

## FAMILY

# The Obama Administration Is About To Make International Adoption A Lot Harder

*International adoption provides homes to needy children—why do the State Department's new rules make those adoptions difficult, if not impossible?*

---

David Holman was three years old when he met his mom and dad. Born in South Korea, his single mother gave him up, and he'd been living in a foster home. He was available for adoption but considered "hard to place" due to his age and medical condition.

Meanwhile, Colorado residents Joe and Denise Holman were busy raising their full household: five biological children and a newly adopted Korean baby. Still, when their agency asked them to consider adding David to their family, Joe and Denise didn't hesitate.

"At that time, South Korean families did not adopt children who were not related to them," Denise says. "There wasn't even a word for it, we were told." International adoption was open only to families from two countries: Australia and the United States. "Almost all children being adopted from South Korea were infants less than six months old. There were not many options for David."

The American agency, understanding the urgency of David's need, offered to waive their part of the adoption fee. "It was all a miracle," Denise says. She and Joe traveled to Korea in January 2000 to take David home. Although the family wondered whether his age and background would create bonding problems, "he attached to all of us hard and fast," Denise says. While David struggled with some early learning disabilities, he never developed the medical issues doctors had initially feared. By middle school, he had taken off both academically and socially.

## Inter-Country Adoption Has Fallen To New Lows

When the Holmans adopted David, America was experiencing a boom in international adoption: 18,856 foreign-born children were adopted that year. But in 2004, that

number peaked at 22,989, and it's been falling ever since.

Over the past 12 years, inter-country adoption in America has dropped off by a staggering 75 percent, with last year's total of 5,647 the lowest since 1981. Other major receiving countries have experienced the same sharp decline—driven not a by global decrease in orphans, but by the changing politics of adoption.

Now, those same politics threaten to slash adoptions still further. Under U.S. law, the central authority over international adoption is the Department of State (DOS). Last month, with all eyes focused on the drama of the presidential election, DOS quietly released new proposed rules governing international adoption. If they go into effect as written, **some advocates say** Americans' ability to adopt internationally will decline even further—or possibly face an existential threat.

## How the Feds Could Prevent International Adoption

For many in the adoption community, the new regulations came as an unexpected blow. Although there's long been a strained relationship between adoption agencies and the State Department, it had seemed things were improving. Last year, DOS hosted a conference for 100 adoption service providers, “to learn more about the needs of the adoption community, and to discuss [our] new intercountry adoption strategy,” a **DOS report** reads.

Chuck Johnson, president of the National Council for Adoption, was present at that conference. “We were delighted to hear that they were considering country-specific solutions. Until now, the U.S. has demonstrated a complete unwillingness to consider any kind of unique situations,” he says. “But now we see the regulations, and they've offered no country-specific solutions. They've just imposed more standards on agencies.” Another conference attendee, the head of an adoption agency, put it more bluntly: “We feel completely blindsided.”

So what exactly do the new regulations entail? Lawyers have combed through its 106 pages and identified four major areas of concern:

### 1. They Create An Extra Layer of Accreditation.

Currently, all agencies providing inter-country adoption must go through a rigorous **accreditation process**, certifying their compliance with the international Hague Adoption

Convention. The State Department now wants to add another layer of accreditation for working in certain countries—something it calls Country-Specific Accreditation (CSA). The Department will identify certain countries in which agencies will need to receive CSA in addition to their Hague accreditation.

The problem is that DOS has provided no clear, written framework for how it will grant CSA—nor have they listed the countries for which CSA will be required. In effect, the bureaucrats at State have written themselves a blank check for unbridled control in whichever countries they choose. Agencies are left guessing. What will the requirements be? Will DOS limit the number of accredited agencies per country?

“It’s ripe for bias, ripe for favoritism,” Johnson says. “Small agencies worry that there will be a bias toward larger agencies. It’s also quite possible that there will be a bias in favor of secular agencies over faith-based ones.” Failure to receive CSA in key countries could result in agencies being forced to close—and will certainly result in fewer children being placed with adopting families.

## 2. They Drastically Increase Legal Liability.

Page 29 of the proposed rules contains this seemingly innocuous definition: “The term ‘providing,’ with respect to an adoption service, includes facilitating the provision of the service.”

But agencies tell me this one sentence may be the deadliest measure for inter-country adoption. If interpreted strictly, it will require every foreign individual who touches an adoption to be insured under an agency’s liability insurance—drivers, translators, and even state orphanage workers over whom an agency has no control. According to a **joint letter** signed by dozens of agencies, not only would this cause adoption costs to soar, but such insurance plans may not even be available for purchase, or may be illegal in certain countries.

“This is the thing that will absolutely kill us,” one program director said simply. “We cannot comply, and they will shut us down.”

## 3. They Micromanage Fees.

In an effort to protect families from financial exploitation—certainly a worthwhile goal—the State Department is turning to bans and price-fixing, rather than encouraging

transparency so families can make informed decisions. In what the joint letter calls “an unprecedented overreach,” DOS has granted itself the authority to cap prices for adoption services, according to what it deems “reasonable.”

While the adoption advocates who spoke to me agreed there should be full disclosure in pricing, they expressed concern that bureaucrats may draw arbitrary or ill-informed lines that cause quality of care to suffer. “In what other field does the government regulate the salaries of private organizations?” Johnson asks.

**Worse still, the proposed rules forbid families from paying for a child’s in-country care once a match has taken place.** This is a common practice, allowing parents to give their child quality nutrition, medicine, and childcare while they wait for the adoption to be finalized. Banning child support outright—rather than simply requiring transparency—does nothing but harm the very party everyone should be most anxious to protect: the child.

#### 4. They Create Unworkable Education Requirements.

Finally, the State Department has altered its education requirements for adopting families. While current regulations require families to receive 10 hours of training, Johnson says most Hague-accredited agencies already far exceed that. “Most organizations saw that as a low-bar standard,” he told me. Unfortunately, rather than simply beefing up hours or requiring certain topics to be covered, DOS will now require families to complete foster parent training in their state of residence. The Department expects states to offer this service free of charge to families pursuing private adoptions—an assumption many see as completely unrealistic.

“How is it the state’s responsibility to provide training for private adoptions?” asks Lucy Armistead, head of the Kentucky-based agency All Blessings International. “It’s going to take resources away from training meant for state kids. I have problems with that just as a taxpayer. Plus, we know it just won’t happen.”

Even if this requirement weren’t impractical, it’s wrong to assume that training tailored for the foster system will be directly applicable to international adoption. “This is requiring a form of training that is probably worse than what parents would get through the agencies,” Johnson says.

The bottom line: should these rules be adopted as written, advocates foresee far-reaching consequences. First, agencies will begin to close—most likely starting with small, faith-based agencies. Some speculate the current number of 198 American agencies could dwindle to as few as a dozen. Geographical gaps will form, as families in rural or low-population states can't find an agency to serve them. Adoption costs will soar, and the already-long adoption timeline will lengthen.

Most importantly, millions of waiting children overseas will have fewer chances for a family of their own. "This is a boot on the neck of international adoption," Johnson says. "At the end of the day, this isn't about agencies. It's about children."

## This Is A 'Profoundly Problematic Institution'

So if these policies will harm children, why is the government promulgating them? What could possibly motivate the State Department to stand between waiting children and the families they need?

Taken at face value, these measures are simply intended to prevent corrupt practices. The State Department's Chief of the Adoption Division, Trish Maskew, was formerly the head of a non-profit dedicated to promoting "ethical and transparent adoptions." In reading her scholarly articles and Congressional testimony, however, it's clear that Ms. Maskew sees inter-country adoption as more corrupt than ethical, going so far as to describe it as a "profoundly problematic institution." Unsurprisingly, her office tends to treat agencies and parents with suspicion.

No one disputes that irregularities and fraud have indeed occurred in intercountry adoption, especially during the 1990s before the Hague Convention. The very worst cases involved isolated instances of kidnapping and baby-buying, with birth parents pressured or tricked into relinquishing their children. There is no denying the heart-rending tragedy of cases like these.

**Orphans and abandoned children are far too easily forgotten and ignored: hidden away in**

It's also undeniable that adoption disruptions have occurred, such as the **much-publicized case** of an American mother who put her seven-year-old son unaccompanied on a plane back to Russia. Such instances, while few and far between, have given inter-country adoption a black eye. In some countries, these dreadful stories have given

**institutions, systems, and slums.** politicians an excuse to shut adoption down altogether— thus answering one tragedy with another.

But even as we acknowledge adoption's potential pitfalls, it would be a terrible mistake to lose sight of its importance as a solution for millions of needy children. Orphans and abandoned children are far too easily forgotten and ignored: hidden away in institutions, systems, and slums. They are convenient lambs to sacrifice on the altar of nationalist pride in the developing world, or colonialist guilt in the West. Who will notice or care? After all, kids growing up damaged and unloved don't make for sensational headlines.

In a tragic irony, anti-adoption policies may actually be fostering the very evils they seek to avoid. As the Christian Alliance for Orphans reports, children in orphanages and foster care are extremely vulnerable to human trafficking—far more so than children in permanent families. It's quite possible that in our overabundance of caution regarding adoption, we make more children vulnerable to actual human trafficking.

## Family vs. Nationality: Which Is More Important?

Along with minimizing the true plight of orphans, adoption detractors often downplay the fact that most adoptions are ethical and successful. Johnson, who also sits on the board of the Council on Accreditation, notes that out of over 5,000 adoptions last year, there were just 10 complaints filed to COA—six of which were frivolous enough to be dismissed without investigation. While he supports rigorous ethical standards and would welcome some reforms, Johnson believes DOS officials have “an archaic view” of adoption practice that doesn't take into account the many post-Hague improvements.

Certain incidents illustrate DOS's underlying belief about adoption. When it came to light that an American adoption agency operating in Ethiopia was committing fraud (later leading to criminal charges), the State Department, in cooperation with the U.S. Customs and Immigration Service (USCIS), sent a team to probe every Ethiopian adoption from that time period—4,000 consecutive adoptions. After an exhaustive investigation, not a single case was found to be fraudulent, with a handful recommended for further review.

Strangely, not only did the State Department fail to release the full report on its positive findings in Ethiopia (prompting irate Congressional letters and a FOIA request), but its embassy in Ethiopia also started putting children's case files in a drawer, rather than processing them as required by law. Half a year went by, and waiting families began

complaining to their members of Congress. Another team from USCIS was dispatched to the embassy in Addis Ababa to review the “drawer cases”—again finding no instances of fraud—and finally processing the adoptions. One can only speculate as to why DOS was so reluctant to publish the good news about Ethiopia’s adoption program, or to act upon it.

Indeed, the behavior of DOS in Ethiopia—among other examples—suggests that more is afoot than simply an overzealous concern for ethics. In some quarters, there is hostility toward inter-country adoption itself as a harmful act of Western colonialism. This is the view of one author

**It is simplistic to think that poverty is the sole factor in child abandonment.**

Maskew quotes in a **scholarly article** on adoption: “A conception of poor, third-world countries as subordinate nations fits very comfortably with the practice of international adoption. ... It permits a discourse that allows Westerners to take the high ground and portray their international adoptions as simple acts of humanitarianism and altruism.” These critics often suggest that Western money would be better spent alleviating poverty, so families (those that exist) could keep their own children.

Biological bonds are indeed important, and family reunification should certainly be sought wherever possible. **But it is simplistic to think that poverty is the sole factor in child abandonment.** For nearly 20 years, I have been involved with abandoned children in Romania, working in a ministry that facilitates both family reunification and domestic adoption. We’ve seen women who have abandoned so many babies to the state, they can’t even remember how many children they have. We’ve seen families shamelessly willing to sell and exploit their own children. It’s become tragically clear that for some parents, no amount of money would be enough to create a safe home environment. Their children don’t deserve a hopeless fate merely because of their race, culture, or ethnicity.

For some adoption critics, questions of race and nationality are so important that they trump a child’s fundamental human need for a family. They see children first as members of a race or ethnic group, rather than as individuals with universal human rights. **This view—which prefers foster care in a child’s native country to inter-country adoption—is generally advanced by UNICEF and supported by the UN Convention on the Rights of the Child.** The Hague Convention, on the other hand, places the priority on permanency. Child welfare advocates like Harvard Law professor Elizabeth Bartholet go even further, arguing that **children have a fundamental human right to a permanent**

**family**, and that countries denying international adoption while keeping children in state care are guilty of violating human rights.

## Will Congress Take Its Power Back?

Thankfully, most Americans understand how important family is in the life of a child. A **2013 survey** by the Dave Thomas Foundation for Adoption found that 65 percent described their view of international adoption as “favorable,” “very favorable,” or “extremely favorable.” As the representative branch of government, Congress reflects this pro-adoption view. The Congressional Coalition on Adoption is the largest bipartisan, bicameral caucus in D.C., with 173 members evenly representing both major parties. Members of Congress have often stepped in as champions of children and families stuck in the bureaucratic adoption process.

Given all this, it’s curious that an anti-adoption agenda—so far out of the mainstream—would be allowed to quietly creep in through the rule-making power of bureaucrats. It’s small wonder the State Department chose to roll out these regulations now, while the country is distracted by the election.

“If adoptive families had any idea of what was going on, I think they would be outraged,” Armistead told me. “We’re so busy just doing paperwork for adoptions that frankly we barely have time to fight this.”

**‘If adoptive families had any idea of what was going on, I think they would be outraged.’**

To help in the fight, adoption advocates have put together a **website** with information and resources, including a petition that has garnered nearly 19,000 signatures. The hope is that Congress will work to reclaim its lawmaking power, so any debate on the future of adoption can take place with the input of Americans. They also hope people

whose lives have been impacted by adoption will leave a **comment** on the regulation itself. The comment period ends November 22.

Luckily for David Holman, he got his chance at a forever family. He’s now 20 years old and living in his own apartment, shared with his brother, Josh. He has a job as a team leader at a Super Target and is saving money to attend college, hoping for a degree in business management. Asked about growing up in his family, his voice grows warm. “I absolutely loved it. We have such good chemistry. I always knew I was adopted, but I

never felt like it—I never felt different than anyone else. My family is a blessing to me, but my mom always says I’m even more of a blessing to them.”

Asked about his views on international adoption, he grows serious. “It’s a big deal. It should never be taken lightly. This is a human life—a child that needs someone so desperately.” Then he pauses. “I’ve always said—and I have other adopted friends who say the same—that when I get older, I want to adopt a child myself. Because I know how it feels. Since I had the chance to be adopted, I would like to give that chance to somebody else.”

Let’s all hope he gets that chance.

*Jayne Metzgar is a Senior Contributor at The Federalist.*

Copyright © 2016 The Federalist, a wholly independent division of FDRLST Media, All Rights Reserved.

---

#### Related



[We Need To Make Adoption Easier](#)  
In "Parenting"



[‘The Drop Box,’ Where Disabled Babies Go to Live](#)  
In "Religion"



[It’s Time For You To Become A Foster Parent](#)  
In "Parenting"