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Lucrative Adoption Racket Threatened As U.S. And Guatemala Ratify Hague Convention

by Mike Leffert

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Faced with disruption of its lucrative baby-adoption industry, Guatemala has ratified the Hague Convention on Intercountry Adoption. Under the terms of the convention, the government must regulate adoptions to ensure that babies have not been bought or stolen. Guatemala signed the convention in 2003, but ratified it only after the US, whose nationals adopt most Guatemalan children, threatened to stop the traffic.

The Guatemalan Congress has proposed a new law creating a National Adoption Council that would serve as an oversight agency but has yet to pass it. The Hague Convention also threatens the Guatemalan adoption industry by demanding low fees to avoid baby selling or women deliberately getting pregnant for the purpose of adoption. Notaries who function legally as quasi-lawyers currently charge a "country fee" of up to US\$19,000.

This, added to other fees for paperwork and miscellaneous costs, plus airfare for prospective adoptive parents, can catapult the final costs beyond US\$30,000. Notaries have been reported to make as much as US\$25,000 per adoption. Costly though it is, US adopters appreciate the quick service. Guatemalan adoptions take, on average, half the time of those from other countries.

President of the legislative committee on children and the family Rolando Morales told the media that the ratification "obliges the state to normalize the processes of adoption" so that children will cease to be "the raw material of a buy-and-sell market." Morales emphasized that the notaries, under the present system, do not have to comply with international standards on adoptions that are established in the convention.

New rules, same game

For many years (see NotiCen, 2006-05-25), the notaries have been alleged to be involved in baby stealing and falsification of documents, but only rarely are they prosecuted. The Procuraduria de la Nacion (PGN) responded on April 18 of this year to the problem with a requirement that, within 10 days of starting an adoption process, the notary submit a form to the PGN containing birth data, parentage, evidence of registration of the birth, and other information that would certify the legality of the transaction and the origin of the baby.

The filing would include a photo of the baby, the name of the hospital or address where the baby was born, the name of the person or persons who attended the birth, and the names of the biological parents. Finger, palm, and footprints would also be required. The names of the adoptive parents, their home address and country, telephone numbers, and other identifying documentation would be required, along with evidence of the notary's certification. The PGN regulation would establish

the Registro de Avisos Notariales de Adopcion to oversee the process. It was to go into effect May 2, but the PGN put off the effective date to May 16, a small delay given that the problem has been well-documented for many years.

As far back as the 1990s, at least one attorney general and his wife were licensed adoption brokers, running their own agency and "casa de cuna" (nursery), where babies are held and fattened for market. In 2004, UNICEF singled out Guatemala as "the worst country in the world" for adoption irregularities and lack of legal controls. In 2006, UNICEF identified Guatemala as fourth in the world in providing babies for adoption. As a proportion of total population, the country ranked first. The business has grown over the years such that, in 1996, 427 adoptions were recorded. In 2005, the number had grown to 3,783; in 2006, the number was 4,135. About 90% of the adoptions are by people from the US.

As a group, these voracious prospective parents seem entirely unconcerned with how their babies are obtained. When the US finally issued Guatemala an ultimatum on the adoption racket and threatened to cut off visas, the number of applications actually grew, as prospective parents pressed to gush through a loophole that would allow any adoptions in process to continue. In the last six months, 2,136 visas for Guatemalan babies have been issued.

US complicit and noncompliant

Facilitating the racket has been a two-way street. The US signed the Hague Convention in 1994 but still has not ratified or implemented it. The US has slogged through more than a decade of work on creating the legislative and regulatory framework, but adoption agencies and other interested parties have stalled it through the years. Once the convention is ratified, adoption services would lose accreditation for working with unethical partners abroad.

In February 2007, the US State Department issued a recommendation that US residents not adopt in Guatemala, providing details of the irregularities and of ways in which children are stolen and extorted from families. The effect was an increase in applications and a complaint from the National Council For Adoption (NCFA).

The agency's president Thomas Atwood said, "People all across the country in the process of adopting from Guatemala are frightened right now." The NCFA later issued a jeremiad on the State Department, in which it acknowledges that the "Guatemalan system needs reform," but goes on to attack the State Department's "unqualifiedly negative assessment of Guatemalan adoptions. Many thousands of Guatemalan-born children, former orphans, are enjoying happy healthy lives in American families through legitimate international adoptions. If there has been a 'change in the situation,' as the State Department asserts, it happened on the Department's watch. If so many Guatemalan adoptions have been fraudulent, why has the State Department been approving them?" One answer is because it could, but the State Department might not be able to anymore.

According to reports, the US expects to ratify the Hague Convention late this year and begin enforcing it next year. Said Catherine Barry, deputy assistant secretary for overseas citizens services at State, "We've been very clear that, if Guatemala does not implement the treaty by the time we

are implementing the treaty, that we cannot do adoptions with Guatemala." Berry had been in Guatemala in October 2006 and at that time told Guatemalan authorities they would have to adjust their legislation and practices to the Hague standards in anticipation of US ratification.

There are no guarantees that adoption of the Hague Convention will result in improvements. Some at the top of the adoption chain have been reported to make US\$750,000 in a single month from the business and are not likely to give up much of that easily. Besides, they see themselves as providing a genuinely humanitarian service. "Guatemala is a poor country," said adoption lawyer Feliciano Gudiel. "There is no birth control, no health care, and if they suspend the adoptions, the poor children will only enlarge the ranks of the gangs and delinquency."

Echoes of Gudiel's lament can be heard in the words of prospective US adoptive mother for the second time Mary Vertin, who told *The New York Times*, "I think the convention will be a good thing eventually, but what happens until then? In Guatemala, at least, a lot of people are still going to continue to have babies and not be able to care for them. And so what will happen to those children and those mothers?"

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