



Cambodian League for the Promotion and Defense of Human Rights

January 2002

Briefing Paper

ABUSES RELATED TO THE INTERNATIONAL ADOPTION PROCESS IN CAMBODIA

This briefing paper is based on investigations and research by the Cambodian League for the Promotion and Defense of Human Rights (LICADHO). It does not purport to be an exhaustive review of the Cambodian adoption system, but is a summary of some of the most serious abuses that have been identified. Although it is based only on information which has come to our attention, LICADHO considers that there is enough evidence of serious improprieties within the adoption system to warrant grave concern and further investigation. Particularly, LICADHO advocates concerted action by both Cambodian and United States authorities to assess the extent of adoption-related abuses, mount prosecutions against individual perpetrators, identify the weaknesses of the adoption system and implement reforms to address them.

Established in 1992, LICADHO is based in Cambodia's capitol, Phnom Penh, and has offices in 14 provinces and municipalities. LICADHO's mandate includes investigating alleged human rights violations and assisting victims to make complaints to the relevant authorities, conducting research and advocacy on human rights issues, and providing human rights education to members of the authorities and the general public. LICADHO's mandate includes the elimination of all forms of human trafficking. LICADHO has no policy or view on international adoption; it is only interested in this issue insofar as it involves trafficking or other human rights abuses in Cambodia.

Baby-Buying and Child Trafficking for Adoption

LICADHO investigations of actual cases have revealed clear patterns and networks in the process of buying babies or young children for the purposes of adoption. This process typically begins with recruiters who prey on poor women (especially divorcees or widows) who are pregnant and about to give birth, or who already have young children. The recruiter approaches women (sometimes the approach is made in hospital just after a mother has given birth, a time when she is most vulnerable physically, emotionally and mentally) and offers to place their baby or toddler in a "children's center" where the child will be well cared for. Sometimes the women are coerced to give up their children permanently but more often they are told that their children can live in a center temporarily, until such time as the mothers find or return to work and are able to look after the children themselves again. The mothers are often offered a 'donation' of between US\$30 and \$100 and promised that they can visit their children at the center. The infants are given blood tests for HIV and are only accepted by the recruiter if they test negative (because there is no market for adoptions of HIV-positive children). If the mothers subsequently try to visit their children at the center, they are refused. If they demand their children back, they are told that they must pay several times the amount of the 'donation' they originally received from the recruiter; unable to pay this ransom, the mothers do not get their children back. The children end up in orphanages that are run by, or linked to, people who work as adoption "facilitators". The orphanages and facilitators are connected to adoption agencies in the US and elsewhere which promote Cambodian adoptions through Internet advertisements.

Sometimes, a mother who has been coerced into giving up her child, in the manner described above, is then offered more money if she is able to locate other children (by persuading her neighbors, etc, to give up their own children) for the recruiter. In this way, victims are encouraged to become perpetrators.

It is unclear to what lengths baby traffickers may be prepared to go in order to procure children. LICADHO has investigated cases of babies or toddlers being abducted in circumstances – the absence of a ransom demand, and the poverty of the children’s families – which would not appear to be ‘normal’ kidnappings. However, lack of information about the perpetrators and whereabouts of the victims has made it impossible to prove the reason for the abductions.

Corruption and Fraudulent Paperwork

As noted above, children who are dishonestly procured from their parents end up in the hands of particular orphanages and adoption facilitators. These orphanages and facilitators are usually involved in obtaining the necessary official Cambodian paperwork to testify that the children are orphans. Typically, this paperwork will state that the infant or child concerned is an abandoned child whose parents are unknown; the documents therefore contain little if any information about the origins of the child that could later be traced. Low-level officials (such as village chiefs) sign these fraudulent documents, because either they are bribed to do so or they are unaware of the real origins of the children. LICADHO has documented cases, for example, of children being procured from their families in Phnom Penh but the official paperwork, signed by orphanage directors and local officials, falsely states that they were abandoned at orphanages outside of Phnom Penh.

The facilitator is also responsible for securing official Cambodian government approval for the children to be adopted abroad. This process, which involves obtaining the permission of two ministries and the government Cabinet, is widely alleged to involve the bribery of officials, including at senior levels. This corruption, although difficult to prove for obvious reasons, is common knowledge in adoption circles. A telling fact is that although officially there are no fees charged by the Cambodian government for processing adoption applications, adoptive parents pay thousands of dollars to facilitators to manage the process and obtain the necessary official signatures on adoption paperwork. (‘Foreign fees’ of US\$5,000-10,000 are commonly paid to facilitators through adoption agencies.)

It is no coincidence that Cambodia is touted as having the fastest foreign adoption approval process (3-4 months) of anywhere in the world.

A Case Example of Trafficking for the Purpose of Adoption

A recent example is the case of two impoverished and divorced Cambodian mothers who were coerced into giving up their babies (one baby was aged 6-months and the other was just 4-days old) by a baby trafficker in June 2001. The mothers were promised that the babies would be taken to live at a children’s center in Phnom Penh, where the mothers could visit them regularly. The mothers’ subsequent attempts to visit the infants were refused. In September, the mothers complained to LICADHO, and after two months of pressuring the Cambodian police and courts, the two infants were eventually found to be in the custody of a private orphanage run by an adoption facilitator who caters to the US market. In December, some six months after the infants had been taken from their mothers, they were returned to them by the adoption facilitator after court intervention. LICADHO alerted the US Embassy in Phnom Penh to this case, and the Embassy subsequently confirmed that at least one of these two infants (the one aged 4-days-old when taken from its mother) had been the subject of a pending application for adoption to the US; the baby was falsely identified to the Embassy as being an abandoned child, whose parents were unknown.

Extent of the Abuse

It is impossible to precisely estimate the scope of abuses related to the adoption process, for various reasons. The majority of abuses are almost certainly not reported to the authorities or to NGOs such as LICADHO: victims may not know about the law or their rights; they may not have money to travel to make complaints; and they may be afraid of reprisals from the perpetrators if they complain. Cases generally do not go to court (see section on Legal recourse/prosecution of perpetrators below). Investigations can be difficult and dangerous, given that influential or armed people may be involved (police and military personnel are among the child traffickers identified by LICADHO; in one case, a LICADHO staff member was repeatedly followed by unidentified men while conducting an adoption-related investigation.)

The limited information obtained by LICADHO, however, is enough to raise serious concerns about the adoption system:

- In the past two years, LICADHO investigations have found direct, credible evidence of child trafficking by people associated with four orphanages which provide children for adoption to the US. In addition, LICADHO has received information alleging other improprieties, such as the preparation of fraudulent paperwork for ‘orphans’, by a number of other orphanages and adoption facilitators.
- Based on complaints by birth parents seeking the return of their children, LICADHO has investigated cases of alleged trafficking involving a total of at least 15 identified children. Of these children, 10 were eventually returned to their birth parent/s after LICADHO intervention to the authorities, 3 were reportedly adopted to the US, and the whereabouts of 2 are unknown. In addition to these cases, LICADHO has received information about a number of other alleged trafficking cases but was unable to identify the children involved and their biological families.
- LICADHO has interviewed several foreign adoptive parents, and is aware of others, who adopted older children on the basis of official paperwork stating that the children were abandoned or their parents were dead and they had no siblings. Subsequent to the adoption, the adopters were told by the children that they did indeed have surviving parents or siblings. In one recent case, an adoptive couple returned to Cambodia and, assisted by LICADHO and with minimal effort, located the birth family of their adopted children; it was confirmed that the children had been sold by one of their birth parents (without the other parent’s consent) to child traffickers and had ended up in the hands of an adoption facilitator.
- In recent months, LICADHO has interviewed many people acquainted with the adoption system – including government officials, non-government organization staff, and adoptive parents – and concluded that unscrupulous practices by orphanages and facilitators, and related bribery and fraudulent paperwork, are common knowledge in adoption circles. While few if any people are prepared to speak publicly on these issues, privately they acknowledge widespread problems. Detailed information such as amounts of bribes that need to be paid, and the names of corrupt officials and others who profit from the adoption business, is widely known.

Legal Recourse/Prosecution of Perpetrators

As noted above, the perpetrators of child-buying target poor, vulnerable Cambodian mothers. Victims of this exploitation have little legal recourse. They may be unaware of their rights and the law, do not know to whom they can complain, and are unlikely to receive assistance from Cambodia’s notoriously weak and corrupt police and judiciary systems.

In LICADHO’s experience, the police, courts and government officials generally fail to properly investigate crimes, including baby-buying, corruption and fraud, related to the adoption process. This is not surprising, given Cambodia’s endemic corruption, low government salaries, lack of rule of law, and the profitable nature of the adoption business. Law enforcement officials are easily bribed to turn a blind eye to crimes, and investigations into the unscrupulous adoption practices are too politically sensitive given the involvement of senior government officials. The general lack of prosecution of perpetrators for adoption-related crimes means that there is no real deterrent to committing those crimes.

It is only recently that some progress has been made in persuading the Cambodian courts to take action over this issue. At time of writing, a total of 7 people have been formally charged with human trafficking under Cambodian law by a Phnom Penh court. All are staff or associates of either the Asian Orphans Association (AOA) or the Khmer American Orphans Association (KAOA). Both organizations are private orphanages in Phnom Penh which are run by adoption facilitators, named Serey Puth (AOA) and Sea Visoth (KAOA), who cater to the US market for Cambodian children through established US adoption agencies. The charging of these people only occurred after considerable pressure from LICADHO and others, including a few select officials within the Cambodian government who are concerned about baby-buying for adoption purposes, and media publicity.

Previous Allegations of Adoption Abuses

Allegations of child-buying, corruption and fraudulent paperwork have surrounded Cambodian adoptions for years. Indeed, the Cambodian government has several times in the past imposed a moratorium on foreign adoptions following publicity of such allegations. The last such moratorium ended in March 2001, following the passing of a new Cambodian government subdecree supposed to address the improprieties in the adoption system. However, as the US Department of State (DOS) itself has noted (DOS website, November 2001), “there are strong indications there has been little, if any, improvement in addressing fraudulent practices associated with adoption procedures in Cambodia since the new subdecree on adoptions”.

Statements & Actions by US Authorities

Public statements made by the US Embassy in Phnom Penh, the DOS and the Immigration and Naturalization Service (INS) indicate that these institutions are aware of exploitation and fraud associated with adoptions from Cambodia, and recognize the need to take action. US Ambassador to Cambodia Kent Wiedemann has referred to “truly despicable” baby-buying practices by “criminal and unethical elements” (Associated Press, November 21, 2001); the DOS has noted “credible evidence of widespread corruption and fraudulent practices in the adoption process in Cambodia” (DOS website, November 2001); and the INS has suspended processing of visa applications for Cambodian orphans (December 21, 2001)

Need for US to Take Action

It is appropriate and indeed essential that the US take a leading role in combating adoption-related child trafficking in Cambodia, given that the US is the largest market for Cambodian ‘orphans’. There has been a phenomenal increase in Cambodian children being adopted to the US in recent years. In 1997, there were 66 visas issued for such adoptions, according to published DOS statistics, compared to 402 in the year 2000. In 2001, up until the recent INS suspension, the US Embassy was processing close to 100 visa applications a month for adopted children, according to Embassy statements to the media; this figure, extrapolated over a one-year period, would see nearly 1,200 adoptions to the US annually. Not coincidentally, there has been a significant increase in recent years in the number of adoption facilitators operating in Cambodia to serve US adoption agencies and their clients. Interestingly, US adopters pay far higher adoption fees for Cambodian children than do adopters from other countries. Given the profits that can be made, and the growing demand from US adopters, the potential is enormous for dishonest and criminal practices to supply children for this market. It is in the best interests of all who are truly concerned for the plight of Cambodian orphans, and for the rights of Cambodian families and US adopters, for these practices to be eradicated now, before the problem grows even bigger.

Conclusions

In a country which suffers crippling poverty and where official salaries are as low as US\$20 a month, the hundreds of thousands of dollars poured into Cambodian adoptions make it one of the most profitable “legal” businesses in the country. There are those involved who, in documented cases, have resorted to criminal and exploitative practices to profit from this industry. Urgent action is needed to clean up the system to ensure that adoptions are not placed in the same category as other lucrative ‘industries’ – such as the trafficking of weapons, narcotics and women – for which Cambodia has attracted international concern, including from the US.

There is a need for thorough investigations to identify and punish perpetrators, and for serious reforms of the adoption system to ensure that Cambodian children and their birth families, as well as well-meaning parents from abroad, are no longer victimized by greedy individuals posing as members of the legitimate adoption community.

Actions to date by the Cambodian government, including several previous moratoriums on adoptions and the passing of a new adoption subdecree, have so far failed to adequately clean up the system.

It is essential that a line of defense against adoption-related trafficking continue to be enforced by the authorities of countries such as the US to which Cambodian children are adopted. The initiatives of the US Embassy in Phnom Penh, the DOS and the INS to combat adoption-related crimes should be supported.

There is a crucial need for the prosecution of unscrupulous adoption-related acts which constitute criminal offences under Cambodian law or the laws of the US and other receiving countries. Without the prosecution of perpetrators, there will be no deterrent to others who use similar methods.

The adoption laws and procedures of Cambodia and the US should be subjected to systematic and careful review and the implementation of reforms in line with the principles of the Hague Convention on Inter-Country Adoption. In particular, the Cambodian government should be lobbied to sign the Convention and to pass domestic legislation to establish a transparent and regulated adoption system with proper checks and balances.