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ACTION OCS-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	CA-00	CIAE-00	INL-00
	DODE-00	WHA-00	DS-00	FBIE-00	UTED-00	VC-00	H-00
	TEDE-00	INR-00	LAB-01	VCE-00	NSAE-00	OMB-00	NIMA-00
	CAEX-00	PA-00	VO-00	FMP-00	ECA-00	DSCC-00	DRL-00
	NFAT-00	SAS-00	SWCI-00	/001W			

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FM AMEMBASSY GUATEMALA
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INFO WHA CENTRAL AMERICAN COLLECTIVE

UNCLAS GUATEMALA 001931

SENSITIVE

DEPT FOR CA/OCS/CI AND WHA/CEN
ALSO FOR CA/P AND CA/VO/F/P

MEXICO FOR DHS

E.O. 12958: N/A
TAGS: KOCI, CVIS, CASC, CMGT, PGOV, PHUM, GT
SUBJECT: INVESTIGATIVE REPORT IN GUATEMALAN PRESS ON ADOPTIONS GENERATES PUBLIC DEBATE

REFS: A) 05 Guatemala 001901 B) 05 Guatemala 000586
C) 05 Guatemala 000817

1. (SBU) SUMMARY: A major Guatemalan newspaper published a lengthy series critical of Guatemala's system of adoptions.. The series emphasized that nearly all inter-country adoptions from Guatemala, which by per capita leads the world, are processed under a notarial system in which Guatemalan attorneys search for potential children for approval by the Solicitor General's Office (PGN). Given the financial incentive for lawyers to place Guatemalan children with foreign (mostly U.S.) families, the authors conclude that the interests of the Guatemalan child are not preeminent under this system. While some columnists argue that the series exaggerated the methods that lawyers and their handlers use to convince or otherwise deceive mothers to give up their children, Post believes that the series presented a realistic and non-sensational view of the adoption process in Guatemala. END SUMMARY.

2. (U) A series of four articles appeared in one of the most prominent Guatemalan daily newspapers, Siglo Veintiuno, in which two investigative journalists reported on lucrative international adoptions carried out by lawyers in which the interests of Guatemalan children are secondary to those of adopting families and their representatives. In the last eight years, of the total 17,882 adoptions, 14,129 of them were for U.S. parents, 1,435 were French, 363 were Spanish, and 309 were Canadian, while only 500 were domestic, according to statistics in the report. For the first four months of 2005, 694 of a total of 744 adoptions were for U.S. parents and only 20 Guatemalan. The reason given in the report for the low numbers of domestic adoptions is that they are not as profitable and the country lacks an adoption culture. The authors claim that large networks of lawyers and their handlers operate in Guatemala City and principally the states of Quetzaltenango, Jalapa, Jutiapa, San Marcos, Izabal, Escuintla, and Retalhuleu. They further indicate that lawyers make up to 35,000 USD for each adoption.

3. (U) According to the report, there are a number of methods that lawyers and their handlers use to obtain Guatemalan babies for foreign adoptions. These include purchasing babies for up to 950 USD per child or offering to pay for the mother's prenatal care. The authors contend that handlers often then threaten to make the biological families repay these expenses or even file a complaint with the Attorney General's Office against the biological parents if the mother decides that she does not want to give up her child. In addition, they supposedly convince biological mothers to sign blank documents or claim that the baby is needed for blood tests when really DNA testing is the motive. Another reported technique is the registration of babies in the adopting mother's name. The series even related a recent incident of baby snatching at Roosevelt Hospital in Guatemala City. Guatemalan attorneys were accused in the articles of falsifying documents, such as socioeconomic studies, DNA testing, and place of origin of the child. Seasoned attorneys are also suspected of compelling new hires in their law firms to sign fraudulent adoption papers on their behalf to avoid possible prosecution themselves. In notarial adoptions, the series reports that Guatemalan courts are involved only in ordering a socioeconomic study of the biological family by a social worker.

4. (U) A poignant example of the willingness of some Guatemalan families to sell their children appeared in an article on August 3, 2005 in another prominent daily newspaper, Prensa Libre. In September 2003 eleven Guatemalan children were "rescued" by Costa Rican authorities from a clandestine foster home, from which they were allegedly to be given in adoption to U.S. and European families. Five of those children recently were returned to Guatemala. A judge ruled against returning three of the five children to their biological parents. The judge's decision was in agreement with the PGN's recommendation that the children be put up for adoption rather than returned to their biological parents because it was likely that their family would sell them again. (The fourth child

was given to her grandmother, and in the last case the PGN requested a new evaluation of the biological mother, whose economic situation had changed since she originally handed over her child for adoption and who now wishes the child to be returned to her.)

5. (U) For foreign families, the incentive is strong to adopt Guatemalan children, including the ability to select the baby's sex, age, and physical characteristics, the lack of a marriage requirement for adopting parents, and speed: notarial adoptions can take as little as 3-6 months, according to the report. Catalogs on the internet include photos of available children, medical and family history, age ranges, and physical characteristics. Adopting families even can order souvenirs like T-shirts, bags, and blankets with emblems like "I found my daughter in Guatemala" for them and their babies, suggesting to readers that adoptions are driven more by commercial interests than what might be best for the children.

6. (U) According to the Latin American Institute for Education and Communication (ILPEC), the laws enacted in 1977 that regulate notarial adoptions in Guatemala do not stipulate a state entity to control the process and do not establish the primacy of national adoptions or make clear the supremacy of the best interest of the child. As current Guatemalan adoption law and practices are not consistent with the precepts of the Hague Convention on Inter-country Adoptions, the authors wrote that Luxembourg, Canada and The Netherlands have suspended adoptions in Guatemala. In contrast to other Central American countries, they

indicate that El Salvador ratified the Hague Convention in 1998, and only a judge can decide whether a Salvadoran minor should be put up for adoption. In Honduras, the biological family must appear before a Family Tribunal to give consent. These countries, the journalists argue, avoid the problem of undue pressure on the biological parents and fraud and profiteering on the part of attorneys and notaries.

7. (U) The authors of the investigative report propose that international adoption be the last resort, after placement of the child with extended family members or a Guatemalan adoption, and that orphans and abandoned children should be considered first. The ideal presented would be to look for a good family for a child, not the reverse. In particular, poverty should not be a reason to declare a child abandoned or give a child up to adoption, and only a judge should be able to declare a child in a state of adoption with the consent of the family. According to a U.N. spokesperson, adoptions are done best through state entities and judges, especially when a child is handed over voluntarily. The authors propose judicial control of adoptions, including a central authority that supervises each step, follow-up including material, spiritual and moral well being, and modification of the penal code to pursue any kind of violation or trafficking in persons.

8. (U) The journalists also suggest that orphanages should help create these new laws as they have had some modest successes despite the broken system. They point out that the Guatemalan Association for the Assistance of Disadvantaged Children (AGAND) has placed 400 abandoned or orphaned children with families in the last 29 years. According to ILPEC, organizations like AGAND and the Association for Family Integration work in a transparent fashion regarding adoptions in Guatemala, which exemplifies how the process could work. AGAND tries to place children first with Guatemalan families and then with foreigners resident in the country. Many of their children have become university graduates or married and "have come back for their honeymoon to introduce AGAND to their spouses".

9. (U) The Institute of the Right of the Family, however, argues that changes in the law would only delay the adoption process. Representing the perspective of lawyers, the group believes that the state and a slow judicial process is the reason why

children stay so long in foster homes. (Note: The authors of the series indicate that judicial adoptions take only 7-8 months. They write that, of the 108 domestic adoptions in 2004, only two were judicial

adoptions. End Note.) The Institute also contends that lawyer fees are not as high as reported because it can cost between 11,000 and 35,000 USD for medical expenses and to care for a child while an adoption is pending. One lawyer said that he earns between 15-20,000 USD per adoption, of which almost half goes to these expenses. The Institute's argument is that "Lawyers have a right to put on pressure, and the mother has the right to say `no'".

10. (U) Reaction to the four-part series in Siglo Veintuno has been mixed. Armando de la Torre, a columnist at Siglo Veintiuno, wrote that the story was exaggerated and sensational regarding the extent of criminal cases and trafficking networks. He also commented that it ultimately echoes an underlying agenda at UNICEF for abortion over adoption and questioned whether change should be based on the ideas of international bureaucrats. Another opinion piece by economist Karin Escaler put emphasis on DNA as a means to solve many of the problems highlighted in the articles. We note, however, that her article was fraught with errors, including a statement that the U.S. requires DNA testing in adoption cases worldwide. She concluded that adoption work really is for a lawyer, not a bureaucratic organization. The authors of the adoption series replied to these op-ed's that those who criticize their articles as being superficial should propose an efficient alternative for adoptions in Guatemala. They expressed satisfaction that their articles at least sparked a lively debate on the subject.

11. (SBU) COMMENT: Whether or not the series ultimately will have an effect on the legislative agenda for change in adoption law is unclear. On July 30, 2005, however, a group of lawmakers and civil leaders met to discuss amendments to pending legislation that would prohibit lawyers from looking for babies (see post's analysis in ref A). Post has repeatedly impressed upon Guatemalan officials that new adoption legislation should be consistent with the Convention (Ref C). We have also emphasized that any reform must contain a grandfather clause given the concern on the part of

American families and the Joint Council on International Children's Services that pending cases could stall during a transition. END COMMENT.

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