at Brandeis University's [Schuster Institute for Investigative Journalism](#).*

It's heartbreaking to watch Haiti's child protection crisis unfold. Many of us long to fly to Haiti and bring a child home. But sometimes the head should overrule the compassionate heart.

The facts: after natural disasters and civil conflict, many apparent "orphans" have simply been separated from their families. Even if both parents are dead, children are likely to have living sisters, aunts, or grandparents whose care and shared language would be far less traumatizing than care from a foreign stranger.

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Using "orphanages" as boarding schools or child care centers is common in underdeveloped countries.

During the chaos, these children need expert foster care as close to home as possible — the kind provided by SOS Children's Villages — so that when the dust settles, families can be reunited. Emergency humanitarian aid is the correct priority for now. Not for a year or so — after a WORKING government has investigated whether a child has truly lost all functioning family — should children be offered for adoption.

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Part of what's misleading are the words "orphan" and "orphanage." After the Aceh tsunami, Save the Children reports, 97.5 percent of "tsunami orphans" were placed in "orphanages" — child-caring institutions — by their families so they could get an education. They didn't need new families; their living families needed micropayments to fund school fees, books, and uniforms.

Using “orphanages” as boarding schools or child care centers is common in underdeveloped countries. Save the Children reports that four out of five children in orphanages worldwide have living family members.

Let's assume the Idaho church group, with good intentions, simply forgot about the paper work. Right-minded people can do some mistaken things. But wrong-minded people can and do use the same excuse. If you were a child trafficker or adoption profiteer wouldn't you pretend to be a humanitarian worker trying to save orphans?

Haiti is a hot spot for sex or slave trafficking, sometimes covered up through the adoption system. And it has a history of adoption fraud; some Americans have been implicated in cases where parents were defrauded and their children take away. Haiti has rightly made it much harder to relinquish a child formally.

Until it is absolutely clear which children truly need new families, we can best help by supporting groups like SOS Children's Villages, Save the Children, or UNICEF, which offer appropriate temporary care to Haiti's displaced children. Donations may not be as satisfying as kissing a child goodnight, but the best interest of the child should come first.

### **An Option, Not a Solution**

***Jane Aronson**, a pediatrician who specializes in adoption medicine, is the founder of **Worldwide Orphans Foundation**. She is the mother of two boys, one adopted from Ethiopia and one from Vietnam.*

Before the catastrophic earthquake on Jan. 12, there were about 380,000 orphaned children in Haiti, which has a total population of roughly 9 million. Today, tens of thousands more children have been orphaned. Some put that number closer to a million.

The outpouring of requests to adopt children orphaned by the earthquake is certainly well-intentioned. But any rush to expedite adoptions not already in process and without the appropriate papers in place could potentially lead to child trafficking, kidnapping (even inadvertently) and abuse.

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The world should help Haiti build schools and its economy, for orphans and non-orphans alike.

Adoption is not necessarily the best road to take. First, we must remember that families have been separated, but not destroyed. Even if a child's parents were killed in the quake, close relatives are often eager to find and take responsibility for the child.

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While I certainly support adoption expedition for prospective adoptive parents of children legally confirmed as eligible orphans by Haitian and international laws, others must go through the proper channels to secure the adoption of orphans.

Americans must understand that with hundreds of thousands of orphaned children in Haiti, long-term reconstruction strategies are needed to ensure that these children have a bright a future in their own country. I founded Worldwide Orphans Foundation because I recognized

that international adoption, while an option, would never be a solution to the millions of orphans growing up without families throughout the world.

In partnership with the Haitian government, the international community must help Haiti to rise from the rubble to build strong economic, health and educational systems. Orphans and non-orphans alike must have a sense of hope that they can reach their fullest potential in their country. All children — including orphaned children — are Haiti's future.