

„Fruits of Ethiopia“



INTERCOUNTRY ADOPTION:

**The Rights of the Child,
or the “Harvesting” of Children?**

October 2009



Against
Child 
Trafficking

- Second Interim Report -

A STUDY ON INTERCOUNTRY ADOPTION IN ETHIOPIA

Commissioned by:

WERELDKINDEREN (N.I.C.W.O.)

to:

AGAINST CHILD TRAFFICKING

6 October 2009

Index

Executive Summary	5
1. Background	6
2. Methodology	7
3. Limitations of the project	8
4. Legal Framework	9
5. Legal issues	16
A. Can children of two healthy parents be adopted?	16
B. Adoption as last resort	19
C. Right to information by biological families	21
D. The legal basis for the existence of the foster home	23
E. Issues related to “consent”	25
6. Court cases	32
A. Court case involving Hana Berhanu (Sele Enat)	32
B. Court case involving Finote Lewegen	32
C. Court case involving Enat Alem	32
D. Case concerning Birhane Hiwot	32
E. Investigation into abandonment cases – Spring 2009	33
7. Additional material (studies/reports/visits)	34
A. Assessment report on the use and implementation of the national guidelines on alternative child care, April 2006	34
B. Scientific research: Depression problems and coping mechanisms of parents who relinquished their children for inter-country adoption	36
C. Meetings with Embassies	38
D. Visit to alternative projects	38
8. Scheme: Financial flow adoptions 2008	39
Scheme: Adoption – how are children made ‘adoptable’	40
9. RESEARCHED CASES	41

Annexures:

1. Hana Berhanu – Family For You
2. Schwarzhandel; Dr. Eric Agstner
3. Finote Lewegen – Spanish case
4. Enat Alem - Gladney case
5. Birhan Hiwot - Eltern fur Afrika case
6. Abandonment investigation

EXECUTIVE SUMMARY

The findings of the research:

Overall, the current adoption system actively creates an unwarrantedly high number of children available for adoption. Intercountry adoption is in reality privileged to any other in-country suitable manner of care.

Local child protection policies, while existing, are not implemented, while the intercountry adoption market is more and more taking control of the local child protection, as well as the social and health sector.

The adoption process is riddled by fraud and other criminal activities. Parents are stated dead, whereas they are not, dates of birth are falsified, false information is provided to the Courts.

But most important: The demand-driven intercountry adoption process is breaking up families, who could be helped in building up their lives with a fraction of the money involved in intercountry adoption.

1. BACKGROUND

The Roots Department of Wereldkinderen receives many requests from adult adoptees to help them trace their biological parents. These adoptees are often, one way or the other, confronted with a different reality than what was mentioned in their adoption file.

Intercountry adoptions from Ethiopia have increased exponentially over the last years. The closure of countries like Romania, Guatemala, Cambodia, Nepal and Vietnam has had as result that adoption agencies have flocked Ethiopia. While there are no formal statistics available, it is estimated that adoptions increased from a few hundreds to more than four thousand in a few years time. More than 70 foreign adoption agencies are registered by the Ministry for Women; some of these umbrella for other agencies (US). In Austria and Canada Ethiopian adoptions have made headlines, as adopted children who were claimed to be orphans appeared to have living parents and other relatives, ages of children were incorrect (children much older than officially stated), as well as hidden health issues. Some of the Ethiopian people against which allegations were levelled, are (or have been) partners of Wereldkinderen.

The issue was also tabled at the EURADOPT conference in Italy in 2008. However, no special actions had been decided.

In light of the above, Wereldkinderen decided to contract their own research into the correctness of the adoption files of children adopted from Ethiopia.

2. METHODOLOGY

The research focussed on the adoption mediation practices of Wereldkinderen.

Twenty-five adoption files were randomly selected. It concerned adoptions finalised between 2004 and 2009.

These files were crosschecked during field visits, by meeting and interviewing the birth families.

During this research the interviews with the birth families whose children were already adopted abroad through Wereldkinderen's mediation were carried out by the newly appointed Ethiopian roots worker.

Furthermore, as much information as possible was about adoption in general, such as studies, legal documents and documents concerning children's rights. Interviews were held with several organisations (Ethiopian and non-Ethiopian). For this report only part of the collected information has been used. Especially a lot of the reviewed information concerning the macro level and international relations have been left out due to time constraints.

3. LIMITATIONS OF THE PROJECT

- A substantial number of the initially selected files were not in Wereldkinderen's active archive, but had been transferred to the external dead archive; such files were left out of the project.
- In some of the selected cases, the family members in Ethiopia lived too far away from Addis Ababa to visit them in the time reserved for the project (three weeks); these cases were not investigated.
- In most cases the family members were only interviewed once and relatively short. Prior experience has shown that it often takes multiple visits before people express their true feelings and experiences.
- The research on pending adoptions came to an abrupt end, when in an early stage two wrongful adoption pipeline cases came to light. It was then that the local representative of Wereldkinderen came to know about this research project. Wereldkinderen's representative threatened to report the researcher to the Ethiopian Immigration or Police. As a consequence this research also came to a premature end.
- The abovementioned threat was felt as seriously putting the researcher's security at risk.
- Wereldkinderen could not make available all the essential guidelines and other formal documents relating to children's rights in Ethiopia. This added a lot of work to the project.
- Wereldkinderen had to make quick decisions and requested this report in a short timeframe. More time would have been needed to provide a deeper analysis of the researched cases, and to give a broader picture.

4. LEGAL FRAMEWORK

This chapter highlights relevant aspects from the applicable international conventions, as well as Ethiopian laws and guidelines in order to highlight some of the core issues. This overview can only be partly and non exhaustive, as it was proven impossible to collect all needed material during the project.

So far the findings of the project raise more questions, than they give answers. Further research of the legal situation is therefore indispensable.

CONVENTION ON THE RIGHTS OF THE CHILD

Ethiopia is a signatory to the Child Rights Convention (CRC). So is The Netherlands, and Wereldkinderen in the contract with the adoptive parents states that:

“Wereldkinderen handelt in de geest van de algemene beginselen zoals vastgelegd in het Verdrag inzake de Rechten van het Kind en het internationale Verdrag inzake de bescherming van kinderen in samenwerkingen op het gebied van interlandelijke adoptie, kortweg het Haagse Adoptie Verdrag genoemd”

Article 20 of the Convention on the Rights of the Child concerns children who are temporarily or permanently unable to live with their families, either because of circumstances such as death, abandonment or displacement, or because the State has determined that they must be removed for their best interests.

Such children are entitled to «special protection and assistance». Paragraph 3 of article 20 determines that «Such care should include, inter alia, foster placement, adoption or, if necessary, placement in suitable institutions for the care of children».

It is important to note that during the negotiations of article 20, there was a proposal that States should have to «facilitate permanent adoption» of children in

care. The proposal was rejected on the grounds that adoption is not the «only solution» when children cannot be cared for by their families.

Paragraph 3 of Article 20 also determines that when considering child protection solutions, due regard be paid to «**the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background**». This provision relates to article 7 (right to know and be cared for by parents) and article 8 (preservation of the child's identity) of the CRC.

The CRC and adoption

The Convention on the Rights of the Child remains neutral about the desirability of adoption even within the child's country of origin, though article 20 mentions it as one of the possible options for the care of children without families. It is clear that children's psychological need for permanency and individual attachments can be met without the formality of adoption, but where it is used it should be properly regulated by the State to safeguard children's rights.

Intercountry adoption is a very last resort and should only be considered if any suitable means of foster, adoptive or residential care cannot be found in the country of origin of the child and only if it is manifestly in the best interests of the child. It must be clear that residential care comes also before (intercountry) adoption – see article 21(b) of the UN Convention on the Rights of the Child.

Intercountry adoption is often presented as a child special protection measure. However, it is not. Adoption is a civil order, which creates new relationships with the adoptive family and severs the relationship between the child and his or her birth family. **Adoption is one of the available options if a child cannot be returned to his or her family (and attempts to rehabilitate the child with his or her family must be thorough and not token), but there are other options which first need to be considered such as long term placement with the wider family or foster parents and placement in residential facilities.** Especially with intercountry adoption, there is a risk that the institutions responsible for children

may impose adoption in cases, which are unsuitable, so as to compensate for their own lack of resources.

Intercountry adoption

Article 21 of the Convention on the Rights of the Child, stipulates that the system of adoption «shall ensure that the best interests of the child shall be **the** paramount consideration» and in this context it asks States to «recognize that intercountry adoption may be considered as an alternative means of child's care, **if the child cannot be placed in a foster or adoptive family or cannot in any suitable manner be cared for in the child's country of origin**».

Children are not isolated individuals but are born in and belong to a particular environment. Only if this native environment cannot, in one way or another, provide for a minimum of care and education should adoption be contemplated. The possibility of providing a better material future is certainly not, of itself, a sufficient reason for resorting to adoption.

THE HAGUE CONVENTION

The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) regulates the implementation of article 21b of the CRC. **The Hague Adopton Convention does, however, differ substantially from the CRC, as it does not consider foster care or any other suitable manner (for example community based care) acceptable as long term care option.** The Hague Convention only acknowledges adoption, and creates a direct subsidiarity between national and intercountry adoption.

ETHIOPIAN LAW:

THE CONSTITUTION

Article 36

Every child has the right:

(a) To life;

(b) To a name and nationality;

(c) To know and be cared for by his or her parents or legal guardians;

(d) Not to be subject to exploitative practices...

...

*2. In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies **the primary consideration shall be the best interests of the child.***

....

4. Children born out of wedlock shall have the same rights as children born of wedlock.

5. The State shall accord special protection to orphans and shall encourage the establishment of institutions, which ensure and promote their adoption and advance their welfare, and education.

Adoptions in Ethiopia are governed by the Ethiopian Family Code and/or the Civil Code.

Adoptions in Ethiopia are made with an ‘adoption contract’ between the orphanage and the prospective adoptive parents. This contract only refers to the revised Family Code, therefore for this research only the Ethiopian Revised Family Code was analysed. However a detailed review of the Civil Code would also be needed in further research.

There exists a large number of Guidelines, Directives, National Action Plans and other secondary legislation/regulations. However, Wereldkinderen was not in possession of most of these documents. Some, but not all documents could be

traced through other channels. Also it was not always clear which laws/regulations were currently in force.

Guidelines on Alternative Child Care Programs (2001), Ministry of Labour and Social Affairs

The guidelines concern institutional care, reunification, foster family care and adoption. Institutional childcare is mentioned as a measure as last resort.

New Guidelines on Alternative Child Care programs” will replace the 2001 Guidelines in future.

National Plans of Action

There exist two National Plans of Action: the *National Plan of Action for Children* 2004 and also a National Plan of Action for Orphans and Vulnerable Children.

None of these plans could be obtained.

Directive (2002), Ministry of Labour and Social Affairs

This Directive should have served as essential guideline for this research. Unfortunately due to the fact, that ministries could no longer be visited at the end of the project, and because Wereldkinderen could not provide a copy, the research was substantially delayed. Wereldkinderen also requested it from their Ethiopian representative, but she did not have the Directive herself either.

This directive was finally received at the end while drawing this report and thus could not be fully incorporated.

Code of Conduct of Adoption Agencies (2003)

Wereldkinderen provided “*Code of conduct of Adoption Agencies 2003*” issued by the Ethiopian Ministry of Justice. It is not known whether this Code is still applicable.

This code of conduct is worded very lax and broad. However, an authorisation for research projects can be found in it¹:

7. Self regulation

¹ Wereldkinderen’s representative in Ethiopia has repeatedly stated that the research was illegal.

In the observance of self regulation, an agency shall:-

- a) *strive for self determination*
- b) *appraise and evaluate its conduct periodically*
- c) *be open to learning and change; and*
- d) *be self reliant and vigilant*

Directive for foreign families seeking to adopt children, Addis Ababa City Administration (2003)

It is yet unclear, whether this directive is only applicable for orphanages operating within the City, or also for other orphanages. It is also not clear if this Directive has been replaced.

Terms and Reference for Execution of Adoption, City Government of Addis Abbaba (2006)

It is unclear whether this is only applicable for children who come from the City of Addis or also for children from other regions. It is also unknown whether this Terms of Reference is still applicable.

Internal Directive of Procedure for Provision Transnational Adoption Services, MOWA (2008)

These guidelines are an “Internal Directive”- nevertheless they are very important. They refer to:

“This internal directive of procedure for provision of transnational adoption services has been issued by the Ministry of Women Affairs ... the need to amend the directive, issued in the year 2002, that has been operational”.

Notice to Adoption Agents

Unfortunately the date when this notice was issued is not known as no answer could be retrieved from Wereldkinderen. It is further unknown who exactly issued it. It may be that this is the notice, from which onwards is was made a requirement that the Kebele letter requires *confirmation of three witnesses*.

Conditions that need to be fulfilled to provide comments to courts and to be rendered with various services”

The above guidelines were received from Wereldkinderen without the cover page. Therefore it is unclear when they were issued and by whom.

Requirements to be fulfilled for a child to be placed in an orphanage:

These admission criteria were handed over by the Addis Ababa City Civil Affairs/MOWA office. It was explained that these requirements are in force. Unfortunately it remains unclear when these requirements were issued and whether they are also applicable for other regions than the city Addis Ababa. Wereldkinderen could also not give a conclusive answer.

5. LEGAL ISSUES

Considering the lack of clarity, it is not possible to give a complete and clear picture of the legal Framework. More systematic research in coordination with Ethiopian adoption experts and independent (non adoption) lawyers is highly recommended. Nevertheless, some general lines and issues can be highlighted.

A. CAN CHILDREN OF TWO HEALTHY PARENTS BE ADOPTED?

The Ethiopian Civil Code stipulates:

Art. 805.1

*Adoption may not take place unless **there are good reasons** for it and unless it offers advantages for the adopted child.*

The Revised family Code differs a little:

Article 194.2

*Before approving the agreement of adoption, the court shall decisively verify that the adoption is to the **best interest**² of the child.*

² In respect of the Article 3 the Handbook states **Best interests of the child**

The Committee on the Rights of the Child has highlighted article 3(1), that the best interests of the child shall be a primary consideration in all actions concerning children, as one of the general principles of the Convention on the Rights of the Child, alongside articles 2, 6 and 12. The principle was first seen in the 1959 Declaration of the Rights of the Child. Interpretations of the best interests of children cannot trump or override any of the other rights guaranteed by other articles in the Convention. (underlining supplied)The concept acquires particular significance in situations where other more specific provisions of the Convention do not apply. Article 3(1) emphasizes that governments and public and private bodies must ascertain the impact on children of their actions, in order to ensure that the best interests of the child are a primary consideration, giving proper priority to children and building child-friendly societies.

parental responsibilities: Both parents have primary responsibility for the upbringing of their child and “the best interests of the child will be their basic concern” (article 18(1));

deprivation of family environment: Children temporarily or permanently deprived of their family environment “or in whose own best interests cannot be allowed to remain in that environment”, are entitled to special protection and assistance (article 20);

adoption: States should ensure that “the best interests of the child shall be the paramount consideration” (article 21); [.....] The second and third paragraphs of article 3 are also of great significance. Article 3(2) outlines an active overall obligation of States, ensuring the necessary protection and care for the child’s well-being in all circumstances, while respecting the rights and duties of parents. Together with article 2(1) and article 4, article 3(2) sets out the overall obligations of the State.

Article 3(3) requires that standards be established by “competent bodies” for all institutions, services and facilities for children, and that the State ensures that the standards are complied with.

The Guideline for Adoption (2001):

2.3 Unaccompanied Child

For the purpose of this guideline, an unaccompanied child is:

2.3.1 a child who is fully orphaned (both parents dead)

2.3.2 an abandoned child (both parents untraceable; and/ or

2.3.3 a child with parents who are certified as terminally and/or mentally ill by an appropriated and accredited body.

...

5.1 A child is eligible for adoption if he/ she is disadvantaged, unaccompanied and below the age of eighteen years.

The Guideline for Institutional Childcare state:

7. 3. Eligibility

To be a beneficiary of a childcare institution a child shall fulfil the following criteria:

7.3.1. The child should be fully orphan; and/or

7.3.2. The child should be fully abandoned; and/or

7.3.3. The parents of the child should be terminally ill or mentally incapacitated.

The Directive Issued for foreign families seeking to Adopt children 2003, states:

3. this directive is applicable on any adoption agreement executed to take an Ethiopian child below the age of 18, who is orphaned and without any warden or with parents who could not express their desire due to incurable or mental diseases.

The “Conditions that need to be fulfilled to provide comments to courts and to be rendered with various services” (Date unknown) state:

Regarding Children whose parents (both) are alive

Even though Children can never find alternative love than the one they get from their natural parents, it is observed that some children are separated from their birth parents for reason of poverty. Particularly,

instead of giving children whose parents both) are alive on adoption due to reasons of poverty, creating a possibility and situation whereby the capacity of these parents is enhanced, making it possible for them to provide the necessary care, is undoubtedly preferable.

Hence if both parents are alive, unless it is proved that these parents are unable to raise their children due to incurable diseases by a doctor and the appropriate organ, it is proper and recommendable to provide this opinion to the court as it is better to grow with their parents.

Terms and Reference for Execution of Adoption 2006

3.3.3 Terms of reference for orphanages

Observe the established criteria for eligibility to admission that is limited to children who are without parents, abandoned children, or children who are deemed without parents on the ground of medical evidence, proving that their parents are suffering from incurable diseases.

Internal Directive of Procedure for Provision Transnational Adoption Services 2008,

2 e: “Adoptive Child” shall refer to a child whose parents have passed away or who has been found abandoned or whose parents have contracted incurable disease which has negative repercussions on his upbringing and, consequently, who has been given for adoption to adoptive parents as per the established legal procedures.

6.3.4 Concerning children both of whose parents are alive

Instead of giving children whose parents (both) are alive on adoption due to reasons of poverty, creating a possibility and situation whereby the capacity of these parents is enhanced- making it possible for them to provide the necessary care- is undoubtedly preferable. However, if it is mandatory that a child both of whose parents are alive be given for adoption, evidences authenticated by the concerned government organs should be submitted confirming that situations do not allow the child to

be brought up in the family and that the child cannot be supported by the alternative Childcare programs. In addition both of the parents must appear at court and express their consent.

CONCLUSION:

Children of healthy parents cannot be adopted.

Remark: Question remains why half orphans and children of single mothers are not entitled to the same protection, as enshrined in the Ethiopian Constitution. Additionally the newer guidelines with their weaker wording may make it actually possible that children whose parents are both alive, can be adopted.- since it only needs to be "authenticated" by the concerned government body - the Kebele.

B. ADOPTION AS LAST RESORT

Intercountry Adoption should be a matter of last resort, after other possibilities of suitable care in the country have been exhausted, which includes institutional care³ (for example family type homes/community based care). This is reflected in the UNCRC, but also in Ethiopian Law.

The Revised family Code :

Article 194. - Power of [he Court

...

d) where the adopter is a foreigner, the absence of access to raise the child in Ethiopia;

Guidelines on Alternative Child Care Programs (2001)

The general objectives of issuing this guideline is "whenever possible and

³ While reviewing information about orphans and vulnerable children in Ethiopia- it became clear to the undersigned, that in wake of the droughts in 1984 /85, large orphanages had been established. Certainly this type of institutional care setting is not good for children. Also it became clear to the undersigned, that many of the children in these large institutions, were actually not orphans

appropriate, to reunify unaccompanied children with their families or place them in other alternative child care programs". Furthermore, among other basic and psychosocial services, the specific objective included reunification and reintegration.⁴

“The Guideline for Institutional Childcare”:

4.2.4 Whenever possible and appropriate, to reunify unaccompanied children with their families or place them in other alternative child care programs

4.4.2.8 Organising the transfer of the child to other appropriate alternative childcare services according to the best interest of the child

7.10.1. A childcare institution shall initiate reunification or placement service in alternative care program immediately after admission of the child. Accordingly, the institution shall provide its service to a beneficiary till:

7.10.1.1. the child is reunified into the family; or

7.10.1.2. the childcare institution places the child in an alternative childcare; but

7.10.1.3. in cases where the above two options are not feasible till the age of the child reaches 18, except if the child has joined higher institution of learning.

Terms and Reference for Execution of Adoption (2006):

Terms of reference for Orphanages

...

3.3.6 Make all feasible efforts aimed at finding ways of reintegration of children with their natural families, or in such absence, find other interested local adoptive families, before determining placement of the child under adoptive families.

3.3.7 Make all the feasible efforts in cooperation with concerned bodies aimed at the promotion of local adoption.

⁴ Overview of Services for Orphans and Vulnerable Children in Ethiopia; Tsegaye Chernet; April 26, 2001

Internal Directive of Procedure for Provision Transnational Adoption Services (2008)

6.2 *A child shall be given on the basis of adoption to a foreign national provided that*

a) *Evidence is submitted approved by authorized government organs and showing that the child cannot be raised through other alternative services meaning provisional family care, community based child care, institutional services, sponsorship or local adoption organisations and in the case where the child is above the age of 10, the child should confirm that he is in agreement with the adoption.*

CONCLUSION:

The Ethiopian Guidelines incorporate the principals of the CRC.

Therefore before considering intercountry adoptions, other care options have to be truly and actively sought.

C. RIGHT TO INFORMATION BY BIOLOGICAL FAMILIES

Under Ethiopian law the bond with the birth family will continue to exist after adoption. The Ethiopian guidelines stipulate that the original family has the right to be updated about the wellbeing of the child.

In some cases, during birth family interviews, it appeared that the full follow up (post adoption) reports had been provided to the birth family (via the Wereldkinderen Foster Home). In almost all cases it was the desire of the birth family to receive updates more regularly. Sometimes families did not receive any post adoption information, although this had been promised.

The Guideline for Adoption (2001):

An adoption agency, with respect to the child, has the obligation to:

....

3.6.2.2 *Respect the rights of the biological parents and/or members of extended family to get information on the adopted child unless it is against the best interest of the child.*

“Conditions that need to be fulfilled to provide comments to courts and to be rendered with various services” (Date unknown):

Evidences regarding children who are sent abroad

...it is known that even though orphanages promise to provide information regarding children when they take them over from parents or families, they fail to keep their promise and they send those requestion information to our office. Therefore it should be the responsibility of adoption executing organisations to provide information about children whom they assume responsibility for and whom they send abroad.

CONCLUSION

It can be concluded that under Ethiopian rules, Wereldkinderen has indeed an obligation to provide the birth family with updates about the wellbeing of their children.

Also, under Ethiopian laws and regulations, the biological family has **a right** to be updated.

However, as a result of conversion of the adoption under Dutch law, the biological family loses this right, as well as all family bonds.

Because it is difficult under Dutch law to oblige adoptive families to provide follow up reports - Wereldkinderen has included this obligation in their adoption Service Contract.

The birth family is being promised to be updated on the well being of their children. However, this “right” is non existent and non enforceable in case of intercountry adoptions. This promise constitutes a misrepresentation of the reality. It is questionable, if the birth families would have consented to adoption, in case they would have been fully informed about the fact that they do not have a right to receive updates (follow up reports/post adoption reports).

D. THE LEGAL BASIS FOR THE EXISTENCE OF THE FOSTER HOME

The Guidelines on Alternative Child Care Programs (2001):

“2.4 ..., a childcare institution is an establishment founded by a governmental or a non-governmental organisation to give care for unaccompanied children”

The Foster Home is an establishment founded by Wereldkinderen (NGO) with has as one of the purposes to give care for unaccompanied children. Consequently one can obviously conclude that the Wereldkinderen Foster Home is a child care institution.

Further the guidelines stipulate:

3.2. A childcare institution shall be registered by the accredited governmental body

3.3 A childcare institution shall be licensed by the accredited governmental body.”⁵

When asked, Wereldkinderen could not provide their Foster Home’s child care institution’s license. **Consequently one may conclude that the Wereldkinderen Foster Home is not registered and licensed as a childcare institution.**

However, Wereldkinderen is registered, accredited and licensed to operate as an adoption agency in Ethiopia and the existence of the Foster Home is known by the authorities.

⁵ It is important to find out how exactly Childcare institution are registered and licensed. There might be an Act or law.

The Terms and Reference for execution of Adoption 2006 state

4.39 When it is deemed in the best interest of Children's Welfare Adoption agencies may determine in consultation with orphanages to the effect in transfer of children to stay under transit home pending their delivery to adoptive parents abroad upon notifying concerned government bodies"

6.44 An Adoption service providing organisation shall not be allowed to establish an orphanage and give children to adoptive families by gathering children in such institutions.

The Internal Directive of Procedure for Provision Transnational Adoption Services (2008):

10c Until the adoption is approved by the authorized court, the responsibility of the welfare of the child shall fully rest with the orphanage.

10 d Once the adoption has been approved by the authorised court, the responsibility of ensuring the welfare of the child rests with the adoptive family or the adoption services organisation.

Based on the above, it is not clear how Wereldkinderen can take children into the foster home before the adoption is completed.

The Family Code states that:

Article 256. — Residence of the Minor.

1) The guardian shall fix the place where the minor is to reside.

It looks indeed like the guardian of the child - the orphanage – can make an agreement to fix the residence of the minor as being in the Foster Home.

However, the Foster Home operates in a **grey area**, at the very least.

Further highlighted issues with the Foster Home:

“The Project Proposal on Adoption Services and Project AID” 2005 -2008⁶ in which Wereldkinderen made the agreement with the Ethiopian government and which was agreed upon on 13th September 2005 already shows clearly that the Foster Home does not operate according to the UNCRC and the spirit of the Guidelines on Alternative Childcare Programs. Its only mission is to facilitate intercountry adoptions and the Wereldkinderen projects are detached from its operations. Consequently no efforts were made to rehabilitate any child within its own family, community or other in-country care options. The sponsorship program which is required by the government, has never been evaluated to see whether the beneficiaries really receive the money. Such evaluation was neither done by Wereldkinderen, nor by the government.

The rent for the Foster Home is stated to be **1.200.000** Birr (65.000 Euro) per year which would mean 100.000 Birr per month (= 5.500 Euro).

Actually the appropriate rent for the Foster Home, compared to prices in that area, would be around 15.000 Birr (800 Euro) per month.

It needs to be checked if this amount of 1.200.000 Birr is correct, or if it represents an error in the proposal.

(Even if it would be ‘just’ an error, it would constitute a serious error in an agreement with a foreign government)

E. ISSUES RELATED TO “CONSENT”:

The Hague Convention gives standards for a valid consent to adoption, yet ultimately they are a matter of broadly-held ethical adoption standards.

The standards have three requirements for consent by those, like birth parents, with custodial responsibilities and rights in relation to the child.

First, those parents giving consent to adoption must have received the

⁶ On file with the undersigned and received from an Ethiopian source

equivalent of informed consent, including counseling “as necessary,” and being informed as to the legal effect of the consent, “in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin.”

Second, the consent must not have “been induced by payment or compensation of any kind and have not been withdrawn.”

Third, consent must be given “freely, in the required legal form, and expressed or evidenced in writing.”⁷

The CRC in Article 21 states that State Parties shall:

a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary.

A consent to an adoption can only be given by a “guardian”.

The first step is that the guardian applies to the local authority – Kebele - and requests assistance. The Kebele Court then certifies that the guardian cannot take care of the child and then the local authority writes to the higher authorities, which ultimately refer the child to an orphanage basically for care and protection.

Only in more recent cases, sometimes “adoption” and/or “adoption by foreigners” is mentioned in these “Kebele Letters”. Sometimes there is also a signed relinquishment document. It is to be doubted whether such kind of document is legally valid, since it contravenes the Ethiopian laws.

⁷ Quote from article Prof. David Smolin

In the case of Ethiopian intercountry adoption the adoption contract is made between the orphanage and the adoptive parents. This contract requires consent from the original guardian approved by the federal first instance Court. Nowadays it is required that the family member who originally transferred his/ her guardianship over the child to the orphanage appears in court and agrees to the adoption of the child. (Notice to Adoption Agents)

Family Code:⁸

The Standard Form, of the adoption contract specifically refers to Art. 190, 191 and has itself 8 Articles. However, going strictly by the law an orphanage could even give a child for adoption without any further consent of the parents/ guardians.

According to Art. 190 ,

“The agreement of adoption shall be made between the adopter and the guardian of the adopted child.”

The “guardian” of the child is the “orphanage”. The orphanage is the licensed and registered Child Care Institution. Therefore the adoption contract is made between the “orphanage” and the prospective adoptive parents.

According to Art. 191

1. *Both the father and the mother of the adopted child must give their consent to the adoption where they are alive and known.*
2. *Where one of them is dead, absent, unknown or incapable to manifest his will, the other parent shall give his consent.*
3. *Notwithstanding the provisions of Sub-Art. (1) of this Article, where one of the parents is not willing to give his consent and the child is ten and above years of age, the court may approve the*

⁸ Full Code Annexed

adoption upon hearing the opinion of the other parent and of the child.

4. *Where the child has no ascendant capable of giving his consent, the court may approve the adoption agreement taking into account the interest of the child.*

The above makes clear that the father and the mother must give their consent to the adoption when they are alive and known.

Article 192 — Government or private Orphanages.

1. *Government or private orphanages may give any child under their custody to adopters.*

The above mentioned orphanages shall, before giving the child for adoption, provide sufficient information to the government organ having authority to follow up the well being of children as to the identity of the child, how the orphanage received him and about the personal, social and economic position of the adopter

That the Ethiopian social and legal concept of adoption seriously differs from the Western/European concept of adoption is further reinforced by the following law articles. Chapter Eleven -Maintenance - is of special interest for ntercountry adoptions. It explains why Ethiopian families may well expect their adopted children to care for them in the future:

Article 4 from the Adoption Contract:

“The adopted child/ren shall retain his/her/ their bonds with his/her/ their family of origin.

Wherever a choice has to be made between the family of adoption and the family of origin, the family of adoption shall prevail.”

Article 183:

Article 183. — Relationship of the Adopted Child with the Family of Origin.

*1) The adopted child **shall retain his bonds with the family of origin.***

2) The same shall apply to the spouse and the descendants of the adopted child.

3) Wherever a choice has to be made between the family of adoption and the family of origin, the family of adoption shall prevail.

Article 212 - Case of Adoption.

1) The adopted child, his spouse and his descendants may not claim maintenance from the family of origin of the adopted child unless the adoptive family is not in a position to supply such maintenance.

2) The adopted child shall not be bound to supply maintenance to the ascendants of the family of origin unless the latter cannot claim maintenance from another member of their family.

That means, that the bond with the birth family remains intact under Ethiopian law and that the birth family could possibly even claim maintenance from the adopted child.

Article 183 in conjunction with Article 212 of the revised Family Code shows that the Ethiopian concept of adoption completely differs from the Dutch concept of adoption. It is highly questionable whether it is really understood, by all stakeholders including the judge as well as the biological families, that the Ethiopian Court Decision will be overturned in the Netherlands as a result of which all family ties will be terminated in an as good as irrevocable manner.

The Hague Convention requires according in Art. Article 27 states

(1) Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect -

a) if the law of the receiving State so permits; and

b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

In none of the files a proper relinquishment document was found in which the birthparents consent to the full termination of all their rights.

In some newer cases, sometimes parents consented to the fact that the child will be sent for “adoption”. In few other cases special relinquishment documents are in the file.

For example one reads like:

“Giving the Child to Adoption.

I Mrs XXX, would like to give my consent in my free and full consent to be given my child/ children who I gave birth/ take care / XXX sex Female age 2 month date of birth X X, 2008 to adoption to be rear, cared and educate in alternative orphanage/ in a foreign adopters.

Accordingly, I confirm that after I have given my child to the adoption, I know that I have refrain my right from my origin.”

Even if the relinquishment was clearly written to waive these rights, section 183 is written in terms of a benefit to the child: "The adopted child shall retain his bonds..." Thus, it is not clear to that the birth parents could waive this bond, for three reasons:

1. They are in a vulnerable position, and sometimes people in such a position are not permitted to waive certain rights, to avoid exploitation;
2. The rights belong to the child, and arguably cannot be waived by others, since they are a benefit for the child³; the bonds also belong to the extended family, and thus should not be waived by the parents alone.
3. Finally these kinds of documents are drawn up before the adoption contract is approved and thus will be of no legal standing.

F. COURT CASES

Environment in which Wereldkinderen operates:

A number of court cases were retrieved which show issues are not isolated. This collection is not at all exhaustive.

1. COURT CASE INVOLVING HANA BERHANU (SELE ENAT)

This case was the starting point for this research, as ACT brought the details to Wereldkinderen's knowledge end 2007. It involves the Austrian agency Family For You. From these documents the conclusion could be drawn that almost everyone involved has been able to get rid of the charges. However, Dr. Eric Agstner, shows in detail⁹ that most likely Hana Berhanu, the Austrian agency representative may not be innocent at all. Wereldkinderen mediated children from Sele Enat.

2. COURT CASE INVOLVING FINOTE LEWEGEN

Wereldkinderen mediated a number of children from Finote Lewegen.

On 21 January 2008 Mrs Letebirhan was sentenced to 6 month imprisonment, after being found to be involved in a wrong adoption. The adoption case concerned a child which was supposed to go to Spain.

3. COURT CASE INVOLVING ENAT ALEM

In this case, the Ministry found inconsistent documents. According to our information it concerned a case of a child that was supposed to go to the US, mediated by the US Agency Gladney.

Stichting Afrika has mediated some children from this orphanage¹⁰.

4. CASE CONCERNING BIRHANE HIWOT CHILD AND FAMILY AID ASSOCIATION, MANAGER MRS. KOKOBE

⁹ See Annexure: "Schwarzhandel"

¹⁰ Email from Stichting Africa to UAI dated 1.7.2009

In this adoption case an adoption from an already de-licensed orphanage was brought for approval to the Court. According to our information, consequently Mrs Mahder, Mrs Kokobe, and the representative of the German agency Eltern für Afrika, were arrested. However, it seems everyone except Mrs. Kokobe was relieved from the charges. Unfortunately nobody questions why exactly the orphanage was de-licensed and whether the mediation practices were legal and ethical.

5. INVESTIGATION INTO ABANDONMENT CASES – SPRING 2009

This case shows that the court was getting worried about the high and increasing number of cases of abandoned children. Therefore the judge ordered a Federal Police investigation into 154 cases. It was suspected that the sub-city police was part of possible fraud.

However a closer look into the very short police report reveals that in fact no real investigation was conducted. Nevertheless the whole world was made to believe that there was such investigation and no fraud was detected. Therefore all abandonment adoption cases are being processed now again.

This case clearly shows the inability, and unwillingness, of the Ethiopian Authorities to take care of the issues.

6. ADDITIONAL MATERIAL (STUDIES/REPORTS)

A. ASSESSMENT REPORT ON THE USE AND IMPLEMENTATION OF THE NATIONAL GUIDELINES ON ALTERNATIVE CHILD CARE APRIL, 2006

This Report analyses the implementation of the Guidelines on Alternative Child Care. The most important parts are being reproduced here under:

...One of the problems raised in the guideline is that most of the orphanages have stopped to care for orphan children except working as temporary shelters for the children since the time of adoption. Some of them even have no proper licenses to run these temporary shelters. In this case, there were some tangible evidences of children that were brought from other regions to Addis Ababa with no legal bases for adoption.

Therefore, the new guideline is believed to make the institutions working on orphanage and adoption strictly abide by the law, follow the procedures and to be under the control of the Ministry of Labour and Social Affairs. According to the feedback of some of the institutions included in this assessment, there have been some complaints forwarded on the new guideline. These complaints, however, were levelled against those who were after child trafficking. On the other hand, one of the participants gave a genuine comment about the insufficiency of the new guideline. Therefore, revising the guideline needs to have some considerations...

4.2.2 Adoption

Adoption from its original experiences has been one of the best alternatives to orphan children in the previous times. But nowadays, the concept is being changed and it is being used as a means of income generation to agents and related groups. The moral ethics of child protection in this aspect seems to be left behind and there is a high suspicion of abuse on children taken for adoption to abroad. The

major reason for the suspicion is that the agents' and some orphanages' or temporary shelters' reputations in trying to adopt children illegally, violating the guidelines set by the concerned government organization, is not good. These institutions are reported of hiding and sending children out of the knowledge of the concerned organizations (like BOLSA in the case of Addis Ababa) in which an increasing number of children trafficking to the airport and at last the abuses happening on adopted children is being reported in the international meetings.

On the other hand, there were tangible reports in the world conference in Stockholm, Sweden, on Commercial Sexual Exploitation of children where representatives from various countries were present and there were evidences on sexual and other forms of abuses and exploitation observed on adopted children from the third world countries including Ethiopia. On the other hand, the country's scarce resource does not allow the concerned body to adequately follow-up and extend monitoring system on the protection of adopted children in the respective countries....

5.3 Adoption

Most of the institutions licensed for residential orphanages have been turned to be a temporary shelter of children waiting for adoption. Despite a substantial improvement in the procedure of the adoption process some agencies have been suspected to jeopardize and bend the rubrics to prepare children for illegal adoption. This was observed from the discussions with the concerned government bodies during the interview of the assessment. Evidences of child trafficking from regions were increasing for adoption purposes.

5. Conclusion

5.1 The Guideline on alternative childcare programs

The Guidelines on Alternative Child Care programs either is not known or is not available in the majority of the institutions; however,

many believed it is a necessary tool to work on alternative childcare programs.

B. SCIENTIFIC RESEARCH DEPRESSION PROBLEMS AND COPING MECHANISMS OF PARENTS WHO RELINQUISHED THEIR CHILDREN FOR INTER-COUNTRY ADOPTION, ADDIS ABABA UNIVERSITY, June 2009

A Master thesis which was submitted in June 2008 was retrieved through local contacts. In the study 45 birth parents were involved.

Conclusion

Based on the findings, the following conclusions are made.

- Birth parents manifest psychological problems, particularly depression, and the level of depression was significant that most of birth parents experienced moderate and severe level of depression after they relinquished their children for inter-country adoption.*
- In the study it was found that the majority of birthparents never met their relinquished child; didn't meet with adoptive parents; and they never met their child physically after relinquishment. This shows that there was no communications among adoption triad after adoption was concluded, and hence, the arrangement of adoption is closed.*
- The study showed that the major cause of relinquishment of children for inter-country adoption is poverty that birthparents faced at the time of relinquishment. It was found that almost all birthparents had earned a meagre income during relinquishment.*
- Birthparents employed prayer and talking to friends as major coping strategy to overcome their psychological problems.*
- Counselling service was not in place both before and after birthparents relinquish their children for inter-country adoption, and no clear demarcation was made by adoption agencies and orphanages regarding whose' responsibility should be to provide such services for birthparents.*

Table 3: Birthparents' manifestation of psychological problems, specifically depression

<i>Level of depression</i>	<i>State of depression</i>	<i>No.</i>	<i>%</i>
0-13	None	8	19.05
20-28	Moderate	13	30.95
29-63	Severe	21	50.00
Total		42	100

Table 9: open, semi-open or closed adoption arrangement

<i>Communications</i>	<i>Response</i>	<i>No.</i>	<i>%</i>
<i>Do you have Communication with relinquished child?</i>	<i>Yes</i>	6	14.30
	<i>No</i>	36	85.70
	Total	42	100
<i>Do you have communications with adoptive parents?</i>	<i>Yes</i>	4	9.52
	<i>No</i>	38	90.48
	Total	42	100
<i>Did you meet physically with your relinquished child/children after adoption is made?</i>	<i>Yes</i>	5	11.90
	<i>No</i>	37	88.10
	Total	42	100

Table 10: Major reasons of relinquishment as stated by respondents

<i>Reasons</i>	<i>No.</i>	<i>%</i>
<i>Poverty</i>	29	69.10
<i>Health problems</i>	9	21.40
<i>Birth out of wedlock</i>	4	9.50
Total	42	100

C. MEETINGS WITH EMBASSIES

Meetings were held with the Austrian, the Canadian Embassy and the US Embassy.

Specifically the meeting with the US and Canadian Embassy revealed that neither of these Embassies does yet any deeper checks into the background of the children before visas are issued.

Consequently not much oversight is yet applied from the side of the Embassies.

The US embassy voiced its concern about the increased number of cases of abandoned children.

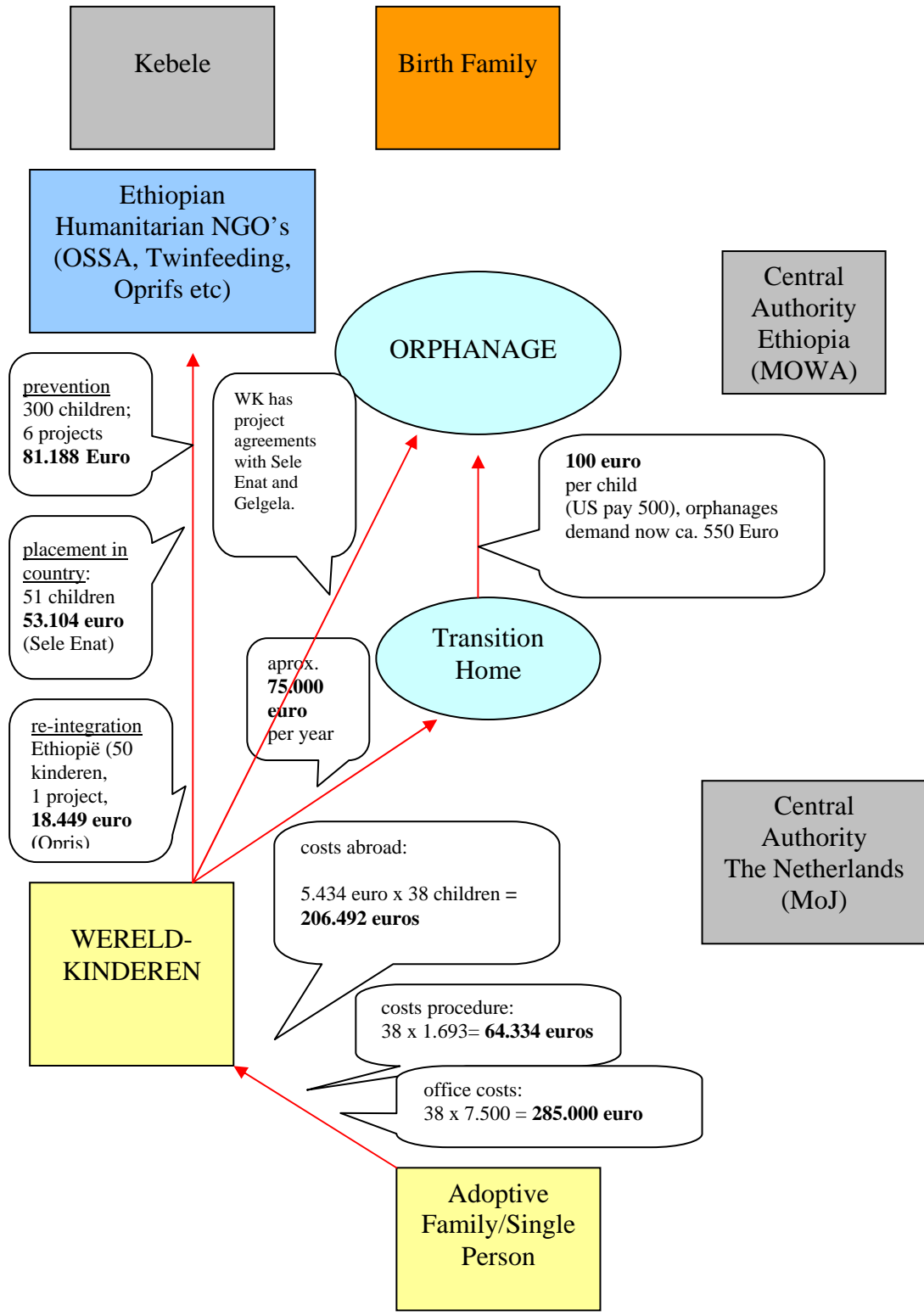
D. VISIT TO ALTERNATIVE PROJECTS

“Godnaw“ run by Mulatu Tafesse, a rehabilitation project for mothers with their children was visited. Everything build out of old containers and tin. But it looks very well thought through and run very nicely.

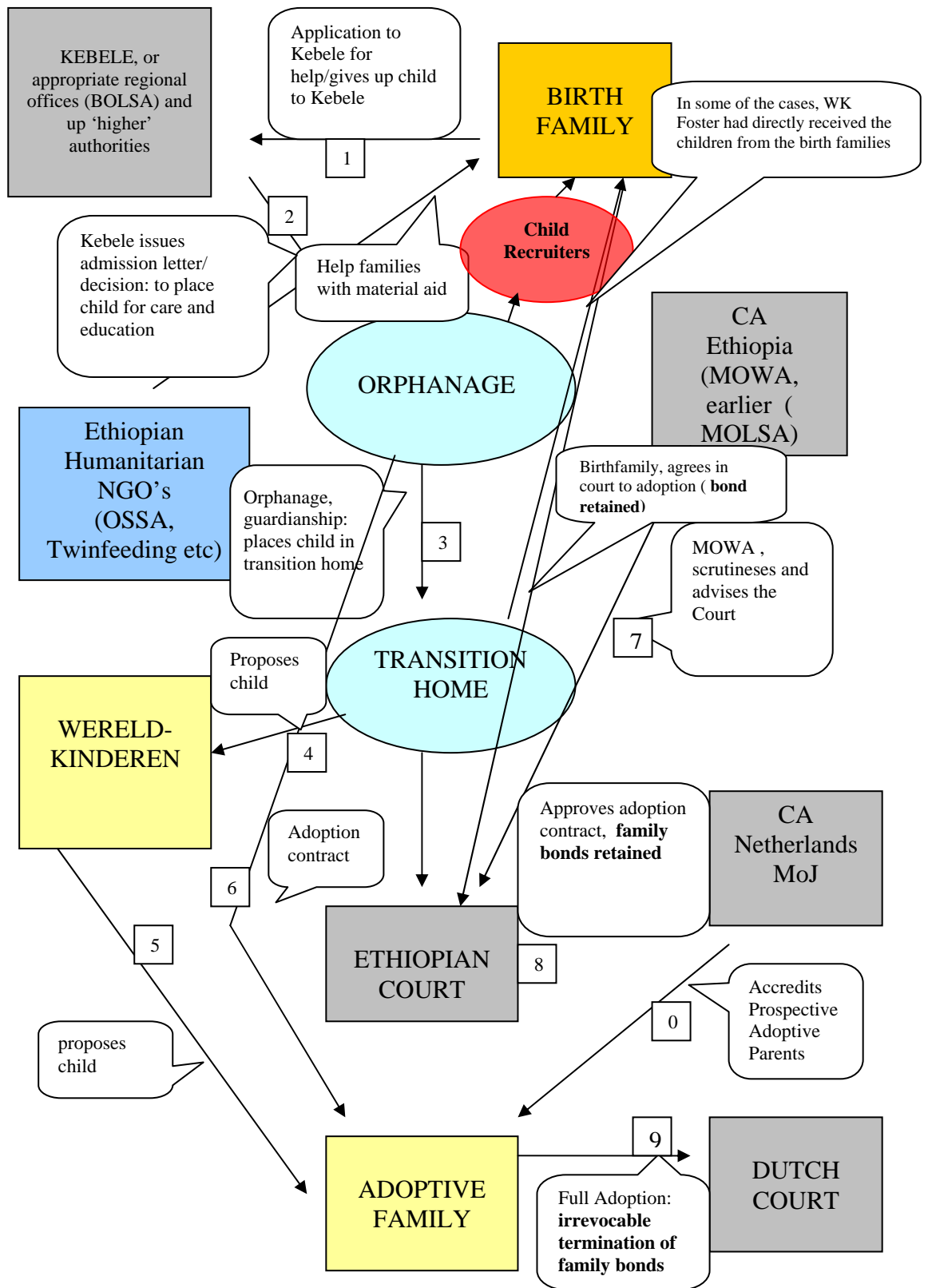
It was touching to see all this young mothers with their very young children. They are trained and there is a daycare, a creche for the children and a shelter for the mothers/children. Godnaw has its own training facilities and some income generating projects.

Mr. Tafesse said that in other circumstance usually these mothers either just abandon their kids, or are even offered 500 Birr and then send away. According to him, assuming that after a while the mother would take part in some income generating activity, he says it takes around 150 Birr = 10 Euro per month to keep a mother and her child together.

FINANCIAL FLOW – ADOPTIONS 2008
 Info based on Website WK & Annual Report 2008/ costs transition home is based on financial plan;
 According to Annual Report 2008, projects are financed from donations)



Adoption – how are children made ‘adoptable’



9. RESEARCHED CASES

Summary of Findings

The findings are reason for serious concern.

In most cases there was no proper counseling, no other support was offered to keep the family together. Also no efforts were made to find a suitable manner of care for the children in Ethiopia.

In fact, intercountry adoption was and is used as a first option, not a last resort.

In more recent cases, relinquishment forms were found. This may have been an attempt to bring adoptions in line with Hague standards, but the forms were insufficient and this waiver of rights is against Ethiopian law

In general a lack of understanding of the Western concept of adoption was found. Most parents or relatives expect updates about the adopted children, and expect their return once the children are older than 18 years old.

In a number of cases the information in the adoption file and the Court order appeared to be incorrect. For example, parents were declared dead – while they were not. Also some birth dates appeared incorrect.

The researched cases give a bleak picture of the Ethiopian adoption reality. It appears that there is a system of collecting children from villages. Orphanages send their busses. Child recruiters are paid monthly salaries. These recruiters are also active in health centers and other places where families go for help.

While traveling the country, the presence of the foreign adoption agencies is omni present. The big US agencies pump significant amounts of money into Ethiopia. Holt for example has overtaken a complete government health post in Shinchicho, giving Holt access to the 250.000 people living in this region.



Children’s Home Society and Family Services operate “Sipara” a Mother and Child Health Center.



Christian World Adoption¹¹ invests currently in a whole comprehensive village for children and adjacent accommodation for adoptive parents.



It is clear that Ethiopian family services are becoming increasingly dependent of the funding of foreign adoption agencies, risking that in ‘return’ more and more children will need to be found for intercountry adoptions.

¹¹ CWA was featured in the ABC Foreign Correspondent Documentary: Fly Away Children, screened in September 2009

BACKGROUND

The interviews were conducted between 12.08.2009 and 01.09.2009 in Addis Ababa, in Wonji/Nazreth and the Kembata Region. A total of 19 adoption cases were researched.

In Addis Ababa, locals were employed to trace out the exact addresses, before the actual interviews were conducted. In Wonji/ Nazreth, Assefa from OSSA helped with tracing the families. In Kembata in some of the cases a regional translator was used; he also helped locating the families.

The interviews were conducted either in the family's house, or in front of the house, whatever was felt appropriate. Some interviews were held in the privacy of the car.

A tentative questionnaire¹² had been prepared. The interviews were conducted in a conversation style, by Wereldkinderen's local roots person, who is a qualified and experienced social worker.

LIMITATIONS

The birth family members/guardians were only interviewed once. The interviews lasted between 20 minutes and 1,5 hours.

This is hardly enough time to establish a trusting relationship, and to ask all relevant questions.

One of the main objectives was to actually find out, whether the biological families had really understood the full consequences of relinquishment of their child for (inter-country) adoption - meaning the permanent termination of all legal and social ties with the child.

¹² Questionnaire available with Wereldkinderen's Roots worker

During the field research, it became apparent that it was impossible to probe this aspect during the interviews to the full extent. It was felt simply to be inappropriate and too hurtful for the biological families to confront them with the full reality of intercountry adoption, i.e. that they had permanently lost all ties with their child. Thus a final and definite judgement on whether the families had fully understood the Western concept of adoption cannot be made.

No evidence that money had been paid directly to birth families was found. However, in some cases there are indications that intermediaries received money in exchange for the children and smaller amounts were received by the birth family under the heading of transportation costs. Further research into this matter would be needed before final conclusions can be made.

ADOPTION CASE No. 1

Orphanage: Gelgela

Date of adoption: 2008

Situation at the time of relinquishment:

The mother conceived the child due to rape. She was at that time suffering from some mental problems. The child used to live at the grandfather's house. The mother was not able to raise the child and someone named Tsegaye told the family that the child can be given to an organisation. Tsegaye lives now in Hosanna and had a conflict with the organisation Gelgela. She took children and gave them to different organisations. She does not know who the father is.

During the interview with the mother, the two children of her brother were very close to her and they seemed to be well cared for. The mother and the grandfather say it does not matter where the child grows up - just that he grows up. The grandfather basically took the decision and they want him to live in a better way. The grandfather did not consult any organisation, he trusted in God (they are Protestant). The mother went with the whole family to the Kebele.

The house is build during the Haile Selassie time, more than 30 years ago. They had cows and other animals, but the drought caused the economical problems. They pay for the plot now 25 Birr annual rent. The issues they currently face, is that they have no milk for the kids, no Bullock and the roof is damaged.

The mother says she does not feel anything about the fact that the child went for adoption. She is just being happy that he is better off now. She smiled while telling that she saw him at the foster home. Her brother would give also one child in adoption.

There live ten people and two children in the house.

For the travel to Addis they got 500 Birr plus Hotel and Food. After paying the costs, she was left with 200 Birr. She received the money from someone Ethiopian person. She does not know that the child left Ethiopia.

The Court told her, that it is like selling the child. She agreed in Court to the adoption.

She wants to be updated about the child.

Before we left, her grandfather asked us whether we could somehow support them financially.

Counselling:	None
Efforts or support offered to keep family together:	None
Efforts to find suitable care within Ethiopia:	None

Case analysis:

Prima facie this case appears to be proper. The mother has agreed in court for the adoption and the information in the paperwork seems to be correct.

However, the following issues arise:

The decision was taken by the grandfather of the child. Although the mother had given her consent, it may have been under duress of family/ social pressure. Clearly no counselling did happen. Most probably the child could have been kept within the family with a little support to the family/ mother.

Recommendations:

- The mother should be at least visited a second time and be provided with an update about her child.
- The family should receive appropriate counselling and support¹³, to secure that no further children will be given for adoption.

¹³ Support can only be given only in a very careful manner. It should under no circumstances create the impression in the area, that one can give one child for adoption and then receive support. Otherwise this might push more families in 'abandoning' their children. The support can only be given through a local NGO, which is not connected to adoptions in any way.

ADOPTION CASE No. 2

Orphanage: Sele Enat

Date of adoption: 2004

Situation at the time of relinquishment:

The mother was not able to take care of her son.

Mother left the baby with her stepsister. Stepsister told this to the brother of the mother. He asked his other sister to take care of him. His intention was to pay the cost of taking care of the child. But this sister was not able and willing to do that and then the mother took him. Later she put the child beside the gate of her brother.

The child was found by a girl just beside the gate of the house. She brought the baby to the house of her parents and there he stayed up to the adoption.

The neighbours warned the family who took the child, because they were afraid, that she would be charged with child kidnapping. So this family went to the hospital and here they were told about adoption. In the hospital they gave him another name. This family (the woman) authorised the hospital to give the child in adoption.

A few days after the interview the mother contacted Wereldkinderen's Roots Worker. On 8th of September 2009, the mother unexpectedly came to Addis and told Wereldkinderen's roots worker that she was not involved in the decision of relinquishment. At that time she was working as a house maid and used to visit her son now and then. She went to visit her child when the family gave her leave. One day she bought clothes for him and went to visit him as usual and came to know that he was already adopted. That was four months after he left Ethiopia. She said that she was completely devastated by hearing this sad news and became sick.

Counselling:	No counselling of the mother
Efforts or support offered to keep family together:	None
Efforts to rehabilitate the child within Ethiopia:	None

Problem Analysis:

The Court order reads

“On the other hand it has given a confirmative statement about the fact that the child whose parents are deceased.”

As a matter of fact the parents are still alive. It was easy to find out.

The first child study report mentions the name of the mother, but written aside is “unknown?”.

The same child study report says that there are no relatives. This is incorrect.

The child study form lists as Guardian the woman who took her into her house. Question is if she was the formal guardian.

There is no Police certificate documenting the absence of the mother; the abandonment of the child; or a death certificate.

CONCLUSION:

This case points at criminal acts, in so far as wrong information has been given to the court. On complaint from the side of the mother, additional criminal acts, such as kidnapping could come to the surface.

RECOMMENDATIONS:

- This case has to be further investigated.
- The mother should receive extensive legal and social counselling from an organisation which is independent from Wereldkinderen.
- This case needs to be reported to all authorities and the Court.
- The court order has to be corrected if the mother agrees to the adoption, after being counselled by an independent organisation.
- The mother should receive an update about the well being of her child.
- The mother has to be protected against possible intimidations from the side of the people/ organisations involved in the adoption process.

Further Remarks:

There was an email in the file from Wereldkinderen to Wereldkinderen’s Ethiopian representative, which reads as follows:

How are you? I hope you can help me out with the following. The Birth certificate from XXX was not correct. In January we sent it back to Ethiopia to make a new one. [...] So would you be so kind to send this birth certificate by diplomatic mail (underlining supplied) to us?”

It needs to be cleared as to why and how Wereldkinderen could make use of diplomatic mail.¹⁴

¹⁴ Vienna Convention on Diplomatic Relations, Article 271

According to the “child study form” the child stayed at the house of Wereldkinderen’s Ethiopian representative from April 30/ 2004 until 1/6/ 2004 (written like: until1/6/2004).

It needs to be cleared whether it is legal for a representative of an adoption agency to keep children at her private home.

If that would not be legal, it would need to be cleared how this could happen with the knowledge of Wereldkinderen.

ADOPTION CASE No. 3

Orphanage: Sele Enat

Date of adoption: 2004

Situation at the time of relinquishment:

Mother was at hospital when her child was adopted, and two months later she died. His brother was at that time of adoption 8 years old and is HIV positive. He is now 13 years old and lives with a white person in a home.

The mother authorised the hospital to arrange the adoption.

Counselling:	Yes
Efforts or support offered to keep family together:	None
Efforts to rehabilitate the child within Ethiopia:	None

Problem Analysis:

The uncle could not afford to raise him. With some support it might have been possible to raise the child within the extended family itself.
Now the siblings are in different countries.

Recommendation:

- The HIV positive brother should be contacted and Wereldkinderen should find out, how he is doing. Possibly in the best interest of the children, contact should be established between the siblings.

Additional Remarks:

In the file there is an e-mail from Ms XXX, whose husband worked at the time at the Dutch Embassy in Ethiopia .

One email reads:

*“Van: XXX@telecom.net.et)
Verzonden: vrijdag 5 november 2004 13:03
Aan: WK*

Hallo

.....

Verslag OSSA bezoek volgend keer.

Tot over 10 dagen

Groetjes

Laetitia”

This email indicates that Ms. XXX was involved in the adoption procedures.

It needs to be cleared what she did exactly, whether she was paid for this and if this is permissible under Dutch rules for diplomats.

A letter from the adoptive family sent to the Foster Home starts like this:

“Dear Haregoin, Idgi, Laetitia, Sisay and others from the foster home...”

This email might indicate that Haregwoin Berhane, who was featured in the Canadian CBC Documentary, was earlier working for Wereldkinderen.

ADOPTION CASE No. 4

Orphanage: Sele Enat

Date of adoption: 2004/2005

OSSA could not trace anyone from the family.

Recommendation:

- The file contains a letter from “Aunt”, from 2007, who apparently lives now in Lebanon.
She should be updated about the wellbeing of the child and a telephone interview should be conducted.
- The letter indicates that this aunt lost contact with the brother of the adopted child, who was left behind in the Home of the Missionaries of Charity due to HIV.
Wereldkinderen should find out the whereabouts of this child and how he is doing.

ADOPTION CASE No. 5

Orphanage: Sele Enat

Date of adoption: 2005

Age of the Children at the time of Adoption:

Child 1: 7 years and 5 months

Child 2: around 2 years

Situation at the time of relinquishment:

The father suffered from tuberculosis; he was in hospital for six months- around 1996 (Ethiopian calendar). In the hospital the parents learned about adoption and the mother's wish was to give the children away immediately for adoption. In the hospital works Mr. Sheleme, who is a volunteer for OSSA for working with HIV people. Wereldkinderen's Ethiopian Representative visited along with Mr. Sheleme Demoze, who was lying in Hospital. They discussed the issue of adoption and mother has to sign a paper, in which she declared freely to give her children for intercountry adoption. Both the father and the mother were conscious about the consequences of adoption, that the family bondage would be broken. They hoped that the children would have a better life abroad than they had in Ethiopia. The parents hoped to be informed and to maintain contact. Their decision was driven by their social economical and health problems - no income - being dependant on support from OSSA, which the mother did not like at all. Later they became active within an HIV advocacy group and got money from that (advocacy jobs, schools and different places). The adoptive parents visited them during the adoption process. The adoptive father met also the brother of their adopted child and told him to do his best at school, because the adoptive parents will help him to come over to The Netherlands to study.

Wereldkinderen's Ethiopian Representative advised the parents to change the age of the oldest child and so they made her 2 years younger. The children stayed around six months in the Foster Home.

Wereldkinderen's Ethiopian Representative told the parents that when the children would be 18 years old, they would have the possibility to ask back their Ethiopian nationality.

Since the parents found out that the eldest child had been placed into public care, they are worried and have been calling Wereldkinderen's Ethiopian Representative several times. At one time, when the father asked about the children, Wereldkinderen's Ethiopian Representative told him that he had dialled the wrong number.

Further background:

Some years before the birth parents had been separated for one year and 7 months, because the father had fallen in love with another woman.. His wife asked him to come back. He realised the children and his wife missed him a lot. Before reuniting they took an HIV test and found out the father was infected. The mother is healthy.

Counselling: It appears the parents understood the consequences of adoption

Efforts or support offered to keep family together? None

Efforts to rehabilitate the child within Ethiopia: None

Problem Analysis

Child 1 has been placed out home and is living in a children's home.

Letter from adoptive parents to Wereldkinderen's Ethiopian Representative:

"...she only want to return to Ethiopia. She's sad and angry about the adoption and lives in matter of speaking with one leg in the Netherlands and the other one still in Ethiopia."...

In one of the letters to her parents she writes:

*...I m not feeling well. At these moments I think about you a lot and them miss you both.....
...in the beginning it was hard to adjust and I missed my family a lot. It didn't work out with my adoption mother and me.*

The Court order states:

"on the other hand it has given a conformative statement about the fact that the children's parents are dead."

As a matter of fact, they are both alive.

This case was discussed during an internal meeting of Wereldkinderen on 30.09.2009.

It came out that Wereldkinderen's Ethiopian representative had received a stamped letter from OSSA on which eight children were listed as "orphans".

This letter was the basis to process the adoptions. Thus, according to Wereldkinderen's Ethiopian Representative the Court made the "mistake" of stating that the parents are dead.

Wereldkinderen's Ethiopian Representative felt she could not correct this and proceeded with the adoptions.

Wereldkinderen knew as well that the parents were alive, since they were listed as alive in the child study form (16.05.2005).

This case points at a possible criminal act, since Wereldkinderen's Ethiopian representative knowingly provided the court with false information. She knew at all times that the parents were alive and that the children were no orphans.

After the Roots and Aftercare manager of Wereldkinderen questioned the adoption worker about this case in May 2009¹⁵, the below email was received from Wereldkinderen's Ethiopian Representative.

Email dated: 28th May 2009

how are you? Enclosed find the answers to your questions

About XXX and child 1/child 2 their Abundance clearance is different at that time it was OSSA who was writing the single paper for Seleent orphanage saying orphaned children who needs help for many children at one paper with out back ground information but I tried to find out the background information from parents and gave you on the child study but I have a signed paper by the mother for relinquishment at Wonji for child 1 and child 2 and there was no need to stand at court for the biological families at that time and court used to decide saying children were orphaned.

For AAA it was the time the court started to ask for biological families to stand at court so the mother had to stand at court to give her consent I saw the decision the court has made mistake to say the child is orphaned...

The above e-mail indicates that there is another adoption case where the mother is wrongly stated to be dead. This case should also be investigated, court papers corrected. Again the mother should be informed about the child's well-being.

This case has similarities with the Austrian "Family for You" case. "Family For You" as a result of such a case got under criminal investigation and went bankrupt as a result.

Role OSSA:

It has to be researched whether it was indeed legal and enough that children referred by OSSA were formally admitted to Sele Enat, just based on a stamped letter issued by OSSA and usually very quickly or immediately taken to WK Foster Home.

According to the Directive issued by MOLSA in 2002 point 7 reads as under:

¹⁵ Email communication dated 5th October 2009

Regarding inter-country Adoptions of children coming from the Regions: Having ensured that children sent from the appropriate regional offices are orphans, they shall be sent to orphanages until adoptive parents are secured.

It is doubted that OSSA could serve as an “appropriate regional office.”

Recommendations:

- The caretakers of Child 1 have to be informed that the parents are alive, but are stated as dead in the court order
- Wereldkinderen through its Roots Program should visit the child
- The biological family should be visited again and receive a detailed updated about the situation of the child.
- A visit of the child to Ethiopia and her birth family should be arranged - if she wishes that.
- This case has to be reported to all relevant authorities, including the Courts.
- The biological family needs to be counselled by an independent NGO/person.
- It needs to be researched whether it may be better for the child if her adoption would be revoked.
- A possible repatriation of the child to Ethiopia should be explored. If so, the costs of her care and education should be guaranteed

It has to be researched whether it was indeed legal and enough that children referred by OSSA to Wereldkinderen’s Foster Home

ADOPTION CASE No. 6

Orphanage: Bethesaid

Date of Adoption: 2006

Situation at the time of relinquishment:

The mother had run away from home, in 1991 (Ethiopian calendar) after a conflict with her mother. She was untraceable for three years and her mother was very sad and sick of this situation and she passed away July 1992 (Ethiopian calendar) The mother, when she ran away had met an old woman somewhere in the countryside where she could stay and helped in household. Both children were born as a result of rape.

The grandfather was a teacher at that time and had a good income. But after the death of his wife, things changed for worse.

The children's mother went back to her father, when she was seven months pregnant of the second child.

The grandfather heard about the adoption option from his eldest daughter who works for a bank. She told him about Bethesata and the possibility of adoption with Bethesaid. The grandfather decided the adoption because he does believe that his daughter is not able to take care of the children.

At the time, the mother always stayed in her room and locked the door. The children had no one too look after them. He found them several times on the streets far from their home - sort of street children.

He says, if the children would have stayed here, he would have gotten mad, because he could not look after them nor wanted to see them on the streets.

The children stayed around two years in the Foster Home. The grandfather used to visit them.

The mother believes the children are still in the country.

It was difficult to communicate with the mother because of her unstable reaction.

Counselling:	None
Efforts or support offered to keep family together:	None
Efforts to provide suitable care in Ethiopia:	None

Problem Analysis:

1st the Court order states:

“ Pursuant to the court’s order grandmother of the adopted Children has appeared in Court and notified her agreement by the adoption....

According to the interview, the grandmother of the child was already dead at the time of adoption.

The mother does not even know that her children are adopted out of Ethiopia, nor has she consented to the adoption.

From a strict legal point of view¹⁶- the grandfather may have no authority to give her children for adoption, as the mother holds the parental rights.

It would at least have been necessary to obtain a medical certificate from a hospital or other authority about the mental health status of the mother.

Therefore it seems a proper consent is missing and, if the mother recovers, she could possibly challenge the adoption of her child.

Recommendations:

- The mother needs to be visited again. Some kind of treatment should be arranged for her.
- The court order needs to be corrected in case it is not only a translation mistake where it states “grandmother” instead of “grandfather”.

¹⁶ See Revised Family Code: Chapter Twelve; and Terms and Reference For Execution of Adoption, Addis Ababa, February 2006, which reads under 3.3.3:

“ Observe the established criteria for eligibility to admission that is limited to children without parents, abandoned children, or children who are deemed without parents on the ground of medical evidence, proving that their parents are suffering from incurable diseases.

ADOPTION CASE No. 7

Orphanage: Fenot Lewogen

Date of Adoption: 2007

Situation at the time of relinquishment:

The mother told that she was working as a housemaid. The father rented a room in the house where she was working.- She knows only his first name.

When she got sick she brought the child to her aunt. Then she met a man, who asked her immediately after the birth of the second child, to give her child for Adoption.

However, she did not want that at that time. After a while the husband of her aunt was not happy with the baby, due to their limited economical capacity.

There were a lot of conflicts because of the child, as the family's income was not enough for raising their own children, let alone another one. If the aunt would have gotten support, she would have kept the child. Also because her daughters were very attached to the child.

The mother was difficult to interview. She was not open, even though her aunt told her several times to tell the truth.

She called Wereldkinderen's roots worker later. They met, but this case needs more investigation to get a clearer picture. This mother misses her daughter very much.

Counselling of the aunt: Understanding of adoption: (Aunt understood that the child would come back if she would be mature enough)

Efforts or support offered to keep family together: None

Efforts to find suitable care in Ethiopia: None

Problem Analysis:

Although the aunt took care of the child during the absence of the mother, she was not the guardian of the child.

At least evidence from the police should have been submitted that the mother is missing.

The mother could possibly challenge the adoption.¹⁷

Recommendation:

- Contact between the birth family and the child should be considered.

¹⁷ See: Chapter Twelve of Revised Family Code; and Internal Directive of Procedure for Provision of Transnational Adoption Services 2008: 6.5.1 Upon admittance of children under difficult circumstances, governmental or private orphanages should require submission of evidence showing the appointment of their close relatives, if any, as their guardian or tutor or if otherwise, evidence showing that they have no close relative or guardian or tutor. It shall not be appropriate to admit children without submission of these evidences. REMARK: This directive basically explains and clarifies the Chapter twelve of the Revised family code. Therefore although this Directive was not in place at the time of Adoption, the undersigned assumes, that if the revised family code would have been taken serious, evidence in form of either the appointment of the aunt as guardian, or at least evidence from the police that the mother is missing or that the child is abandoned should be on file, of which neither is the case.

ADOPTION CASE No. 8

Orphanage: Sele Enat

Date of Adoption: 2008

Situation at the time of relinquishment:

The mother has had a difficult life. She was in several relations. She only knows the first name of the father of the second child. There were many conflicts in the family.

Two years ago she came to Addis and started living with her sister. From her cousin she learned about Sele Enat and the possibility of adoption. She gave the children because she realised she did not have the financial capacity to raise the children. One of the staff of Sele Enat told her about the consequences of adoption and informed her that the children would possibly come to Ethiopia and visit the mother when they would be 18 years.

The mother is really concerned about the health of the youngest child. She would like to have picture and information of both children, but specifically about the youngest one.

Counselling: Understanding of Adoption: difficult to say- she has hope the children come back

Efforts or support offered to keep family together: None

Efforts to find suitable care in Ethiopia: None

Problem Analysis:

The Child Study Report wrongly lists one of the mother's partners, as the oldest child's father. That despite the fact, that the Child Study Report mentions that the mother was called in once more to the Foster Home to get more information. Since it was easy to retrieve the correct information about the different fathers, the question is why the Wereldkinderen Foster Home could not find that out.

Recommendations:

- The mother should be updated about the wellbeing of her children and especially about the health status of the youngest child.

ADOPTION CASE No. 9

Orphanage: Sele Enat

Date of Adoption 2005

Situation at the time of relinquishment:

The father first agreed to be interviewed after being traced and an appointment was fixed. But then he suddenly refused to be interviewed, saying that he already lost his child and wants to close that chapter.

This happened after Wereldkinderen's Ethiopian Representative had come to know that Wereldkinderen had started an investigation in Ethiopia.

Counselling: Cannot be said anything about it.

Efforts or support offered to keep family together: Cannot be said anything about it

Efforts to find suitable care in Ethiopia: None

Problem Analysis:

The mother is stated to be dead in the court order.

However the adoption file contains a letter from Wereldkinderen to the adopted family, dated 31st March 2008, which reads: "Hierbij sturen wij u een brief, bestemd voor uw zoon XX en afkomstig van zijn biologische moeder in Ethiopia.

This was crosschecked by Wereldkinderen on 4th October 2009 with the adoptive parents and it turned out to have been a letter from the child's father and not from the mother.

The file contains the mother and child health card. The birth date is listed as being 23 / 11/ 1993 ¹⁸ (Ethiopian Calendar) on this card.

The question arises why in the Child Study Report the birth date is estimated. Further the child was born in 2001 and not in 2002 as stated.

Recommendations:

- It should be attempted to interview the father and to research this case further.
- The exact birth date needs to be checked with the father and with the health card.

¹⁸ Not clearly readable in the copy

ADOPTION CASE No. 10

Orphanage: Gelgela

Date of Adoption 2008

Situation at the time of relinquishment:

The mother was very sick at that time and was thinking to abandon the child. Her uncle advised her to give the child for adoption. She suffered from Fistula and still get's treatment. She conceived the child out of rape. She was not able to keep the child, because her parents rejected her. She was considered outcast due to Fistula and the rape. She didn't receive a picture. The child was given to Gelgela. The staff of Gelgela told her: maybe you have a chance the child will come back and support you.

She got 300 Birr for transport to Addis and gave 100 Birr to the contact person of Gelgela for the bus.

When the mother was asked what is her wish, she replied:

“Sure you know what a mother wishes...”

She got 90 Birr in Addis when she brought the child herself. Tesfaye gave her 23 Birr for transport.

Her cousin, her uncles daughter, worked at that time for Gelgela and now works for Bethezata, administrating the paperwork, and earns 800 Birr a month. She told us that Bethezatha employs for a monthly salary (around 400 Birr) people in the villages to find children for adoption.

The mother does not know where the child is.

Counselling:	None
Understanding of Adoption:	Yes
Efforts or support offered to keep family together:	None
Efforts to find suitable care in Ethiopia	None

Case Analysis:

1) This case has proper paperwork. The information in the paperwork seems to match the information gathered during the interview. However, it could be that the mother was under duress, due to social stigma and the fact that her cousin worked for Gelgela at the time of the adoption.

2) The file contains an additional relinquishment document (standard form), which reads:

Giving the Child to Adoption.

I Mrs X, would like to give my consent in my free and full consent to be given my child/ children who I gave birth/take care /1st A sex Female age 2 month date of birth xx/x, 2008 to adoption to be rear, cared and educate in alternative orphanage/in a foreign adopters.

Accordingly, I confirm that after I have given my child to the adoption, I know that I have refrain my right from my origin.

Remark: this documents hints at training given by foreign adoption organisations at local orphanage and/or Kebele level, in order to comply with art. 27 of the Hague Convention.¹⁹

The real admission document: the decision from the local Kebele Court, reads as follows:

Decision

By examining the file I rendered the following decision. Since I am verify from the witnesses testimony the applicant Mrs X who gave birth a female child A due to rape, and her father is not identified and it is not known weather he alive/or not and also she has no capacity to rear, care and educate the child, I decided that for the best interest of the child the child should be given for orphanage institution named Gelgela Integrated orphans and destitute Family Support Association.

The legal validity of the relinquishment document is not sure.

After the adoption contract had been approved by the Federal First Instance Court, such kind of private agreement, drawn up before and without approval of the Federal First Instance court will most likely not be applicable anymore.

¹⁹ Article 27

(1) Where an adoption granted in the State of origin does not have the effect of terminating a pre-existing legal parent-child relationship, it may, in the receiving State which recognises the adoption under the Convention, be converted into an adoption having such an effect -

a) if the law of the receiving State so permits; and

b) if the consents referred to in Article 4, sub-paragraphs c and d, have been or are given for the purpose of such an adoption.

(2) Article 23 applies to the decision converting the adoption.

Certainly, the decision of the Federal Instance court will be of higher value.

Therefore one may conclude that this relinquishment document has no legal value, under strict application of Ethiopian laws.

Recommendations:

- The mother should personally be updated about the wellbeing of her child and this visit should be possibly used for further interview. Also the cousin who works now for Bethzatha should be further interviewed. However, she was already intimidated by her boss, because she spoke so open to us. She called Wereldkinderen's roots worker the day after the interview and inquired why we came and asked so many questions.
- The legal validity and permissibility of such kind of private relinquishment documents, terminating all family bonds under Ethiopian laws, should be discussed with legal experts (human and child rights lawyers) in Ethiopia.

ADOPTION CASE No. 11

Orphanage: Gelgela

Date of Adoption: 2004 and 2005 (two children)

Interviewed/grandmother and uncle at OSSA office.

Situation at the time of relinquishment:

The grandmother was not informed about adoption. She wanted to take care of the two children- even if she would have needed to beg. But now she is very happy with the adoption.

The mother used all their savings to stay alive as long as possible. Two years after the death of the father, she had become sick and discussed the possibility of adoption with the uncle (father's side). Both agreed because he was young and jobless, and had no capacity to take care of the children. She authorised him to do the whole adoption process.

The adopted children promised the grandmother to send information about their situation and indeed one of the girls wrote on 16th of October 2006 a letter in Amharic. She asked the family to keep her beautiful dress and send her pictures of her mother and keep things of her father and mother for later. They wrote a letter back, through Tigist (social worker Ossa) but could not send pictures of mother, as the pictures are with another uncle. The uncle and grandmother are not in good terms with that uncle.

The grandmother and uncle received a follow up report on 10th may 2007 (full copy of Wereldkinderen Follow up Report (through Ossa). The uncle now takes care of the child of a relative.

Counselling:	Yes
Understanding of Adoption: Hope that the children will come back once for visit. They want to have reports and pictures of the children.	
Efforts or support offered to keep family together:	None
Efforts to find suitable care in Ethiopia:	None

ADOPTION CASE No. 12

Orphanage: Finote Lewogen

Date of Adoption: 2007

Situation at the time of relinquishment:

The mother was a secondary school student when she got pregnant. She had relation with the father for 1 year. Her pregnancy was not accepted by her middle class family. She had to leave home when she was 6 months pregnant. She then with her uncle. The child was born in hospital. After three months the mother came back to Addis with the baby and found work as a housemaid, with the baby.

Her cousin and aunt came with the information about Finote Lewegen (orphanage). They decided to give the child to Finote Lewegem for Adoption. The cousin admitted the child to the adoption.

Sister Adey or Letay works for Finote Lewegen and she met the mother and they went together to the Health Center for HIV test.

The mother told the father only about the adoption, when the child had already departed for the Netherlands. She says at that time, it was a good decision, but now she regrets the decision. She has picture of the child in her mobile phone and misses him.

She hopes the best for him and would like to be informed about him. During the interview she said that once the sister of her employer came from the Netherlands with her two children. That made her very emotional.

Then the mother told about the low income of family. The intention of her aunt was to sent the mother to Kuwait to earn money, but she decided to stay in Addis.

The mother was intimidated after the interview by Sister Letay, after she had probably told her aunt and cousin she spoke openly to us.

Counselling:	None
Understanding of Adoption:	Yes
Efforts or support offered to keep family together?	None
Efforts to find suitable care in Ethiopia	None

Case Analysis:

The whole paperwork is based on lies.

- The Child Study form from the City government, filled out by Kebele 03/04 on 22.12.2006 states that both mother and father are dead. Whereas in fact they are alive.
- The same form states that the mother was pregnant following rape. Whereas in fact, the child had been born out of a relationship.
- The Court order reads: Pursuant to the Courts orders the grandmother of the adopted child has appeared in the court and notified her agreement by the adoption and this is due to her lack of capacity or economic problems. Whereas in fact it was the cousin who admitted the children to Finote, who is not the grandmother of the child.
- During the process the Wereldkinderen social worker from the Netherlands asked questions²⁰ regarding the background of this child, specifically:

“...In the same paper is noticed “she was pregnant following rape and that she does not know the identity of the father “Who is this “she” ? In case it is the biological mother XX, in all the papers it is written she is dead. Is the child XX a child born out of rape, or biological father is unknown. In your child study the fathers name is XX. Is the biological father the rapist?”

Three days later Wereldkinderen received the following answer from Wereldkinderen’s Foster home social worker ²¹:

“...in addition to these, I have asked the Orphanage and XX is his uncle, the brother of his mother. The rapist, the biological father is not known.”

Here the Wereldkinderen social worker through her questions had almost detected the fraud in this case. However, it was not followed through and the information provided by the Wereldkinderen Foster Home representative was trusted at face value.

This case involves serious criminal acts such as submitting false information to Court. Further based on a complaint of the mother, the adoption could be declared void and charges of kidnapping could be pressed against the persons involved in the Adoption.

²⁰ Email dated: 20.2.2007, 12:49, between Wereldkinderen and Fernus

²¹ Email dated: 23 march 2007; 13:45

Recommendations:

- This case has to be further investigated.
- The mother should receive legal and social counselling from an organisation which is independent from Wereldkinderen.
- This case needs to be reported to all authorities and the Court.
- The Court order has to be corrected, in case the mother agrees to the adoption after being counselled by an independent organisation.
- The mother should receive an update about the well being of her child.
- The mother has to be protected against possible intimidations from side of the persons/organisations involved in the adoption process.

ADOPTION CASE No. 13

Orphanage: Finote Lewogen

Date of Adoption: 2008

Situation at the time of relinquishment:

The parents passed away and the uncle took care of the two children. He only wanted to give one child for adoption. Tesfaye G. Michael was the mediator. The other child is living with the uncle and finished 3rd class of school. He was in Coffee business, but had lost 200.000 Birr due to a forged check.

He fully understands adoption. He just saw the chance of betterment for the child. He will be happy if the child comes back one day. He got one time a picture of the child from Gelgela.

He also agreed in Court. He says he needs 3000 Birr a month for the family. If he would have had that he would have kept the child. Tesfaye brought him to the Foster Home along with more children in a rented car. He and the child and someone from Gelgela (probably Fernus) went to the Court. He asked whether the child is ok.

Counselling	None
Efforts to rehabilitate the Child in the family :	None
Efforts to Rehabilitate the Child within Ethiopia:	None

Problem Analysis

While interviewing the uncle, it was felt that despite all appeared to be consistent that something might be wrong. A closer and more detailed analysis of the paperwork later revealed that there is reason enough to believe that the story we have been told might not be true.

There is confusion in the paperwork about the birth date of the child and the uncle might in fact be the father. At this stage a final and definite conclusion cannot yet be drawn.

Date: 24/ 09/ 2007

Offering a child in Adoption.

*I Mr. XX, hereby declare that i have consented for 1 XX, sex: M, age 3 9/12 years date of birth 2004, **born from me** (highlighting supplied) to go abroad and be brought up*

be offered in adoption as an alternative way of bringing us and that I have made this decision of my own accord and without any influence.

Accordingly I also confirm under my signature that I have agreed with the understanding that I have no any right of parenthood, after the adopter has taken the child.

And then from:

Life History of the children (form filled out by Tesfaye- professional expert)

*I, the applicant **XX**, maternal mother/ **biological father**/ legal guardian/ of child **XX**/ police, confirm under my signature that the information I have given is correct and that I m liable by law, in the event of any error compared to the law.*

XX; biological father, XX, is all highlighted

So how to interpret this?

Is he the father?

The same Life history states that the mother and father are both dead

Court order of Durame First Instance Court, dated 21.9.2007

Decision

“It is basically confirmed under the sworn statement of the witnesses that appeared at the session of the court that the 3 9/12 year old child XX has lost his biological mother the age of 6 months in the year 2006 and his mother was then buried in the place of her death in Kachabera Woreda and that his biological father XX has also died while the child was at the age of 2 year and 9 month....”

And then this letter:

From Kembata Tembaro Zonal Administrative Council Durame to Gelgela: dated 19.10.2007

Since the Kembata Tembaro Zonal Administrative Office, has confirmed with the letter written by the Durame Town First Instance Woreda Court Police Office on 18.10.2007 under ref. no. 00274/ 2000, that child XX, age 3 9/12 years, sex: M, and resident of S/N/N/P/R/G/ Kembata Tembaro zone, D/ T/ F/ I/C Woreda, Durame 03 Kebele, is needy and with no supporter, as his father XX and his mother have died, we are attaching here with 04 pages of the overall information from the court or police office, stating the condition of the child, through the Gelgela Integrated Orphans and Destitute Family support Destitute Family Support Association to take, the child and raise, educate and support him.

Blog from Adoptive parents:

“...Nee, hij wil op fitness want dat deed hij ook met baba (zijn oom) in Ethiopië.”²²

“Baba” usually means father

Different birth dates:

Birth date given by one witness in Court order of Durame First Instance Court, dated 21.9.2007: January 2004

Birth date on: “LIFE HISTORY OF THE CHILDREN”, signed by XX on 24.09.2007 and by Professional Expert Tesfaye G/ Michael on 20.10.2007: 14.01.2004

Birth date on “Offering a child in Adoption”:
“Age: 3 9/12, date of birth 2004”

Birth date of the child given in Medical Report on the Child, (dated 25.10.07, filled by physician) and Child Study form (dated 25.10.2007 filled by Fernus): 14.05.2003

On Birthcertificate issued on 27.05.2008: Given as 14.05.2003

Recommendation:

- This case needs to be further investigated. One would also need to meet with the sibling who is still in Ethiopia
- As a first step, the adopted child should be interviewed.

²² Miteku van Eijk; Blog entry; zondag 26 oktober 2008;
http://miteku.blogspot.com/2008_10_01_archive.html; last accessed 03.10.2009

ADOPTION CASE No. 14

Orphanage: Gelgela

Date of Adoption: 2007

Situation at the time of relinquishment:

The father of the child is alive and a teacher. Reason why they gave the child is to get support from the adoptive parents. The mother knew about others who gave their children to adoption. Then she asked Tesfaye (G. Michael) to help her to get that opportunity. He told her, that maybe up to his 18th year, it will be difficult, but later he may come back and help them. They also expected support from adoptive family.

Tesfaye is teacher and staff of Gelgela. The staff of Gelgela did not tell her anything about the consequences of adoption.

They were also not willing to give the adoption documents. She had problem with that and later got the documents. From February to April the child stayed at Gelgela and from May up to June stayed in Foster Home.

They have 7 children including this child.

She also learned from other families who gave their children for adoption to the US that they got financial support. That is one of the reasons why she decided.

The mother was very restless. Sad about Tesfaye and thinks he earns a lot of money from Adoption. Tesafaye arranges everything from Deyogena.

They send a minibus from Addis and collect children to bring them to Addis with nannies. She visited the Foster Home once. (200 Birr- for transportation). The second time she went to the Foster Home to say good bye; She received 500 Birr and a bag.

Nowadays she lives together with her other five children.

There was also another daughter born but died after 4 months. She wishes her child to grow up in good condition and would like to have pictures. When she asked tesfaye about her child, he always makes trouble.

Counselling:	None
Efforts or support offered to keep family together	None
Efforts to rehabilitate the child within Ethiopia	None

Problem Analysis:

The Paperwork is based on lies.

- 1) From Kembata Tembaro Zonal Administration Council. Dated 20.2.07

Decision:

“In a petition brought in writing dated 20.2.07 the petitioner requested to receive an evidence of Court ratification according to the Civil Code 996 authorizing her to handover her own baby under sustained care of a non governmental institution named Gelgela Integrated Orphans and Destitute Family Support Association on the ground that she has no adequate capacity to provide upbringing and educational care of the baby XX, citing that she gave birth to the baby as a result of rape by an unidentified man on her way back from visiting relatives, and that the baby was named in fuel after her own brother.”

Letter from Kembata Tembaro Zonal Administrative Council- Durame dated 7.3.07

“... The Deyogena Woreda Court has verified that the child is in problem because his mother who delivered him out of wedlock and abandoned him and disappeared according to a letter numbered 00198/99 and dated 21/2/2007, we received from the Kembata Timbaro Zone Public Organization, Participation, and Social Affairs Department.

The Federal First Instance Court stated:

“..Further to the request of the court for the appreciation of the Ministr of Women ´s Affairs upon the adoption case through a letter 49/31.1/7631/99 the ministry has supported the adoption because of child’s mother not economic capacity to raise her.”

This case is a criminal case, as false information was furnished to the court.

Further this case sheds light on the practices of Tesfaye G. Michael

Recommendations:

- This case has to be further investigated.
- Every case of Tesfaye G/ Michael has to be investigated.
- The family should receive extensive legal and social counselling from an organisation which is independent from Wereldkinderen.

- This case needs to be reported to all authorities and the Court.
- The court order has to be corrected if the parents agree to the adoption, after being counselled by an independent organisation.
- The family should receive and update and information about the well being of her child.
- The family has to be protected of possible intimidations from side of the persons/ organisations involved in the adoption process.

ADOPTION CASE No. 15

Orphanage: Bethazatha Children Home Association

Date of Adoption: 2007

Situation at the time of relinquishment:

The mother was at that time labourer at a coffee factory – temporary job. She went to Saudi Arabia for work and left her child with her mother. She heard from brother in law of the possibility of adoption. Fernus counselled her and advised not to give the child for adoption, because of age and physical appearance (too tall). Brother in law and someone who rented a room in grandmother's house arranged a letter/confirmation that the father of the child has died (apparently this letter was not used).

He (father) rented a room, at the compound, came to Addis and studied at Unity college. He has also a daughter, few years older then the (adopted) child and loves his son.- he is not informed about the adoption.

The mother appeared in the court at that time she understood the impact of adoption, but now she finds it somehow difficult. She receives pictures and reports and is happy receiving those.

Counselling:

Mother counselled by Fernus, but did only understand the impact of adoption in court.

Efforts or support offered to keep family together? None

Efforts to rehabilitate the child in Ethiopia None

Problem Analysis:

It appears strange that the mother was counselled in the way she told us, that she should not give up the child due to physical appearance and age. Although it was not used, apparently a falsified document had been drawn up. The father is not informed about the adoption of his child.

Recommendations:

The father should be visited and informed about the adoption.

ADOPTION CASE No. 16

Orphanage: Sele Enat

Date of Adoption: 2004

Situation at the time of relinquishment:

Mother died three months after giving birth, because of AIDS.

The child was sick and malnourished. Grand aunt went to Health Care Center with him. At the Health Centre they asked her, why the mother did not come. This lady, grandaunt, tried to breastfeed him in combination with milk. and the nurse told her about the possibility of adoption. There was an organisation for HIV victims, who offered her some support, so that she could keep the child. She did not accept the support and said she is too old to bring up the child and she does not like to be permanent dependant of support.

Health Centre informed her clearly about adoption. And the consequences. She said the consequences are of course painful, but if she would have kept the baby, he would have died. She had a supporting letter from the Kebele and “Edirr” (informal organisation). She left the baby at the health care centre; gave it there to Wereldkinderen’s Ethiopian Representative.

She wishes good health to the baby and his family and greeting. She likes to be informed and get some pictures.

Counselling:	Yes
Efforts or support offered to keep family together?	Yes
Efforts to rehabilitate the child in Ethiopia	None

Problem Analysis:

The Court order reads:

“mother is dead and he has been assisted by his grandmother.”...

While in fact he was taken care of by his grandaunt. One could argue, that traditionally, she could well be considered grandmother- but it should have been questioned.

If the Ethiopian family code would be strictly applied, then by default the grandmother would have been the guardian of the child.²³ In order to modify that order the grandaunt would have needed to apply for guardianship with the grandmother, or have made such application to the court.²⁴

Recommendation:

The grandaunt should be updated about the wellbeing of the child.

The Court order should be corrected.

²³ Revised Family Code: Article 225. — Relatives Called to Exercise the Functions of Guardian or Tutor (1) Order to be Followed.

Where the child no longer has his father and mother, and in default of a valid appointment made by the survivor, the functions of guardian or tutor of the child shall devolve, by virtue of the law, on the following persons:

- (a) ascendants of the child;
- (b) in their default, the brothers or sisters of the child who have attained majority;
- (c) in their default, the uncle or aunt of the child.

²⁴ Article 226. — (2) Possible Modification of such Order.

- 1) Any relative of the child by consanguinity or by affinity may apply that the functions of guardian or tutor of the child be accorded to him instead of the person who should perform such functions by virtue of Article 225.
- 2) Such application shall be made to the family members mentioned under Article 225, or, in the absence of agreement, to the court.
- 3) Such application shall be made within two months from the day on which the guardian or tutor has been vested with his functions.
- 4) The application shall be allowed or dismissed based solely on the interest of the child

ADOPTION CASE No. 17

Orphanage: Finote Lewogen

Date of Adoption : 2008

REPORT

INTERVIEW WITH MOTHER OF TWINS

Date: July 1, 2009 (10:00 am)

The mother of the twins gave birth on 20/01/2002. Latter on, due to various reasons, she gave away her children by adoption through an organization named Finot Lewegen. To see various issues surrounding this adoption, a structured interview was conducted with her on the date mentioned above at kebele 02/03 women's affair office. The findings of the interview can be summarized as follows.

During the time the mother gave birth to her children, she was earning 150 Ethiopian birr working as a waitress. But this amount of money was not enough for her to feed her twins, as the father sent her away from their place by saying that he is not the father. In addition, a foreigner who was helping her also left the country and she was very desperate by then. Through time she find one generous old lady called Ejigayehu and an NGO called Integrated Family Service Organization (IFSO) who helped her to survive those hard times for some times. After a while she was not feeling comfortable to depend on others and through an advice from friends (which did not tell the consequence) she decided to give her twins to an "adoption". At this time the only thing she was thinking was that her children will not be hungry. From the interview it was clear that it was her disparate situation which obliged her to give her kids away. And during that time, there was no one who counselled the meaning and effect of adoption.

The mother then contacted Fenot Lewegen, who retained the children for eight to nine months in their compound. When the mother remembers those times she can't control her tears due to two major reasons. The first is she was allowed to see them only twice, the last one being when the adoptive parents came to take them (Because Finot Lewegen want to take her picture with the kids). Apart from that, even if she wants to visit them, they used to tell her not to come by, saying "it is not good for the children as it will strengthen their bond with the mother". Secondly, the situation her twin children and other who was living at Finot Lewegen was horrible. During the two times she visited the organization, she noticed that the kids were not getting the proper attention.

Latter in time she went to the court with a lady working at Finot Lewegen to finalize the adoption process.(here as the parties- the mother and the person who is going to adopt/his/her legal representative were expected to appear before court, having employee of Fenot Lewegen at court create a doubt that Finot Lewegen is working as an agent as well). The mother also

told me that there is no single paper she has signed during the whole process. Hence, one can say that Fenot Lewegen was playing the sole role.

The other thing, which she repeatedly mentioned in the interview, was once the court gives the adoption decision, Fenot Lewegen told her she is no more a mother and can't raise any issue concerning the twins. Hence, she was able to see the picture of her children only three months after they have left Ethiopia. Hence, despite her right to maintain the family bond with her twins, she was forbidden to hear anything about them. She repeatedly went to Fenot Lewegen to hear something about them but there is no one willing to answer her request. Now she thinks that there is no one who can help her and consider the matter as "dead".

Now she is working as a hairdresser and when she thought about those times she says:

"I have made the biggest mistake in my life when I gave my twins away for "adoption". I was very poor at that time but I should have sold a fire wood or wash someone's clothes to keep my children with me. Had been there any organization or individual who would give me a permanent job and pay my house rent; I would kept my children with me. I always cry when I think about my children because I was betrayed and forbidden to know about them. I feel that I can live more if there is someone who can send me their picture regularly"

There was a second meeting with the mother, as part of the current research project.

The story has to be completed with the following

The twins' mother was actually economical quit well off, until her partner/husband left her.

They had a house and owned a bus. However, Trish Hunt advised her, not to fight for her house and to give the certificate to him when he asked for it.

She also had fought with women's lawyers association for maintenance- but he only paid maintenance once.

The foreigner mentioned was Trish Hunt, who had promised the mother to buy her a house. She has told some strange story, that with Unicef paying the rent on her name, the house will be paid for.

The mother also recalled that one day she was working and she had a girl who always took care of her children...when she came back, Sister Idgi, had sent the girl out/away and was telling her, that the girl actually wanted to kidnap the children.

At the end of the project research, the mother was intimidated by Wereldkinderen's Ethiopian Representative and is now really worried about the wellbeing of her children.

Problem Analysis:

The mother had not fully understood the consequences of adoption. Thus the validity of her consent is questionable.

In this case, children who were well taken care off have been separated from their mother.

The discussion about this case at Wereldkinderen’s office brought out clearly that Idgi was the one who “advised” the mother to give her children in adoption. Combined with the financial “support” which she also gave to the mother earlier, the whole adoption and the way “consent” was obtained is more than questionable.

At this point, the adoption file could not be analysed, because it could not be found at the time. Thus a final review of the adoption papers could not take place.

Counselling:	None
Efforts to keep the family together:	None
Efforts to rehabilitate the child in Ethiopia:	None

Recommendations:

- This case needs to be addressed urgently under Roots and contact should be established between the children and their birth mother
- The case should be further researched and investigated.
- The mother should be protected from possible further intimidations.
- Trish Hunt needs to be traced.

ADOPTION CASE No. 18

Orphanage: Sele Enat

Date of Adoption: 2004

Situation at the time of relinquishment:

The mother left the child when 20 days old in front of the gate of the paternal grandmother and the grandmother went together with the neighbours to the Kebele and the police. Police asked the grandmother to go back home with the baby and come back next day. The next day they went to the police- the mother was also there because she had problem with her breasts because of too much milk and she took the baby. And after three days, did the same.

Father is works at a factory- temporary job. He lives still together with the mother.

An aunt took the baby from the grandmother, because grandmother was not able to take care of him. This aunt heard from the Wonji hospital of the possibility of adoption (sister Tigist).

Wereldkinderen's Ethiopian Representative requested at that time eight children from the Village for Wereldkinderen and they had gathered six children and asked her to give her child for adoption too. Within three days she had to decide.

The aunt works at a sugar factory and had a salary of 155 Birr a month net and although she likes to keep the child with her, it was financially difficult for her. If she would have been offered 400 Birr, she would have kept him. The aunt's husband died and she has a small pension as a widower too. She was asked to take distance from the child and the hospital has a form which she has to sign to declare she freely gave the child for adoption.

Afterwards when the mother heard about adoption, she tried to complain with Kebele. But Kebele staff asked her: where were you these two years? And why had she left?

The aunt has good contact with Wereldkinderen's Ethiopian Representative. Also the sister of the aunt gave two children for adoption.

Counselling: Yes. But expects to be informed and misses him. Daughter said: Fun boy.

Efforts or support offered to keep family together? None

Efforts to rehabilitate the Child in Ethiopia : None

Problem Analysis

First, the statement of the aunt that Wereldkinderen's Representative "requested" children from the village raised eyebrows. It needs to be looked deeper into.

The six children taken by Wereldkinderen's Representative:



Second, although prima facie, the paperwork looks legal, the mother was not informed about the adoption and so did not consent, and apparently later objected to it.

Further in the Child Study Report filled and signed by the physician on 1.6.04, the name of the mother and the father is given. However, the mother is listed as dead, while the father is listed as very sick.

As far as known, the mother is still alive.

The same Child Study Report also reveals that the child stayed in Wereldkinderen's Ethiopian Representative's private house, from 30.05.2004 to 1.6.2004

The Child Study Form, filled out by the Foster Home, gives the same facts.

Further the Child Study Report says:

they say he was found on the road because there was no one who was taking care of him.

But, the child was found in front of the gate of the grandmother- NOT on the road.

It is not sure if the aunt, while taking care of the child, was indeed the guardian and was authorised to give the child in adoption.

By default it should have been the grandmother (if the mother indeed would be dead). Also there is no police report or complaint which confirms that indeed the mother is missing.

Recommendations:

The case has to be further researched. The mother has to be traced and be counselled and supported by an independent organisation.

The father of the child has to be traced as well.

The family should get an update about the wellbeing of the child.

The background of all the six children on the picture, which were collected by Wereldkinderen's Ethiopian Representative, has to be researched.

ADOPTION CASE No. 19

Orphanage: Finote Lewegen

Date of Adoption: 2008

Situation at time of relinquishment

Mother cried during interview.

13 days after giving birth the mother brought the child to Finote Lewegen. Mister Meserat/mediator informed her about Finote Lewegen. She went to the police to get support letter for the orphanage. But the police did not give it to her, because they give this only for real orphans.

The mother herself went to court.

The child stayed around 11 months in orphanage. Wereldkinderen's Ethiopian Representative went with her to court. She told her that the child will get a better chance. The judge asked her, whether she understood the meaning of adoption.

No consultation. Wereldkinderen's Ethiopian Representative promised her to call, but she never called her again. She never came to know, when the child left the country.

The mother used to live with the father of the child for about four months. He was daily laborer. He was not happy with pregnancy and left her two days after she told him about being pregnant. She said she thinks it was economical a good decision, but if she would have had the means to care for the child she would have done it herself.

Counseling : None

Efforts to keep the family together: None

Efforts to rehabilitate the child in Ethiopia: None

Problem Analysis:

Prima Facie the adoption process is followed correctly. Since the mother was apparently not married with the man, she was the guardian of the child and could give the child in adoption.

However, in the Form “Addis Ababa city Administration Social and Civil Organization Affairs’ Form for filling in Case Study of Needy Children”, the father’s name is not given.

Under 3.3 it is just stated:

father disappeared after her pregnancy and his whereabouts is not known.

However, we could easily at least find out his name from the mother. Although from a strict legal point of view, this may not constitute a problem, from a moral point of view, the father of the child should at least have been mentioned and he should have possibly be consulted as well.

A second issue is that Finote Lewegen’s representative Mrs Leterbirhan had been convicted for six months imprisonment due to a wrongful adoption, on 21.1.2008

The respondents should be sentenced to the maximum limitation stated under the law for their crimes.

Therefore, 1- Mrs. Letebirhan G/Mariam

2- Mr. Gebeyew Walle

3- Mr. Mengistu Reda

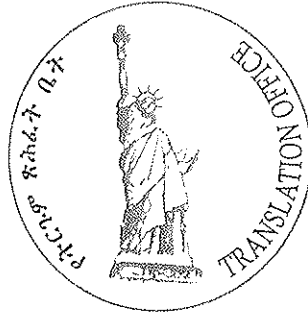
Each is sentenced with 6 months imprisonment. The prison administration follow up and execute the sentence.

It is unclear if this orphanage was allowed to operate adoptions in July 2008.

Recommendations:

- The case should be further researched.
- The father of the child should be informed about the adoption
- It has to be seen if Finote Lewegen was still licensed to do adoptions in July 2008.

የትርጉም ጽሕፈት ቤት
مكتب الترجمة
ÜBERSETZUNGSBÜRO

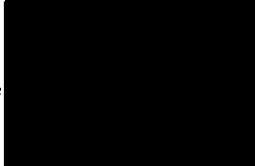


TRANSLATION OFFICE
BUREAU DE TRADUCTION
UFFICIO TRADUZIONI

የሽ.መ.ቤ.ት ተስፋዬና ቤተሰቡ ኃ.የተ.የሽርክና ማ.
አዲስ አበባ - ኢትዮጵያ
እስታዲየም ሕንፃ ቁጥር 7
ስልክ (011) 515-7104, (011) 552-6312
ፖ.ሣ.ቁ. 6127

Yeshimebet Tesfaye & Family P.L. Share Co.
Addis Ababa, Ethiopia
Stadium Building No.7
Tel. (011) 515-7104, (011) 552-6312
P.O.Box 6127

The Federal Democratic Republic of Ethiopia
Federal Lideta Assigned High Prosecution



Ref: 5-6839/03619/99
Date: 07/03/2008

To: Addis Ababa City Government Police Commission
Addis Ababa

Frist/Kalender: _____
Eingetragen: _____

F/H/P/C/C/No. 03619/99
A/A/C/G/P/C/C/No. 078/99

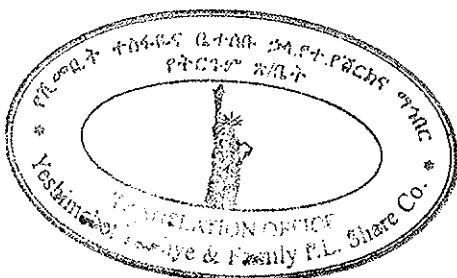
- Defendants:
- | | |
|-------------------------------|----------------------------------|
| 1. Derbie Nesibu Andarge | 7. Hanna Birhanu Yakob |
| 2. Etsegent Asmare Migbaru | 8. Mother Adanech Bekele G/Hiwot |
| 3. Bire Nigussie G/Tsadik | 9. Tsion Bekele G/Hiwot |
| 4. Hailu Tirfe | 10. Etenesh Tase Yegezu |
| 5. Yetemwork Mekonnen Keneh | 11. Tigist Alemu Dechassa |
| 6. Woyneshet Alemayehu Bewnet | 12. Lakew Gebeyehu Likyelew |

We have received the investigation file of the criminal charges pressed against the above stated defendants with a cover letter referenced APCP02/1661/99 and dated 08/08/2007.

1. The cause of the criminal charge

1st defendant: this defendant has been charged with the crime of giving child Eyob Mesfin and Child Hanna (Eskedar) on adoption basis to Austrian husband and wife named Mr. Karl Herzie Saher and Mrs. Gabriel Saher claiming that they are siblings and orphaned, while they are not. He is claimed to have committed this crime while working in the capacity of manager of Family for You. Accordingly, these children were allegedly given on adoption in an illegal manner.

E Abr Derbe



[Handwritten Signature]
Eyerusalem Tesfaye
ትምህርት ማ. ሥራ. ኢኮ. ምክ.
Amisg General Manager

2nd defendant: Has been charged with the crime of conspiring with the first defendant in May of 2004 to give child Eyob Mesfin and Child Hanna (Eskedar) on illegal adoption basis while working as a secretary in Family for You.

3rd defendant: This defendant was working as a nanny for the children admitted in to Family for You at the time and place stated above. Conspiring with the 1st defendant, she has been charged with the crime of sending the children stated in the criminal charges through illegal adoption.

4th defendant: This defendant has been charged with the crime of submitting falsified document from Addis Ketema Sub-City, Kebele 07 administrative office under reference No. 07/9338/96 and dated 02/04/2004 for admittance of 1. Child Hanna /Eskedar/ Tesfaye and Eyob Mesfin, 3 and 6 years of age respectively, in to orphanage and for their subsequent adoption and placement in Austria pretending that these children are siblings, that they are orphaned as well as that their claimed aunt, Etenesh Alemu, is poor and unable to provide for the upbringing of the children.

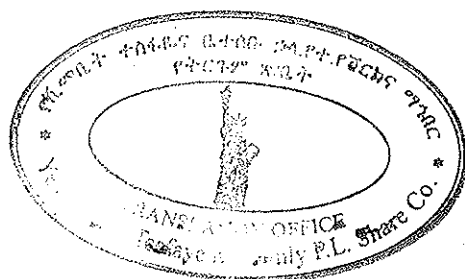
5th defendant: Yetemwork Mekonnen Kenah: This defendant works in the capacity of Residents Services Head in Administrative Office of Kebele 06/07 of Addis Ketema Sub-City and she has been charged with criminal offense for having given a letter to the manager of Silenat Association, Mrs. Hana Birhane, in which is stated that Child Hanna /Eskedar/ Tsegaye and Eyob Mesfin are siblings and orphaned. In the letter, this defendant is claimed to have requested all concerned to provide the necessary assistance.

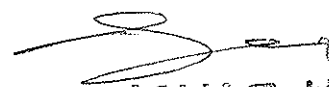
6th defendant: Woyneshet Alemayehu Yeiwnet: This defendant has been charged with criminal offense for having kept in file the falsified letter prepared for Mrs. Etenesh Alemeyhu, under reference No. A/K/S/C/K/ 07/9338/96 and dated 02/04/2004, claiming that this individual, alleged to be the aunt of child Eyob and Hanna, is under destitute conditions.

7th defendant: Hanna Berhan Yakob: This defendant has been charged for criminal offense of causing the children to leave for Austria through Mr. Nesibu on the basis of the falsified letter obtained from Kebele 07 Administrative Office of Addis Ketema Sub-City under reference No. A/K/S/C/K 07/9338/96/96 and dated 02/04/2004.

8th defendant: Mother Adanech Bekele G/Hiwot: This defendant is charged with the crime of causing child Eyob and Hanna to leave for Austria in an illegal manner in the year 2004 through Silenat Association.

E.Abr.Derbe




Eyerusalem Tesfaye
Assistant General Manager

9th defendant: Tsion Bekele G/Hiwot: This individual is charged for the crime of causing Silenat Association to give two months male child on adoption in the year 2004.

10th defendant: Etenesh Tadesse Yegezu: This defendant has been charged for having claimed to be the aunt of Child Eyob and Hanna while she is not and for claiming that she does not have the capacity to raise them. Consequently, she filed an application to be issued with support letter in regards to same in which case she was issued with a letter dated 02/04/2004 and referenced 07/9338/96 addressed to Silenat Association.

11th defendant: Tigist Alemu Dechasa: This defendant has been charged for having claimed to be the aunt of Child Hanna and Eyob, while she is not, and further that she has no capacity to raise and educate the children. This claim was made in the year 2004 and she caused the children to leave for abroad.

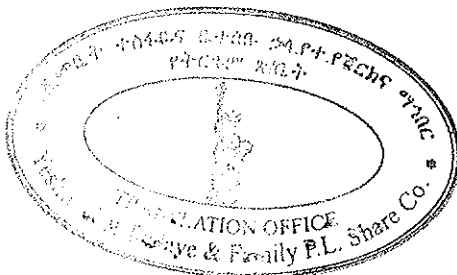
12th defendant: Lakew Gebeyehu Lekyelew: This individual has been charged for having accepted a child on 02/04/2004 from a person, whose identity is not known for the time being, within the limits of Kebele 13 of Woreda 6 at the locality of Amanuel Total. Further, he has been charged with offense of sending Child Hanna and Eyob abroad in the capacity of representative of Austrian organization in Ethiopia.

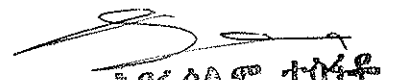
2. The statements of the defendants

The statement of the 1st defendant, Derebie Nessibu: On the basis of the applicable adoption procedure in 2004, any adoption agency accepts children from orphanages along with the available evidences concerning them. In the same manner, these children were received from Silenat Association Orphanage as per the legally prescribed procedures and the children were sent to Austria having been adopted by Austrian Nationals upon court approval. An individual by the name Hailu Tirfe was following up the case of the children who were staying at Silenat Association Orphanage and I have paid him for his services in this regard.

2nd defendant, Asmare and 3rd defendant: Bire Nigus: We work with the 1st defendant organization, Family for You, as secretary and nanny. We have no knowledge of how children are selected, admitted in to the orphanage and

E.Abr.Dorbo




Eyerusalem Tesfaye
ገቢ ጥቅም ለማድረግ የተቀረጸች የግብርና ጽ/ቤት
Acting General Manager

given on adoption. Our job is to write or type as we are instructed and to care for the children.

4th defendant, Hailu Tirfe: I handed over child Hanna and Eyob, of whom I have been suspected, to the Austrian Agency in a legal manner. I work as liaison officer of the Austrian Adoption Agency. I changed two legal and accurate documents of Austria in a falsified manner at the request of the head of the agency, Mr. Derbie Nessibu.

5th defendant, Yetemwork Mekonnen: I wrote a letter of confirmation to the Ministry of Women's Affairs, under reference No. 07/2979/99 and dated 22/11/2006 on the basis of the letter that had been previously placed in file, referenced by No. 07/9338/96 and dated 02/04/2004.

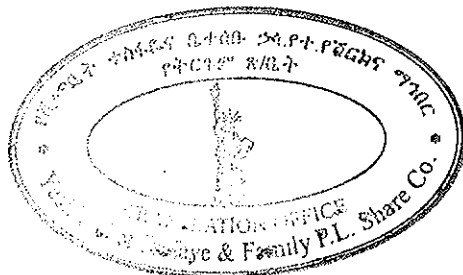
6th defendant, Woyneshet Alemayehu: I work in the records section and I attached a letter in the file of house No. 708 kept at the Office of the Kebele as instructed by the then Head of Residents' Services, Mrs. Asema Ahmed, who is not currently alive.


7th defendant, Hanna Berhanu Yakob: On 02/04/2004 at 2:30 PM, male and female persons came to my organization located within the limits of Kebele 12/13 of Akaki Kaliti Sub-City. I would not recognize them now. They brought child Hanna and child Eyob along with a support letter issued from the Kebele administration. They explained to me that the children are siblings, that Mrs. Etenesh Alemu is their aunt, that she is unable to raise them and that she is unable to provide for their upbringing. After the children stayed in our orphanage for one month, Mr. Derebie Nesibu from the 1st defendant, Family for You Austrian Adoption Agency, asked to take them. After all court processes were completed, the children were handed over to him by court order in which case he ultimately handed them over to Mr. Karl. We normally accept children directly on the basis of letters addressed to us from Kebele or government offices. Therefore, we admitted the children having regard to the letter addressed to us concerning them.

8th defendant, Mother Adanech Bekele and 9th defendant Tsion Bekele: Gave their statement in short stating: "we have no knowledge concerning child Eyob and Hanna as well as Tigist Alemu."

10th defendant, Etenesh Tadesse: There is no letter that I received from Kebele under reference No. A/K/S/C/07/9339/96 and dated 02/04/2004

E. Abr.Derbe




Eyerusalem Tesfaye
Addis Ababa, Ethiopia
Acting General Manager

claiming to be the aunt of child Eyob and Hanna. I am not a resident in this Kebele. I live in Kolfe Keranio Sub-City.

11th defendant: Tigist Alemu: My sister Yenenesh Tesfaye passed away in 2004 due to labor complications. The child was alive, however. I took baby when it was only 10 days old. On the 50th day of the birth of the child, I gave him to Silenat Mahiber through Mother Adanech Bekele. Ten days after admittance in to the orphanage, it was claimed that his pancreas and liver sustained diseases and died after 20 days. This is all that I know.

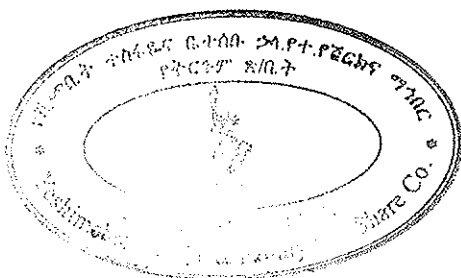
12th defendant: Lakew Gebeyehu: I did not send children to Austria in an illegal manner. All of them have complete documents. I do not remember of having taken the said two children from on 02/04/2004 from Woreda 6, Kebele 13. Neither did I send child Eyob and Hanna to Austria.

3. Personnel witnesses

- | | |
|---------------------------------|-------------------------|
| 1. Genet Reshid | 7. Alganesh Woreta |
| 2. Alemitu Assefa | 8. Jemerie Kelecha |
| 3. Sisay Tefer | 9. Tadelech Beyene |
| 4. Deputy Inspector Neda Bereda | 10. Dr. Belti Gutema |
| 5. Degemu Bekele | 11. Fordella Abdulkadir |

These witnesses gave their statements as follows under this case:

Testimony of the 1st witness: On 15/11/2006 at 11:00 gave her statement to the police as follows: "I am the biological mother of child Eskedar /Hanna/ Tsegaye. My husband has passed away and I am poor. I have no means of income. I obtained a letter from the Kebele in confirmation of my status and I gave it to Hailu Tirfe, the 4th defendant, in order that he would send her abroad on adoption basis. I know that he, later, changed her name from Eskedar in to Hanna and sent her to Austria. I have no knowledge of the falsified evidence prepared by the 4th defendant." In her additional statement of 01/08/2007, she said that "1st and 4th defendants came on May 19, 2004 and took the child. The 4th defendant had claimed that he would send my child to Austria. He failed to inform me of where my child is for one year and five months. I went to Labor and Social Affairs Office and asked to be provided with the address of the 1st defendant. Then they gave me my child's photograph. Then after, I received Birr 200.00 (two hundred) Birr for one year and 6 months."



[Handwritten signature]
Bayerusalem Tesfaye
ጠቅላይ ሚኒስትር ለሥነ ምግባር
ጠቅላይ ሚኒስትር ለሥነ ምግባር
Assistant General Manager

Testimony of the 2nd witness: I gave birth to my child named Eyob Mesfin having been raped in the residence where I worked. When it was impossible for me to raise the child and as I became sick, I discussed the matter with my friend Sisay Tefera who advised me to give the child on adoption. Accordingly, I obtained a letter in confirmation that I am unable to raise the child verified by way of seal. Then I know that the 4th defendant, Hailu Tirfe, took my child.

The witness said that she is unaware of the falsified document claimed to have been prepared by the 4th defendant.

The 3rd witness, Sisay Teferra, testified as follows: On 14/04/2008 at 1:00 PM, the second witness came to me and said that she is unable to raise her child named Eyob Mesfin and that she is under difficult circumstances. On my part, I discussed about the situation with the brother of my sister's husband, the 4th defendant. On the basis of his advice, I obtained a letter from the Kebele concerning her living status and I gave the same letter to the 1st and 4th defendants in the presence of foreign nationals.

4th witness: Deputy Inspector Neda Bereda: On the basis of the statement given by this witness, he said that the 1st defendant directed them to the residence of the biological mother of Child Eskedar, meaning the 1st witness. He said that they took her to the police station and received their testimony.

5th witness: Degebu Bekele: This witness testified that the 1st defendant gave his statement on the basis of his free will.


6th witness: Aseganesh Woreta testified as follows: The 1st witness requested me to contact her with a person engaged in sending children abroad on adoption basis. In this regard, I am only aware of the fact that I contacted her with the 4th defendant who had sent my child abroad.

8th witness, Jemera Balcha: In February of 2004, I appeared at the Kebele on 01/04/2004 to testify that the sister of the 11th defendant, Yenesh Tesfaye, passed away due to maternity complications and that she is rather under difficult circumstances to raise the child.

9th witness, Tadelech: I appeared at the Kebele on 01/04/2004 to testify in the same manner at the 8th witness in favor of the 11th witness.

E.Abr.Detibe




የኢትዮጵያ ስራ ምርት ቤቅ
Eyenusarem Tesfaye
ገቢዎች ማስገባት ስራ ስራ ስራ
Assing General Manager

10th and 11th witnesses, Dr. Bulti Gutema and Mrs. Fordes Abdulkadir: Testified saying that they went to Austria for the sake of the works of the government as it pertains to children and that they intended to talk about child Hanna with the organization named Family for You. They said, however, that they were responded to through the Ethiopian Embassy that they have been given short appointment by the organization and that it is convenient for them.

Documentary Evidence: We have considered the following from the documentary evidences with the understanding that they are in line with the charges pressed.

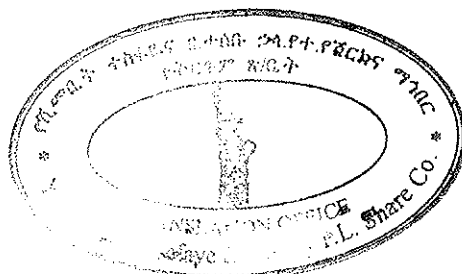
1. The letter obtained from Administrative Office of Kebele 07 of Addis Ketema Sub-City under reference No. 07/9338/96 on 02/04/2004 and which has been claimed to be falsified;
2. Letter in confirmation that the mother of Child Eskedar /Hanna/ is Genet Reshid;
3. Forensic Technical Investigation Result as to the status of the letter reference No. 07/9338/96 and dated 02/04/2004 as being falsified;

4. Legal opinion and decision

In this case, it is important to be clearly cognizant of the cause or source of the criminal offense. The next issue would be to analyze the participation of the suspects and on what the outcome rests.

1. Accordingly, it has been confirmed by statements given to the police that Mrs. Alemitu Assefa, the biological mother of Child Eyob Mesfin, and Mrs. Genet Reshid, the biological mother of Child Eskedar Tsegaye, had decided to send their children abroad on adoption basis due to the economic problems they sustain. In this regard, these individuals obtained support letters on their own accords from the respective Kebeles in a legal manner having verified their situations through testimonies of witnesses. Mrs. Genet Reshid personally gave such letter to Mr. Behailu Tirfe while Mrs. Alemitu Assefa handed the letter of support which she obtained after having verified her claims through witnesses to her friend, Sisay Tefera, who in turn gave it to the fourth defendant, Mr. Behailu Tirfe.

E Abr Debe

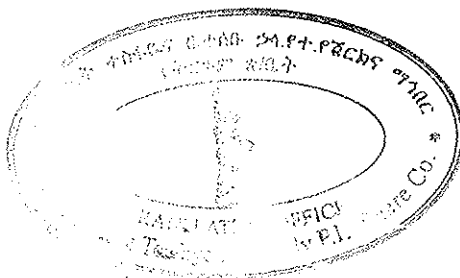


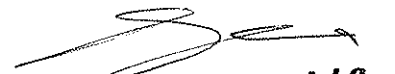
Behailu Tirfe
Behailu Tirfe
Tirfe of P.L. Share Co.
Assistant General Manager

- Basically, the 4th defendant received these legal letters together with the children and informed the representative of Family For You that he has found two children to be sent out of Ethiopia on adoption basis. Accordingly, he was asked to bring the children in which case he prepared the falsified letter referenced by No. A/K/S/C/K/07/9338/96 and dated 02/04/2004. In preparing this letter, he changed the name of Eskedar Tsegaye into Hanna and pretended that Eyob Mesfin and Hanna are siblings and used fraudulent seal and signature. He gave his statement to the police confirming that he gave the children to Silenat Orphanage claiming that they are siblings.
- Later, he personally went to the representative of Family For You, the 1st defendant, and informed that there are two children ready to be adopted. When it was about one month after the admittance of the children in to the orphanage, he made a request on 30/04/2004 stating that adoptive parents have been found for the two children and took them over by court order having completed the legal procedures. This situation has been confirmed by the 7th defendant.
- Subsequently, the 4th defendant, instead of handing over the children to the Austrian organization where he is engaged in processing issues, he rather handed them over to the representative of Family For You, Austrian Adoption Agency. Accordingly, he has confirmed in his statement to the Police that he has received Birr 300 and Birr 600 at different times.
- Therefore, we have determined that criminal charges of trafficking of Women and Children through mischief will be pressed against this individual.

Concerning the 2nd, 1st defendants, the biological mother of Child Eskedar /Hanna/ Tsegaye gave an additional statement on 01/08/2007 stating that her new statement does not prejudice the statement she had given earlier, in which case, she said that she concluded an agreement with the 4th defendant to give her child on adoption and, accordingly, the 1st and the 4th defendants came and took her child on 19/05/2004. Further, she said that she went to Labor and Social Affairs Office one year and five months later in order to find out the address of the child. Later she said that she was paid Birr 200.00 monthly for one year and six months in the form of assistance. However, the second statement, in reference with the first statement and the evidences obtained from various organs, sustains doubtful situation. These stated below:

E. Abr Derbe




Eyerusalem Tesfaye
 ለምርጫ ማኅበር ሰነድ አስተዳዳሪ
 Acting General Manager

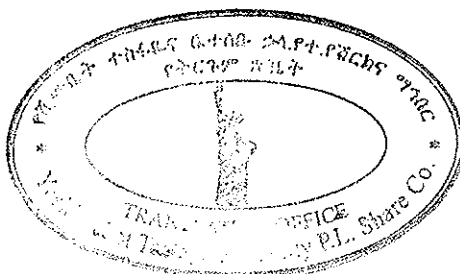
- a. In her first statement to the police given on 14/04/2007, she said that her husband has passed away and that she has no means of income living under destitute circumstances. Hence, she claimed that she obtained evidence from Kebele and gave her child to the 4th defendant, Mr. Hailu Tirfe, in order that she would be sent abroad to be raised on adoption basis. She further said that she is aware of the fact that her child is in Austria.

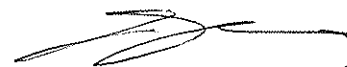
Probing in to this additional statement, it looks as though she deliberately intended and studied to state as such and the very assertion that her additional statement would not prejudice the statement previously given gives rise to suspicion. If she is aware that the name of her child has been changed into Hanna and that she has been sent to Austria, how can she claim that she is not aware of the address of her child while she, at the same time, claims that her statement previously given remains intact? This cannot be when measured in terms of proper state of mind.

- On the other hand, she claims that she was paid Birr 200 for one year and six months after having been informed of the address of the 1st defendant. This is a claim made by her self and considering her status as a poor woman, she may have been assisted.
- However, in addition to the fact that there is no evidence confirming that she was being financially assisted, this is claimed to have occurred one year and a half after she gave her child to the 4th defendant in order that this child would be sent to abroad on adoption basis and, hence, this cannot be considered as a cause for giving the child on adoption. In addition, the testimony given by this individual claiming to have given the child on 19/05/2004 is rather doubtful considering the course of events. This is to mean:

- a. The letter from Selinat Association addressed to Children's Rights and Family Department of the Ministry of Labor and Social Affairs, dated 24/05/2004 and referenced S. E41/96, states that two children named Hana, 4 ½ years of age, and Eyob, 2 ½ years of age, were brought to its center by a man and a woman on 02/04/2004 at 2:00 PM along with the support letter issued from Administrative Office of Kebele 07 of Addis Ketema Sub-City referenced by No. 07/9338/96 dated 02/04/2004.

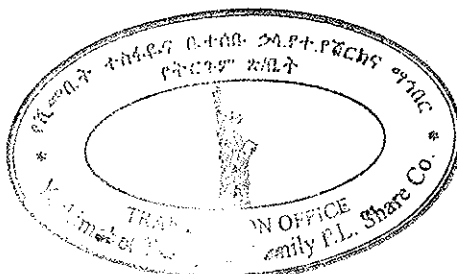
E. Abr. Derbe




የሲናት ማህበረ ሰባት
Eyerusalem Tesfaye
 ግብይት ማህበረ ሰባት
 Acting General Manager

- b. Subsequently, the children stayed at Silenat Orphanage for one month and Mr. Derebe Nesibu, the manager of the Austrian Adoption Agency by the name Family for You, requested to be entrusted with the children as adoptive families have been found. Accordingly, a contract of adoption was signed on 30/04/2004.
 - c. While this being the case, a petition was filed at Federal First Instance Court on 30/04/2004 for approval of the contract of adoption. The case is being entertained under comp. case No. 1-7229.
 - d. The court ordered the Ministry of Labor And Social Affairs to comment on the adoption in which case the Ministry, in a letter dated 16/05/2004 and referenced 20/72/1, expressed its agreement to the adoption.
- Therefore, it is rather erroneous for the biological mother of child Eskedar (Hanna) to state that she gave her child to the 4th defendant on 19/05/2004.
 - Making reference to the explanation given by the Ministry of Women's Affairs under reference No. 49114AU2/273/99 on 08/08/2007 to the Addis Ababa City Government Police Commission:
 - It is stated that in situations where the parents of a child are alive and are unable to raise him, they bring confirmation from Kebeles that they are economically incapable to raise and educate the child concerned. On the basis of such evidence, children are admitted into orphanages.
 - The parents of children themselves have verified through their statements that they have given their evidences as obtained from Kebeles to the 4th defendant at different times in order that he would send their children abroad.
 - The organization has verified the fact that the defendant prepared and submitted falsified letter, dated 02/04/2004, having replaced the bona fide letter of support and claiming that the children are siblings and submitted same to Silenat Orphanage.
 - Subsequently, the 1st defendant filed a request with Silenat Association on 30/04/2004 in order to be entrusted with the children as adoptive parents have been found for them. The organization confirmed to him

E. Abr.Derbe




Eyerusalem Tesfaye
 Eyerusalem Tesfaye
 Acting General Manager

that he shall take the children to be given on adoption basis provided that the required formalities have been fulfilled.

- Hence, the 1st defendant concluded contract of adoption with Silenat Association, on one hand, and with the adoptive parents on the other;
- Such contract was submitted to court for sanctioning;
- The court requested the opinion of the Ministry of Labor and Social Affairs in which case the Ministerial Office expressed its affirmative response;
- Then after the court ruled to sanction the contract on the basis of evidences submitted by the parties concerned in trust that they were bona fide.
- On the basis of the contract of adoption, City Government of Addis Ababa issued certificate of birth while, on the basis of the letter from the Ministry of Labor and Social Affairs, passport and visa was given by Immigration Office. Accordingly, the children were given on adoption to Austrian family in a legally prescribed manner.
- Therefore, the international adoption of the children is based on the economic problems they sustain and their parents were in agreement of their adoption. Therefore, the issue here should not be about their placement with foreign adoptive parents but rather about the pretence that they are siblings while they are not.
- It is the 4th defendant who hid the support letters obtained from Kebeles that had been issued concerning the children and made it look as though they are siblings by virtue of a falsified document. It is this person who submitted such fraudulent document to Silenat Association.
- Therefore, the only matter that constitutes criminal liability is the case of the 4th defendant who committed act of mischief using falsified document which he prepared himself. Otherwise, all other procedures are legal and should not cause any criminal liability whatsoever.
- Concerning the visit of personnel from the Ministry of Women's Affairs and the Ministry of Foreign Affairs, the only statement given is that efforts were made hold discussions with Family For You concerning child

E. Abr. Derbe




Eyerusalem Tesfaye
ጠባብሪ ማህተም አዘጋጅ
Acting General Manager

Hanna and that it was impossible for them to do so due to shortage of time. Otherwise, there is no mention of the emphasis they gave to the matter and of their earnest endeavors.


- Therefore, we hereby determine that criminal charges shall not be pressed against the 1st defendant, Mr. Derbie Nesibu, pursuant to Article 42/1/a of the Criminal Procedures Code as sufficient evidences to the same effect have not been presented.

Concerning the 2nd and 3rd defendants, Etsegent Asmare and Bire Nigussie, who are engaged with Family For You as Secretary and Nanny, no personal or documentary evidences have been submitted to make them criminally liable as related to the frame of issue under question. Therefore, we hereby determine that criminal charges shall not be pressed against these individuals pursuant to Article 42/1/a of the Criminal Procedures Code.

- Concerning the 5th and 6th defendants, Yetemwork Mekonnen and Woyneshet Alemu, the former if head of Kebele Residents Services. However, there is no evidence, personal or documentary, in confirmation that she had prepared the falsified document. Even though it cannot be denied that Woyneshet Alemu is a worker in the documents section of the Kebele, it cannot be presumed that files in Kebeles do not get in the hands of other executives except for the recorders worker.
- On the other hand, there is no evidence to show beyond reasonable doubt that she placed the falsified document in the file. Therefore, we have determined, pursuant to Article 42/1/a of the Criminal Procedures Code, that we shall not press Charges against this individuals on the basis of the fact that sufficient evidence has not been submitted against them.
- The 7th defendant, Hanna Berhanu, was misled into believing that the falsified document letter of support submitted to her as required by the then procedures. Otherwise, there is no evidence submitted against her that she had criminal intent having knowledge of the fact that the document was falsified and that the children were not siblings.
- Afterwards, this individual caused the processes of the children to be finalized through the Ministry of Labor and Social Affairs (Women and

E. Abrt Derbe




Byerusalem Tesfaye
ትምህርት ሚኒስቴር
Acting General Manager

Children Affairs) and this is an indicative of the fact that she had no criminal intent.

- Therefore, it is our determination that criminal charges shall not be pressed against her.
- Considering the statements given by the 8th, 9th, 10th, 11th and 12th defendants, meaning Mother Adanech Bekele, Tsion Bekele, Etenesh Tadesse, Tigist Alemu and Lakew Gebeyehu, they have no connection with the crime stated in this file.
- There is no evidence submitted against these individuals as to their relations with the criminal offense.

Therefore, this is to notify you that we have determined not to press charges against these individuals pursuant to Article 42/1/a of the Criminal Procedures Code. Therefore, the Addis Ababa Police Commission is hereby instructed to be cognizant of the fact that a decision has been rendered on the file and to make the necessary follow-up on the 4th defendant.

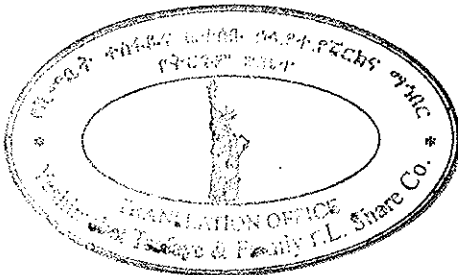
Kind regards,
Signed
Nebeyu Tefera Woldeyes
Prosecutor


Cc.

- Office of the State Minister of Litigation Affairs
Ministry of Justice

Sealed:

Addis Ababa Representative Office of
Ministry of Justice




አየሩሳሌም ተስፋይ
Eyerusalem Tesfaye
ተጠባቂ ጥያ ሥራ አስኪያጅ
Assing General Manager

Dr. Eric Agstner

Rechtsanwalt

**allgemein beeideter und gerichtlich zertifizierter Dolmetscher für die englische Sprache
Ö-Norm EN 15038 zertifiziertes Übersetzungsbüro**

Tuchlauben 11, A-1010 Wien
Telefon: +43 / 1 / 5332619-0
Telefax: +43 / 1 / 5353955
Email: advoag@agstner.at
Homepage: www.agstner.at

Wien, am 07.07.2009
EA/AE - 3219/06 - 10576.doc

SCHWARZHANDEL:

der abschließende Bericht über den Adoptionskinderhandel durch Family for You:

Der Nachfragemarkt nach ausländischen Adoptivkindern, Naivität und Skrupellosigkeit, Wohlstandsgefälle und bittere Armut führten zu einem Netz von Korruption und Dokumentenfälschung in Äthiopien; jeglicher Mangel an behördlicher Kontrolle in Österreich förderte den Adoptionskinderhandel.

Vorgeschichte: das unbekannte Baby

Im Februar 2004 stirbt in Addis Abeba eine Frau Yenesh Tesfaye 10 Tage nach der Geburt ihres Babies. Ihre Schwester Tigist Alemu nimmt das Kind an sich und gibt es 40 Tage später mit einem Schreiben eines Kebele (Bezirksamt) vom 2.4.2004, Aktenzeichen 07/9338/46, an das Waisenhaus Silenat Mahiber, geleitet von Hanna Berhanu. 20 Tage nach der Aufnahme im Waisenhaus stirbt das Baby.

Die Kebelemitarbeiterin aus der Registerabteilung Woyneshet Alemu gestand sie habe über Anweisung ihrer damaligen - inzwischen verstorbenen - Vorgesetzten, Frau Asema Ahmed Naser, einen Brief mit dem Datum 2.4.2004 zum Akt betreffend Haus Nr. 708, d.h. des angeblichen Wohnsitzes der angeblichen Tante Etenesh Alemu, und die verlassenen Kinder Hanna und ihren Bruder, genommen.

Der Mitarbeiter des Leiters von Family for You Äthiopien, Deribe Nesibu, Behailu Terfe, gestand zwei ordnungsgemäß für die Kinder ausgestellte Briefe von Kebeles im Auftrag von Nesibu ausgetauscht und durch den gefälschten ersetzt zu haben.

Es wurde daher nachträglich einfach eine Bestätigung mit demselben Datum, Aktenzeichen und Familiennamen wie für das verstorbene Baby gefälscht und die Namen der Kinder der beiden verzweifelten Frauen (davon einer willkürlich geändert auf Hanna, vielleicht der Name des gestorbenen Babies) eingesetzt.

Der Original Kebele-Brief für den Buben wurde jedoch erst am 5.4. ausgestellt und bestätigte die Zeugin Sisay Tefera, die Freundin der Mutter des Buben, Alemitu Assefa, dass sie diesen Nesibu und seinem Mitarbeiter Terfe vor Zeugen gegeben habe.

Bankverbindung:

Kontonummer: 00004940040, Erste Bank AG, BLZ: 20111
BIC: GIBAATWWXXX, IBAN: AT942011100004940040

UID-Nummer:

ATU10493401

Somit steht fest, dass das Waisenhaus das Kebele vom Tod des unbekanntes Babies verständigt haben muss, ansonsten dieses die Aktenzahl nicht neuerlich verwenden hätte können. Das Datum der Ausstellung des gefälschten Kebele-Briefes für die beiden angeblichen Geschwister ist mit an Sicherheit grenzender Wahrscheinlichkeit nicht das Datum der Fälschung, die später erfolgt sein muss, sondern das Datum der Ausstellung des Briefes für das unbekanntes Baby. Zwischen Nesibu und dem - örtlich unzuständigen - Kebele bestand eine Verbindung, ebenso zum Waisenhaus.

Suche nach Hilfe für die Kinder:

Beide leiblichen Mütter waren in einer verzweifelten wirtschaftlichen Lage und suchten Hilfe für ihre Kinder, Frau Genet Reshid durch eine Bekannte, Frau Aseganesh Woreta, von der sie wußte, dass sie ihre Tochter in das Ausland geschickt hatte und Frau Alemitu Assefa durch ihre Freundin Sisay Tefera, deren Schwester mit Terfe verheiratet ist, sodass beide schließlich an Behailu Terfe, den Mitarbeiter des Repräsentanten von Family for You, gerieten.

Aus dem Interview von Frau Genet Reshid (siehe Profil 19.1.2009) ist bekannt, dass ihr Behailu Terfe sagte, dass Hanna mit 9 Jahren einerseits zu alt sei und andererseits Vorraussetzung für die Aufnahme in ein Waisenhaus bzw. für eine Adoption sei, dass einer der Elternteile verstorben sei. Hanna würde nach Amerika kommen und nach 3 Jahren reich beschenkt zurückkehren. Auch Frau Assefa wurde vorgemacht ihren Sohn nach 3 Jahren wiederzusehen. Frau Alemitu Assefa wurde gesagt sich nicht in der Nähe des Waisenhauses blicken zu lassen, ansonsten ihr Kind nicht adoptiert würde. Der Junge wurde lt. Aussage seiner Mutter binnen einer Woche weggebracht, sodass Grund zur Annahme besteht, dass auch er erst im Mai in das Waisenhaus oder gleich in das Heim von Family for you gekommen ist. Frau Genet Reshid wollte ihr Kind nicht an das Waisenhaus Silenat Mahiber, sondern Kidane Meret, geben.

Die weitere Vorgehensweise:

Am 20.04.2004 schickte Family aus Wien die Unterlagen der Adoptivwerber mit dem Wunsch nach 2 Kindern nach Addis. Die Aussage der Leiterin des Waisenhauses, die Kinder am 2.4.2004 gemeinsam mit dem Kebele-Brief übernommen zu haben, ist nachweislich falsch, weil die Mutter des Mädchens ausgesagt hat, dass Nesibu und sein Mitarbeiter das Mädchen bei ihr zu Hause erst am 19.5.2004 abgeholt haben. Lt. eigener Aussage des Mädchens wurde es direkt bei der Mutter abgeholt, ihr Halskettler mit Jesus und Maria abgerissen und sie fortan Hanna genannt.

Der Adoptionsvertrag zwischen Nesibu und Hana Berhanu, der Vertreterin des Waisenhauses Silenat Mahiber, war sofort am 22.4.2004 unterschrieben worden.

Am 27.04.2004 hatte FFY an Nesibu geschrieben *...then we are very excited about the sister of the boy*, am 28.04.2004 antwortete er nach Wien: *the boy's elder sister is Hanna, her aunt is willing to give her to adoption...* obwohl die Kinder doch angeblich schon am 2.4.2004 im Waisenhaus gewesen sein sollen.

Da die Kebele-Registerführerin ausgesagt hat, im Auftrag ihrer verstorbenen Vorgesetzten gehandelt zu haben, der Mitarbeiter von Nesibu, die korrekten Kebele Briefe - die das wahre Alter von Hanna mit 9 Jahren gezeigt und damit voraussichtlich die Adoption unmöglich gemacht hätten - im Auftrag von Nesibu durch die Fälschung ersetzt zu haben und nur das Kebele aufgrund des Umstandes des Ablebens des unbekanntes Babies eine falsche Bestätigung mit der gleichen Aktenzahl ausstellen konnte, steht einwandfrei fest, dass der Repräsentant von Family for You im Vorfeld Kinder suchen ließ, diese mit gefälschten Papieren ausgestattet proforma durch ein Waisenhaus geschleust wurden und sodann im Heim von Family for You in Äthiopien zur Abholung gelandet sind. Ein Vertrag mit den Müttern direkt statt mit dem Waisenhaus wäre vom Gericht nicht bewilligt worden.

Die Authentizität des gefälschten Kebele-Briefes ist bestätigt, d.h. dass ein örtlich unzuständiges Kebele auf einer echten Drucksorte mit einem echten Stempel eine falsche Urkunde ausgestellt hat.

Erst am 10.05.2004 teilte Family for You Österreich den Adoptivwerbern telefonisch mit, dass ihrem Wunsch entsprechend zwei Kinder gefunden wurden, also zu einem Zeitpunkt, als Nesibu den unterschriebenen Adoptionsvertrag schon dem Gericht vorgelegt hatte. Fembek hat dazu ausgesagt, dass die Auflösung eines Adoptionsvertrages jederzeit problemlos möglich gewesen wäre.

Am 20.05. schrieb Nesibu an FFY, dass er am Vortag Hanna in das Fosterhome von FFY aufgenommen habe. Damit bestätigt er indirekt die Aussage ihrer Mutter. Von all dem haben Fembek, Meisterl und Co. nichts bemerkt?

Der Beweis:

Damit ist der eindeutige Beweis erbracht, dass es eine kriminelle Kooperation zwischen Family for You Äthiopien, der lokalen Behörde und dem Waisenhaus gab; ob die fiktive Tante Etenesh Alemu tatsächlich existiert hat lässt sich aus den Unterlagen nicht entnehmen, weil diesbezüglich seitens der Beschuldigten und der Zeugen keine Angaben gemacht wurden und die Staatsanwaltschaft Addis Abeba sie weder als Beschuldigte noch als Zeugin einvernommen hat. Die Staatsanwaltschaft Addis klagt im übrigen nur Behailu Terfe der Urkundenfälschung an, dass er die Kinder als Geschwister ausgegeben hat, was sie nicht sind und erhärtet damit den Verdacht, dass die Strafverfolgung in Äthiopien ebenso unzuverlässig ist wie die Authentizität von Urkunden und die Einhaltung von Schutzmaßnahmen zum Wohl der Kinder. Das Verhalten der äthiopischen Staatsanwaltschaft ist offensichtlich geprägt von dem Bestreben die Fälschung im Kebele und damit die Korruption im System zu vertuschen und ungeachtet der Aussagen, die Nesibu und die Kebele-Beamtin belasten, diese ungeschoren zu lassen; dies obwohl die Urkundenfälschung von der Kebele-Beamtin sogar gestanden und Nesibu der Anstiftung bezichtigt wird; da er in drei Jahren durch 70 Adoptionen dank Family for You USD 200.000,-- verdienen konnte, ein für äthiopische Verhältnisse astronomisches Vermögen, ist davon auszugehen, dass es ihm gelungen sein dürfte dafür zu sorgen, dass ihm nichts geschieht. Die Angaben der Leiterin des Waisenhauses sind durch zwei Aussagen als falsch identifiziert.

Die Täuschung:

Family for You versprach in den Verträgen mit den Adoptionswerbern in Österreich Adoptionen zu begleiten (nicht zu vermitteln), unter permanenter Evaluierung der Zuverlässigkeit des Adoptionspartners (Nesibu) und der ultimativen Garantie, dass alle Anforderungen des Herkunftslandes des Kindes vor und auch nach der Übergabe des Kindes an eine Adoptivfamilie durch professionelle Hilfe erfüllt sind.

Als Qualifikation für die lediglich im Bundesland Wien erteilte Lizenz zur Adoptionsvermittlung reichte der Behörde der Umstand, dass Herr und Frau Fembek selbst Kinder adoptiert hatten. Fembek warb damit, dass ihr Verein unter ständiger Aufsicht der MA 11 gestanden sei und der Verein jeden Versuch unternahme durch die Überprüfung der verfügbaren Angaben und das Anfordern zusätzlicher Dokumente und Untersuchungen bestmöglich zu kontrollieren, ob alles stimmig sei und plausibel erscheine. Davon war natürlich keine Rede. Die Haftung für das Verhalten des Vertreters in Äthiopien wurde vorsichtshalber im inländischen Vertrag ausgeschlossen, obwohl dessen Tätigkeit die Voraussetzung für die Erfüllung der zwischen dem Verein und den Adoptivwerbern vereinbarten Leistung war, was gerichtlich bestätigt wurde.

Im übrigen veranstaltete der Verein mit den für die Adoptionen bezahlten Beträgen auch Ausbildungsveranstaltungen für die Mitarbeiter der Jugendwohlfahrtsbehörden.

Den Vertragspartnern legte der Verein eine Kostenstruktur vor, was angeblich wieviel kostet. Tatsächlich bestritt der Verein mit den von den Adoptivwerbern bezahlten Beträgen seine gesamte Tätigkeit. Welcher Art die Kontrolle durch die MA 11 gewesen sein soll wurde weder vom Verein noch der MAG ELF je bekanntgegeben. Soweit die Adoptiveltern ihren Wohnsitz in den anderen Bundesländern hatten erachtete sich die MAG ELF ohnehin für nicht zuständig und, was die Tätigkeit von Family for You in den anderen Bundesländern betraf, hielten sich die dortigen Jugendwohlfahrtsbehörden für unzuständig, weil die Adoptionen durch den Verein in Wien organisiert worden waren.

Kein Wunder, dass alle Beteiligten glücklich und zufrieden waren: die Adoptiveltern, weil sie ein Kind hatten, die Beamten, weil Family for You ihnen die Arbeit abnahm und die Kinderhändler, weil sie gut verdienten; die Kinder und die leiblichen Mütter wurden nicht gefragt.

Die Adoptionsvermittler können nicht ahnungslos gewesen, weil sie selbst davon sprachen, dass man sich in solchen Ländern manchmal auf halblegalem Terrain bewegen müsse. Das Wohl der Kinder war ihnen egal, Hauptsache die Lieferungen deckten die Nachfrage.

Was dort geschah und weiterhin geschieht wird ausschließlich durch die Nachfrage nach Auslandsadoptionen verursacht: Adoptionsvermittler sind skrupellos und unfähig die versprochene Kontrolle auszuüben; die Armut und das Elend in Äthiopien machen es objektiv unmöglich bei derartig kaufkräftigen Angeboten der Korruption zu widerstehen.

Und was geschah und geschieht in Österreich - NICHTS:

Österreich könnte z.B. nur Adoptionen zulassen die nach den Kriterien der Haager Konvention über den Schutz von Kindern und die Zusammenarbeit auf dem Gebiet der internationalen Adoption (1993) durchgeführt werden, d.h. dass eine Freigabe für Adoptionen aus einem Waisenhaus nur, wie in § 181 ABGB vorgesehen, nach

nochmaliger Zustimmung durch leibliche Angehörige erfolgen darf: das würde jedoch, wie der vorliegende Fall zeigt, nichts nützen, weil das äthiopische Recht diese Voraussetzung nicht kennt und die Korruption bei den Behörden nicht auszurotten ist. Sie entsteht jedoch vor allem aufgrund der Nachfrage aus Ländern wie USA, Kanada, Spanien, Frankreich, Italien und auch Österreich. Adoptionen aus Asien, den anderen Ländern Afrikas und Lateinamerika beinhalten das hohe Risiko, dass ein Kind auf nicht legale Weise und nicht zu seinem Wohl zur Adoption vermittelt wird.

Die zuständigen Referenten in den Ministerien für Familienangelegenheiten, Justiz, Inneres und Äußeres erwiesen sich bei der Behandlung der Fälle als unzuständig, die Landesjugendwohlfahrtsbehörden von Wien und Niederösterreich blockten völlig ab, die MA 11 entzog die Lizenzen trotz eindeutiger gesetzlicher Verpflichtung nicht, der Verein stellte Anfang 2008 die Adoptionsvermittlungen ein, ging damit seiner Einnahmequellen verlustig und pleite. Die Adoptiveltern, die Gebühren für die Berichte über die Entwicklung der Kinder nach der Adoption (Postplacement) für bis zu 18 Jahren voranzuzahlen hatten werden nur die Hälfte der geleisteten Beträge zurückerhalten. Der Verein hat im Zeitraum 2007-2008 EUR 700.000,-- verbraucht - wofür?

Die Staatsanwaltschaft hat es bisher in 2 Jahren nicht geschafft die Unterlagen des Vereines, die nunmehr dem Insolvenzverwalter gehören, trotz des massiven Verdachtes auf weitere Ungereimtheiten zu prüfen, ein Rechtshilfeersuchen nach Äthiopien zu schicken oder über eine Anklage zu entscheiden. Ex-Stadträtin Laska schob die Verantwortung auf die österreichischen Vertretungsbehörden. Nur die Volksanwaltschaft ließ die Ermittlungen vorantreiben.

Die Ursache:

Die Vermittlung von Auslandsadoptionen aus Afrika, Asien und Lateinamerika ist hochgradig mit dem Risiko des Kinderhandels behaftet. Die relativ hohen Kosten werden durch Zahlungen an facilitators und child finders sowie für Bestechungsgelder verursacht. Adoptionswerbende wird maximale Kontrolle, die weder erfolgt noch möglich ist, vorgegaukelt. Die einheimischen Mitarbeiter vor Ort selbst sind Teil des kriminellen und korrupten Systems. Die Mitarbeiter dortiger Ämter und Behörden sind käuflich. Leibliche Mütter werden in ihrer Not mit unwahren Behauptungen getäuscht, insbesondere, dass sie weiter Kontakt mit ihrem Kind haben würden, ansonsten sie nicht damit einverstanden wären ihr Kind für eine bestimmte Zeit unbekanntem Personen im Ausland anzuvertrauen. § 194 StGB über das Verbot der Adoptionsvermittlung durch Vorteilsgewährung für die Zustimmung zur Adoption ist totes Recht wenn eventuelle Zahlungen erst im Nachhinein erfolgen. Promis wie Michael Häupl als Schirmherr von Family for You oder Alfred Gusenbauer, der sich für Charity für den Verein hergab, trugen mit dazu bei den Auslandsadoptionen einen seriösen Anstrich zu geben. Sie sind ein durch starke Nachfrage getriebener cash & carry-Markt geworden, neben Drogen-, Waffen- und Prostitutionshandel einer der sich am schnellsten entwickelnden illegalen Märkte. Sozialwaisen werden auf dem Papier zu Findelkindern oder Halb- oder Vollwaisen, damit skrupellose Kinderhändler enorme Summen durch die Erfüllung von Wünschen nach einem Adoptivkind verdienen. „Rasche und unbürokratische Vermittlung“ nennt das die Plattform Adoptionsberatung.

**The Federal Democratic Republic of Ethiopia
Federal First Instance Court**

File No. 103104

Date: 12/5/2000

Judge:- Adey Negusse

Applicants: 1. Finot Lewegen Children Orphanage Association
2. Mrs. Mariya Alga Hoyes Alonso
Objecting applicant: Mrs. Azenash Miheretu

Respondents: 1- Mrs. Letebirhan G/Mariam
2- Mr. Gebeyaw Wale
3- Mr. Mengistu Reda

The court has checked the file thoroughly and passed the following order.

Order

On the application instituted by the objecting applicant on January 2/2000 E.C, her children Taeme Mengistu and Tarik Mengistu were given for adoption by their father to the applicants without her consent. She claims since I can raise my kids the court should nullify the decision it passed earlier.

The objecting applicant has brought court decision declaring she is the mother.

The court has called the manager of the adoption agency who gave the children for adoption, the father of the children Mr. Mengistu and the adopters agent Mr. Gebeyaw to the bench on 9/5/2000 E.C. and asked why they put the children for adoption without the consent of the mother, and why they declared her absent when she isn't.

Mrs. Letebirhan, manager of the association, said that she had worked in this line of work for three years. And that she found out that the mother hasn't disappeared a day before the case was adjourned for 22/4/2000 E.C, which means she found out on 21/4/2000 E.C. And she said when she spoke with them it seemed as if they had agreed so that's why I didn't inform the court. For the question raised why she kept quiet when the father of the children testifies the mother has disappeared, she answered it's because she was scared. She also states she gave 150 birr to Azenash to come from Alamata to Addis Ababa.

On the other hand, Mr. Gebeyaw said that he knew that the children's mother didn't disappear when he was returning from court and he found her crying. She asked him to get her a photographer and he did, then she got her picture taken. He said I gave the children to their adopters because I thought both parents gave their consent. He found

out the decision's injunction when he went to get their passport, he was told that the decision of the court is injunction, then he was about to inform the court, but in the mean while the mother of the children came to the court and applied her case. Whatever the case he claims the injunction on the decision of the court has caused him inconvenience because the foreigners couldn't take their adopted children.

Ato Mengistu claims that the applicant Mrs. Azenash left him when he got sick. But when he was asked when their divorce was finalized, he said it was after he gave the children for adoption, after 12/1/2000 E.C. When he was confronted why he didn't tell that to the court he kept silent.

The court saw the case thoroughly.

First the court sees the issue whether the respondents are guilty or not for giving the children to the adopters without the mother's consent, claiming she has disappeared?

The court had approved the adoption agreement made between Finot Lewegen Orphanage and Mrs. Maria Alega Hoyes to give Taeme Mengistu and Tarik Mengistu for adoption on 22/4/2000 E.C.

The ground for the courts' approval of the adoption agreement was the fact that a written document was annexed with the application for approval that showed Mr. Mengistu is an HIV/AIDS patient and that he can't raise the children and the mother has left the children and disappeared.

However, the evidence that is shown to the court, the divorce proceeding shows that the mother didn't disappear and the divorce with Mr. Mengistu ended on 12/1/2000 E.C. In addition to this the mother came from Alamata on 21/4/2000 E.C., while the court had given adjournment for 22/4/2000, and she told the court on 9/1/2000 E.C that she went to Finot Lewegen Orphanage and met her children and their father in person. So for the orphanage to claim that they thought the mother disappeared is a lie, and they lied to the court.

On the other hand, the manager of Finot Lewegen Orphanage, Mrs. Letebirhan, after sending transportation money to the mother of the children to come one day prior to the court's adjournment date, she forbid her to go to the court at the adjourned date. Then she let the father of the children to go to the court and testify that the mother of the children had disappeared, and she didn't inform the matter to the agent Mr.Gebeyaw.

Finally, the agent of the adopting parents gave the children to the adopters even after he found out about the presence of the mother, and afterwards he didn't notify the court about any of this. In addition they have applied to the court that a lot of inconvenience is caused on them than the mother.

From the above statement the court concluded that three of the respondents has misled and deceive the court, and they also gave false statement. And because of that the court

gave decisions which interfere with the right of both the mother and the children. Therefore the court has found all three of the respondents guilty under Article 480 of the Civil Procedure Code and under Article 446 (b) and 449(b) of the criminal code.

Respondents Sentence reduction plea

Mrs. Letebirhan states that she didn't notify the court because she had mourning on 23/4/2000 and a funeral on 24/4/2000. In addition she told the court that she had kids she looks after, so she asked the court to reduce the sentence.

Mr. Gebeyewe said he tried to inform the court at the adjourned date and that he worked in this line of work for two years and never made any mistake before ,so he asked the court to reduce the sentence.

Mr. Mengistu said he gave the children for adoption because their mother wanted to go to Arab country to work and he agreed with her idea.

Sentencing

As mentioned above three of the respondents are found guilty. And as to their plea for reduction of sentence, Mrs. Letebirhan said she was mourning, but the mourning was after the courts' adjournment date, so the court didn't accept the pleading. Mr. Gebeyew pleaded that he worked in this line of work for two years, but the court believes since he worked for two years he should have known better and handled things with extra care, so the court didn't accept the plea and in the same manner Mr. Mengistu's pleading wasn't accepted.

The respondents should be sentenced to the maximum limitation stated under the law for their crimes.

Therefore, 1- Mrs. Letebirhan G/Mariam
2- Mr. Gebeyew Walle
3- Mr. Mengistu Reda

Each is sentenced with 6 months imprisonment. The prison administration follow up and execute the sentence.

The court tries to see whether the adoption agreement which was approved should be nullified or not?

The court approved the adoption agreement first because documents were presented to the court which shows the mother has disappeared and the father is an HIV/AIDS patient, and that he can't raise the children. So the court thought the children would benefit from the adoption.

However, since the court reached to that conclusion because of the false evidences that were brought to it. And because the mother is alive and well enough to raise the children

and didn't consent for the adoption, the court has nullified the decision of the court given 22/4/2000 E.C.

Order

The decision of the court is nullified, so the children should be returned to the mother. Mr. Gebeyew told the court the children are at Lion Hotel at the hand of their adopters. The police is ordered to get Taeme Mengistu and Tarik Mengistu from the hand of Mrs. Maria Alga Hoyes Alonso and brought them to the court today 12/5/2000 at 3:00 am.

Additional Order

- 1- Police is ordered to do further investigation on Finot Lewegen Orphanage and on the respondents. Send copy of the decision to the police.
- 2- Send the decision to the concerned bodies
 - Police has brought the children to the court, and the children state their names as Tarik and Taeme.
 - The mother of the children has received her children in court.
 - The file is closed and returned to the registrar office.

Signed
12/5/2000

Judge Signature
Adey Nigusse

The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs

Date: 22/03/01
NO. 49/31-6/3026/01

Federal First Instance court
Lideta Branch 3rd Civil Case Bench
Addis Ababa

The Ministry of Women's Affairs would like to inform the court that the ministry can not give its opinion on the adoption case file No. 112543 because the evidence that is attached is a fraud and illegal.

With regards

Signs Mahder Bitew
Team Leader for Children
in Difficult Situations.

Sealed:

The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs

Copy to:

Mothers and children Affairs Office
M.W.A

**The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs**

Date: 05/09/00
NO. 49/31-6/8308/00

**Federal First Instance court
Lideta Branch 3rd Civil Case Bench
Addis Ababa**

The case came to the Ministry of Women's Affairs because the court wants its opinion on the adoption agreement made between the applicants Mr. Marselis Hermans and Ms. Cornelia Balater, US nationals, And Enat Alem Children Aid Association by its agent Mr. Belayneh Tafesse, about a child named Tesfa on case No. 112543. The applicants want to adopt the child and the want the court to approve their agreement. So the court wants the ministry's opinion to determine whether the adoption by foreigners would be for the best interest of the child or not.

Based on this the ministry has seen and confirmed that the report it received about the applicants income, that they don't have a criminal record, their health, marital status, psycho-social stand and their social and psychological state.

Earlier the ministry had its doubt because at the adjournment that took place earlier on the child's life story there was no relevant evidence attached from the relevant body, which confirmed the mother of the child left the child at the place where she used to work at and disappeared.

Now, the evidence that were attached to show the disappearance of the mother from different Kebeles, but one of the evidences' state that the mother lives in their kebele.

The evidences that are brought to the ministry are inconsistent, therefore, until the case is investigated by the relevant body the ministry would like to inform the court that it is very difficult to form an opinion on the matter.

With regards

Sealed:
The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs

Signs Maheder Bitew
Team Leader for Children
in Difficult Situations.

Copy to
Mothers and Children Affairs Office
M.W.A

**The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs**

Date: 21/08/2000
NO. 49/31-6/7973/2000

**Federal First Instance court
Lideta Branch 3rd Civil Case Bench
Addis Ababa**

The ministry would like to inform the respected court that it couldn't give an opinion on adoption cases file No. 112034,112543 and 112545 for today's session.

Sealed:

The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs

With regards

Signs Maheder Bitew
Team Leader for Children
in Difficult Situation.

Copy to:

Mothers and Children Affairs Office
M.W/A

**The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs**

Date: 07/08/2000
NO. 49/31-6/7347/00

**Federal First Instance court
Lideta Branch 3rd Civil Case Bench
Addis Ababa**

The court had ordered the ministry to give its opinion on a matter regarding case no. 112543 on March 12/2000 E.C. for the session that is going to take place April 08/2000 E.C., regarding an adoption agreement made between the applicants Mr. Marselies Hermans and Miss. Coronelia Blater, with Enat Alem Children Aid Association by its agent Belayneh Tafesse, whether the adoption by foreigners would benefit the child or not.

Based on this the ministry has seen and confirmed that the report it received about the applicants income, that they don't have a criminal record, their health, marital status, psycho-social stand and their social and psychological state.

We've seen from the attached document that the child's mother had left the child at the place where she used to work and had disappeared and the employer of the mother isn't capable of raising the child.

But there are no relevant documents were attached from the relevant office that shows the mother of the child had disappeared. Thus, the ministry would like to inform the court that it is unable to give its opinion on the matter.

Sealed:

The Federal Democratic Republic of Ethiopia
Ministry of Women's Affairs

With regards

Signs Maheder Bitew
Team Leader for Children
in Difficult Situations.

Copy to:
Mothers and Children Affairs Office
M.W/A

**The Federal Democratic Republic of Ethiopia
Federal First Instance Court**

File No. 128857

Date: 10/4/2001

Judge: Hussen Yimer

Applicants: 1- Birhane Hiwot Child and Family Aid Association, Manager Mrs. Kokobe
is present

2- Mrs. Denja Shemidit Siking

3- Mr. Lotar Shemidit Siking

Agent Awgechew is present

The file is brought to the session because of the letter the Ministry of Women's Affairs wrote to the court regarding an adoption agreement made on 07/04/2001.

The manager of the 1st applicant Mrs. Kokobe Lema was called to the stand and was asked why she used the name of the association as if it still has a legal capacity to ask for approval of an adoption agreement by the court while Ministry of Justice has ordered the association to be closed. And the applicant replied that she had asked the ministry of justice to revoke its decision and she showed the court the documents to that effect, and she said that she filed the adoption agreement to be approved even though she knew the association was close was because she felt sympathy for the mother of the child because she was very poor. But now she has realized that what she did was wrong.

The Agent of the 2nd and 3rd applicants Mr. Awgachew Ergete wrote an application stating that by the time the file was opened for approval by the court, he did not know that the association was closed. Mrs. Kokobe confirmed that Mr. Awgachew had no knowledge of the association being closed. And she said that it was wrong for her to sign an agreement deceitfully and that she did it because of the sympathy she felt for the mother and because she didn't want the child to miss this opportunity.

Decision

This file was opened because the 1st, 2nd and 3rd applicants applied for their adoption agreement to be approved by the court. Even though the case was closed, it is reopened by request letter No. 49/39-2/4015/01 from the Ministry of women's Affairs.

But when the court examined the file it saw that the 1st applicant didn't have the legal personality to act as an institution or file the case in the first place, because the ministry of justice had given a decision to close the association. And under Art. 192 (1) of the Revised Family Code this association has no right to make this agreement nor could it apply for the approval of an agreement that was made as an illegal institution, by fraud.

The court has confirmed that the file that was instituted on 07/02/2001 was illegal by citing the Revised Family Code Art. 192 (1) which states adoption agreement like the one made by the 1st applicant in the first place shouldn't have been allowed because the 1st applicant didn't have the capacity of an association at the time of the conclusion of the agreement or when they applied to the court for approval of the agreement. For the question raised the court today, the manager of the 1st applicant answered even though the association was closed she made the adoption agreement and asked the court's approval because the mother of the child is poor and so that the child won't miss the opportunity.

Art. 481 of the Civil Procedure Code and Art 422-224 or 447 of the Criminal Code states that if a person commit a crime by violated these articles, the court that is seeing the civil case can immediately pass sentence. According to 1997 of the Criminal Law Art. 452 (1) states any disputants who had pending case in court or in any other institution that has judicial power, gives a false testimony about the main issue or frame work of the case at hand, even though that person didn't get the intended result, that person would be sentenced with simple imprisonment not extending one year.

When we see the case at hand, the 1st applicant's manager Mrs. Kokobe Lema made an adoption agreement with the 2nd and 3rd applicants in the name of the association even though she knew the association was closed. Then they have applied to the court for the approval of the adoption agreement fraudulently. Therefore, the court found the manager of the 1st applicant guilty under the Criminal Law Art. 451 (1).

As to the 2nd and 3rd applicant's agent Mr. Awgachew Ergette, the court has no evidence which shows he knew about the association's dissolution, and the 1st applicant's manager has testified that he didn't know, therefore, the court has freed Mr. Awgachew Ergete.

Respondents Sentence reduction plea

Mrs. Kokobe Lema said she did what she did because she felt sympathy for the mother Of the child, and because she didn't want the child to miss the opportunity. She states that she has 3 children and that she had a blood pressure.

Sentencing

The crime Mrs. Kokobe Is found guilty of is punishable with simple imprisonment up to one year. After the court see the case thoroughly, with consideration of the purpose of punishment which is to correct and rehabilitate the offender, the court has sentenced Mrs. Kokobe with two months simple imprisonment.

Order

- Addis Ababa Prison Administration follow up and apply the sentence.
- The court had given order to the Ministry of Women's Affairs to come in person and give your opinion as to how your institution gave its opinion on this issue when the court hadn't given order. The case is adjourned for December 17/2001 E.C.

Additional Order

For information, send copy of the decision to the Federal First Instance Court President Office.

Signature

Husen Yimer

Signed
13/4/2001

**The Federal Democratic Republic of Ethiopia
Federal First Instance Court**

File No. 140987

Date: 26/8/2001

Judge: Adey Negusse

Applicants: Enat Alem child Aid Association

In this case the adoptee is an abandoned child.

Regarding giving children who are found abandoned for adoption, the court wants some issues to be clarified, so it has given the following order.

Order

This is a special bench which sees cases relating to adoption. Most of these children are given for adoption by the government and private orphanages.

For the past six months the cases that were brought to the court were about children that have parents but their parents couldn't raise them, so the court would summon those parents to come in person and express their consent. But now most of the new files are about children that were abandoned. And most of the children are abandoned in similar places and the orphanages these children are given to are also very few. So to confirm the stories the court believes additional investigations are needed to be done. So to alert the police the fragile nature of the case, the court has ordered Addis Ababa Police to investigate the case and annexed documents that show the number of abandoned children in the last month that were given to orphanages by police.

Most orphanages that has opened files stating police has placed children because they were found abandoned are the following. So police should do further investigation on these orphanages and report to the court.

1. Kidest Mariam Orphanage
2. Edget Orphanage
3. Birhan Family Welfare Foundation
4. Enat Alem Children Aid
5. Betezatha Orphanage

Until the police report its findings to the court, the court will no longer see cases regarding abandoned children.

1. To Addis Ababa Police
2. To Ministry of Women's Affairs.

Sealed :

The Federal Democratic Republic of Ethiopia
Federal First Instance Court

Judge Signature

Adey Negusse

26/9/2001

Signed

**The Federal Democratic Republic of Ethiopia
Federal First Instance Court**

File No. 140987
Date: 9/10/2001

Judge: Adey Negusse

Applicants: Enat Alem child Aid Association

The file is brought to the session to give additional order to the police.

Order

It's quoted that an order to the police was given on 26/8/2001 to investigate cases relating to abandoned children in Addis Ababa.

After the court has given an order, other similar cases were brought to its attention. So for the court to give fair decision it needs to be sure if the children that were claimed to have been found abandoned were really abandoned, so the court wants the police to investigate the issue and report its findings to the court.

By taking into consideration that the annual working time of the court is about to end and that the issue is very critical, the court has ordered for the report to be brought within 15 days.

Furthermore, for the future the court wants the police to establish a way as to how it can notify the court when abandoned children are found and placed in orphanages.

The court awaits the report on 25/10/2001 at 10:30 am.
-Attached copy of the order in every file.

Sealed :

The Federal Democratic Republic of Ethiopia
Federal First Instance Court

Judge Signature

Adey Negusse

26/9/2001
Signed

Let No. 02/16016/2001

Date: 25/10/2001

The Federal Democratic Republic of Ethiopia
Federal First Instance Court
Addis Ababa

The court has given order to the police on 26/8/2001 and on 10/10/2001 to investigate cases regarding children that are found abandoned and about the orphanages those children are placed at in Addis Ababa. The court has also ordered the police to establish a way to communicate with the court when abandoned children are found and placed in an orphanage in the future to help the court give fair decision.

Based on the order given the police has conducted an investigation by going to the sub city police offices that sent total no of 154 letters to the court regarding children who are found abandoned, and the sub city polices offices have confirmed that the children they placed in an orphanage are in fact found abandoned at their sub city and they have sealed the photocopied letters. So we have attached the sealed photocopies with this letter and send it to the court. As to establishing a line of communication with the court about abandoned children, we would like to inform the court that we would notify the court after we establish that line of communication.

With regards

Wogayehu Sorsa
Chief Inspector
Economy and Different
Crimes Unit Leader

Sealed:
Addis Ababa City Government Police Commission

**The Federal Democratic Republic of Ethiopia
Federal First Instance Court**

File No. 144881
Date: 30/10/2001

Judge: Adey Negusse

Applicants: Birhan Family Welfare Association

The file was brought to session because police has investigated the case and sent its report.

Order

Addis Ababa Police has sent a report about children that were found abandoned in Addis Ababa. And on the report police has stated that it has investigated and ascertained that the children were in fact found abandoned and it has placed the office seal on the documents that were sent from the court. Therefore the court has lifted the injunction that was placed until the police reported its findings. Therefore the Ministry of women's Affairs is ordered to give its opinion on the matter.

Signed
6/11/2001

Sealed:
The Federal Democratic Republic of Ethiopia
Federal First Instance Court