



The Future of Guatemalan Adoptions – A Conversation with UNICEF Guatemala

presented by

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at

Adoption Ethics & Accountability Conference
Washington DC USA
October 15 2007

As an international coalition of 260 child welfare organizations, working in 54 countries, all with a mission to advocate and protect the right of every child to a safe, permanent and loving family *Joint Council* has called for, is intimately involved in and will continue to support efforts to reform the intercountry adoption system in Guatemala. Based on our decade-long involvement in The Hague Convention, we clearly support reform based on the tenets of the Hague Convention.

The world community has agreed that the Hague Convention on International Adoption is the best available framework in which we can utilize intercountry adoption as a viable option for parentless children. The convention provides the basis for ethical intercountry adoption; a focus on the best interest of each child, transparency and accountability.

The first tenet in ethical adoption practice is most certainly a focus on the best interest of each child. *Joint Council* joins the world community in stating that all children have a inherent right to a permanent, safe and loving family; in their birth family, within their country of birth and through intercountry adoption. We as *Joint Council*, UNICEF, governments and adoptive parents, we who hold the sacred responsibility of ensuring the best interest of each child can not simply take the easy road. Protection from corruption is not enough. Declaring a pro-adoption position is not enough. And prematurely implementing an unfunded system rife with bureaucratic delays is certainly not enough. Simply put; to fulfill the first tenet of ethical practice, reform in Guatemala must result in expeditiously finding families for all children in need.

The second tenet in ethical adoption practice is transparency. Transparency is most easily defined as a system that allows all stakeholders to know and understand the process. Too often transparency is considered accomplished when a law is passed, a process established and fees published. However, transparency as a tenet of ethical adoption also pertains to access and functionality. Creating a system which inhibits access or simply does not function, falls tragically short of the very definition of transparency. Throughout the world, and now in Guatemala, we see instances where sturdy laws and steadfast regulations are implemented, only to serve as a protection from child trafficking and not as a conduit to a permanent, safe and loving family. Requiring Guatemalan birthparents, many living on less than one dollar per day, many of whom have watched their child or their neighbor's child die from disease or malnutrition, all who make the heartbreaking decision to create an adoption plan, to travel from their homes in the countryside hundreds of miles to Guatemala City, to remain there for an undetermined period of time and to have their extended families notified of the pregnancy or birth is nothing short of cruel. Such impediments to future family life, such impediments to life, can not be deemed transparent, certainly are not in the best interest of each child and are indeed unethical.

The third tenet of ethical adoption pertains to accountability. Accountability is a broad concept with particular import to intercountry adoption. Any system which purports to be ethical must have accountability as its bedrock. A child welfare model may be focused on the best interest of each child. It may provide for family reunification and for domestic and intercountry adoption. A child welfare model may be transparent through education, outreach and participation. However, without accountability, such a system is easily subject to unethical practice and prone to systemic corruption. Governments must be held accountable for the laws and regulations which govern child welfare. Adoption service providers must be held responsible for the practices and standards they use to serve children and families. Birthparents and adoptive parents must be held accountable for the decisions they make.

And when there is a breach of laws or standards of practice or the very ethics we discuss here today, the perpetrators must be vigorously prosecuted. Too often we see a breach of ethics and attempt to blame the system, to pass new laws, to promulgate new regulations and to further restrict a child's access to a permanent safe and loving family. However, it is often not the system which failed, but individuals within the system. It is those individuals who must be held accountable and prosecuted to the fullest extent possible. And the Guatemalan government must be held accountable for failing to prosecute those individuals and ultimately failing the children they are sworn to protect. What we are

seeing in Guatemala is that the perpetrator is not the one who suffers, but the children we are tasked to protect.

From the prism of today, the future of intercountry adoption in Guatemala fails all three of the basic tenets of ethical practice. The proposed system is not focused on the best interest of each child as it will not expeditiously find families for children. The future process lacks transparency in that it does not give birthparents and children easy access to the adoption system. And the future of Guatemalan adoption, much like today, holds little hope for accountability; that perpetrators will be prosecuted, and that governments and intergovernmental institutions such as UNICEF will be held accountable.

Joint Council calls for the transitional implementation of the Hague Convention in Guatemala as outlined in The Hague Guide to Good Practice. First, those children matched with adoptive parents must be completed under the current law; without delay or additional requirements. Second, given the limited structural capacity within Guatemalan social services, only the core elements of The Hague Convention should be immediately implemented. Third, the effective date of the Convention should be moved to April 1 2008 so as to provide a sufficient transition period. Fourth, the international community, who has so vocally called for reform, must step to the plate with funding in order to build capacity sufficient for full implementation. And lastly, we call for the vigorous prosecution of those who by design or ignorance break the law and violate a child or birthparent.

Such a common sense approach reflects the goal of reform, the need for transition and the realities facing the children and families of Guatemala. Most importantly, it puts action to the words; serving the best interest of each and every child.

