



## Cambodian League for the Promotion and Defense of Human Rights

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**Written Testimony To the International Relations Committee,  
United States House of Representatives, Hearing on International Adoptions,  
May 22, 2002**

**Submitted by Dr Kek Galabru, LICADHO President**

Honorable Chairman and Members of the Committee,

On behalf of LICADHO and as a member of Cambodian civil society, I am pleased to submit testimony to this hearing. In accordance with LICADHO's mandate, I will confine my testimony to the issue of adoptions of Cambodian children to the United States, and to human rights abuses related to this process.

Established in 1992, LICADHO is a non-governmental organization (NGO) based in Cambodia's capitol, Phnom Penh, with field offices in 14 provinces and municipalities. One of the largest NGOs in Cambodia, it is funded by a range of respected international donor organizations. LICADHO's mandate includes investigating alleged human rights violations and assisting victims to make complaints to the authorities, conducting research and advocacy on human rights issues, and providing human rights education to members of the authorities and the general public. LICADHO's mandate includes the elimination of all forms of human trafficking. LICADHO has no policy or view on international adoption; it is only interested in this issue insofar as it involves child trafficking and related human rights abuses and crimes in Cambodia.

### **General Information: Orphanages & Adoption Facilitators**

There are 21 government orphanages/children's centers in Cambodia, as well as 23 other ones run by private, non-government organizations registered with the Ministry of Social Affairs, and an unknown number of others not registered, according to information given to LICADHO by the Ministry. It is unclear how many of these orphanages provide children for adoption overseas, but LICADHO is aware of approximately 15 private and government orphanages actively involved with adoptions. In at least some cases, orphanages appear to be function solely to conduct adoptions overseas; they do not accept children who are HIV-positive, for example, to live in the orphanage, because such children generally cannot be adopted abroad.

In practice, orphanages operate with minimal regulation or supervision by state agencies; one Ministry of Social Affairs official, asked by LICADHO to explain the degree of supervision of orphanages, replied that the ministry aims to inspect each orphanage once a year.

People acting as adoption facilitators in Cambodia include Cambodians and foreign nationals, including Americans. LICADHO is not aware of any law that requires the registration or supervision by statutory bodies of adoption facilitators.

While some facilitators conduct independent adoptions, in most cases facilitators act on behalf of foreign adoption agencies; each agency has a facilitator who assists its clients through the adoption process. The US is the largest receiver of Cambodian children, so therefore many of these agencies are based in the US.

It is not uncommon for facilitators to have exclusive arrangements with particular (private or government) orphanages; other facilitators cannot arrange adoptions of children from these orphanages. It is unclear by what statutory process, if any, such arrangements are made. In some cases – such as with at least three orphanages in Phnom Penh – adoption facilitators have established their own private orphanages; the same person acts as both a facilitator and chief of the orphanage.

At times, the lines may be blurred between government and non-government orphanages. For example, a government orphanage may transfer children in its care to a private orphanage, and from there they are adopted overseas. It is unclear by what official process such transfers occur.

In addition to orphanages, in the past year LICADHO has become aware of a number of private houses used to accommodate children waiting for adoptions. It appears that these children are registered in orphanages but are accommodated in private houses, which is a violation of Cambodian regulations. These houses may range from “foster homes” with a few children, to larger establishments with many children staying there. Several of these larger houses have in recent months, since adoptions have come under increased scrutiny in Cambodia, had signs placed outside of them which identify them as “branch offices” of orphanages.

### **Baby-Buying and Child Trafficking for Adoption**

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

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

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

### **Corruption and Fraudulent Paperwork**

The process of official Cambodian paperwork to certify that a child is an orphan (abandoned child or lawfully relinquished by guardians) begins at the orphanage level and extends to senior levels of the government.

For children who have been dishonestly procured from their parents, the official paperwork will typically state that the infant or child concerned is an abandoned child whose parents are unknown. Orphanage officials write a birth certificate or biography of each child, which states that the child is abandoned, and this is counter-signed by low-level government officials (such as village chiefs). The local officials certify these false documents either because they are bribed to do so or they are unaware of the real origins of the child. The orphanage documents, as such, contain little if any information about the history of the child that could later be traced. LICADHO has documented cases, for example, of children being procured from their

families in Phnom Penh but the official paperwork, signed by orphanage directors and local officials, falsely states that the children were found abandoned in provinces outside of Phnom Penh.

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

It is no coincidence that Cambodia, until the recent action by the US against adoption-related trafficking of children, was touted as having the fastest adoption approval process (3-4 months) of anywhere in the world.

### **A Case Example of Trafficking for the Purpose of Adoption**

An example of trafficking and false documentation is the case of two impoverished and divorced Cambodian mothers in Phnom Penh who were coerced into giving up their babies (one baby was aged 6-months and the other was just 4-days old) by a baby trafficker in June 2001. The mothers were promised that the babies would be taken to live at a children's center in Phnom Penh, where the mothers could visit them regularly. The mothers' subsequent attempts to visit the infants were refused. In September, the mothers complained to LICADHO, and after two months of pressuring the Cambodian police and courts, the two infants were eventually found to be in the custody of the Khmer American Orphan Association (KAOA), a private orphanage established and run by an adoption facilitator who caters to the US market. In December, some six months after the infants had been taken from their mothers, they were returned to them by the adoption facilitator after court intervention.

LICADHO alerted the US Embassy in Phnom Penh to this case, and the Embassy subsequently confirmed that at least one of these two infants (the one aged 4-days-old when taken from its mother) had been the subject of a pending application for adoption to the US. The baby's official documents – signed by an orphanage director and local officials – falsely stated that the baby had been born and abandoned in Kompong Cham province, and was found and taken to a government orphanage there by "a kind person". In fact, the baby was born and taken from its mother in Phnom Penh, and was in the custody of the private KAOA orphanage in Phnom Penh.

### **Extent of the Abuse**

It is impossible to precisely estimate the scope of abuses related to the adoption process, for various reasons. The majority of abuses are almost certainly not reported to the authorities or to NGOs such as LICADHO: victims may not know about the law or their rights; they may not have money to travel to make complaints; and they may be afraid of reprisals from the perpetrators if they complain. Even if complaints are made to the police or courts, action is generally not taken. Influential or armed people may be involved in the trafficking (police and military personnel are among child traffickers identified by LICADHO).

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

- In the past two years, LICADHO investigations have found direct, credible evidence of child trafficking by people associated with four orphanages which provide children for adoption to the US. In addition, LICADHO has received information alleging other improprieties, such as the preparation of fraudulent paperwork for 'orphans', by a number of other orphanages and adoption facilitators.
- Based on complaints by birth parents seeking the return of their children, LICADHO has investigated cases of alleged trafficking involving a total of at least 15 identified children. Of these children, 10 were

eventually returned to their birth parent/s after LICADHO intervention to the authorities, 3 were reportedly adopted to the US, and the whereabouts of 2 are unknown. In addition to these cases, LICADHO has received information about a number of other alleged trafficking cases but was unable to identify the children involved and their biological families.

- LICADHO has interviewed several foreign adoptive parents, and is aware of others, who adopted older children on the basis of official paperwork stating that the children were abandoned or their parents were dead and they had no siblings. Subsequent to the adoption, the adopters were told by the children that they did indeed have surviving parents or siblings. In one recent case, an adoptive couple returned to Cambodia and, assisted by LICADHO and with minimal effort, located the birth family of their adopted children; it was confirmed that the children had been sold by one of their birth parents (without the other parent's consent) to child traffickers and had ended up in the hands of an adoption facilitator.
- LICADHO has interviewed many people acquainted with the adoption system – including government officials, NGO staff, and adoptive parents – and concluded that unscrupulous practices by orphanages and facilitators, and related bribery and fraudulent paperwork, are common knowledge in adoption circles. While few if any people are prepared to speak publicly on these issues, privately they acknowledge widespread problems. Detailed information such as amounts of bribes that need to be paid, and the names of corrupt officials and others who profit from the adoption business, is widely known.

### **Legal Recourse/Prosecution of Perpetrators**

As noted previously, the perpetrators of child-buying target poor, vulnerable birth mothers, who have little legal recourse. Cambodia's notoriously weak and corrupt police and judiciary cannot be depended upon to protect victims and prosecute perpetrators. This applies to a host of human rights abuses, including murder, torture, rape, and trafficking of women and children for sexual exploitation, for which perpetrators are often not brought to justice. The extent of impunity and lack of rule of law – which may not be fully understood by foreigners living in developed countries with professional, functioning law enforcement systems – is one of the many legacies of decades of war, genocide and crippling poverty in Cambodia.

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

In late 2001, in two separate cases, a total of 7 people connected to orphanages were formally charged with human trafficking under Cambodian law by a Phnom Penh court. All were staff or associates of either the Asian Orphans Association (AOA) or the Khmer American Orphans Association (KAOA), which are both private orphanages in Phnom Penh run by adoption facilitators who cater to the US market for Cambodian children through US adoption agencies. The charging of these people only occurred after considerable pressure from LICADHO and others, including a few select officials within the Cambodian government who are concerned about baby-buying, and media publicity.

The court recently dropped the charges in the first case, involving AOA, because the victim (a mother whose two children had been procured by a recruiter and ended up in AOA) had withdrawn her court complaint. In a subsequent interview with LICADHO, the mother stated that she had been approached by two men, while she was seriously ill in hospital, and offered money to sign a document withdrawing her complaint.

Nearly six months after charges were laid in the second case, which involves KAOA – the same case as previously referred to in this testimony – the court is still investigating and there is no decision on whether the prosecution will continue. At one point in this case, court officials unsuccessfully tried to pressure the

birth mothers of the two babies involved into withdrawing their court complaints against KAOA. One court official implicitly threatened the mothers by warning them that something bad might happen to their babies.

In such circumstances, LICADHO remains deeply concerned that attempts to investigate or prosecute the perpetrators of adoption-related abuses can lead to the re-victimization of the victims.

### **Previous Allegations of Adoption Abuses**

Allegations of child-buying, corruption and fraudulent paperwork have surrounded Cambodian adoptions for years. These concerns have led some organizations directly involved in providing support for Cambodian orphans to implement policies of not participating in international adoptions. In response to publicity about adoption abuses, the Cambodian government has several times in the past imposed a moratorium on foreign adoptions. The last such moratorium ended in March 2001, following the passing of a new Cambodian government subdecree supposed to address the improprieties in the adoption system. Unfortunately, the new subdecree has done little if anything to clean up the adoption system, according to the conclusions of LICADHO and foreign governments such as the US. Other organizations that have expressed concern about adoptions include the United Nations Children Fund (UNICEF), which has pledged its willingness to work with the Cambodian government to establish a better legal framework for the regulation of adoptions.

### **Need for US to Take Action**

LICADHO firmly supports the December 21, 2001 decision by US Immigration and Naturalization Service (INS) to suspend adoptions of Cambodian children to the US. We are sympathetic to the distress this has caused to prospective adoptive parents in the US who were in the process of adopting. We believe responsibility for this distress lies with the child traffickers who have sought to exploit both vulnerable Cambodian families and unsuspecting American adopters.

It is appropriate and indeed essential that the US take a leading role in combating adoption-related child trafficking in Cambodia. There are obvious legal and moral obligations to ensure that US citizens and the US Government are not unwittingly complicit in the international trafficking of children. We are pleased that the INS, the Department of State (DOS) and the staff of the US Embassy in Phnom Penh have understood these obligations and taken action to meet them. The imperative for the US to take action is even greater given that the Cambodian authorities have proved unable or unwilling to eradicate adoption-related abuses, and given that the US is the largest market for Cambodian ‘orphans’.

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

### **Conclusions & Recommendations**

In a country that suffers crippling poverty and where government salaries are as low as US\$20 a month, the hundreds of thousands of dollars poured into Cambodian adoptions has created a hugely profitable “industry” which in documented cases has employed fraudulent means to procure Cambodian children for unknowing US citizens. Urgent action is needed to clean up the system to ensure that adoptions are not placed in the same category as other lucrative ‘industries’ – such as the trafficking of weapons, narcotics and women – for which Cambodia has attracted international concern, including from the US.

LICADHO considers it a tragedy that the adoption system should be misused by certain greedy and deceitful individuals who exploit the miseries of Cambodia's poor while taking advantage of the good intentions of US couples wishing to provide loving homes for orphans truly in need. This occurs as millions of US tax dollars are dispersed to Cambodia each year (via USAID funds) to assist the nation's recovery from three decades of war and genocide, reduce the widespread poverty, and rebuild a democratic climate of human rights and rule of law.

We are also deeply concerned that unscrupulous practices should be committed by people associated with orphanages and adoption facilitators who are in turn linked to US-based adoption agencies. We believe that adoption agencies should take some legal and moral responsibility for the actions of the facilitators, and their associates, whose services they utilize.

The problems of the Cambodian adoption system are deeply entrenched; there is no quick-fix solution, as clearly shown by the failure of previous attempts to clean up the system. Comprehensive changes are necessary, including legal reforms, strict enforcement of the law, prosecution of offenders as a deterrence, and effective monitoring of the adoption process. To this end, we recommend:

1. The continued INS suspension of visa processing for Cambodian orphans until a transparent and regulated adoption system is established in Cambodia.
2. Continued investigations by the INS and other relevant federal agencies into alleged adoption-related trafficking, fraud and corruption, and prosecutions of perpetrators in any case where there is evidence of the commission of offences that are prosecutable under US law.
3. Urging of the Cambodian government and judiciary to ensure proper, transparent criminal investigations into allegations of trafficking, fraud, corruption or other crimes related to adoptions, and to ensure adequate punishment of perpetrators according to Cambodian law.
4. The active cooperation of the US Embassy in Phnom Penh, the Department of State and the INS, including the sharing of information and documents, with adoption-related criminal investigations by Cambodian law enforcement authorities.
5. Fulfillment of the INS' stated intentions to enter into discussions, in conjunction with the DOS, with the Cambodian government to establish an adoption process that will protect the interests of the Cambodian people and prospective adoptive parents; and to initiate a general review of international adoption procedures and work with the DOS to identify weaknesses in the process and implement the principles of the Hague Convention on Inter-Country Adoptions.
6. Efforts to encourage the Cambodian government to ratify the Hague convention on Inter-Country Adoptions and pass domestic adoption legislation in accordance with the convention.
7. Steps to ensure that the INS and the DOS have adequate resources to thoroughly screen all orphan visa applications (in particular, an INS office in Cambodia to conduct field investigations) in place prior to any resumption of adoptions from Cambodia.

Measures such as these are in the best interests of all concerned – US adopters, Cambodian families and genuine orphans in need – by ensuring a respectable and credible adoption system in which those who are involved with legitimate adoptions are no longer tarnished by the greed and dishonesty of others.

Thank you for the opportunity to submit testimony to this Committee.

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