

3-13-2008

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### Recommended Citation

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## **Guatemala Cleaning Up As New Law Ends Dirty Adoption Business**

*by LADB Staff*

*Category/Department: Guatemala*

*Published: 2008-03-13*

When Guatemala bent to international pressure in December 2007 (see NotiCen, 2007-12-13) and passed a law that brought the country into line with the Hague Convention on Intercountry Adoption (see NotiCen 2007-05-24), the country still faced the task of cleaning up the detritus of a system of adoption mills, infant kidnappings, and related crime. Before passage of the law, the system was a model of corrupt efficiency that delivered a baby to a customer, usually from the US, in record time compared to adoptions from other countries, and all for about US\$30,000.

The quick service earned Guatemala the ranking as the second-largest supplier of babies for adoption to the US after China. With approximately 29,400 adopting US families served, it can now be said that one in every 100 Guatemalan babies born each year since 1990 grows up in a US home. In August 2007 the government began a probe of what was thought to be Guatemala's best adoption agency, Casa Quivira. The agency issued strong denials of wrongdoing and threatened legal action to get its property back after the Secretaria de Bienestar Social de la Presidencia (SBSP) raided its premises, removed 46 children by court order, and commandeered the real estate. But months later, in March 2008, it became clear to investigators that fraud had been committed with respect to the identities of at least nine of the children, and in half the total number of cases the birth mothers could not be found.

Last year, as passage of the legislation in the Congreso Nacional grew near, US parents lobbied intensely to get the 2,900 adoptions already in process through the mill before investigation into irregularities could sink their investments. Now, some who have already received their babies face the possibility of having to return them as Guatemalan prosecutors say their scrutiny of Casa Quivira has turned up illegal payments to at least one birth mother, identity theft that allowed another birth mother to possess the birth certificate of a child stillborn 22 years ago, and consent forms from a mentally ill mother who was incapable of giving consent.

Authorities appear to be of two minds about what happens to the nation's children. They have investigated the Casa Quivira situation and come up with evidence of irregularity, but, at the same time the investigations were going on, the Consejo Nacional de Adopciones (CNA) registered more than 3,000 applications to be processed before the Feb. 12 deadline, after which the new stricter regulations, designed to stop the crimes, would be in force. The deadline was set by the new adoptions law and gave the Procuraduria General de la Nacion (PGN) jurisdiction in bringing the cases to conclusion. Any cases not getting in under the wire would be required to start the process from the beginning.

For weeks leading up to Feb. 12, the PGN reported receiving as many as a hundred applications a day. In the final two weeks, the agency accepted only applications from 2007 that had been returned for error corrections and those filed in 2008. As the deadline day approached, the five CNA members

worked into the night to get the applications registered. In most cases, there had been a problem with locating the originals of submitted documents for verification purposes. Pressed as they were, the CNA allowed notaries, the same people accused of racketeering under the old system, to alter documents when data was inconsistent. Another problem was that some of these notaries filed 50 to 200 applications to put up children for adoption. Consejo member Sonia Hernandez de Larios said of this, "I ask myself where they got these children. I believe this is part of the corruption that has gone on in the past." But until midnight, she was obligated to carry on the dirty business.

In the US, meanwhile, adoptive parents who had already received their children were beginning to get seriously worried. Several stories appeared in the US press in the heartrending style that began with a description of the new home, new room, and new loving, now anguished, parents. "Shaun, 29, has already adopted two children from Casa Quivira, including a child he believes is Juan's biological sibling. Now it looks like Juan won't be able to join them anytime soon." Juan, if that is his name, was one of the babies seized in the Casa Quivira raid. Shaun, who withheld his last name so as not to jeopardize the adoption further, told reporters in the US his prospective son's mother was the one discovered to have taken the identity of the stillborn female who would now be 22. Shaun said he had evidence, a DNA test report, a social worker's report, and a photo of the mother with the baby, to prove the legitimacy of his claim. "The only thing this woman did was, she lied about her identity. She was fraudulent. She lied about her name. Casa Quivira did not know," he said.

Guatemalan authorities and those in the international community who have struggled to end the old system and usher the country into compliance with the Hague Convention would not back Shaun up on what Casa Quivira's owners knew, and that data is not yet in. But it is abundantly clear that the birth mother in question, as well as others, could not have managed to obtain official documents from national archives on their own.

According to Attorney General Mario Gordillo, someone had to walk these women through the falsification process. Many times these biological mothers can't read or write, much less falsify IDs or birth certificates," he said. It is also not true that lying about her identity was "the only thing this woman did." Guatemalan law confers rights upon the father if he is married to the mother and possibly other relatives in case the mother wants to give the baby up. A judge must determine that those people have waived those rights before certifying the child as eligible for adoption. Where the mother falsifies her identity, she deprives those other people of their lawful prerogatives.

### *Prosecuting the weakest link, the mothers*

In many instances, the birth mothers are scam victims too. They are coerced with false promises of free childbirth services, sometimes signing away their rights while still exhausted from the birth process, sometimes being told that the baby died. They are often bribed into carrying a baby for the express purpose of later adoption. In some cases their babies are just snatched from them. But in the present circumstances, authorities intend to reserve for them harsh treatment not meted out to those who have profited most from the adoption racket. Prosecutors have said they will not extend amnesty to the birth mothers who surrendered their babies to Casa Quivira illegally. So far, that includes at least five alleged false-identity cases and another eighteen mothers who have not yet been found under the identities they provided.

Prosecutor Jaime Tecu told The Associated Press, "We can't give them amnesty. My role as prosecutor is to prosecute anyone who used falsified documents to fool the justice system." The discriminatory aspects of the situation aside, refusal of protection decreases the odds that Shaun and others in his situation will see a near-term solution to their woes. Without the mothers revealing their identity, judges will not be able to certify the renunciation of rights of all concerned, adoptions will not be finalized, and the US will not be able, under terms of the Hague Convention, to issue visas as they have in the past. The attorney general's policy is clear and adamant.

Nineth Guevara heads the section that supervises adoptions. She told the media, "If the children's mothers come forward and demonstrate their consent, we'll let the adoptions go forward. If not, we won't." That does not stop the process dead, it just delays and complicates it. The CNA said that, if the relatives are not found, the government will declare the children abandoned. Then, they could go to the US adoptive parents under the new rules. That option would be especially welcome in the case of one of the Casa Quivira children who is already in the US, already a citizen, but who could possibly be sent back.

The investigation turned up evidence that her mother was married and her identity was falsified as a single woman, but these discoveries only came to light after the adoption was approved. Said Guevara, "We'll try to locate the child's father and her immediate family. If we can't find them, in my opinion, we can't take this girl away from the family she already has." But if they do find them, it could be another story, and if they continue to investigate other cases, it is almost guaranteed prosecutors will encounter cases of returnable children. A group of Guatemalan women whose babies have been kidnapped are advocating for just such an outcome.

Norma Cruz of the Fundacion Sobrevivientes de Mujeres y Familiares Victimas de Violencia, the agency supporting these women in their quest, said no fewer than six babies have been found in the adoption process and can be identified. Investigating kidnapping cases opens new doors, including the possibility of uncovering international cases. Children in neighboring countries have been reported kidnapped, the children believed to have been taken to Guatemala, from where they were more easily integrated into the adoption process. One such case is under investigation in El Salvador.

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