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Guatemala Confronts One of its Largest Businesses: Adoptions

By Ezra K. Fieser

GUATEMALA CITY – When the adoption business was booming here, American couples came by the thousands. They flocked to the dozens of privately run children's homes or to lawyers' offices to adopt Guatemalan babies. They paid upwards of \$30,000, fueling an industry worth more than \$100 million annually by conservative estimates. They stayed in towering city hotels that dedicated entire floors to adoptive parents and they rented rooms stocked with diapers and baby creams.

At the height of the trade, 4,728 children — or one in every 100 live Guatemalan births — were bound for a foreign country and a new family. Guatemala was the world's largest per capita source of adoptions and second in total numbers only to China, a vastly more populated country.

It all came to a screeching halt in the final days of 2007 when the government took control of the system from the lawyers and adoption agencies that had run it. They imposed a two-year moratorium on international adoptions and promised to investigate the allegedly widespread baby thefts and coercion of birth mothers.

Next year, the country will reopen its doors to international adoptions under a new system that complies with the Hague Adoption Convention, an internationally recognized accord that set standards for countries to follow.

When it does, the system will be different. Before the moratorium, nearly 5,000 children were put up for international adoption each year. In 2010, it will be somewhere around 125, the government believes. Before the moratorium, adoptions cost \$20,000 to \$30,000, with law-

yers or adoption agencies pocketing a good portion of the money and little of it making its way to mostly poor birth mothers. Next year, the cost will be minimal, or possibly free. And where parents could previously get a very young child — an infant of just 2 or 3 months — the new face of the Guatemalan child will be that of a young girl or boy, or that of a child with disabilities.

The reforms have been so dramatic and swift that the breadth of the changes surprised even the UNICEF adoptions expert who held the government's hands while it implemented them. "It really is incredible. Guatemala has gone from a terrible system to a model," Justo Solórzano, a child protection specialist with the agency, said. "There's even talk of using the Guatemala case to show how to implement changes in other countries. That's impressive."

The government took over a fractured system and turned it into a well-run agency. It took money out of the system, even though it is beholden to the budget process of a cash-strapped country. And it did so to benefit the children. "Every decision we make is done so with the child in mind," said Rudy Zepeda, a representative of the Consejo Nacional de Adopciones (CNA), the agency that now oversees adoption. "That's who we're concerned with."

While the new system has been successful, putting it in place has come at a cost of its own. In the process, the government fumbled some 900 adoption cases that were in process when the law changed. Those adoptive parents have watched as the children with whom they bonded age in institutions. Children who came from poor homes and were promised new opportunities now are more familiar with the confines of the public orphanages or private children's

homes. This may seem entirely separate from the new Guatemalan adoption system, but it's closely related. The plight of those children raises the question of whether Guatemala is equipped to care for the thousands of children it once sent to foreign couples.

Behind that question lie two opposed opinions. On one side, parents who have adopted children from abroad and those who advocate for international adoptions believe they are providing unrivaled opportunities for children that would otherwise grow up poor and, in Guatemala's case, possibly not grow up at all. They're quick to point out that half of Guatemala's young children are malnourished.

On the other side, UNICEF and reformists believe such exoduses are signs of deeper problems, which are often fueled by the money that controls the system. The children, they say, can be cared for within their country, ideally by family members. Those prospective parents may not be able to offer the same opportunities available to U.S. children, but they can give the child the familiarity of the culture into which they were born.

Weighing in on the thorny debate is tricky. After speaking with government officials, UNICEF officers, children, parents — both those who have adopted and birth mothers who've sent children away — and witnessing the conditions under which children are given up, it's easy to see the issue from both sides. I wanted to know how Guatemala had approached the issue and why it was being lauded as a success. I also wanted to see the changes through the eyes of those involved in the previous system.

One thing became clear: From adoptive mothers to bureaucrats, everyone believed the systems needed change. The question was how much change was needed.

ANA ESCOBAR COULD HAVE BEEN the post-



Ana Gabriela Castro, right, whose case has been pending for years, is set to be adopted by a California mother.

er child for change. In July 2008, Escobar, a 27-year-old resident of a poor Guatemala City neighborhood, held her daughter for the first time in more than a year. In doing so, she gave proof to the ugly rumors that had long surrounded Guatemala's adoption industry.

In March of the previous year, two women entered her shoe shop, Escobar would later recount, had a look around and left. Two men came in a few moments later. Within minutes, she'd been forced to the ground, pistol whipped, and threatened with rape.

In an account of the incident, she said, "In the meantime, the people who were outside took my baby. I asked him to let me get her but he said nothing was going to happen to her if I did what he told me to. He started to pull boxes in front of me to make it difficult for me to get out. I got desperate and started throwing boxes out of the way. I went to the stroller and the baby wasn't there. When I saw she was gone, I went crazy. There was a police station half a block away so I went there — but they told me they couldn't help me because the new shift hadn't arrived."

Escobar would spend the next year frantically looking for her child. Unhappy with the police investigation, she went on a hunger strike. When that didn't work, she brought her case to *Sobrevivientes*, an association that helps women navigate a sometimes backwards legal system. The child, Esther, was located in process of going to a family in the United States. DNA testing confirmed she was Escobar's daughter. Esther was returned to her mother at the age of 1-year and 10-months old.

It was a moving story that received international press attention and further brought shame to a system of adoptions that has long been held in contempt by human rights organizations. With a system that required double testing of DNA to prove a child was being properly adopted, Esther's case remained a mystery. But it was not isolated. A handful of other women came forward and asked for the theft of their children to be investigated.

These were the stories of a system run amok. Guatemala, a tiny country, gave up thousands of children a year, mostly to U.S. parents who were paying upwards of \$30,000. It was a system controlled by private lawyers and adoption agencies. The government had little control. Stories of children being stolen or women being coerced were widespread (although not until Esther's case was a child robbery proven).

STORIES OF CHILD THEFT were widespread and used as justification for changing the system. But how much was actually going on? Besides



At the Semillas de Amor orphanage outside Guatemala City, children play in the yard. The home was raided twice by Guatemalan authorities.

Escobar's case, there are a handful of others that are being investigated. It's a small fraction of the number of adoptions, considering tens of thousands of Guatemalan children are now growing up in the United States.

So why has UNICEF championed the changes? As Solórzano explained, the agency wants to make sure that the child's family is the first option and that a suitable home within the child's country is the second option. International adoptions should be a last resort, he told me.

UNICEF's position is guided by the convention on Rights of the Child, which states that children have the right to know and be cared for by parents, when possible, and by family members when parents are not available. When those family members can't care for the children, they should receive support, it says. Adoptions by foreign parents, in short, should be seen as a last resort, UNICEF says.

"Does this mean that we're against adoptions? No. We're pro-adoptions. What we are is pro-child first," Solórzano said, pushing his square frames onto his face. "There's a misconception that we're against adoptions. We're not. We just want a child to stay within his culture."

UNICEF's position has strengthened in recent years as the pace of international adoptions has heightened. In 2004, international adoptions peaked at 22,884 cases. It's steadily dropped since that year and took a notable drop

in the last two years, mainly because of Guatemala's absence from the process.

THE GENESIS OF FOREIGN ADOPTIONS

dates to the end of the Korean War when Korean and Am-erAsian orphans were placed with families living in the United States. According to a paper by Wun Jung Kim on adoptions from Korea, the post-war adoptions kick started a wave of interest in children from other countries. "Adoption boundaries have gradually broadened over the years due to supply-demand economics, humanitarian concerns, and the changing cultural climate in the United States," Kim wrote in a case study for the Medical College of Ohio.

Parents my age — or those within a wide range of my age, 32 — seem to hold no difference between adoptions and born children. In fact, for some of my friends it seems to be an attractive alternative to the pains of pregnancy and the first few months of a baby's life.

"Adoption went from being taboo to being cool," said Nancy Bailey, who runs a children's home here and whose adoptive mother was long shamed by her adoption. "People now in the U.S think that's it's great to have a child from another country. It doesn't carry that stigma that it once did."

In Guatemala, the story of how the country became an

epicenter for international adoptions dates to the civil war.

Earlier this year, the government's Secretary of Peace released a report based on a massive archive of military and police documents. The study found that hundreds, and possibly thousands, of children were stolen from their parents or abducted after the parents were murdered.

Police officers and military soldiers used phony stories about how the children came to be found — claiming they were abandoned in many cases. They were then put up for adoption with false papers.

Researchers found 333 cases, but say many more are likely because the first phase of the report focused on one period of the 36-year war, from 1977 to 1989. "In this period, the Secretary of Social Wellbeing opened various centers of assistance through the country, specifically in [various villages] ... that coincidentally were in geographic areas in which massacres occurred," the report said.

The foundation of the Guatemalan system was built with the victims of horrible tragedies. Many of those same areas were still the source of thousands of adoptions up until the end of 2007.

As the Guatemalan system evolved, the government became less and less involved. It was increasingly taken over by lawyers and agencies. To understand the process, I took the case of a single little girl.

Olga Pana Sagui was born to desperate circumstances to a family of little means. Olga, named after her mother, was given up for adoption in the fall (U.S. fall) of 2007 a few months after she was born. She was brought to a private home just outside of the touristy, former Spanish colonial capital, Antigua, about 45 minutes from Guatemala City. The home, Semillas del Amor (Seeds of Love), was run by Nancy Bailey, an American who came to Guatemala 15 years ago intent on volunteering in any organization except for one working with children. She wound up working in a Catholic orphanage and, after the nuns refused to accept a sickly 4-day-old baby, she adopted a little Guatemalan girl.

"At that point in my life, I was done with children. I'd raised my two boys and I didn't want another child," Bailey said. "She came into my life, though, and, what are you supposed to do? I took her to the doctor, who said she



A boy is walked in a Guatemala City orphanage, Hannah's Hope, which used to do nearly 100 adoptions a year. Since the moratorium on international adoptions, the home is surviving on donations.

wasn't going to make it. And I remember wearing her on my body, under my shirt, and whispering to her, telling her that if she hung on and lived, I'd give her everything I could, dogs, horses, an education, a life. I remember that I could feel her life leaving. I could feel her giving up. I told her that if she hung on, I'd make it all worth it."

Fast-forward 15 years and Bailey was caring for some 80 children in a rented facility for which she was paying \$4,000 per month. She had a mixture of older and younger children, some who were likely to be adopted, others who were not. She used the money from adoptions — for which she charged about \$18,000 — to finance the operations of her home.

By the time Olga came under her care, she'd arranged about 500 adoptions, nearly all for parents from the United States. Olga was to be placed with Bridget Harrington, a California restaurant owner who'd previously adopted a boy, Mark, from Semillas de Amor. "I wanted to adopt again from Guatemala and from Semillas de Amor because I wanted them to have a similar history. I wanted them to share something in their backgrounds, something even more than being from Guatemala," Harrington said in a phone interview.

In November 2007, Olga was referred to Harrington. The paperwork began and Harrington and family moved to Antigua to bond with Olga.

"Everything was going smoothly. It was following the same path as the first adoption," Harrington said.

The Guatemalan legislature was already considering

an overhaul to the adoption system, but nothing passed, leaving Harrington confident that her adoption would go forward under the existing system.

The media has derided that system as being so lax that it seemed intentionally left open for corruption. Abuses obviously occurred, but as written the system was stringent. An adoption essentially was a private contract agreed to by the biological and adoptive parents. A family court judge interviewed the biological parent to make certain the mother wasn't coerced into signing contract. The government's Procuraduria General de la Nacion (PGN), an office that scrutinized documentation, ordered a DNA test to ensure the child belonged to the biological mother. A second DNA test was conducted at the end of the process to make sure another child hadn't been substituted in the meantime. And the U.S. Embassy was heavily involved, rechecking paperwork and signing off on DNA test authenticity before issuing passports or travel visas.

The benefit of this system was that it was largely done in private. Olga, for instance, could bring her child directly to a home, sign a letter and begin the process. There was no public process. No shame.

Problems, however, grew out of that privacy. Lawyers took advantage of their control. "The system grew out of control," Solórzano said. "There was all this money involved, tons of money and little control over these lawyers." By modest estimates, the system brought in around \$100 million a year. The most industrious of lawyers arranged hundreds of adoptions a year. They also purportedly controlled networks of agents who sought out pregnant women and offered them contracts to put their children up for adoption. They'd offer hundreds of dollars — a significant sum for women who live on a dollar or two a day — to sign the contract. Hundreds of dollars more late in the pregnancy — and then another installment when the child was born.

It was not just the lawyers and their agents. I arrived in Guatemala in the final days of the old system and visited a home for children. It was the closest thing to a baby factory that could exist. It consisted of a series of square red-brick rented homes. Two of the homes sat on a hill above the others. One of those homes was full of late-term pregnant mothers. The adjacent building was for post-natal care.

Down the hill and across the street, a labyrinth of houses was filled with cribs. The babies were separated by month of birth: September births in one room; October births in the next and so on. An index card with the names of the infant and the U.S. family hung about the crib.

The director justified the system. She said these children would be given up for adoption anyway and that the mothers would be subjected to sub-standard care. She was clearly profiting from the system — the adoptions brought

in about \$1 million a year — but in the larger picture, she was hardly unique.

Aside from those who were reaping excessive profits from the system, everyone seems to agree that some reforms were necessary.

In implementing a new system, UNICEF served as a handholding guide, a mentor, and a shepherd. And it pushed the same set of reforms that it has called for in other parts of the world. They included: a preferential option for domestic adoptions, meaning Guatemalan parents would be the first choice; making those adoptions free to encourage more parents to apply; a domestic foster care system; limiting international adoptions to those children who are in need of special care or that are older. "We believe in adoptions. We believe in the benefits of adoptions. We believe in the benefits of international adoptions," Solórzano said. "But we also believe that a Guatemalan child should be with a Guatemalan family. And even more specifically, an indigenous child should be adopted by an indigenous family."

The Guatemalan government passed and implemented the system nearly exactly as UNICEF drew it up. And in 2008, the new law went into effect. Left in limbo were 3,033 cases that had been started under the old system but not completed. Those cases, according to the law, were to be continued under the old system.

Among those 3,033 was the case of little Olga in the Semillas de Amor home and her adoptive mother, Bridget, in a rented house in Antigua.

Olga wasn't supposed to live with Bridget while the adoption was in progress, but the practice was common. Bridget "wore" Olga on her body to bond. Mark grew attached, too, treating her like the little sister they thought she was about to become. The family spent seven months together. "Even though the law had changed, I was pretty confident that the adoption would go forward without any hiccups," Harrington said. "I had no reason not to." She paused a minute. "Maybe that was naïve, but, I guess I didn't think anything was wrong until the home was raided."

PGN agents, accompanied by investigators from the government's Ministerio Publico, which is in charge of evidence gathering in criminal cases, showed up at the home on a tip that one of the children was staying there without a letter of consent from the biological mother. They first came on a Monday and returned on a Wednesday.

Bailey, the home's director, said there was a child whose mother had not signed a letter. That mother, she said, was mentally ill and living on the streets. The child, Carmen, was being cared for with the understanding that she would not be put up for adoption. That same baby is now the government's poster child for its new system, appearing with its Guatemala City parents, the Mendozas,

on flyers promoting in-country adoption.

Under a court order, four children were taken from the home during the raids. One was Olga.

THE RAIDS OCCURRED IN MAY of 2008 and they kicked off a long and painful process for Bridget and a handful of other parents awaiting the conclusion of their adoptions. Around the country, 900 of the 3,033 cases of adoption were left without conclusions. The group calls itself Guatemala 900. They've been very publicly advocated for the conclusion of the adoptions, yet the government said there are legal questions about each of the cases. "We're evaluating, for each case, two major points," Zepe-da, of the government's new adoption agency, said. "We need to first establish that the child exists. And secondly, if they do exist, we need to investigate whether the biological mothers were in any way coerced or manipulated into making the decision to give up their child."

In the case of Olga's mother, that inquiry has involved 15 separate interviews, according to the government's records. Bailey said that during those interviews she's been shamed for not taking her child back. "It's really been awful. They've pressured her, made her feel terrible," she said.

Everyone involved agrees that Olga has continually asserted that she willfully gave up her child for adoption. The judge that can release little Olga to Bridget is awaiting a final signature by PGN officials, who said the case is still under review.

Two years have passed since Bridget first applied to adopt Olga. Olga is now under the care of a Catholic orphanage and under court protection, meaning no visitors is allowed. I went down to the orphanage, an ugly and aging building in the middle of the city, hoping to get a glimpse of Olga, a chance meeting. I didn't. But I spoke with the nun who is in charge. She said Olga doesn't know that she's being adopted. She behaves, the nun said, like many of the other children, living day-to-day in an institution.

"The last time I saw her was a month ago," Bridget said. "I went into the orphanage and went to see her. She cried. She had no idea who I was. It's really hard because this is the same baby I wore on my body for months. It's my son's little sister. He always asks when she's coming home."

Under the new system, orphanages such as the one where Olga now lives is to become key. Children will no longer be sent to the privately run children's homes, such

as Semillas de Amor. Instead, a judge will send them to authorized institutions.

WHILE HER DAUGHTER was living in a children's home, Olga, the mother, became pregnant again. Boris Pana Sagui, little Olga's little brother, was born early in 2009, underweight and early.

Bailey, of Semillas de Amor, was still in contact with the family as little Olga's adoption was still pending. She said she paid for Boris's medical bills on several occasions, receiving warnings from doctors that the baby wasn't getting enough nourishment. "She would be testifying before the court or the government and I'd be holding Boris. I



A girl whose adoption case is being processed stands in front of two other children at the Hannah's Hope orphanage in Guatemala City.

held that little boy I don't know how many times. So many times," Bailey said.

"If I were to guess, I'd say that Olga would have given him up for adoption. She loved him. I know she did and she knew she couldn't take care of him. If she hadn't been through what she went through with her daughter, I think she would have given him up. Yes, I'm sure of it."

Bailey continued to pay the baby's medical bills, continued to check in on him. And one day about a month ago, she received a call from Olga's boyfriend who said baby Boris was sick.

She sent money for a bus ride to a doctor's office in Antigua, money for food. And she heard nothing for a week. "I kept calling and calling and, no, nothing. A week later they called me."

Ten-month-old Boris died of malnutrition.

It is hard for me to imagine a child dying from a lack

of food. I think it's hard for most people from the United States to imagine such a thing. But it is happening more and more frequently here. Some 49 percent of children under the age of 5 — children like those I met at the end of that dustbowl of a dirt road last month — are chronically malnourished. This year, some 54 kids died of malnutrition at a single regional hospital in the middle of the 'dry corridor.'

Bailey told me that she believes the government's hand is stained with Boris's blood. I'm not sure. Then again, I wasn't involved with the case as she was.

I'm sure that in the past two years I've met dozens of children like Boris, those whose lives might depend on a string of bad luck. And I wonder if it's all that bad to give them an opportunity to live.

RESEARCHERS HAVE COMPARED Guatemalan babies who did 'go home,' against their peers. In a 2005 paper published in the *Journal of the American Academy of Pediatrics*, they compared 103 adopted children, 56 resided in foster care settings, such as private homes, 25 came from orphanages and the rest came from mixed care settings.

The researchers found that children who were in foster care settings were taller, weighed more, had larger heads and were scored "significantly better" on cognitive tests than those who'd lived in orphanages. Put simply, those who came from foster care or private homes grew at a normal rate and those that were put in orphanages did not.

What's more, the child's age at the time of adoption had a direct correlation with their ability to become healthy, meaning the earlier the better. "These findings support the need for timely adoptive placement of young infants and support the placement of children in attentive foster care rather than orphanages when feasible," the researchers concluded.

"In terms of child development, the evidence overwhelmingly supports early adoptions. Children are clearly better off when they are adopted at a young age," Elizabeth Bartholet, director of the Child Advocacy Program at Harvard University, told me by phone. "When you turn to the social sciences, it's equally clear. From the age of zero to six months is ideal in terms of giving them the opportunity to develop normally. Six months is better than one year. And one year is a lot better than two and so forth.

"But what we see happening in Guatemala is a disre-

gard of this evidence. The stated preference is in-country adoptions and beyond that we're looking at thousands of children being raised in institutions or remaining with a family that cannot care for them," she said. "When you switch off international adoptions, you put more pressure on the country to care for these children."

Does this all mean that Guatemala is unable to deal with its children?

The case of the Mendozas may suggest otherwise. The Mendozas are an upper-middle class family from Guatemala City that decided to adopt a Guatemalan child.

I first tried to contact them a few days after I met with the Guatemalan authorities, but they were on a beach vacation. I later called but found that they were too busy with work to meet with me. At first, I was not going to write about this, but then something occurred to me: This didn't seem too different from the pace of a family living in the United States.

In the days after, I heard of other families that have taken in children. They were Mayans who lived on not much money, and they were wealthy Guatemalans. In all, more than 500 families have signed up to adopt a child. Only 400 or so children have been deemed "adoptable" by judges, meaning demand outpaces supply. The government recently launched a publicity campaign aimed at attracting more Guatemalan families to the process. The campaign, centered on the Mendoza family, which last year adopted an abandoned girl, Carmen, is expected to attract as many as 2,000 families a year.

"People said Guatemalans don't want to adopt, and they certainly don't want to adopt other Guatemalans. This breaks that myth," Solorzano said. "Guatemalans did want to adopt. They just couldn't compete financially with Americans."

As for me? I'm left somewhere in the middle. I've seen the children at their worst, with dirt on their faces, looking like death was waiting behind the earthen walls of their huts. And I've wondered why they shouldn't be given a chance. But that chance, I've come to realize, may very well be found here in Guatemala. It's an argument that doesn't seem to have an end. Anyone empathic to the vulnerability of a child could see things either way. I hope Guatemala can prove that it's capable of fixing a system that was broke. I hope it can find life for its children. I hope. □

Current Fellows

Elena Agarkova • RUSSIA

May 2008 - 2010

Elena is living in Siberia, studying management of natural resources and the relationship between Siberia's natural riches and its people. Previously, Elena was a Legal Fellow at the University of Washington's School of Law, at the Berman Environmental Law Clinic. She has clerked for Honorable Cynthia M. Rufe of the federal district court in Philadelphia, and has practiced commercial litigation at the New York office of Milbank, Tweed, Hadley & McCloy LLP. Elena was born in Moscow, Russia, and has volunteered for environmental non-profits in the Lake Baikal region of Siberia. She graduated from Georgetown University Law Center in 2001, and has received a bachelor's degree in political science from Barnard College.

Pooja Bhatia • HAITI

September 2008 - 2010

Pooja attended Harvard as an undergraduate, and then worked for the *Wall Street Journal* for a few years. She graduated from Harvard Law School. She was appointed Harvard Law School Satter Human Rights Fellow in 2007 and worked as an attorney with the Bureau des Avocats Internationaux, which advocates and litigates on behalf of Haiti's poor.

Eve Fairbanks • SOUTH AFRICA

May 2009 - 2011

Eve is interested in societal transformation. She writes about how individuals fit themselves into the new and still-changing South Africa, particularly the Afrikaners. A former staff writer at *The New Republic*, she covered the 2008 presidential race; her book reviews have also appeared in *The New York Times*. She graduated with a degree in political science from Yale, where she also studied music.

Ezra Fieser • GUATEMALA

January 2008 - 2010

Ezra is interested in economic and political changes in Central America. He is an ICWA fellow living in Guatemala where he will write about the country's rapidly changing economic structure and the effects on its politics, culture and people. He was formerly the deputy city editor for *The News Journal* (Wilmington, DE), a staff writer for *Springfield Republican* (Springfield, MA) and a Pulliam Fellow at *The Arizona Republic*. He is a graduate of Emerson College in Boston.

Derek Mitchell • INDIA

September 2007 - May 2010

As a Phillips Talbot Fellow, Derek will explore the impact of global trade and economic growth on Indians living in poverty. He has served for the past year as a volunteer for Swaraj Peeth, an institute in New Delhi dedicated to nonviolent conflict resolution and Mahatma Gandhi's thought. Previously he was a Fulbright scholar in India at the Gandhi Peace Foundation. He has coordinated foreign policy research at George Washington University's Institute for Communitarian Policy Studies and worked as a political organizer in New Hampshire. Derek graduated with a degree in religion from Columbia University.

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