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Guatemala Passes Adoption Law, Potentially Ending Notorious International Child-trafficking Racket

by LADB Staff

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Guatemala's legislature passed a law Dec. 11 that could and should put an end to the country's deserved reputation as a free market for trafficking in babies, the adoptions racket. Social groups within the country and the international community have been exerting great pressure for years to end the system by which pretty much anyone could buy a baby for about US\$30,000 and be able to have it sooner than would be the case in any other country in the world (see NotiCen, 2007-05-24).

Eighty votes, or two-thirds of the total, were needed to get the law passed in the unicameral Congress, and it was uncertain as late as the day before whether the required number of deputies could be rounded up from their vacations to do the job. Pressure on the deputies came from the very pinnacles of the international presence in Guatemala. The diplomatic corps dropped in en masse to observe the floor proceedings and party-delegation chiefs promised to muster their people on time. Party whips counted four legislators who had presented excuses not to show up and several more were said to be traveling.

The legislature has been in recess since Nov. 28. President-elect Alvaro Colom said he had appealed to his Unidad Nacional de la Esperanza (UNE) delegation, the legislature's largest. Ex-Gen. Otto Perez Molina, leader of the opposition Partido Patriota (PP), whom Colom beat for the presidency, also marshaled his forces in favor of the adoption law. Delegation chief Roxana Baldetti promised 11 of her 14 deputies would be there.

Part of what brings the opposing parties together on this legislation is the scandalous nature of a for-profit adoption system in which the state plays almost no role, regulatory or otherwise. The new law will create a national adoption council composed of a delegate from the Corte Suprema de Justicia (CSJ), a representative of the Foreign Ministry, and one from the Secretaria de Bienestar Social (social welfare secretariat). Congress president Ruben Dario Morales said in anticipation of the vote, "Passage of the law is an obligation of the legislature and of its leadership. I'm confident that the will be there among the parties to show up and to pass it. If not, I will resign." That level of commitment gave observers some certainty on the theory that he had a pretty good idea of the count.

Even the often fractious Frente Republicano Guatemalteco (FRG), led by ex-de facto President Efraim Rios Montt (1982-1983), seemed to be aboard. "Our party is in favor of approving the law of adoptions," said delegation chief Aristides Crespo. "We are confident that there will be a quorum, but it is the responsibility of each legislator to attend the plenary sessions that are convened." The next day the confidence of the leaders was justified. T

he law passed, but stopping the adoptions already in the pipeline was not in the cards. The law stipulates that the 3,700 children already tagged to specific adoptive parents will be delivered,

without being subject to the new rules. The law will take effect next year. "Starting Dec. 31, the business of adoptions is over," said Deputy Rolando Morales. No longer will the US\$30,000 prospective parents fork over be used to encourage mothers to sell their babies, women to be used as breeding stock, people to steal children off the streets, notaries to become rich through the most corrupt of practices, and adoptive parents abroad to remain ignorant of where their babies came from.

By far, the largest proportion of Guatemalan adopted children goes to the US. The process was so quick under the unregulated free-market system that now one in every 100 Guatemalan children grows up as an adopted US citizen. Guatemala exported 4,728 children worldwide last fiscal year, up from 4,135 in fiscal 2006. The country was second only to the largest country in the world, China, in providing babies to US parents, according to the US State Department.

China exported 5,453 children, down from 6,493 the year before. After Guatemala: Russia, at 2,310, down from 3,706 in 2006. Ethiopia, 1,255, up from 732 South Korea, 939, down from 1,376 Vietnam, 626, up from 163 Ukraine, 606, up from 460 Kazakhstan, 540, down from 587 India; 416, up from 320 Liberia; 314, down from 353. Stricter laws mean fewer US adoptions Guatemala's tougher standards might contribute to a three-year trend toward lower numbers of foreign children adopted in the US. Tougher standards in China and Russia are thought to have brought on the declines seen in those countries.

Over all, reported the State Department, adoptions from abroad have fallen to 19,411, a 15% decline in two years. The decline in response to better safeguards might indicate that adoptive parents in the US do not care very much about the circumstances under which they get their children, but it is apparently a bad moment for the US adoption industry. "A drop in international adoptions is sad for children," said Thomas Atwood, president of the National Council for Adoption. "National boundaries and national pride shouldn't get in the way of children having families."

Other factors contributing to the decline, according to the State Department, are an increase in domestic adoptions in China as economic conditions improve there and the restrictions tighten giving priority to stable married couples between 30 and 50 and excluding single people, obese people, and people with financial or health problems. Tighter scrutiny in China also means longer waiting periods. At 24 months or more, it takes more than twice as long to adopt a Chinese baby as it does one from Guatemala.

Russia, too, has seen sharp drops as its economy improves. Authorities there suspended all foreign adoption-agency operations and have been carefully, and slowly, reaccrediting them.

The upsurge in Guatemalan adoptions last year was seen as an offset as adoptions got more difficult elsewhere. With the new standards, Tom DeFilipo, president of the Joint Council on International Children's Services, said Guatemalan adoptions could decline too, now that the industry's swamp is to be drained of fraud, theft, and extortion (see NotiCen, 2006-05-25). De Filippo's organization represents international adoption agencies, and he was generally optimistic about the trends because he anticipates plenty of supply from elsewhere to fill the gap. "What you're seeing is fewer countries sending very large numbers of children and a broader range of countries participating.

Over the long term, I think this is a healthy trend." He saw Kenya, Peru, and Brazil as countries likely to produce more children for international adoption.

Harvard law professor Elizabeth Bartholet, however, saw the trends as "totally depressing." She placed her hopes in UNICEF and other international organizations to encourage countries to keep their kids at home, even when domestic programs are inadequate, as they clearly would be in Guatemala, where there has been no economic boom to support an upsurge in domestic adoption, and where endemic racism militates against it (see NotiCen, 2006-05-25). Bartholet, an adoption expert, said that "UNICEF is a major force. They've played a major role in jumping on any country sending large numbers of kids abroad, identifying it as a problem rather than a good thing."

It is the agency's policy, said UNICEF child-protection spokesman Geoffrey Keele, that "the best interests of the child must be the guiding principle. We don't go around discouraging international adoption. We just want to be sure it's done properly." With its new law, Guatemala is set to become one more country where international adoption is done properly.

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