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Whitney A. Reitz

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WHITNEY A. REITZ

## Reflections on the Special Humanitarian Parole Program for Haitian Orphans

ABOUT THE AUTHOR: The opinions in this article are the personal opinions of the author and not those of the U.S. government, the Department of Homeland Security, or the U.S. Citizenship & Immigration Services (USCIS). Whitney Reitz has worked on immigration issues at the U.S. Department of State and the USCIS for nineteen years. She currently serves in the USCIS International Operations Division as the Branch Chief for Programs. Before joining USCIS, Ms. Reitz worked at the State Department for seventeen years, first as a Foreign Service Officer, with overseas tours in Moscow and Oslo, and then in the Civil Service, working in the Bureau of Population, Refugees, and Migration. She has worked extensively on issues related to immigration, refugee admissions, international humanitarian assistance, temporary protected status, and international migration. Ms. Reitz has a Masters Degree in Government Administration from the University of Pennsylvania and a Bachelor of the Arts Degree, *cum laude*, in Russian History and Literature from Harvard University.

Immigration is one of those issues that excites ideas and opinions from one end of the emotional and intellectual continuum to the other: Why should we let in outsiders? How can we not take them all in? What is the middle ground? What is the right thing? I have spent twenty years in the federal government working on immigration issues, primarily those pertaining to providing humanitarian relief. I have also borne witness as colleagues and friends overseas died at the hands of terrorists or fell prey to violence or other third-world misery. I was pregnant with my second child on September 11, 2001, and clearly remember the fear of bringing another life into being in such a violent, unpredictable, and often hateful world. It is confusing. It is easier to think of only the United States and not the whole planet. The United States is my country, my safety, my pride, the place where my children will grow up as privileged citizens of a country with social fundamentals that support a great society. I want to protect that and keep that.

While we should protect our country and select who may come and live here, I also support the most generous approach to immigration possible, especially for humanitarian reasons. What is there, except for an artificial separation created by dumb luck, between any of us and a starving refugee in Bangladesh or a young woman in Haiti who lost every family member in the earthquake? As a nation, we can and should do our best to identify the most vulnerable and offer them a place among us. Not just because they need it, but also because doing so defines who we are as a country in a unique way. Americans welcome and accept members of other nations willingly, as part of our culture. We are especially strong and we lead the way because we have always offered a place of refuge, of tolerance, and of assimilation.

Intercountry adoption is a form of immigration. It is offering some of the most vulnerable—orphaned or abandoned children—a permanent home and the chance to become one of us. Adoption in any form is an incredible act of generosity and kindness. There are children in the United States who need homes and adoptive parents. There are children overseas who need homes and adoptive parents. There is no better or worse, no right or wrong, in offering a homeless child a home and a chance.

It is hard to understand why anyone would argue that we should not bring foreign children into the United States because we have enough trouble of our own or because it is wrong to take that child from his or her country of origin. There is not a finite pool of generosity out there, so that somehow it becomes a zero-sum game. We are all here, balanced delicately on this tiny planet while the forces of nature allow us to stay here and survive. Human suffering abounds—self-inflicted and otherwise. We are all in need of help from each other. Let's not be in the business of criticizing each other for what kind of help we are willing, able, or called to offer. There is enough room for all of it.

Many facets of this immigration debate, particularly as it pertains to intercountry adoption, came to the fore recently in the swirl of conversation surrounding the Special Humanitarian Parole Program for Haitian Orphans, which the U.S. government implemented within days after the earthquake as part of our humanitarian

response to the tragedy.<sup>1</sup> The program was created to bring the thousand or so eligible Haitian orphans out of harm's way quickly, and to place them with their previously identified adoptive families in the United States so that they could complete their adoption and immigration processing in safety.<sup>2</sup> The rest of this paper includes my personal perspective on this extraordinary program, how it unfolded, and the reactions it has inspired, and then concludes with some reflections on the lessons we can draw from it.

The Special Humanitarian Parole Program for Haitian Orphans, as an extraordinary immigration program created quickly and out of whole cloth in response to an emergency situation, came under scrutiny and criticism almost as soon as Secretary of Homeland Security Janet Napolitano announced the eligibility criteria.<sup>3</sup> In the days after the earthquake in Haiti, as we all watched the tragedy unfold on worldwide television, we all wracked our brains for what we could possibly do to help. As an officer of the U.S. Citizenship and Immigration Services (USCIS), I had a real opportunity to be part of doing something, which was for me the privilege of my career. We were able to offer immediate relief for a small pocket of children whom we could securely identify because they already had American adoptive parents (in hundreds of cases, in fact, the Haitian adoptions were already completed, and the families were only awaiting the final steps for immigration), and because Haitian authorities already knew them to be destined for the United States. Amidst the millions of children who needed help, this small group could be helped, quickly and well.

The first Saturday morning after the earthquake, I took a call on my cell phone at home from a number I didn't recognize. I was reading my blackberry, drinking a cup of coffee, getting ready to go to the office. We had been working around the clock, struggling to identify a strategy for how USCIS International Operations could take action to help in the massive U.S. government effort to provide relief to Haitians. I answered my phone and heard a woman crying. She told me she had gotten my telephone number from someone in the adoption community and pleaded with me to talk to her. She had two adoptive daughters in Haiti who had survived the quake, but were unsafe—living unsheltered, outside the walls of their damaged orphanage, without food or water. I told her that we were working on a relief program for adoption cases and that I thought we were going to be able to help. I asked her for information about her two daughters, about the orphanage where her adoptive children had lived, and if she could put me in touch with the orphanage director. Later that day, she e-mailed me a picture of her two daughters along with the

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1. For information about this program, see *Secretary Napolitano Announces Humanitarian Parole Policy for Certain Haitian Orphans Fact Sheet*, U.S. CITIZENSHIP & IMMIGRATION SERVS., <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=9c22546ade146210VgnVCM100000082ca60aRCRD&vgnnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD> (last updated Jan. 18, 2010) [hereinafter *Haitian Orphans Fact Sheet*].

2. *See id.*

3. *See, e.g.*, Ginger Thompson, *After Haiti Quake, the Chaos of U.S. Adoptions*, N.Y. TIMES, Aug. 4, 2010, at A1, available at <http://www.nytimes.com/2010/08/04/world/americas/04adoption.html>. For an explanation of the eligibility criteria, see *Haitian Orphans Fact Sheet*, *supra* note 1.

documents showing the status of her case. She also sent the contact information for the orphanage director and a spreadsheet from the orphanage with all the names of the children who were in the process of being adopted by U.S. adoptive parents.

Secretary Napolitano announced the program the next day, and these two children, along with many others from that same orphanage, were on one of the first flights to the United States. By then, we had been able to contact all of the families adopting children from that same orphanage and they sent us volumes of information about the children, their progress in the adoption process, and the Haitian documents proving the children's identities and availability for adoption. We set up an e-mail address and the information flooded in confirming these cases, among hundreds of others. We started evacuating the eligible children in groups from the various orphanages—an approach that was safer for the children and the few adults still available to care for them. As the orphanage directors brought the groups of children to the U.S. embassy in Port au Prince, our officers there were able to review whatever files they still had, in combination with the information that the parents were sending to us in Washington. Our staff in Haiti photographed the children, gave them travel documents, took them to the airport in Port au Prince, and with the help of so many wonderful, selfless people from other branches of the Department of Homeland Security (DHS)—specifically, Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)—the Department of State, and from the U.S. military, we got them on back-haul flights (relief planes returning empty to the United States) and military flights evacuating U.S. citizens. Colleagues from the U.S. Department of Health and Human Services waited for them at all hours of the day or night, and helped to process them into the United States.

That mother who called me the first Saturday morning after the earthquake sent me another picture by e-mail the day after her daughters arrived safely in the United States. In the photo, the mother's back is to me as she hugs a little girl, whose radiant smile, over the woman's shoulder, illuminates the picture. The little girl's eyes are squeezed shut with such joy. But the smile; the incredible smile. I taped that picture above my computer and kept it there as the program unfolded—a constant reminder of the real, human meaning of what we were doing.

We were able to bring into the United States over 1100 children in the space of a few months. As time wore on, we began to see more and more cases that did not meet the program's criteria and to detect fraud in an increasing number of the applications. In the end, nearly one-third of the cases were not approvable because they did not meet the criteria of the program, because of fraud, or because background checks revealed that the U.S. adoptive family was not suitable. We saw cases that broke our hearts, but that we had to turn away because the program did not cover them. An example is a case that involved the newly orphaned three-year-old niece of an American marine. The child's parents were both killed in the earthquake, and the marine flew to Port au Prince to try to save his niece when he learned that she had survived. But the little girl was not eligible for our carefully crafted program, which only reached children who were confirmed orphans *before* the earthquake. As heart-wrenching as this case and others like it were, we felt strongly, and I believe rightly,

that we had to keep the focus of this program narrow to avoid abuse. The vulnerability to exploitation of unaccompanied children after a disaster like the earthquake prevented us from establishing broader criteria.

But for the vast, vast majority of the 1100-plus children that we could approve, a miracle happened. Did we get it right every time? Probably not. In any immigration program, which is inherently a human endeavor, some bad cases get approved and some good cases get denied. In a program like this one, being an adjudicator may be one of the hardest jobs in the world. When we say yes, a life is changed forever, hopefully for the better and in a profound way. When we say no, a life is changed forever in a way that could have tragic consequences. It is a huge responsibility and one that we take extraordinarily seriously. But I feel sure, knowing everything I know about how we worked and what we were doing, that we did a good thing and that we did it well.

But then came more attacks and questions. Was it a baby-lift? Did the U.S. government just go into a ravaged country and sweep up children, helping itself to babies when a country was on its knees? Is it right to remove vulnerable children from their homeland so soon after a traumatic event? How did we know that we were admitting the right children? Some of the questions were laughable: Did we adequately prepare the children for the transition to the United States? Under these circumstances, is someone seriously asking that?

I certainly understood and respected the concern for the children. In this case, though, the U.S. government players, the adoption community, the government of Haiti, and the thousand U.S. families themselves banded together to make something wonderful happen. There were things that we could have done better, in hindsight. But the truth is that many people, both inside the government and outside, worked around the clock for months, doing our absolute best. The children and the families for whom we got it right are the only real measure of our accomplishment. I will look back on those few months as some of the proudest of my career.

This particular program also offers some perspective into the larger debate on intercountry adoption. I would like to touch on two issues—the notion that removing a child from the country of origin deprives that child of his or her right to authentic culture, and the idea that we should never move quickly to place unaccompanied children in foster or adoptive families.

The variety in human culture broadens all of us, pries open our minds and our hearts, and invites us to examine our comfortable assumptions. Everyone values the sense of identity and familiarity that comes from being in his or her own culture. So what does it mean to remove a child from his or her home country? Is that a dislocation from which recovery is simply impossible? I don't think so. Children are the most brilliant, adaptable, and receptive members of our species. Setting aside the basics of food, shelter, and health care, there really is nothing, absolutely nothing, more essential to enabling a child to grow than the love of a family. Give them that, and they can thrive. I do not think this fundamental need has anything to do with culture, skin color, landscape, or language. I am a mother of three. I am a friend to a number of wonderful families that include adopted children. I know that along with

every child, adopted or biological, comes a world of problems peculiar and special to that child. Children who have been abused, traumatized, or damaged in the womb bring even more. Children who have to transition from one culture to another do face an extra challenge. But the “authentic culture” argument really doesn’t hold water. Is authentic malnutrition and neglect really better than a loving home in another country? Is an authentic orphanage or institution really a better plan than a family? All agree that finding a child a loving home in an environment closer to home is better, if possible. But I cannot agree that keeping a child institutionalized or in a refugee camp or otherwise warehoused somewhere in the country of origin can ever be a better answer than a loving, permanent home somewhere else. And, in fact, some would argue that any time spent in an institutional setting harms a child’s development in ways that really are irreversible.

The next issue that came up prominently in the context of the Special Humanitarian Parole Program for Haitian Orphans was that if we moved too quickly, mistakes would be made and harm would result. I worked for years on the U.S. Refugee Admissions Program, which offers permanent resettlement to people who are persecuted and flee their homelands, generally running for their lives, with nothing but the clothes on their backs, who then have no option of returning home.<sup>4</sup> The United States resettles more refugees per year than all other countries of the world combined. The “moving too fast” discussion calls to mind a group of refugees that the United States resettled about ten years ago. They have become known as the Lost Boys of Sudan. In the late 1990s, the U.S. Refugee Admissions Program began to focus on the possibility of resettling a group of some 3800 Sudanese boys living in a refugee camp in Kenya.<sup>5</sup> They had fled southern Sudan during the civil war, unaccompanied, to avoid enslavement. These boys wandered in small groups through Ethiopia, back to Sudan, and finally to the camp in Kenya. Along the way, many died of disease and starvation, were killed by wild animals, drowned, or were eaten by crocodiles while attempting to ford rivers—all in the midst of being bombed now and then by the Northern Sudanese army. Most of them were six to ten years old when they arrived in the refugee camp in Kenya. Ten years later, they were still there. Family tracing was ongoing. There remained the possibility that they had living parents in Sudan. Ten years later, these boys had all grown up in a refugee camp in Sudan. Finally, after much back and forth in the international community, the United States designated them as a special group eligible for resettlement in the

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4. For information about this program, see *The United States Refugee Admissions Program (USRAP) Consultation & Worldwide Processing Priorities*, U.S. CITIZENSHIP & IMMIGRATION SERVS., <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextchannel=385d3e4d77d73210VgnVCM100000082ca60aRCRD&vgnnextoid=796b0eb389683210VgnVCM100000082ca60aRCRD> (last updated Jan. 4, 2009).

5. For a more detailed discussion of this group, see Burton Bollag, *Lost Boys of Sudan Go to College in America*, AMERICA.GOV (June 10, 2008), <http://www.america.gov/st/develop-english/2008/June/20080609180659berehellek0.9889032.html> (a Department of State publication). See also, e.g., MARK BIXLER, *THE LOST BOYS OF SUDAN: AN AMERICAN STORY OF THE REFUGEE EXPERIENCE* (2005).

United States. They were sixteen to twenty-two years old by then. Too fast? Can we discuss too slow? When is it too slow, in terms of removing children from situations like these and letting them be part of families?

With respect to the Haitian children who benefitted from the Special Humanitarian Parole Program for Haitian Orphans, for many of them, we probably saved their lives. When lives are at stake, the “too fast” argument melts away pretty easily. For others, we spared them the risk of grave illness, privation, and additional trauma. In these cases, we accelerated an immigration process that was already underway, uniting children with their legal parents or enabling them to complete the adoption process, all in the safety of the United States. In the aftermath of the earthquake, this process could have taken years. Again, under these circumstances, is “too fast” really the issue? We were very careful in crafting the eligibility criteria, screening the children and the families, and building safeguards into the program right from the beginning. Although we moved fast, we followed a painstaking process. I do not worry at night about these children. My anguish is for those who still need help—those who were left homeless and helpless after the earthquake, with families extinguished. Where are *they* now? Does anyone feed them? Keep them safe? Hug them at night? Some of them may eventually be determined to be orphans and put into the adoption stream. Will it take ten years for that to happen? Can we please remember to discuss too slow along with too fast?

These issues are part of the ongoing dialogue about intercountry adoptions, and I have touched on them here because they came up during the Special Humanitarian Parole Program for Haitian Orphans. Should a similar situation arise in the future, I truly hope we will not hesitate to offer similar, life-giving help because of concerns like these.

Let me conclude with a hopeful thought. The Special Humanitarian Parole Program for Haitian Orphans was the first program of its kind, and it can become an important precedent. In a humanitarian crisis, we can use the parole authority established by U.S. immigration law<sup>6</sup> as part of the immediate relief effort to bring people already on a path to permanent immigration out of harm’s way. The discretionary authority to admit certain aliens to the United States under humanitarian parole is vested in DHS, with USCIS taking the lead on considering humanitarian parole applications in response to emergent humanitarian situations. USCIS crafted the Special Humanitarian Parole Program for Haitian Orphans in this context, essentially defining a class of individuals who could qualify for humanitarian parole based on a set of specific eligibility requirements. The program fell within the scope and intent of parole authority, but approached its application in a new and powerful way by crafting this group definition.

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6. The term “parole” is defined in several federal laws. *See, e.g.*, Immigration and Nationality Act § 212(d)(5), 8 U.S.C. § 1182(d)(5) (2006 & Supp. III 2009) (providing authority to the Attorney General to “parole,” or grant temporary entry to otherwise inadmissible aliens seeking to enter the United States); Homeland Security Act of 2002 § 402, 6 U.S.C. § 202 (2006) (transferring authority for immigration matters, including parole, to the Secretary of DHS); 8 C.F.R. § 212.5 (2010) (providing regulations for the parole of aliens into the United States).



The best of what is possible in America, as one of the only countries in the world that embraces large-scale immigration, can become part of our response to tragedy going forward. Some might argue that using parole authority in this way violates the principle that parole is not meant to be used in lieu of regular immigration tracks. That is not what happened and is not what I am proposing. Rather, a discretionary authority can be used to provide life-saving humanitarian relief for well-defined and identifiable groups in an emergency situation, not to circumvent regular immigration processing. Consideration of whether the beneficiaries will be able to obtain a regular immigration status after they are paroled in the United States comes into play because, if they are already on the path to an immigration status, it is more likely that documents and records of their identity exist (through processing in their country of origin or in the U.S. immigration system) and will therefore allow us to identify them with confidence, even in the midst of the emergency. In addition, when granting parole to a class of individuals who are unlikely to be able to return to their country of origin in the near term, we must consider whether there will be a downstream option for them to regularize their immigration status in the United States.

The lessons from the Special Humanitarian Parole Program for Haitian Orphans are bright and straightforward: in crafting such a program to benefit a group in response to a humanitarian emergency, we need to know who the intended beneficiaries are; we need to know how we can verify their identities and status; we need to be prepared to run a sprint followed by a marathon because such a program demands that degree of effort; and we need to allow the fences to fall and work together as human beings responding to the crying need of our fellow creatures. Parole authority provides us with an invaluable tool. Our humanitarian spirit provides us with a motive. The lives we touch will be our validation.