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Faculty Adviser: Dr. Colleen Carmean

Essay completed in partial fulfillment of the requirements for graduation with Global Honors,
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Abstract

Corruption and overregulation plague the international adoption system. Overregulation of international adoption is allowing the process to be infiltrated by corrupt businesses and individuals while simultaneously keeping children institutionalized for prolonged periods of time. Overregulation is also causing the cost of international adoption financially burdensome for prospective adoptive families. Monopolizing international adoption violates an orphan's human right to a permanent family and home. Statistics prove that the longer a child remains institutionalized, the more likely the child will suffer from ailments such as malnutrition, disease, and delays in physical, hormonal, cognitive, and emotional development. Regulations that are meant to protect orphans from corruption and human traffickers are instead harming them from institutional neglect and abuse. It is imperative the policy makers deregulate international adoption and streamline the process to place children with their adoptive families as soon as possible.

Keywords: International adoption, Human trafficking, International Adoption Act, Hague Convention, Institutional neglect, SOS Villages, Children's Human Rights, Orphan

Human Trafficking Through International Adoption

International adoption can be a frustrating, complicated, and emotional process for many families attempting to adopt unparented children from around the globe. This process is currently experiencing turmoil as opportunistic individuals and governments seek to exploit children and well-intending families for profit. While international adoption results in a net good, potential adoptive families now find they must diligently vet any organization with whom they partner to avoid inadvertently fueling demand for human trafficking. The purpose of this paper is to provide a critical analysis of international laws, conventions, and treaties that have been put in place to protect all parties involved in the intercountry adoptions process and paradoxically, have provided the foundation for the corruption plaguing the international adoption system. This paper explores how regulations need to be updated and modernized to expedite the international adoption process and to limit the amount of time a child spends in institutions and orphanages. Alternatives to international adoption are explored, which include becoming a foster parent, sponsoring a child, and or donating to local nonprofit organizations like SOS Villages located around the globe.

In this paper, international adoption is defined as the process by which a person or family adopts one or more children and takes them across international borders where they are given citizenship through the adoption process. International adoption and intercountry adoption will be used interchangeably throughout this paper. Foster care is defined as providing the unparented child with a temporary home where a person or family is given wardship of the child while attempts are made to reunite the unparented child with their biological family or to provide the unparented child with a new permanent family. Orphans are defined as unparented children that have been institutionalized in orphanages. The purpose of an orphanage is to provide a child with

a place to live when they have nowhere else to go and where their basic physical needs are met. Human trafficking is defined as the exploitation of individuals that have been kidnapped, purchased, or coerced into performing some form of manual labor and or forced into performing commercial sex acts (Homeland Security, 2018).

Who is Affected

Categorically, those who are most affected by international adoption can be broken into two distinct groups with little overlay: the emotionally involved and the financially involved. Those emotionally involved in the intercountry adoption process are the child, the relinquishing parents, and the adoptive parents. Those financially involved in the international adoption process are the adoptive parents, the surrendering country, and the inheriting country. Both the emotional and financial categories of international adoption are heavily invested in the international adoption process.

Children most affected by the international adoption process are orphans, as many of the children exposed to orphanages suffer from structural neglect, especially during infancy and early adolescent stages (NIH, 2011). Structural neglect may include staffing shortages, unfavorable staffing schedules, minimum physical resources, and social-emotional inadequate caregiver-child interactions (NIH, 2011). Children that have become institutionalized are likely to suffer from ailments such as malnutrition, disease, and delays in physical, hormonal, cognitive, and emotional development (Kohut, 2018; NIH, 2011). Other problems children in orphanages face access to formal education (Stateless, 2006; Smiley, 2015; Cohen, 2005). In fact, the National Institute of Health (NIH) states that the longer a child remains institutionalized, the more likely it is that the child will develop irreversible institutional cognitive, social, and emotional scarring. Children that have been institutionalized for an extended period of time and

then adopted often have difficulties acclimating to their new families and environments. The children suffer from "Adopted Children's Syndrome," a term coined in 1979, which includes a tendency to have a conflict with authority figures, to excessively fantasize, to become pathological liars, and to steal. They are more prone to running away from home and school, to learning difficulties, to become impulsive and promiscuous, and may develop a fascination with fire-lighting. Children end up in institutions for a variety of reasons, death of family members, the child was born out of wedlock, or more commonly because the parents are unable to care for or feed the child(ren).

Parents that are conditionally forced to give their children up for adoption are often times scrutinized and punished by the government (Bos, 2013). Parental fear of punishment for being unable to care for their child(ren) causes parents to abandon their children in public spaces where other locals or authority figures will find them (Bos, 2013; NIH, 2011). In Gerald, most children institutionalized are called social orphans because they have parents, but their parents are unable to provide care for them (NIH, 2011). Most commonly, parents that cannot care for their children suffer from or are experiencing extreme poverty (Bos, 2013). Another common reason why a parent cannot care for their child(ren) is if their child(ren) may require particular medication, which can be very expensive, or if the child suffers from congenital disabilities or deformities that the parents cannot manage nor afford on their own (Bos, 2013). Ultimately, research indicates that parents abandon their children for the safety and well-being of their child, not because the parents didn't love their child(ren). No parent wants to watch their child suffer from disease and malnutrition.

For the same reasons parents relinquish their children to institutions, adoptive families locally and globally look to orphanages to complete their families while simultaneously assisting

those in need of a home. There are many reasons why people choose to internationally adopt children rather than adopt children from their country of origin. However, no clear research indicates why families choose international adoption over local adoptions. Many families struggle with infertility, are gay, or want to expand their family and feel that children in other countries are in dire situations in which they need to be rescued, unlike the un-institutionalized children in America. Recently, however, there has been a shift in international adoption versus in-country adoptions. Research in 2016 by Budiman and Lopez (2017) the Bureau of Consulate Affairs on international adoption statistics (2016), and Selman (2011) indicated that international adoptions have decreased 77% since 2004 which was already a 66% decrease from 1999. There are two main reasons to explain this dramatic decrease in international adoptions since 2016: 1) the 5 countries where the most international adoption recently occurred, China, Russia, Guatemala, South Korea, and Ethiopia, have made significant changes in local and international adoption practices (Budiman, 2017), and 2) the expense of intercountry adoptions has increased as regulations governing international adoptions have changed and become more stringent and time-consuming.

According to *Creating a Family* (2018) international adoptions can vary in price from \$5,000 to over \$40,000 with approximately 60% of costs falling between the \$10,000 and \$30,000 price point. Some international adoption agencies have a sliding price scale based on income. Per MLJ Adoptions, international adoptions can take anywhere from approximately 3 months to 5 years depending on which country the child is adopted from. The average time it takes to internationally adopt a child is approximately 12 months to 2 years (MLJ, 2012). A significant portion of the time requirements for international adoption is the legal paperwork and the relinquishing country's processing time.

International adoptions are complicated and time-consuming. The native or relinquishing country or state bears most of the responsibility for ensuring that international adoption is in the best interest of the child chosen for adoption. The relinquishing state is responsible for ensuring that all children made available for adoption are in fact adoptable, not black market babies or victims of kidnapping and adopted only after every attempt to place the child within the state of origin. The relinquishing state must also require that the institutions and authorities whose consent is necessary for the international adoption to take place are counseled and informed of the legalities to which they must adhere and agree. It may also be required to duly notify the relinquishing parents of the effects of their consent, especially if said adoption will terminate the legal relationship between the child and his or her family of origin. Once all parties have freely consented to the international adoption, their consent must be documented on legal forms and expressed or evidenced in writing. The native country must also ensure that the relinquishment of the child has not been induced by payment, compensation, or coercion of any kind and no agreements can be made until after the mother has given birth of the child in question. It is also imperative that the native state has particular regard to the age and degree of maturity of the child being adopted. If the child is old enough, the child must be informed of the effects of the adoption and must have the child's consent to proceed with the international adoption. The child's permission must be received freely without being induced by payment, compensation, or commencement. Any and all wishes and opinions of the child to be adopted must also be taken into consideration before the international adoption can be finalized. Once all of these measures have been satisfied the international adoption can proceed, and the receiving state or country can pursue with their portion of the international adoption process.

Once the relinquishing state has completed their portion of the international adoption process, the receiving state can continue with their portion of the international adoption process. The receiving state is responsible for determining that the prospective adoptive parents are eligible and suited to adopt internationally. This is a multistep process that can take an upwards of a year to complete in addition to the relinquishing country's processing time. An adoptive family must complete and pass a home study which ensures that the family residence is safe and habitable, compile a dossier which contains the necessary documents required to adopt in the country, ensure that the prospective adoptive family has been counselled about their responsibilities and requirements as adoptive parents, and ensure that the child will be authorized to enter and reside permanently in the adoptive family's state. Adoptive families are then required to wait a processing time which can take an additional 3 months to 5 years depending on the country from which a family is adopting. Once a child has been identified and matched to his/her adoptive family the adoptive parents are responsible for completing a United States citizenship and immigration services (USCIS) orphan passport, which in itself can take anywhere from 5 days to 5 months. Once the gaining country and adoptive family have completed all these requirements, an orphan child may be internationally adopted.

In the early 1900's when international adoption first began, international foster care families and aspiring international adoptive families were a part of a humanitarian effort that seeks to protect, nurture, and speak for the orphaned and abandoned children that didn't have a voice. These global communities and governments banded together to find orphaned and vulnerable children forever home where they would be safe, nurtured, and even loved.

Causation of International Adoption

Marre & Briggs (2009) stated: Adoptions across political and cultural borders may simultaneously be an act of violence and an act of love, an excruciating rupture and a generous incorporation, and an appropriation of valued recourses and a constitution of personal ties. (Pg. xxi) The frequency of intercountry, or international, adoptions have been a topic of study since the early 20th century. The rise of global conflicts as well as back to back world wars, the Korean War, and the Vietnam War and the corresponding increase in contact between peoples from various nations contributed to a significant rise in unintended pregnancy. Relationships between local women and soldiers, either consensual or coerced, occasionally resulted in unplanned pregnancy (Oh, 2015, p. 49). These unintended children were often cast aside as relationships with foreign soldiers were seen as taboo, and children that resulted from these relationships were not welcomed in either country.

World War II

Kindertransport, the mass influx, and transportation of German-born Jewish children entering other countries from Nazi-controlled Germany during World War II was the first mass migration of orphaned children of the 20th century (The Holocaust Museum, 2017). This migration began in 1939 and saw the inception of the for-profit approach to foster care as some foster parents and private organizations required payment in return for providing care and proper nutrition for the Jewish children (Briggs, 2012). After World War II ended in 1945, many Jewish children were adopted by their foster families. Some remained orphans, as their entire family was exterminated by the Nazi party in forced labor camps, prisoner of war camps, and killing centers.

The Korean War

The Korean War lasted from 1950 to 1953. A difference between the Korean War and World War II was that soldiers had prolonged exposure to and interaction with local women. Relationships between local women and soldiers ensued, either consensual or coerced, and occasionally resulted in pregnancy (Oh, 2015). These children were considered taboo and labeled General Issued (G.I.) Babies. These G.I. babies were rejected by Koreans and generally unwanted by their parents. As a result, many of these children were abandoned in the streets of Korea to fend for themselves which caused a massive movement called Save the Children of Korea (Oh, 2015). This movement was created by the American Christian population which sought to find adoptive families for the orphaned children and to rescue, the G.I babies from starvation due to their status as a nonperson in the eyes of other Koreans. Because of the Save the Children of Korea campaign, the Refugee Act of 1953 was passed (Oh, 2015). This opened the borders between the US and other countries to allow for the international adoption of abandoned children.

The Vietnam War

Despite the horror stories previously told by American war veterans, the Vietnam War was more impactful in bringing the ravages of war to the full attention of the North American people. The Vietnam War lasted from 1955 through 1975 and was broadcasted live by television reporters brave enough to endure the threats of reporting in a war zone. For the first time in history, non-soldier North Americans could see the suffering and living conditions of all those affected by war as it played out. Towards the end of the Vietnam War, photographs of orphaned or mutilated children, as those of Harrity (1973), were put on display for the world to see. These horrifying images were a catalyst for the North American people to take action and save the orphaned children of Vietnam.

In April 1975, President Gerald Ford ordered the evacuation of orphaned Vietnamese in a campaign called Operation Baby Lift. Over 3,000 orphaned children were removed from the streets and orphanages in Vietnam within a month. There was no attempt to find the biological families of the children that had been taken into North American custody (Gerald Ford Museum, 2017).

Modern Day

Historically, vulnerable children have been internationally relocated, fostered, and adopted to protect them from adults and the ravages of war. Nearly 100 years after the first world war where current international adoption began, children from around the globe are still suffering from slavery, manual labor, sexual exploitation, genocide, organ harvesting, and armed conflict (Bartholet, 2012). According to 2018 statistics provided by the non-profit organization SOS Villages (2018), 570 million children are living in extreme poverty; 230 million children are living in areas where there is active armed conflict; 151 million children have lost one or both parents; 124 million children are unable to attain formal education. Globally, approximately 153 million orphans are looking for the permanence of a home and family (SOS, 2018). Children that remain institutionalized run the highest risk of becoming victims of human trafficking and once a child ages out of their country's institutions they are abandoned and forced to fend and provide for themselves.

Human Trafficking

There are approximately 600,000 to 800,000 men, women, and children bought and sold across international borders every year (Ark,2017). In-country trafficking increases these number to between 2 and 4 million individuals trafficked each year ("Homeland Security," 2018), half of which are children (Ark,2017). It is estimated that 35.8 million people are victims of human

trafficking and slavery (Ark,2017; USA, 2014). The top five countries with the most enslaved people are India at 14.3 million, China at 3.2 million, Pakistan at 2.1 million, Uzbekistan at 1.2 million, and Russia at 1 million. Of the 2 to 4 million victims trafficked each year, many face organ harvesting, sexual exploitation, and or some form of manual labor.

Causes and Conditions for the Problem

International adoption is under extreme scrutiny due to overwhelming wrongful accusations of cultural deprivation, abuse, and kidnappings. Critics state that adopting children internationally is harmful to both the child, birth parents, and others involved in the adoption process. Rasor et al. (2010) state “children from third world countries are frequently stolen, bought, or kidnapped from their birth families and subsequently processed through the adoption system as orphans” (pg. 802). Conversely, Bartholet (2010) and Carlson (2010) argue that, like any human endeavor, some illegalities occur in all areas of human conduct, but no persuasive evidence supports that international adoption abuse causing significant harm is widespread (pg. 695). Though serious legal violations do rarely occur, which some estimate to be under one percent annually, the number of people who benefit far outweighs the few people harmed. Government response to these few illegal international adoptions is creating new international laws, conventions and treaties, limiting if not preventing international adoptions entirely leaving children institutionalized and deprived of a family. Valuable laws regarding international adoptions include the Intercountry Adoption Act (IAA), which encompasses the Hague Convention, the Social Security Act, and the Immigration and Nationalities Act, and the Foreign Corrupt Practices Act. These international laws are in place to protect children from exploitation and are useful in prosecuting those who abuse or attempt to harm the international adoption system.

Overview of Current Regulations

The International Adoption Act (IAA) was enacted by the Senate and House of Representatives of the United States in Congress on October 6th, 2000 (United, 2000). The purpose of the IAA was to modify international laws and policies that govern international adoption in the United States for the implementation of the Hague Convention of 1993 on the protection of children and cooperation in respect of intercountry adoption (United, 2000). The two international laws that were most affected by the IAA was the Social Security Act (SSA) and the Immigration and Nationalities Act (INA), both of which govern legal migration into the United States (United, 2000). Both the SSA and INA verbiage has recently changed to reduce the restrictions and circumstances that governed migrants access into the United States.

The Hague Convention of 1993 established international standards and practices for intercountry adoptions to prevent coerced and forceful removal of children from their state of origin, previously governed by The Hague Convention of 1980, regarding civil aspects of international child abduction (Hague, 1980; Hague, 1993; Bureau, 2017; Bureau, 2017). The United States signed the Hague Convention of 1993 on December 15th, 1994 and began enforcing its international laws on April 1st, 2008. Currently, of the 195 countries globally, 93 countries are members of the Hague Convention (United, 2018).

The Foreign Corrupt Practices Act was passed on December 19th, 1977 by the United States Congress. The FCPA was signed by President Jimmy Carter, and its purpose was to restore the American opinion, confidence, and integrity of the American business sector by making it unlawful to make payments to foreign government officials to assist in maintaining or establishing the continuous business (Fraud, 2017). The FCPA was particularly aggressive in anti-bribery provisions because limiting these provisions reduced the possibility of bribery,

corruption, and abuse of power by individuals in influential governmental positions by the promise of payment or percentage of earnings. The FCPA was influential in international adoptions because it prevented International adoption agencies to bribe owners of orphanages and prearrange payment for children in the facility.

Results of Overregulation on International Adoption

The drastic global decrease in international adoption is partly due to its expense, but a significant reason is the increase in regulations governing international adoptions. Though the intent behind increasing international adoption regulations was to protect children from exploitation and coercion, the regulations have instead made it more difficult for families to adopt children internationally (Bartholet, 2010). Pro-regulation bureaucratic policies enacted to protect children are causing more harm to children than they are protecting them. These bureaucratic policies institutionalize children for prolonged periods of time and subject them to institutional neglect and abuse (NIH, 2011). Overregulating international adoption makes it challenging to get orphans out of institutions and into families where they will receive the social, emotional, and cognitive stimulus they so desperately need (Bartholet, 2010; Kohut, 2018; NIH, 2011).

A Bigger Picture

There are real risks when a family internationally adopts a child. There is a risk that an internationally adopted child will have or develop health issues, developmental issues, or psychological issues. There is a risk that an internationally adopted child will not like their adoptive family, or that the family will not like the child. There is a chance that international adoption will experience hardships and abuse but no more so than what may occur in domestic adoptions (Carlson, 2010). Even with the occasional abuse, international adoptions result in a net

good for the tens of thousands of children that benefit each year (Carlson, 2010; Bartholet, 2012). It causes undue harm to overregulate and deny homes to tens of thousands of orphans because of a few fraudulent international adoptions which, when reported, are generally rectified (Kaye, 2017). The devastating earthquake in Haiti in 2010 is an excellent case study as to what happens when governments deregulate international adoptions and what happens when people or agencies are accused of conducting fraudulent international adoptions.

On January 12, 2010, Haiti experienced a 7.0 earthquake that demolished the nation's infrastructure, displaced over 1,000,000 people, and killed approximately 300,000 thousand more (DesRoches, 2011). Thousands of children were either relinquished to orphanages or became orphaned by the massive earthquake. Haiti was in dire need of international humanitarian aid in the wake of the devastating earthquake. For orphaned Haitian children, and the Haitian government, humanitarian aid came in the form of the Special Humanitarian Parole Program for Haitian Orphans organized by Whitney Reitz who is a part of the United States Citizenship and Immigration Services (USCIS).

The Special Humanitarian Parole Program for Haitian Orphans was created to bring approximately 1,000 orphans to the United States and place them with their previously established adoptive families before the earthquake (Reitz, 2011). The Special Humanitarian Parole Program for Haitian Orphans brought the orphaned Haitian children to the United States by temporarily bypassing the Haitian processing time requirements for international adoptions. The purpose of circumventing the Haitian processing time was to get the orphaned Haitian children out of harm's way and placing them with their new families. This allowed international humanitarian efforts to focus on those who would remain in Haiti. On April 13th, 2010 the

Haitian government requested that The Special Humanitarian Parole Program for Haitian Orphans close as orphan Haitian children were no longer in harm's way.

The Special Humanitarian Parole Program for Haitian Orphans was widely criticized because international adoption critics viewed the program as taking advantage of a tragic event. The program experience so much scrutiny that many people accused those involved in transporting the orphaned children from Haiti to the United States of human trafficking. All accusations of corruption, abuse, and human trafficking during the Special Humanitarian Parole Program for Haitian Orphans have been disproven and debunked. The Special Humanitarian Parole Program for Haitian Orphans proves that our international adoption system works when it is deregulated and given the opportunity to place orphaned children in homes in which they so desperately need. Ultimately, approximately 1,200 children benefited from this program proving that a country's processing time is an unnecessary bureaucratic policy that institutionalizes children longer than they need to be (Bartholet, 2010).

Solutions

The abundance of international laws, conventions, and treaties that govern international adoption hasn't prevented illegal international adoptions from occurring as policymakers intended. Overregulation has increased the expense of international adoptions limiting the pool of potential families that could offer an orphan a forever home. This leaves more children institutionalized and vulnerable to human traffickers when they age out of their countries welfare. What over-regulation has done successfully though is leave children institutionalized much longer than they need to be. It is crucial and essential that policymakers deregulate international adoption and streamline the international adoption process to place children with their adoptive families as soon as possible. The International Adoption Act (IAA), which

encompasses the Hague Convention, the Social Security Act, and the Immigration and Nationalities Act, and the Foreign Corrupt Practices Act is all that is needed to govern international adoption. These Acts have done an excellent job at preventing illegal adoptions across political and cultural borders, though corruption is inevitable with any human endeavor. Ideas that could strengthen the international cause and protection of internationally adopted children are well-child checkups where a family is assigned a caseworker, free or reduced family support services, and dual citizenship status for the receiving country and the relinquishing country.

If policymakers created a process of including caseworkers explicitly supporting children and families that have been a part of the international adoption process, then the government could simultaneously ensure the continued safety and well-being of the internationally adopted child as well as the rest of the family members in which the child now belongs. The role of international adoption caseworkers could provide resources to families after the process has been completed, especially since not all adoptions or transitions are streamlined making the international adoption a potentially emotionally draining process for all parties involved.

International adoption caseworkers would be knowledgeable of resources and support groups for families that have adopted. They would also be a point of contact in case a child informs their adoptive family that their adoption was illegitimate. The caseworker could be the first step in investigating IAA and similar acts violations. It is safe to assume that the caseworkers could also be a valuable resource in achieving valid and reliable statistics surrounding legal and illegal international adoptions. These international adoption caseworkers would also be useful if a child poses a threat to themselves or other family members which is a

potential danger when adopting a child that has been institutionalized for a prolonged period of time.

Conclusion

Intended international laws, conventions, and treaties have hindered instead of helped the international adoption process. These regulations need to be modernized, redacted, and streamlined to deinstitutionalize orphans and find them the homes they so desperately need. There is no perfect solution, and local alternatives do include becoming a foster parent, sponsoring a child, and or donating to local nonprofit organizations like SOS Villages located around the globe. But there are limits and times have changed. We are a global society and adoption and raising children is now a global reality. It is the responsibility of developed nations and developing nations alike to band together to ensure that every child is safe or has a family they can call their own. It is our responsibility to deinstitutionalize children to prevent them from developing entirely preventable delays in physical, hormonal, cognitive, and emotional development. It is our job to ensure that every child's human rights are met (Rotabi, 2011; UN, 1924). It is a child's right to have a home, to have a family, to be healed when ill, to be fed when hungry. It is a child's right to be educated, to be relieved when distressed, and to be protected from every form of exploitation to include cultural exploitation (Geneva, 1924). Every child has the right to a home and family, even if that means they need to be internationally adopted to have one. If international regulations are decreased with a geographical focus on getting children out of institutions and into quality homes, we will be directly combating the orphan crisis, global poverty, global malnutrition, and human trafficking. If more people can afford and have access to international adoptions, then more people will internationally adopt. Let us make changes to

international laws, conventions, and treaties so that every child finds their forever home. It takes a village.

Future Research

One of the many concerns about internationally adopting children that could not be addressed in this research paper is cultural deprivation. When a child is removed from their country of origin, the child will undoubtedly experience loss of their genuine culture. Families adopt their child to provide them with the quality of life, for whatever reason, the child was not receiving in their homeland. A potential solution to cultural deprivation is offering internationally adopted children dual citizenship to not only their adoptive country but their country of origin.

Dual citizenship between the adoptive country and the child's country of origin would allow the child to decide for themselves if they would like to experience their genuine culture or not. It would be a decision that the child could make by themselves for themselves and no one else. A child would make the choice as an adult, and not be able to return to their country of origin alone until they have reached adulthood, which in the United States is 18 years old. Giving the child the option to return to their homeland after adulthood could potentially have some positive psychological effects that could counteract the negative psychological effects that sometimes occur with international adoptions, like identity issues and lack of confidence in themselves.

Both supporters and critics of international adoption have the child's best interest at heart. Both sides can agree that orphans belong in families and not in institutions. There is no right answer, and both supporters and critics of international adoption have valid concerns surrounding an orphaned child's wellbeing and how international adoption could affect the child. A potential solution to appease both sides of the argument while simultaneously providing an orphaned child

with a home in which they so desperately need is by offering the children dual citizenship to their country of origin and their adoptive country. It is not a solution but a potential bridge between two opposing parties that benefit the children in need of their forever homes.

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