

The case of Guatemala Fostering children prior to adoption

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The current situation in Guatemala regarding children placed in foster care prior to or awaiting intercountry adoption is two-pronged: those under the government-sponsored system and those under the notary system¹. There is a significant imbalance in who is providing temporary foster homes for children as well as who and what institutions are responsible for the high number of intercountry adoptions from Guatemala. To date, the government programme has done little in the area of temporary foster care, especially for children waiting for intercountry adoption. The private sector has dominated this area, leading to serious concerns being expressed by international child welfare organisations. Both the government programme and the private system are detailed below.

The government programme

Children cared for under the government-sponsored system are overseen by the Secretaría de Bienestar Social de la Presidencia de la República de Guatemala (Social Welfare Secretariat of the Presidency of the Republic of Guatemala). Specifically, the children are accounted for within the Substitute Home and Adoption Programme. To date, the foster care and adoption programme run under the auspices of the Guatemalan government has had a different focus to that of 'temporary foster care'. The majority of the 325 children involved in this programme remain with their biological parents or relatives and receive a small subsidy (approximately USD 40 per month). The focus has been on family preservation within high-risk families, rather than training of non-related persons to care for abandoned or at-risk children. There has been little or no monitoring and follow-up of cases. Since the families are considered high-risk, the subsidy is seen as a means of ensuring that the children are 'cared

for' and not put at higher risk or, in the worst-case scenario, abandoned.

A much smaller number of children in this programme are cared for by non-family members². There are two scenarios for these children: the first is that the family is in the process of adopting the child (nationally) and does not receive any sort of monetary subsidy. The second situation is that the family does receive a monetary subsidy, and has made a long-term commitment to caring for the child. The second group of families have not completed the adoption process due to the high cost associated with it, but do consider the child a permanent member of the family. Due to the limited focus of the programme – family preservation instead of foster care – the idea of permanency planning has also been limited, leaving many of the children in a precarious situation with no legal definition of their status.

To date, there has been just one documented case of a child cared for under the auspices of the Secretariat placed in intercountry adoption. According to the Substitute Home and Adoption Programme, a family from the USA approached the programme director requesting that they begin the adoption process. They preferred to go directly through the Secretariat, as they could not afford to pay the high cost of adopting via a US-based adoption agency. The family moved to Guatemala, completed the necessary documentation, and were referred an 8-month-old girl through the family courts. The judge granted the family legal authority to foster the child whilst the adoption process was completed. The adoption process took more than a year to complete. The family lived in Guatemala throughout the process and were only able to leave once the adoption process was completed and the child was given a US visa.

The Secretariat has recognised the importance of refocusing the objective and strategy of its current foster care programme and, jointly with the United Nations Children's Fund (UNICEF), has embarked on the design of a new 'vision' for the programme. This will involve designing a foster care programme that is focused on non-family caregivers and based on the principles of permanency planning. Additional efforts will include an evaluation of the current project, the design of an operations manual detailing standards of practice, minimum qualifications of caregivers, eligibility requirements for children and caregivers, and a training curriculum for caregivers. The end goal is to have the Secretariat overseeing trained and qualified persons to implement temporary foster care for abandoned or at-risk children while simultaneously working towards permanent family-based solutions.

The 'private' system

The private sector of adoption in Guatemala accounts for almost all intercountry adoption cases. Statistics show that in 2002, 2,931 intercountry adoptions occurred.³ Of those, the highest number of children (2,548) were adopted by US citizens, followed only at a very considerable distance by French (238), Spanish (27), Italian (20), Canadian (13), and German (10) nationals (PGN 2003). In 2004, total intercountry adoptions had risen to 3,834. Of that number, 3,264 children were adopted by US citizens. Currently, the USA is the only country still allowing adoptions from Guatemala⁴. In the private system of foster care and adoption, there are two possibilities for the child's temporary care before intercountry adoption: in a privately run orphanage or in foster care. This paper specifically focuses on private foster care⁵.

Given the official figures for numbers of children adopted by US citizens during the past year, it may be assumed that, at any one time, more than 1,200 children are in private foster care. Again, due to the lack of official monitoring of this system, the numbers are merely an estimate. The first step in the private adoption system begins when the pregnant woman is referred to a Guatemalan lawyer via a 'contact' or 'recruiter'. This typically occurs during the final months of pregnancy. The mother relinquishes all her parental rights at the time of the child's birth, or very soon thereafter. In the majority



The Guatemalan government has focused on family preservation rather than temporary foster care.

of cases, it is the biological mother who relinquishes parental rights. It is rare for a biological father to be part of a relinquishment case. Most birth mothers claim the identity of the birth father to be unknown, thereby hastening the relinquishment process.

Few Guatemalan lawyers will handle cases of abandonment, due to the lengthy and unwieldy process of having a child declared legally abandoned. Children abandoned in public places such as hospitals, churches, parks, etc., or those whose biological parents have lost parental rights due to abuse or neglect, become wards of the state and are placed in one of several orphanages that have been sanctioned by the Secretariat or in private orphanages run by religious organisations or private individuals. This situation has resulted in thousands of children being 'stuck' in orphanages. Without the opportunity to be placed with a permanent family during the unduly long period it can take for their abandonment to be pronounced by the court.

At the time of relinquishment (typically 1–5 days after birth), the child is placed with a foster parent, who has been recruited, supervised and financially reimbursed by the lawyer. The average monthly

stipend of a foster mother is 1,000 Guatemalan Quetzales per child, equivalent to approx. USD 133⁶. This money is paid by the lawyer and is presumably part of the payment received from the adoptive family. The average foster mother cares for two children in her home. No official statistics are available to describe the average foster mother, but it is assumed that she is usually from a working-class background. She is a grandmother, having raised children of her own, or a young stay-at-home mother. Most foster parents live in Guatemala City or the surrounding area to be handy for visits to the doctor, the family courts and the US Embassy. One can presuppose that the motivating factor for becoming a foster parent in this sense is the financial reward. Although the stipend is small, it does allow women to obtain an income while they stay at home. In Guatemala's precarious economic situation, this opportunity is appealing to many women and there is frequently a waiting list of interested persons.

The adoption process for a case of relinquishment typically takes 4–6 months, and this coincides with the length of time the child stays in a foster home. There are no official statistics regarding gender distribution of children in foster care for intercountry adoption, but unofficial observations have given estimates of 65% female and 35% male. The average age of children in foster care ranges from newborn to 2 years old. Again, unofficial statistics show that the average age of a child being placed in intercountry adoption is between 5 and 6 months.

No standards or requirements pertaining to the care of a child in foster care exist, and there are no stipulated minimum qualifications for foster parents. Since it is the Guatemalan lawyers who place the children with foster families, they alone are responsible for any requirements or training of the foster family. There have been occasions where the US-based adoption agency working in conjunction with the lawyer has requested, facilitated, or funded foster care training. In nearly all such cases, this is motivated by the ethical and professional standards or practices of the individual agencies, but unfortunately it is prioritised by only a few.

Summary

Because there are no standards or approval processes for adoption agencies working in Guatemala, any

individual or agency can establish a relationship with a Guatemalan lawyer and begin processing adoptions. These conditions have created a situation where very few agencies see the need for a more formalised process of recruitment of temporary foster carers. Also, due to the limited involvement of the Secretariat in foster care for intercountry adoption, there are few official statistics regarding the numbers of children in temporary foster care awaiting intercountry adoption. For the reasons mentioned here, no *official* documentation about specific standards of practice, qualifications or training exists.

It appears that there is a Guatemalan culture that is 'open' to the idea of fostering unrelated children, but significant improvements are needed to ensure that children are cared for by trained professionals who meet international standards. Furthermore, there is a pressing need to develop and implement evaluation and monitoring processes to ensure caregivers and the children in their care are doing well and that the children are placed in permanent families, in Guatemala or abroad.

Reference

Procuraduría de la Nación (PGN). 2003. Recuento de adopciones por países, año 2002. Guatemala

Notes

- 1 In this article, the notary system will henceforth be referred to as the private system.
- 2 The Secretariat estimates that 32 children are in this type of care situation although the number could not be verified at the time of this report.
- 3 Official statistics show that in 2002, there were only 62 national adoptions in Guatemala.
- 4 Because of serious concerns over the protection of children's rights in the private procedure in particular, in recent years governments of other receiving countries have one by one refused to allow their citizens to adopt children from Guatemala. For its part, the US has chosen to continue allowing such adoptions while introducing compulsory procedures such as DNA checks in an attempt to forestall rights violations in this sphere.
- 5 The information provided in this section is based on sampling of 75 private foster caregivers in an unofficial capacity by the author.
- 6 As an indication, this sum is less than the minimum monthly wage for an 8-hour working day.

South Africa The case for child-headed households

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Children in South Africa may have to live without parental care for a number of reasons, only one of which is the death of their parents. This is not a new phenomenon. South Africans have traditionally had fluid arrangements concerning the care and residence of their children, who move relatively easily among the extended family. Working parents, especially mothers, contribute when they can to the income of the household in which their children are living. Children whose parents have died or disappeared are similarly absorbed into the extended family. These patterns of childcare have been replicated and adapted in urban settings as more people have moved to towns and cities in search of employment.

More recently, the HIV pandemic has contributed increasingly to the number of children living without parental care. South Africans have continued to absorb such children into extended families and communities. However, their capacity to do this is being eroded by a dramatic increase in the number of maternal and double orphans and a reduction in the number of prime-age caregivers, such as aunts and uncles (Foster 2004). Rising unemployment has exacerbated the situation.

Attempts by Government to respond have focused on the foster care system. People are encouraged to foster vulnerable children, and are eligible for a Foster Care Grant (FCG) if they do so. This includes members of the extended family. However, the situation is becoming increasingly unrealistic. There are simply not enough people able or willing to become foster parents in the traditional sense and for members of the extended family, the process of applying to foster the child and receive the grant (through the High Court) is often prohibitively expensive.

Very often, extended family members are unable to take on the responsibility of additional children, or their circumstances exacerbate the vulnerability of the children. Administering the FCG system is also putting enormous strain on the formal child protection system. Placing such children in institutional care is not a viable option either. Apart from the lack of sufficient facilities, institutional care is often unnecessary. If the extended family can access financial and other support, they will provide a more cost-effective and suitable environment for the children, and the children will not require such placements.

Child-headed households

Increasingly, children are living in situations where there is no adult in the home. This may be because a grandmother has died, or because siblings have insisted on staying in their deceased parents' homestead. These are often temporary arrangements, and families usually absorb these children in time. However, children taking on the caretaking role may suffer significant negative consequences, such as having to drop out of school, seek employment to support their younger siblings, or get married in the hope that this will provide greater security.

According to Foster (2004), the presence of child-headed households does not necessarily mean that the extended family has abandoned these children entirely. Indeed, child-headed households often exist in close proximity to relatives who can provide material support. Evidence suggests that child-headed households might be a mechanism used by the extended family to deal with the situation (FHI 2005).

Research in eastern and southern Africa documents a high prevalence of community responses to the issue of child-headed households, most