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Intercountry Adoption from Guatemala and the United States

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ARTICLES

Intercountry Adoption from Guatemala and the United States: A Comparative Policy Analysis

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ABSTRACT. On October 6, 2000, President Clinton signed the Inter-country Adoption Act of 2000 (H.R. 2909), which represents the United States' implementation of the 1993 Hague Convention on Protection of Children and Co-operation in Respect on Intercountry Adoption (Joint Council on International Children's Services, 2000). The Ratification of this international treaty came about as increasing attention was brought to the need for greater oversight of Intercountry adopters both into and out of the United States. Over the past decade, the number of United States citizens adopting children from overseas has more than doubled. There are also an increasing number of children who are United States citizens that are being adopted by citizens of other countries. Both the United

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States and Guatemala have established policies of participation in Inter-country adoption as sending nations primarily to address the problem of how to best care for children permanently separated from their families of origin. However, further analysis indicated that there are problems that these policies indirectly address which are much more complex. The purpose of this paper is to describe and analyze these policies. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <http://www.HaworthPress.com> © 2003 by The Haworth Press, Inc. All rights reserved.]*

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On October 6, 2000, President Clinton signed the Intercountry Adoption Act of 2000 (H.R. 2909), which represent the United States' implementation of the 1993 Hague Convention on Protection of Children and Co-operation in Respect on Intercountry Adoption¹ (Joint Council on International Children's Services, 2000). The Ratification of this international treaty came about as increasing attention was brought to the need for greater oversight of Intercountry adopters both into and out of the United States. The purpose of this paper is to describe and analyze the policies of both the United States and Guatemala as sending nations in the practice of intercountry adoption.

Over the past decade, the number of United States (U.S.) citizens adopting children from overseas has grown tremendously. According to the U.S. State Department (2003), a total of 8,987 children were adopted into the U.S. from other countries in fiscal year 1995; by fiscal year 2002, that number had more than doubled to 20,099. Currently, the U.S. is the primary receiving country of all children adopted through intercountry adoption (UNICEF, 1998). One of the primary countries from which U.S. citizens adopt is Guatemala; over the past decade, it has risen from eighth to third in the list of top countries of origin (U.S. State Department, 2003). The U.S. State Department (2003) reported that approximately 2,219 children were adopted from Guatemala in 2002, compared with less than 400 children from all other Latin American countries combined.

Another facet of intercountry adoption involves children that are adopted out of the United States by families² who are citizens and resi-

dents of other countries. Unfortunately, no government agency, including the U.S. Immigration and Naturalization Service (INS), keeps track of U.S. children who are adopted out of the country by international citizens (Evan B. Donaldson Adoption Institute, 2000; Mack, 2000; Smolowe, 1994). Currently there is no available source of reliable information as to when the United States began allowing the adoption of its children by international families, nor as to how many such adoptions take place (Evan B. Donaldson Adoption Institute, 2000; Mack, 2000; Smolowe, 1994).

In light of the passage of H.R. 2909, it is especially timely to analyze the intercountry adoption policies of these two countries, for fears of how restriction of one policy would affect the other played an important role throughout the drafting of H.R. 2909 (Congressional Quarterly, 1999). The United States and Guatemala were also selected for study because in recent months, articles on other countries' policies in this area have been published in popular literature (Mack, 2000; Freer, 2000), which may further heighten awareness and debate concerning this issue.

INTERCOUNTRY ADOPTION FROM GUATEMALA

History

The history of intercountry adoption can be traced alongside political and social instability in sending countries. For example, the increase in intercountry adoption from Latin America began in significant numbers in the 1980s (Weil, 1984). One causal element was Asian countries that had previously been the primary sending countries restricted intercountry adoption as a result of strengthened internal child welfare services and increased political criticism for sending children abroad (Weil, 1984). One of the results of civil strife in Latin America during this same period of time was the displacement of over a million families and large numbers of orphaned and abandoned children (Casa Alianza, 2000; U.S. State Department, 1998).

While in 1989 there were 12 Latin American countries that were listed as one of the top 20 sending countries of children to the U.S. through adoption, by 1998, only six remained on this list (U.S. State Department, 2000). Reports of child trafficking and abduction in Latin American countries spurred efforts by countries such as Columbia, Ecuador, Peru, Costa Rica, El Salvador, and Chile to take measures, such as the

ratification of the Hague Convention, to more closely monitor and reduce the extent of participation in intercountry adoption (Freer, 2000; Hague Conference on Private International Law, 2000). This reduction then increased pressure on countries such as Guatemala, which have yet to ratify the Hague Convention (Hague Conference on Private International Law, 2000), to identify more children as available for intercountry adoption.

United States State Department records show a dramatic increase in the number of adoption out of Guatemala beginning in 1997, jumping from 427 to 788 in one year (U.S. State Department, 2000). Currently, 95 percent of the adoptions of Guatemalan children are intercountry adoptions (Casa Alianza, 2000). The top five receiving countries for children adopted from Guatemala are (in descending order) the United States, France, Canada, Spain, and Italy, with the United States receiving more than 60 percent of adopted Guatemalan children (Casa Alianza, 2000).

Description of the Policy

The Guatemalan policy of the intercountry adoption is intended to work by providing orphaned and abandoned children with permanent, loving families while lessening the financial cost to the country of caring for orphaned and abandoned children. In addition to providing children with homes, this policy provides foreign families with the opportunity to adopt a very young infant, and it provides adoption professionals and government officials with the opportunity to make significant amounts of money (Freer, 2000; Jacot, 1999). The policy covers orphaned and abandoned children, both in state-run institutions and private foster care.

In Guatemala, the policy regarding intercountry adoption is implemented through a dual system, one for a public process and another for a private process (Casa Alianza, 2000; U.S. State Department, 1998). The public process utilized the Guatemalan courts and a government-recognized adoption agency or orphanage. The public process, however, requires a court decree that the child has been abandoned, which can easily take form on to seven years to complete. In addition there must be a search to try to locate biological relatives who are willing to adopt the child. Hence, in Guatemala, the private adoption process is much more common (Casa Alianza, 2000).

Private adoption requires an attorney, but not a judicial process (Casa Alianza, 2000; U.S. State Department, 1998). Rather than having to

prove abandonment, all that is needed to make a child available for adoption is a signed unconditional consent by the mother relinquishing the child; therefore, the process typically moves more quickly. Recently, in an effort to prevent the fraudulent adoption of children who have been abducted from their biological parents, the United States, United Kingdom, and Canada have started requiring that a DNA test be done to verify that the woman surrendering the child is indeed the biological mother, but this does not necessarily prevent forced relinquishments by birthmothers (Casa Alianza, 2000; Campbell, 2000; Jacot, 1998; U.S. State Department, 1998).

Once the documents are in order, and the DNA test validates maternity, the adoption is sent directly to the Procuraduría General de la Nación, the Guatemalan equivalent of the Solicitor General's Office, rather than the courts, for final approval of the adoption. The adoptive parents can, but are not required to travel to Guatemala for finalization of the adoption (U.S. State Department, 1998).

Analysis of the Policy

The Guatemalan government approaches the dual problems of caring for large numbers of post-war abandoned and orphaned children, as well as extreme poverty, by permitting the intercountry adoption of its children. The explicit goal of the country's policy of intercountry adoption is to reduce the number of children who are left in orphanages by quickly providing them with stable families (Campbell, 2000). The public system of adoption is designed to ensure that every effort is made to first locate parents, then relatives, then families within Guatemala to adopt the child, a position which values the maintenance of the family and cultural identity of the child over speed of permanent placement. However, considering that attorneys can charge up to \$30,000 for a private intercountry adoption, versus \$300 for an intracountry adoption, as well as the fact that private adoption constitute 99% of the adoptions of Guatemalan children (Casa Alianza, 2000), a more cynical observer might conclude that increased profit is the primary goal of attorneys and agencies facilitating the process.

After the end of a thirty-year civil war in Guatemala in 1996, there were an estimated 5,000,000 children left displaced, abandoned, or orphaned (Casa Alianza, 2000). To compound that problem, Guatemala has a high birth rate, which contributes not only to a high number of children needing care, but also to fewer childless couples within the country that are eager to adopt children in need of homes (Casa Alianza,

2000). Another complicating factor in Guatemala that increases need is poverty. In a country with a current population of approximately 10 million people, estimates are that up to 46 percent of the households in Guatemala live in extreme poverty (Casa Alianza, 2000). When the average Guatemalan family earns only \$82 a month (Freer, 2000), the financial pressure to relinquish a child in return for money may be great. Even greater may be the temptation to participate in the trafficking of children for the purposes of illegal adoption that can bring in up to \$30,000 per child (Campbell, 2000). The conditions of poverty also prevent families within Guatemala from rarely being able to afford the \$300 fee required for an intercountry adoption, or from being able to afford legal representation when they are victims of illegal adoption and try to regain their children (Casa Alianza, 2000).

Policy Implications

The greatest strength and anticipated consequence of Guatemala's policy on intercountry adoption is that the number of Guatemalan children adopted has increased. In fact, the majority of Guatemalan children who are adopted are placed in permanent homes before they are a year old and sometimes before they are even six months old (Casa Alianza, 2000; U.S. State Department, 1998). A corollary strength of this policy is that given the poverty of Guatemala, and the crucial developmental stages of a child's first year, Guatemalan children who are adopted out the country quickly may have better chance at a healthy development, as well as a greater educational and occupational opportunity later on in life when adopted by families living in developed countries (Serbin, 1997).

Viewed from another angle, however, the large amount of money coming into Guatemala through intercountry adoption may have the unintended consequence of reducing Guatemalan children to commodities to be traded on the international market. The 1999 United Nations report on adoption in Guatemala stated that, "according to the information obtained, legal adoption appears to be the exception rather than the rule. Since huge profits can be made, the child has become an object of commerce rather than the focus of the law" (Casa Alianza, 2000). Children became seen as commodities when "a structural 'supply' of children 'available' for adoption abroad in economically developing countries met with a structural 'demand' for such children in economically advanced countries. The language of economics made its appearance

and intercountry adoption became a more complex social phenomenon” (van Loon, as cited in Vitillo, 1991).

Another unanticipated consequence of the policy may be that the appeal of the private process and the speed at which it terminates parental rights encourages the bypass of children in the public system that are in need of permanent placements. Many children who are truly abandoned or orphaned and are the most in need of care are then left languishing in institutions (Campbell, 2000), while other children may possibly be conceived for the sole purpose of adoption (Casa Alianza, 2000). According to some estimates, only one out of 30 children adopted in Guatemala comes from a state orphanage (Casa Alianza, 2000).

Highlighting additional weaknesses of the Guatemalan policy are the lack of procedural and documentation oversight, the large disparity in the fees that attorneys can charge for private, versus public, intercountry adoption, and the absence of pursuing prosecution for child trafficking. The lack of oversight makes it easy for documents and even complete identities to be falsified. Guatemalan attorneys are allowed to charge as much as \$30,000 for an intercountry adoption, yet only \$300 for an intracountry adoption, encouraging attorneys to look outside, rather than within, Guatemala for adoptive families (Campbell, 2000). And finally, in her 1999 report, Ofelia Calcetas-Santos, the United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, reported that Guatemala has the weakest laws of any Latin American country regarding intercountry adoption and does not even consider trafficking of children a crime (Casa Alianza, 2000).

Perhaps, however, the greatest weakness and unintended consequence of this policy is that Guatemalan women have been coerced, bribed, and tricked into relinquishing their babies for adoption (Campbell, 2000; Casa Alianza, 2000; Freer, 2000; Jacot, 1999). Attorneys, social workers, judges, hospital workers, and most frequently, spouses (Campbell, 2000), have contributed to the victimization of birthparents and children. Reportedly, some women have been tricked into signing relinquishments while drugged post-partum, and then faced with fabricated charges of abandonment. Counting on their poverty to keep them from protesting, other women are profoundly victimized. Such actions have included stealing babies from markets and hospitals; contracting prostitutes and other women to conceive a child for the purposes of adoption; paying the women to abandon babies at hospitals; falsifying records; or lying to birthmothers about the health of their child or making them believe they are dead (Casa Alianza, 2000).

Summarily, the current policy of intercountry adoption in Guatemala is a logical expression of human behavior in that it operates according to the economic principles of supply and demand. Developed countries have a large number of people wanting to adopt children, and Guatemala has economic, political, and social factors that contribute to an easy availability of children to be adopted. Whether or not this policy constitutes effective delivery of service depends on which service to which humans are under consideration. From the standpoint of adoptive parents in other countries who desperately want children, the system works effectively to provide that service. Also, from the standpoint of the attorneys, doctors, social workers, and other professionals who manipulate the system, it probably works very well in delivering the increased income that they desire. Even for the children of Guatemala, if the service is defined as permanent homes that will provide them with greater financial, developmental, and social advantages, the current system effectively delivers that service. For the poor of Guatemala, however, who are already suffering the economic results of government turmoil, the current system only serves to further exploit their vulnerability.

Implications for Social Work

One possible social work response to this current adoption policy is that the United States should halt all adoptions from Guatemala. This stance could be enacted until Guatemala ratifies the Hague Convention and implements the Children and Adolescents' Code that has been passed by the legislature but permanently postponed. A second social work response to this policy could be to support more efforts toward development of strong, ethical social service within developing countries such as Guatemala that would reduce the need for placement outside the country of origin.

Funding for Guatemala's current policy of intercountry adoption comes from the adoptive families from other countries who pay the fees for adoption. The increasing availability of adoptive parents willing to pay high fees for adoption services only perpetuates the current system. Guatemalan attorneys may choose to use the private process of adoption over the public process because they can make more money through the private system, and other professionals and even parents in Guatemala can be tempted to participate in illegal adoptions because of the huge amounts of money involved.

Those who implement adoption policy are not regulated by the Guatemalan government (Casa Alianza, 2000), so therefore, these funding sources are the only effective agent of accountability in the picture. Attorneys, social workers, judges and court officials, and adoption agencies outside of Guatemala are currently responding to the pressure put on them to provide children that are available for adoption at as young an age as possible.

The Guatemalan government may view this current policy as cost effective because the more children that are adopted out of the country privately, the fewer will end up in state-run orphanages. Private adoption also brings a large amount of money into the country, both in terms of fees paid to Guatemalan citizens, and in terms of money spent by foreign couples during their stay in Guatemala for the adoption. In terms of the resource of human capital, however, the long-term cost effectiveness of this policy remains to be seen. In light of the fact that Guatemala now ranks fourth among sending nations in intercountry adoption, it appears that the funders support this policy by continuing to adopt children out of Guatemala in increasing numbers.

International Implications

How long the current adoption policy in Guatemala will remain in existence is uncertain, now that the U.S., Guatemala's primary receiving country, has ratified the Hague Convention. Once the central adoption authority has been established in the U.S. State Department, the increased monitoring and oversight of intercountry adoptions may force Guatemala to take measures to eradicate illegal adoptions or risk having the U.S. ban all adoptions from Guatemala. The Guatemalan government could also ratify the Hauge Convention, but so far has chosen not to, giving an excuse to the United Nations that they have not yet received a certified copy of the document (Casa Alianza, 2000).

Another piece of legislation, entitled the Children and Adolescents' Code, has already been passed by the Guatemalan legislature, and would provide greater protection for vulnerable children, but after several previous postponements, it was permanently postponed in January 2000 (Casa Alianza, 2000). According to the United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography (Casa Alianza, 2000), the influences behind the continued postponement of changes to the current policy come from people involved in intercountry adoption who have instilled fear in conservative lawmakers that these pieces of legislation are actually designed to harm families

rather than protect them. Understandably, the politicians, government officials, attorneys, and adoption facilitators that stand to lose large amounts of money if adoptions from Guatemala are restricted oppose such changes to use arguments guised in the form of a threat to families in an attempt to maintain the status quo.

Stakeholders and Decision Makers

In Guatemala, the stakeholders in intercountry adoption include children, biological parents, adoptive parents, and the attorneys and other agents who facilitate the adoptions. For children, adoption by an international family may mean rescue from a life in institutional or foster care, but it also may mean disconnection from one's biological, national, and ethnic heritage.

Adoptive parents in countries outside Guatemala also have an interest in Guatemala's adoption policy. Some of the appeal of Guatemala as a sending country lies in the fact that the waiting period for a child coming out of the private system is often shorter than that of other countries, Guatemalan children often do not have as many health problems as those coming from Eastern Europe, and children waiting to be adopted from the private system of intercountry adoption in Guatemala are in foster homes, rather than in institutions, prior to adoption (Freer, 2000).

Attorneys, adoption agencies, and facilitators in both the U.S. and Guatemala represent additional stakeholders in keeping intercountry adoption from Guatemala open and available. After the Children and Adolescents' Code was first postponed at the request of the President of the Supreme Court of Guatemala, it was discovered that his wife was allegedly one of the individuals involved in illegal adoptions (Casa Alianza, 2000). Professionals in the U.S. certainly benefit from the current policy, because it results in a large number of infants being available for adoption by U.S. citizens; however, some organizations have also advocated for reform in the law to ensure ethical adoption practice. Social workers in the U.S. also have a responsibility to educate their agencies and families about ethical adoption practice and refrain from programs that exploit the vulnerable. Representatives from Casa Alianza, a non-profit organization dedicated to street children in Guatemala, Honduras, Mexico and Nicaragua, have taken on some cases of parents in Guatemala whose children have been illegally adopted, and in 1998, the first case overturning an illegal adoption from Guatemala was won (Freer, 2000).

However, there are critical points of disagreement between those with a vested interest in Guatemalan adoptions. Adoptive parents, attorneys, and agencies within the United States usually view intercountry adoption from Guatemala as a good solution to both problems of children without families and families who desire to have children (Vitillo, 1991). Critics of intercountry adoption, though, consider the practice as a perpetuation of financial and social abuses against and already oppressed nation, and as a form of Western imperialism that robs developing countries of their most valuable natural resource—their children (Serbin, 1997; Vitillo, 1991).

Other organizations dispute claims made by Casa Alianza, the United Nations, and UNICEF that the majority of intercountry adoptions out of Guatemala are conducted illegally. Hannah Wallace, the Chair of the Guatemalan Caucus of Joint Council on International Children's Services (JCICS), asserts that their member agencies know of no irregularities or coercions, and argues that groups like Casa Alianza and UNICEF exaggerate claims of corruption and misrepresent intercountry adoption as being synonymous with child trafficking (Freer, 2000). Ms. Wallace also opposed limiting Guatemalan adoption, in the belief that the countries that have tried to implement solutions have only created more problems for the children waiting for permanent families (Freer, 2000).

THE UNITED STATES AS A SENDING COUNTRY IN INTERCOUNTRY ADOPTION

History

The Challenges of policy design and implementation regarding intercountry adoption are not limited to Guatemala, however. The issue of participating in intercountry adoptions as a sending nation is complex for the United States as well. In countries such as the United Kingdom (U.K.), obstacles to domestic adoption such as increased infertility, a decreasing birthrate, and lack of openness in adoptive relationships, have made adoption from the U.S. increasingly appealing (Mack, 2000). While historically, the U.S. has neither tracked the numbers of children leaving the country for adoption, nor conducted any long-term follow-up beyond the finalization (Smolowe, 1994), there have been increasing calls to do so. There has been at least one case of a child being ordered returned to the U.S. by a British court after it was learned that the British couple that had adopted the child was unsuitable and had had

their homestudy written and approved by an unqualified social worker (Mack, 2000). During congressional hearings on the Intercountry Adoption Act of 2000, Senator Jesse Helms (R-N.C.) attempted to include provisions in the law that would have required a twelve-month waiting period before a U.S. child could be adopted out of the country, as well as a stipulation that only married couples, and not individuals, could adopt children from the U.S. (Congressional Quarterly, 1999). These measures were not included in the final bill, however (Intercountry Adoption Act of 2000, 2000). Estimates of the number of children annually adopted out of the U.S. have ranged from 100 to 500 (Smolowe, 1994), to 3,000 (Congressional Quarterly, 1999; Mack, 2000; J. Smolowe, personal communication, November 6, 2000).

United States Adoption Policy as a Sending Nation

United States adoption policy in this area is intended to work by allowing families from other countries to adopt U.S. children in need of homes. The policy is expected to provide children with qualified, loving families to care for them. The policy is also expected to provide families with children about whom they can know more medical and social history than would otherwise be available through a confidential adoption. Finally, the existence of this policy is expected to provide U.S. families with the continued opportunity to adopt from other countries through reciprocal agreements with other nations (Congressional Quarterly, 1999). The policy covers U.S. children relinquished, abandoned, or otherwise legally separated from their parents. It also covers adoptive families outside the U.S., birthparents in the U.S., and agencies and attorneys that facilitate adoptions in the U.S. and overseas.

According to Irene Steffas, an immigration and family law attorney in Atlanta, Georgia (personal communication, November 16, 2000), the policy regarding foreign families wishing to adopt children from the U.S. is implemented in a way very similar to domestic adoptions within the United States. Typically, a family will use the Internet or referrals to locate a private adoption agency or attorney in the U.S. that has experience with intercountry adoption out of the United States. That family then works with a social worker in their country of origin to complete a homestudy approving them to be adoptive parents. This homestudy must meet the requirements of the law of the child's state of residence, the couple's national immigration authority, and the public child welfare authority in the child's state of residence (i.e., the Department of Family and Children's Services), and it includes statements of medical

and financial stability and fitness, as well as criminal background checks. The best practice is then for the attorney or agency to fully disclose to potential birthmothers the nationality of the families that she has to choose from and have her sign a consent that acknowledges such.

If a birthmother chooses a foreign family for her child, that family will travel to the U.S. for placement, and will then return to their home country for a period of post-placement supervision by a social worker in their country. Following the finalization of the adoption in the United States at a later day, the child remains a United States citizen but automatically obtains dual citizenship upon return to the adoptive parents' country.

Analysis of the Policy

Allowing U.S. children to be adopted by families who are citizens and residents of other nations is one of several policies that the U.S. has implemented to address the problem of children in need of families. Many U.S. children, 42,000 in 1999, are adopted domestically out of foster care, most often (64%) by their foster parents (Evan B. Donaldson Adoption Institute, 2000). Other domestic adoptions are facilitated through private agencies within the United States. Overall, the National Adoption Information Clearinghouse (2000) estimates that in 1992, the last year for which complete adoption information is currently available, 127,441 adoptions took place in the United States; the majority (42.2%) were stepparent or relative adoptions, 15.5% were adoptions of children in foster care, 5% were adoptions of children from other countries by U.S. citizens, and 37.5% were private adoptions handled by attorneys or private adoption agencies. What is unclear from these statistics is whether intercountry adoptions of U.S. children are included in the figures, and if so, what kind of adoption they are.

The Children's Bureau of the United States Department of Health and Human Services (2000) estimates that as of September 30, 1999, there were 568,000 children in foster care in the United States. Of this number, approximately 118,000 are currently waiting to be adopted, meaning they are children under the age of sixteen who have a total of adoption and/or whose parental rights have been terminated (The Children's Bureau, 2000). While the number of adoption finalizations for children in state foster care has more than doubled since 1994, growing from 21,000 a year to 42,000 annually, there is still a tremendous need to identify families for waiting children (Evan B. Donaldson Adoption Institute, 2000). Part of what makes the permanent placement

of American children difficult, though, is that, even though at least 500,000 women are currently seeking to adopt, only about 100,000 have actually applied to an agency (National Adoption Information Clearinghouse, 2000). An additional problem is that most potential adoptive families seek to adopt healthy Caucasian infants under the age of one, while the average child in foster care is a 9 year-old African-American with one or more special needs (Evan B. Donaldson Adoption Institute, 2000).

Policy Implications

A strength of U.S. intercountry adoption policy as a sending nation is that it is a good-faith gesture of reciprocity to the international community from which U.S. citizens are also adopting children in increasing numbers (Congressional Quarterly, 1999). An anticipated consequence of this policy, then, is that foreign countries will continue to remain open to intercountry adoption.

Another strength of this policy that may be an unintended consequence is that it gives birthmothers who make adoption plans for their children through the private system of adoption in the United States an even greater range of choice in the type of family they can place their child with. Some women choose international families because they believe other countries to be less violent and therefore safer for a child to grow up in, or because they believe that the likelihood their child will one day come looking for them is less if the child is placed outside of the United States (Mack, 2000; Smolowe, 1994).

There are, however, a number of weaknesses of this policy. One is that relatively few, if any, of the children who are adopted out of the U.S. seem to come from the foster care system (R. Andersen, State of Georgia Office of Adoptions, personal communication, November 16, 2000), meaning that the children most in need of adoptive families may not benefit from this resource. Another weakness of this policy is the lack of information available on exactly how many children are being adopted out of the U.S., and how well they are cared for once they leave.

An additional weakness of this policy is a cultural one. Given the existence of the Multiethnic Placement Act of 1994, which forbids agencies from making placement decisions primarily on the basis of race, the adoption of U.S. children of African-American or biracial heritage is not in direct conflict with U.S. policy regarding adoption. However, for organizations such as the National Association of Black Social Workers (NABSW) that oppose transracial adoption (Research & Training Cen-

ter, 2000), this policy should be of concern. The availability of international citizens willing to adopt minority children may make it easier for some agencies to neglect more active recruitment of minority adoptive families.

In summary, the logic of the U.S. adoption policy as a sending nation can be approached from many angles. It does make sense that if the U.S. can adopt children from other countries, then it should also remain open to its children being adopted by citizens of other countries. From a racial and cultural angle, logic would also seem to dictate that if U.S. adoption policy does not prohibit transracial adoption domestically, then it should not prohibit it in intercountry adoption either.

United States' policy regarding the intercountry adoption of its children does constitute effective delivery of service in the sense that it allows adoptive families in other developed nations that are experiencing problems with increasing infertility and a decreasing birthrate similar to that of the U.S. the opportunity to fulfill desires for a family. It also is effective in providing children who have been relinquished by or legally separated from their birthparents with a family. Many couples trying to adopt within the U.S. do not feel that this policy represents an effective delivery of service to them, however, and are angry that while they are waiting an average of seven years for an adoptable infant, international citizens that are given the same opportunity to adopt a U.S. infant reduce their odds even further (Mack, 2000).

Implications for Social Work Practice

The dilemmas for social work practice in addressing this policy may seem simple and pragmatic but are nonetheless difficult. Why support a policy that promotes U.S. children being adopted out of the country when there are so many U.S. families already looking to adopt a child? On the other hand, given the nature of adoption in the U.S. today, whereby a birthmother has much more control over the selection of who adopts her child, the current U.S. policy expends the choices available to her. Furthermore, since some birthmothers may prefer to have their child adopted by an international family, it is an empowering option for her.

Adoption is also an unusual type of immigration, though, for it is a form of forced migration, in which the decision-maker is not the person actually having to make the move (Weil, 1984). The primary client, at least in theory, is also the most vulnerable and voiceless client—the child—and just as with intercountry adoption from Guatemala, the child is given no choice in where, or with whom, he or she is raised.

The funding of intercountry adoptions out of the U.S. comes from the families of other nations who are willing to pay the placement and legal fees to adopt from the United States. Given the fact that few, if any, of these adoptions are from the child welfare system of foster care, it is unlikely that any funds come from government sources. In the area of accountability, as long as agencies and attorneys within the U.S. are able to offer international families the opportunity to adopt children, especially infants, their services are likely to continue to be used. A large public outcry from U.S. citizens regarding this policy has not occurred, but many adoption agencies and organizations are not even willing to talk about it, for fear of inflaming racial and political debate (J. Smolowe, personal communication, November 6, 2000).

The issue of the cost-effectiveness of this policy can be evaluated in the same way as the intercountry adoption policy of Guatemala. In terms of monetary cost to the government, this policy is cost-effective in that it keeps children out of foster care. The government may also view that loss of 100-500 U.S. children a year to intercountry adoption as a small price to pay for the more than 16,000 children that U.S. citizens have been able to adopt from abroad (U.S. State Department, 2000). In terms of long-term loss of human capital to the U.S., however, whether or not this policy is truly cost-effective remains to be seen.

International Implications

With the passage of the Intercountry Adoption Act of 2000, implementing the Hague Convention, there are likely to be several changes over the next few years in U.S. intercountry adoption policy, both as a sending and receiving nation. One of the changes regarding participation as a sending nation that will be implemented by this legislation is that a central authority will now be established within the State Department which will have the responsibility for keeping track of exactly how many of these adoptions take place, and agencies will also be charged with undertaking some form of post-placement follow-up of these children to monitor the quality of their adjustment (Intercountry Adoption Act of 2000, 2000).

Adoption is indeed a complex issue, for, as mentioned above, the person most affected by the policy decisions being made—the child—rarely has a voice in making those decisions. Another issue related to social justice has to do with the children left in long-term foster care in the native countries of the couples that adopt from the United States. The odds

that these children will be adopted out of foster care may be reduced by the ability of individuals and couples to look outside their native country to adopt; an issue that also applies to the plight of American children in foster care when U.S. citizens adopt internationally.

Stakeholder and Decision Makers

The specific ways in which children, birthparents, adoptive parents (both within and outside the United States), adoption professionals, and the U.S. government hold a stake in this policy have been outlined above. One group of stakeholders that are also decision-makers in U.S. policy in this area that are not also decision-makers in Guatemalan policy is birthparents. Current adoption practice in the U.S. gives birthparents more decision-making authority in placing their children, and in many instances, this authority extends to the right to know the country in which a potential adoptive family resides.

CONCLUSION

Consideration of these policies highlights several areas where further research can be conducted. First, there should be increased research on adjustment and to identify issues of children who are adopted by people of the same race, but different cultures and nationalities. Research would also be valuable in understanding the relationship between intercountry and domestic adoption, in terms of whether an increase in one stimulates or jeopardizes the other. As the United States moves forward in the implementation of the Intercountry Adoption Act of 2000 and the Hague Convention, it is also recommended that outcome evaluations be conducted to monitor how effectively these new policies safeguard the rights of children being adopted both into and out of the United States. Research into economic development initiatives that could be started in Guatemala to bolster the economy and reduce the influence of poverty in intercountry adoption is also critical.

Policy Recommendations

It is recommended that Guatemala ratify and implement the Hague Convention in order to move towards stemming the tide of questionable adoption of Guatemalan children. Five specific articles of the Hague Convention (Hague Conference on Private International Law, 1993)

would be especially relevant to reforming the intercountry adoption policy of Guatemala. Article 20 establishes that a child deprived of his or her family is entitled to State-provided special assistance and protection, and Article 21 asserts that the best interests of the child are the primary concern of the ratifying nation and that intercountry adoption is the last alternative when intracountry adoption is not available. Article 8 requires the nation to provide mechanisms to ensure preservation of a child's identity, including cultural identity. Articles 9 and 11 are closely related; Article 9 prohibits the separation of a child from his or her parents against their will, and Article 11 commits the ratifying nation to take measures to oppose the illegal transfer and non-return of children abroad.

It is also recommended that U.S. adoption agencies reevaluate their current intercountry adoption programs in Guatemala and halt these programs until greater assurance can be given the principles of social justice for poor and vulnerable women and children are upheld in greater measure. U.S. agencies could also focus ever increasing attention on contribution to strengthening social services within developing countries to reduce the need for intercountry adoption, and could also further educate their clients about the political and social aspects of intercountry adoption.

Intercountry adoption policies of participating nations are highly complex and highly interrelated. They touch on issues of child welfare, immigration, and exploitation, social results of war, cultural identity, economics, imperialism, and attachment. While some in the United States may oppose the adoption of U.S. children by international families, the practice cannot be halted without jeopardizing the future ability of U.S. citizens to adopt from other countries. The United States is in a particularly complex situation, though, for while it might recommend that developing nations such as Guatemala implement tighter measures to protect children from illegal adoption, its own citizens are among the primary stakeholders in the continuation of intercountry adoption being available from developing nations, and continue to most often seek the youngest, healthiest children to adopt, rather than the children that adoption should ideally seek to serve. There is great opportunity in this area of intercountry adoption to redesign policies that better serve both children and families.

NOTES

1. Referred to throughout this paper as the Hague Convention.
2. The terms "parents" and "family" refer to both individuals and married couples seeking to adopt, unless otherwise specified.

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