

Carolina Hope

CHRISTIAN ADOPTION AGENCY

SC License SR-4500-CPA • A Non-Profit 501(c)(3) Agency

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RISKS OF A GUATEMALA ADOPTION

1. I have read the U.S. Department of State's March 14, 2007, posting called "Frequently Asked Questions: Prospective Adoptive Parents of Guatemalan Children" fully, and I/We understand the Department of State's concerns regarding adoptions from Guatemala.
2. I understand that Carolina Hope does not offer or guarantee a firm timeframe in which an adoption case can be completed in Guatemala.
3. I understand that there is possible legislation that could slow down or stop adoptions in Guatemala. Carolina Hope cannot predict the length of time of a suspension in Guatemala.
4. I understand that country fees paid for an adoption are **non-refundable**. Some fees paid for Carolina Hope's services could be transferred to another program if I qualify for such a program. Otherwise, the fees are non-refundable.
5. I understand that this signed statement does not replace the "Risks Involved in an International Adoption" or the "Refund Policy" which I have previously signed.
6. I understand that things can change often and possibly significantly in international adoption, and I do not hold Carolina Hope responsible for the status of adoption with any country. Carolina Hope agrees to inform me within a reasonable period of time of any changes in Guatemala so I can make an informed decision of how to proceed.
7. I understand that the I-600A application fee is non-refundable. If I change the country I plan to adopt from after filing the I-600A, then I must file form I-824 with CIS (along with a \$200 processing fee) in order to change countries.
8. I understand that the expenses involved in completing a dossier are the actual costs of mailings, certifying, and authenticating documents and that these costs are non-refundable. I know that different countries require different dossiers, so I will need to create a new dossier in the event that I change countries. Carolina Hope assists families in completing their dossier. The expenses are billed to me.
9. I understand that after receiving a referral, there is a time-lag between sending down the Power of Attorney (POA) is being registered. Also, there is a time-lag of up to a few months from an assignment of a child to when the DNA will be completed. **This is when there is the greatest risk.** (If I go to Guatemala to sign the document, this decreases the lag time between accepting a referral and the Power of Attorney being registered with the court in Guatemala.) If the POA is sent to Guatemala but not logged-in, and adoptions between the U.S. and Guatemala are suspended, there is no legal means to continue pursuing the adoption.
10. I understand that Carolina Hope cannot guarantee an adoption will be completed even after the Power of Attorney is logged-in and the DNA is completed. Historically, if a family has a POA

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logged-in for an adoption and adoptions between the U.S. and that country have been suspended, the U.S. State Department helped families continue to pursue their adoptions and eventually bring their children home to the U.S. This could be a very long process and may not occur in the same manner with Guatemala as it has with other countries. I understand that all fees sent directly to Guatemala are non-refundable and will go toward meeting the on-going needs of the children in the attorney's care.

11. I understand that if I am unable to complete the adoption due to the suspension of adoptions between the U.S. and Guatemala, I will not be refunded any monies from overseas or from Carolina Hope. However, if there is another program with Carolina Hope, then all but \$1,500 can be applied toward that Carolina Hope program. However, I understand that I might not qualify for another program, or other programs might not be desirable to me.

12. I understand that the timeframe for adoptions' being completed is presented based on past cases with Guatemala and the current information Carolina Hope is receiving. The timeframe is subject to change due to the risks out-lined above and the inherent risks that are part of all international adoptions.

13. have read the above, and I both acknowledge and understand the risks as discussed above; nevertheless, it is my desire to go forward with the adoption process.

Signed:

(Signature) Prospective Adoptive Father

Date

(Signature) Prospective Adoptive Mother

Date

(Signature) Agency Representative

Date

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FROM U.S. STATE DEPARTMENT March 14, 2007

Frequently Asked Questions: Prospective Adoptive Parents of Guatemalan Children

1.Q: *I/We have already begun the process of adopting from Guatemala but have not been matched with a child. After reading the information on your webpage, I am concerned. Do you recommend that I pursue adoption from Guatemala?*

A: Although we understand many U.S. families have adopted children from Guatemala in the past, we cannot recommend adoption from Guatemala at this time. The situation in Guatemala has changed. There are serious problems with the adoption process in Guatemala, which does not protect all children, birth mothers, or prospective adoptive parents. The Guatemala government is planning to implement new adoption processing procedures to increase protections. The United States is also scrutinizing individual cases more closely than before. We recommend that you bear these facts in mind when choosing a country from which to adopt.

2.Q: *What are the problems in Guatemala?*

A: The major U.S. Government concerns about the Guatemalan adoption process include:

- Conflicts of Interest: Guatemalan notaries may act as judges and determine a child's eligibility for adoption and issue a final adoption decree. In the same case where he or she is acting as judge, the notary or his/her staff may also directly interact with birth mothers, solicit consents for an adoption, and handle the referral of the child to prospective adoptive parents. The Department of State does not believe that the notaries, given these multiple roles, can truly act objectively and in the best interests of the various parties.
- Lack of Government Oversight: Despite these critical roles in the adoption process, the notaries are largely unregulated. Public oversight is minimal. Particularly in cases in which prospective adoptive parents are told that the birth mother relinquished her rights to her child voluntarily, the U.S. Government is concerned that social services to birth mothers are extremely limited and that their consents may have been induced by money or threats. Monetary incentives and high fees drive completion of the adoption more than protecting the children, the birth parents, and the prospective adoptive parents. The Department is aware of a growing number of cases of adopting parents who have told us that they are being extorted for very large amounts of money by their local representatives in order to complete an adoption.

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- Unregulated Foster Care: Like the notaries, Guatemalan foster care providers are not regulated or checked by the Guatemalan government for compliance with any standards. Many Guatemalan foster families have demonstrated their love and concern for the children in their care, and American adoptive parents have expressed gratitude for how the foster families cared for the children while the adoptions were in process. Unfortunately, however, the Department of State is also aware of instances of grossly inadequate care for young children in foster home situations. There are cases in which American adoptive families who have completed a Guatemalan adoption later learned that the foster care provider or others in the household had physically or sexually abused the children.
- Hague Convention on Intercountry Adoption: Guatemala has been a party to the Hague Convention since March 2003, but it has never enacted Hague-consistent legislation or instituted Hague-consistent practices that would provide children the protections that are now lacking. Guatemala has not established the required “central authority” to oversee intercountry adoption processing under the Convention and has not yet taken numerous other steps the Convention requires. The U.S. Department of State, the Hague Permanent Bureau (which oversees the Convention) and other countries have consistently expressed concern about these and other problems with Guatemalan adoptions. In fact, many Hague Convention countries have stopped adoptions from Guatemala.

3.Q: *If the United States sees so many problems in the Guatemalan process, why has it continued processing adoption cases and continued to permit Guatemalan children to come to the United States?*

A: The U.S. Government continues to process adoption cases, but subjects each case to detailed review. For example, in 1998 the United States instituted mandatory DNA testing for Guatemalan women who stated intentions to relinquish their children. This measure was taken in response to numerous cases in which impostors who were not the children’s actual birth mothers attempted to relinquish rights to children who were not theirs.

Even with DNA testing, however, it has become increasingly clear that the current adoption process in Guatemala does not protect all children adequately. U.S. authorities have therefore increased their scrutiny of all adoption cases. This increased scrutiny means more time will be needed to conduct individual case investigations and that each case will take longer to process. Similarly, more cases may be denied because the facts uncovered during the investigation show the child is not classifiable as an orphan under U.S. law.

4.Q: *My agency is very reliable and they tell me that the adoption process they use in Guatemala is good and transparent. Can I rely on their assurances?*

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A: The Department of State has long advised all prospective adoptive parents, irrespective of the country from which they are hoping to adopt, to fully research any adoption agency or facilitator they plan to use for adoption services. For U.S.-based agencies, prospective adoptive parents should contact the Better Business Bureau and/or the licensing office of the appropriate state government agency in the U.S. state where the agency is located or licensed.

Even if a U.S. adoption agency has an unblemished record with such offices, however, and even if the agency itself is operating completely with the best intentions, the lack of oversight and regulation over the other actors in the Guatemalan adoption process make it extremely difficult for even the most ethical agency to be completely certain that everything has been done in accordance with the law and in the best interests of all the parties.

5.Q: *What if I have begun the process of adoption from Guatemala and my child has already been identified? I consider this child my child and I cannot walk away at this point.*

A: At this time, the U.S. Embassy is continuing to adjudicate each adoption case based on the merits of the information provided in that individual case. The Embassy, however, will adjudicate each case with even more scrutiny than has been its practice in the past. In addition, Guatemalan authorities have recently indicated that they plan to look more closely at each adoption case. Guatemala has introduced a new manual of adoption good practices. At this time, we cannot predict the full effect of the new manual on current or future cases. We do expect that processing individual cases will take longer due to the necessity of government scrutiny.

6.Q: *My agency tells me that it is unlikely that Guatemala will change its adoption laws this year, because of elections and other political factors. Isn't this good for me, because my case may not be delayed?*

A: Adopting a child in a system that is based on a conflict of interests, that is rampant with fraud, and that unduly enriches facilitators is a very uncertain proposition with potential serious life-long consequences. When you decide whether to move forward with adoption in Guatemala, you should consider factors beyond timing. Some American prospective adoptive parents are deciding against adoption from Guatemala now because they do not want to support negative child welfare practices. In addition, a child's long-term psychological well-being may be affected if the child later learns that his birth family did not freely choose to give him up or that he, and perhaps siblings, were "produced" for the sole purpose of adoption. U.S. parents have also discovered that their adoptive children have undisclosed serious special needs due to inadequate foster care and/or fraudulent medical information.

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7.Q: *We only want to adopt a child who is truly eligible for adoption and most certainly a child whose birth parents have legally terminated their parental rights. With these goals, can we adopt in Guatemala?*

A: For the reasons stated above, we cannot say that the system of adoption currently in effect in Guatemala provides any assurances that your goals can be met.

8.Q: *I understand that the process in Guatemala does not adequately protect children, but there are children in the adoption process now who will be hurt if adoptions are stopped abruptly. Will there be a process to help those children?*

A: A number of foreign governments and non-governmental organizations have pledged their willingness to help the Government of Guatemala with technical support for a new adoption process with reliable oversight. Many good practices have already been identified.

[end of DOS FAQ]

SUMMARY OF MARY BONN CASE

Mary Bonn was a U.S. adoption facilitator. She has been charged with child smuggling and visa fraud with reference to children from Guatemala whose adoptions had been legally finalized within Guatemala. As the cases Mary Bonn worked on have been examined, the investigation has expanded to include multiple U.S. government agencies, adoption service providers in the U.S. and Guatemala, and adoptive parents. The investigation is also starting to cover countries other than just the U.S. and Guatemala. What this means for families is that cases are being scrutinized more closely, and a slow-down in the adoption process is occurring. Joint Council on International Children Services is working with officials and attempting to have more staff put into place in order to minimize the time impact of looking more in-depth into cases. This case is already considered historic and could impact the proceedings of adoptions in many countries.

SUMMARY OF HAGUE TREATY ISSUES

The 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (aka “The Hague”)

The Hague is an international treaty that the U.S. intends to ratify (implement all of its procedures) before the end of 2007, although that timeframe is a very ambitious goal.

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Guatemala committed to following the guidelines set forth in The Hague in 2002. After doing this, their Supreme Court found The Hague to be against their country's constitution and so decided not to follow The Hague guidelines. However, from an international legal perspective, Guatemala is still expected to follow The Hague. If Guatemala does not have Hague-compliant legislation in place before the U.S. ratifies The Hague, the U.S. will not be able to continue adoptions with Guatemala. The U.S. Department of State has been consistent in saying that families who have applied with Citizenship and Immigration Services to bring an orphan into the country (by filing their I-600A) before the U.S. ratifies will be able to complete their adoptions. However, the Guatemalan government has not stated how they will proceed with U.S. adoptions once the U.S. ratifies The Hague. It appears that Guatemala is working to become Hague compliant. The Guatemalan attorneys have had legislation that is debatably Hague-Compliant presented to their Congress and the Guatemalan government has stated that they intend to make adoption reform a priority. Historically, every country in Latin America that has implemented The Hague has experienced an extreme slow-down in the adoption process or a stop in adoptions from their country. U.S. and Guatemala officials appear to be working together to prevent this from happening if Guatemala implements The Hague.

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