



- Partner Sites:
[Newsweek.com](#)
[Britannica Internet Guide](#)

Related Items

- Print Edition**
[Today's National Articles](#)
[Inside "A" Section Front Page Articles](#)

- On Our Site**
[Top News/Breaking News](#)
[Politics Section](#)
[National Section](#)

On the Verge of Exile

For Children Adopted From Abroad, Lawbreaking Brings Deportation

By Susan Levine
Washington Post Staff Writer
Sunday, March 5, 2000; Page A01

MEDINA, Ohio—The Americanization of Joao Herbert began in 1987, when an 8-year-old boy from Brazil flew north to become the adopted son of a small-town Ohio insurance salesman and hairdresser. Blessed with an ebullient spirit, he embraced his new family, his new home, his new world. English quickly replaced Portuguese. Football eventually supplanted soccer. By high school, his father boasts, he could nail a field goal from 50 yards.

Unfortunately, by then he'd embraced some less desirable aspects of American youth, too. Herbert fell in with the wrong crowd, partied with booze and pot. And just two months after high school graduation in 1997, he sold 7.5 ounces of marijuana to a police informant in his home town of Wadsworth.

This Friday, he stands to be kicked out of his adopted country--for the rest of his life.

The U.S. government intends to banish Herbert--a first-time offender sentenced only to probation and community treatment--and send him back to an alien land. He knows no one in Brazil, and he no longer understands the native tongue. At 22, he has few recollections of his early years in Sao Paulo,

although he remembers that his orphanage overlooked a slum.

Through the thick glass of the visitation cubicles at the county jail where he's been held since last March, he'd plead with his mother: I'm your son, right? They can't take me away, can they? Show them the adoption papers.

But those papers matter not, just as other papers and pleadings have mattered not in half a dozen similar cases over the past two years. In each, men and women adopted from abroad as children--loved and assimilated as Americans but, for whatever reason, never naturalized as citizens--have found themselves suddenly facing deportation as adults because U.S. immigration law considers them to be serious and unwanted criminals. They constitute a small but poignant subset of the millions of people subject to Congress's sweeping immigration reform of 1996.

"There's something particularly appalling about sending back someone who was adopted," said law professor Nancy Morawetz, who runs the Immigrants Rights Clinic at New York University. "Aren't we engaged in an amazing fiction, to say that this group of people, who were raised in this country, who believe that they're part of this country, that suddenly they're strangers?"

Indeed, even as Joao (pronounced Ja-WONE) Herbert sits day after day in detention, in Georgia a woman who was adopted as a toddler is fighting a deportation order because of a 1988 misdemeanor battery charge--from a hair-pulling scuffle after a boyfriend stood her up. As punishment, Mary Anne Gehris received a one-year suspended sentence and 60 hours of community service, which she worked off cleaning county probation officers' cars and bathrooms.

The Immigration and Naturalization Service only learned that bit of history when she at last applied for citizenship last year. Have you ever been convicted of a crime? the form asked. She answered honestly: Yes.

"It's just totally consumed me," said Gehris, 34, whose accent reveals her southern upbringing, not her German birth. She has two children, including a profoundly retarded son with cerebral palsy who could not travel abroad. Stinging criticism of the government's effort against her brought the attention of the Georgia Board of Pardons and Parole, and last week, it voted 5 to 0 to pardon her, thus halting any deportation.

The law at issue is the Illegal Immigration Reform and

Immigrant Responsibility Act, aimed at closing loopholes in past immigration policies and practice. Its effect on adoptees was an unintended consequence, and Congress and the INS fault each other for cases like these.

The act's harshest provisions made detention mandatory and potentially endless once the INS started deportation proceedings against someone with a criminal conviction; stripped immigration judges of virtually all ability to weigh cases one by one and decide them on their merits; and significantly limited immigrants' right to contest adverse decisions through the federal courts.

Moreover, the law greatly expanded the definition of crimes that put someone at risk of deportation, and even allowed the INS to pursue people whose conviction occurred years before the statute took effect. Such retroactivity would be unconstitutional in the criminal justice system. Deportations, however, are deemed a civil matter.

"A nightmare," said Gehris's attorney, Socheat Chea. "You don't think it's real, but it's very real."

Although the law's provisions and reach have divided many immigrant families, several cases of late have involved long-ago orphaned children: John Gaul, who was adopted from Thailand at 4 and forcibly returned at 25. Michael Perry, adopted from Canada at 5 and expelled across the border at 24. Even a decorated Vietnam War veteran, a Californian who hadn't seen his native Japan for more than three decades, was nearly deported in 1998 on two lesser drug charges.

"My adjustment to Thailand was very hard," Gaul wrote last week in a short and muted e-mail from Bangkok, where he continues to struggle with the language and society. "God was with me even though I pleaded with him not to be here. . . . I just take it one day at a time."

No one condones or minimizes the crimes for which he and the others have been convicted, but the government's aggressiveness in seeking their removal has chilled people who work in the field of international adoption.

"It totally invalidates the whole adoption experience," said Susan Cox, vice president of Holt International Children's Services, which is based in Eugene, Ore., and each year places about 1,000 foreign children with American couples. She worries about the future repercussions of these actions.

"It's the impact they have on our responsibility as the receiving country, on our integrity, on the promises we've made to the sending countries," she said.

Precisely the point made by Brazil's new ambassador, Rubens Antonio Barbosa. He suggests that his nation (which authorized 103 adoptions into the United States last year) might rethink its cooperation if there are many more situations like Herbert's. Brazil refused to grant travel papers for him and another young man from Massachusetts who is in similar straits; as Barbosa explained, his country's law is clear that an adopting father and mother become responsible for a child.

"The links with Brazil are cut," he said, slicing a hand through the air for illustration. "Adoption, according to Brazilian legislation, is irrevocable."

But he mentions other reasons, too--humanitarian reasons, as he sees them. With no language, no contacts, no way to make a living, how well could Herbert survive back in Sao Paulo? So he will not be allowed in, which means that if the INS does not find a third country to accept him, he could be detained indefinitely--"a lifer," in immigration parlance.

"It's a tragedy," Barbosa has concluded.

All told, U.S. citizens completed more than 16,300 foreign adoptions last year, with well over half of the children coming from Russia, China and South Korea. During the past decade, the increase has been sharp, and agencies such as Holt say these headline deportations have pushed counselors to be far more diligent in stressing the importance of naturalization to new parents.

For contrary to what some think--to what Gaul's and Perry's parents insist they thought for more than a decade--naturalization is not automatic when an adopted child enters the country. When begun while he or she is still a minor, naturalization is not a particularly difficult process, but it can prove cumbersome, time consuming and confusing, and families not uncommonly delay doing it. Legislation pending on Capitol Hill would confer immediate citizenship on adoptees, allowing them to quickly have the right already enjoyed by the biological children of immigrants-turned-citizens.

Such change would avert much heartache for adopting families whose foreign-born sons and daughters run into the same sort of turmoil or trouble as native-born offspring.

"Kids who [become] so totally American, whatever they've done is a reflection of the society they grew up in," said Carol Wolchok, director of the American Bar Association's Center for Immigration Law and Representation.

At this perilous intersection of immigration and criminal laws, there is plenty of finger-pointing about who gets the credit or blame for the dramatic spike in deportations since the 1996 act. In three years, "removals" soared from 36,203 people to 63,012 in fiscal 1999. About 10 percent involved legal permanent residents, and nearly half of the total centered on drug charges.

Even the strongest congressional supporters of the toughened enforcement have concerns--although they tend to blame INS officials for failing to exercise the case-by-case discretion that they say would solve the bulk of the problem.

"There has been widespread agreement that some deportations were unfair and resulted in unjustifiable hardship," acknowledged more than two dozen lawmakers in a November letter to Attorney General Janet Reno and INS Commissioner Doris Meissner. Among the signers was Rep. Lamar S. Smith (R-Tex.), one of the act's chief architects. "True hardship cases call for the exercise of such discretion," he and his colleagues urged.

But the agency insists that changes in the law are needed. Because in cases involving an "aggravated felony"--an INS-specific term that covers the criminal waterfront, from Gehris's simple battery charge to Perry's vandalism and botched bank burglary--spokeswoman Karen Kraushaar says there is no latitude.

"The law is, fortunately or unfortunately, very clear in this regard. Removal is mandatory for those convicted of aggravated felonies," she said.

So one day immigrants may find themselves, as Perry did in January 1999, on an unscheduled plane ride to an unfamiliar place. He landed in Toronto, and from there the former Louisianan was driven to an isolated community in Manitoba--the aboriginal community into which he'd been born. Camperville has two gas stations, one general store and no traffic light. Still, he was grateful to be able to connect with someone who'd once known him.

"It's going all right, I guess," said Perry, who's living with his

biological mother. Down south, he'd been trying to right himself by doing maintenance at a golf course. But here, "I can't get no work. I ain't got the kind of papers that say I'm a Canadian citizen."

Every Sunday without fail, he calls his adoptive parents in Bush, La., to tell them hello. "Michael's been a heck of a son," Jim Perry said last week, reminiscing about the many trips they spent hunting and fishing when his boy was younger. Despite the criminal record: "We all miss him. We talk about how much we love him."

The separation holds special import for the older man, who is battling cancer and is sure his son never will be allowed to set foot in the United States again. He sounds less bitter than resigned, and still somewhat disbelieving: "The papers we got [at Michael's adoption] said he was an American citizen." The father contacted attorneys to fight the deportation. They told him not to waste his money.

In contrast, Pam Gaul in Florida battled to the end, convinced that it was the INS's fault that her son John was not naturalized before his 18th birthday--action that would have precluded his deportation. An immigration judge ultimately agreed, calling the agency "totally to blame" for the paperwork delays, but declared he could do nothing to correct the error.

"Accordingly," ruled Judge R.K. McHugh, "I must deny all relief and order that the respondent be deported from this country to his native country of Thailand."

Said Pam Gaul last month, a day before her son's one-year anniversary in Bangkok, "I never believed the what-ifs would happen." He'd been an all-American kid, with sports trophies weighing down his bedroom shelves, who chose the wrong playmates after high school and "we don't make excuses for that." He wrote some bad checks. He stole a car. He served his time. It was in state prison that the INS came calling.

"John, you're adopted, don't worry about it," she reassured him. Today she wonders how this nation of immigrants, "of second chances," could forever ban her son from its shores. "It was an American youth who was sent back, with an American education, American influences, American parents, an American grandmother. It was not a Thai youth."

On the other side of the world, John is trying to craft a new life. Volunteering at the same orphanage where Gaul first found him more than 20 years ago. Earning a certificate to teach

conversational English to Thai children. "We've encouraged him not to be bitter because that will destroy him," Gaul said.

In Ohio, Jim Herbert and Nancy Saunders fear Joao's time is running out, that on Friday, a judge will sign a final removal order and there will be no turning back. They will not be told beforehand, nor have they been allowed to attend their son's hearings. They have sought help from their congressional representatives, written Reno and President Clinton.

But because Joao was tangled up with drugs, Herbert was told, no one dares intervene. His son didn't help his case by fleeing from his community treatment program after INS agents informed him that he would be deported. He was arrested a year ago when he returned to his mother's house on his 21st birthday.

"In my mind you deport murderers, Colombian drug kings," his father said. "Joao still has chances, still has possibilities here. He wants to go to school."

Herbert spends hours each day on the Internet, searching for new leads, researching any slim hope. He does not go to visit Joao in the Medina County jail west of Akron. Seeing him there surrounded by prisoners up for murder and mayhem, knowing he has little hope to offer, is just too hard.

That job falls to his former wife. She's at the jail twice a week, shoring up her son's spirits, crying with him, facing his questions. For all the scene around him, he appears more than anything to be a 22-year-old, with dark hair that he's wound into tight finger curls out of boredom and fear.

"I consider myself an American," he said through the glass recently. "But the way they label me, I'm labeled a foreigner. I asked an immigration officer, 'Don't I have any rights?'

" 'You have no [expletive] rights,' he told me."

© Copyright 2000 The Washington Post Company

NEWS CLASSIFIEDS MARKETPLACE
 TOP NEWS WORLD NATION POLITICALS METRO BUSINESS & TECH HEALTH OPINION WEATHER

Yellow Pages