

Guatemala City: Hunger Protests Amid Allegations of Child Kidnapping and Adoption Fraud



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(Photographer: Rainer Sturm)

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At the end of July, 2009 a hunger strike ended after 15 days of protests over the alleged kidnappings of three daughters who are believed to be living in the USA with their adoptive families.

The protest, organized to demand a determination from Guatemala's Supreme Court as to a legal route in which to present the facts of the case in an official hearing, resulted in the court's decision that the cases should be heard in a civil hearing. Now, three mothers will have their day before the nation's judicial system as they ask for their children's adoptions to be nullified—an important step forward as they fight to have their daughters returned to Guatemala.

All three women allege that their children were stolen in the Central American nation, notorious for its multimillion dollar intercountry adoption industry which was recently halted due to implementation of the Hague Convention on Intercountry Adoption. The Convention, signed by over 70 nations including the USA and Guatemala, requires that signatory nations prevent the sales, theft, and trafficking of children under the guise of intercountry adoption. The case of these three children is an important test of the Convention and the rights of birth families in a nation known for corruption, impunity, and human trafficking.

The kidnapping theory put forth by these women and their advocates has some history. In 2008, Ana Escobar, a young mother who herself engaged in an earlier hunger protest, was able to prove that her daughter was kidnapped. Her story begins when she was working in a Guatemala City shoe store. At gunpoint, her daughter Ester was kidnapped as she pleaded with the kidnapers under threat of death. Immediately after the crime, the young mother began her search for baby Ester, including making a police report. Ana Escobar states that the police treated her as the criminal when they accused her of child sales, as many birth mothers were believed to have received payment during the adoption era. The police clearly saw her as a perpetrator of child sales rather than being a victim of kidnapping. She was not to be deterred and she began a campaign to find her daughter and upon a chance sighting of Ester, Ana Escobar was able to secure a DNA test to prove her daughter's identity. The young child was eventually returned after two long years of searching. To this date, the kidnapers have not been apprehended or brought to justice.

Ultimately, Ms. Escobar's greatest help and hindrance in her own case and investigation of Ester's whereabouts was DNA. During the over ten year adoption boom in Guatemala, DNA tests became a requirement for all children bound for the USA as adoptees in order to halt fraud. However, Ana Escobar's daughter had a DNA test which matched her to a woman who claimed to be the birth mother; this false claim included a required photograph of the woman holding baby Ester. Obviously, the photograph and paperwork were bogus and the adoption fraud unraveled leaving one to wonder how DNA tests could be invalid. One would assume reliable measures and safeguards given the cost of the tests being nearly \$500 USD and the process being carried out by a highly reputable medical testing group, publicly traded in the USA. However, Ana Escobar's case indicates invalid results of these expensive tests.

The mothers on protest in Guatemala City believe that they know the whereabouts of their children in the USA. They are requesting DNA tests to prove that the girls are, in fact, their

daughters. If those tests should be carried out, within an independent and trusted process, the results may well indicate fraud.

Some theorize that the DNA testing system was so flawed that the thousands of samples being held by the testing company are useless. In fact, there is concern that the DNA fraud was so wide-scale that these three women are a small sample of many cases of child theft. It is hard to know how many children and families have been impacted by child kidnapping and this may well be an over-reaction, but it is also difficult to dismiss. For years, mainly adoption professionals in the USA, did make dismissals of child sales and theft claims. The 200 agencies that operated in the nation during the final years typically took the stance that the Guatemalan adoption system had minor problems, but it was not flawed enough to allow child theft to take place. Many of these agencies did not cease adoptions, even when the US Embassy made an official and public request in 2007 for the adoptions to cease while new Hague Convention-compliant laws and regulations were developed. In fact, they rushed to secure more babies and match families, up until the final hours before the system finally halted. It remains to be seen if any of these USA-based professionals will be held legally accountable should the alleged adoption fraud and kidnapping be proven.

Shyrel Osborn, a USA-citizen living in Guatemala who joined the hunger protest, stated that she never received a visit from the USA Embassy during her 15 days of demonstration. This is ironic because USA Embassy counsel officials are required to visit USA citizens imprisoned overseas to verify their health, however they seemed unconcerned about a citizen engaged in non-violent and legal demonstration in an area of Guatemala City infamous for violence. While the local Guatemalan press covered the protest in detail, the US Embassy's lack of concern was a disappointment for Osborn because the three girls in question are now US citizens. If the allegations are true, the girls' identities were laundered or changed in order to secure their USA citizenship.

Jennifer Hemsley of California has become an advocate for the mothers on protest. Her own struggle to complete her adoption case in Guatemala is very telling. In 2008, while completing official paperwork, she identified that the DNA paperwork to be incorrect and she suspected fraud—something for which she is now convinced to be true. She notified the US Embassy and other officials including her agency, often feeling frustrated by the bureaucracy. She has worked closely with Guatemalan authorities with hopes of eventually adopting the child in question. Her own case has required that the child be declared abandoned by a family court. Through this, she has found her own process of truth-seeking about DNA fraud to be a source of frustration and pain. Now, she is involved in organizing a fast in solidarity with the three protesting women. For more about this fast and a call to action, go to <http://threedaysforthreedaughters.typepad.com/>.

Fundacion Sobrevivientes, otherwise known as Survivors Foundation, is a non-governmental organization which organized the July, 2009 and past hunger protests in Guatemala. Based in Guatemala City, they favor adoptions that are transparent and based on a fair process which does not encourage child sales or theft, according to an agency spokesperson. Because some USA families were willing to pay upwards to \$40,000 USD for their adoptions, in this dollar-a-day country, the previous system encouraged fraud. For a detailed analysis of the nexus points for fraud see <http://www.socmag.net/?p=435>.

Worldwide there have been other instances of child theft for adoption, however on the whole families in developing nations like Guatemala have never really seen justice. This new move forward to nullify adoptions will be a test of the best interests of the child, as required by the Hague Convention, and ultimately human rights, including the Convention on the Rights of the Child. It leaves one to wonder, at the very least, will two Hague-signatory nations collaborate together to resolve these cases in a fair and expedient manner.

It most certainly is a test of the adoptive the three families in the USA whom have thus far refused a voluntary DNA test, while they now live with a cloud over their adoption. No doubt, it will also challenge our traditional assumptions of adoption as a noble act as the word “kidnapped” may become a reality. Also, doubt is cast upon thousands of adoptions from the nation. Of course there have been legal and clean adoptions from the nation, especially older children, such as street children, and children with disabilities. It is a shame that the ethical adoptions that were carried out in the best interests of the child are now cast under such scrutiny.

For the three mothers seeking adoption nullification, a judicial decision is expected within the next three months. At least one of the cases is reported by Guatemalan press to be the result of an invalid DNA-match. With this evidence, if the process the process is flawed or does not result in justice, the protesters are prepared to again strike in hunger. Shyrel Osborn, who herself lost 15 pounds during the protest, is clearly determined to again stand in solidarity with the women. Osborn’s commitment runs deep as she is the co-director for Amor del Nino, a children’s home that has received some of the children whose adoptions have been interrupted due to problems with paperwork and fraud. For more about this home, see http://www.lovethechild.org/AmorDelNino/Love_The_Child-Amor_Del_Nino-A_Childrens_Home_in_Guatemala.html .

In the meantime, at least 20,000 USA families who have adopted from Guatemala watch these alleged kidnapping cases and wonder. Families believed they were involved in a clean adoption process and they trusted adoption agency professionals who continued to promote Guatemalan adoptions as trustworthy, even after there were multiple examples of serious and persistent problems. It remains to be seen if any of the USA-citizens involved in this flawed system will be held accountable for illegal activities. At least one USA-citizen has charges pending in the Central American nation, but it appears that there has been no attempt to extradite and hold him accountable. It is reported that this particular individual quickly slipped out of Guatemala as a multi-millionaire given the more than 800 adoptions which he boasts to have completed in the nation. Even more concerning are the rumors that he and other unscrupulous entrepreneurs have begun their adoption businesses in Ethiopia, a nation expected to become the next intercountry adoption boom.

This report was submitted by Karen Smith Rotabi, PhD who spent the first week of August, 2009 in Guatemala traveling in a human rights delegation with the Guatemala Human Rights Commission. The objective of the trip was investigation of violence against women, including femicide. Dr. Rotabi’s interests include families impacted by war and their human rights. Her research includes analysis of the intercountry adoption system in Guatemala and other nations and the nexus points for fraud in general with an emphasis on unethical social work practice and implementation of the Hague Convention within USA adoption agencies. Dr. Rotabi is Assistant Professor of Social Work at Virginia Commonwealth University, USA.

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