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SAVE PRINT LICENSE ARTICLE

Once Cambodia closes its doors, where will Australia's surrogate baby trade go next?



Lindsay Murdoch

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Phnom Penh: Sally* is three months old now, living in a brand new double-storey house in a quiet street in a southern Melbourne suburb with her biological father, Charles Artman.

Almost 7000 kilometres away, in a decrepit squatters' settlement on the outskirts of the Cambodian capital, her illiterate birth mother Hour Vanny doesn't know where the baby is or even her name.



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Cambodian Lux Clinic posted a photo of a minutes-old baby girl on Facebook following Hour Vanny's cesarean section on August 25. The surrogate mother confirmed the girl was the baby she carried. Photo: Facebook/Lux Clinic

Sally's journey from one of Asia's poorest nations to join a wealthy Melbourne family has come under scrutiny during a Cambodian crackdown on surrogacy, a complex ethical and legal practice banned in many countries. Successive Australian governments have failed to confront the issue, leaving hundreds of Australians unable to have babies with little choice but to go overseas to pursue their dream of

babies with little choice but to go overseas to pursue their dream of having children.

According to Cambodian police, 27-year-old Artman travelled to Cambodia, where he paid \$US50,000 (\$67,000) to Melbourne nurse and [surrogacy broker Tammy Davis-Charles](#) for Hour Vanny to carry the baby.

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As [Fairfax Media has previously reported](#), Artman is named in an allegedly falsified Cambodian document seized by police as the husband of 35-year-old Hour Vanny, a mother of three previous children who has been married to a Cambodian man for more than a decade.

Cambodian police are investigating who arranged for Hour Vanny and a village chief to sign the letter, dated November 3, with their thumbprints.

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At the Melbourne house, the blinds were drawn when Fairfax Media rang the intercom and asked if Charles was there.



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"Yes," came a voice.





In the flood-prone squatter settlement village on the outskirts of the Cambodian capital, Hour Vanny says she was required under a contract to give birth by cesarean section. Photo: Craig Skehan

"I'm from *The Age* and was hoping to talk you ..."

The voice replied "no, thank you" and hung up, leaving unanswered the question of whether Artman was aware a document had been falsified in his case.



Cambodian surrogate mother Hour Vanny, holding the two-page document she signed with Fertility Solutions, operated by Australian nurse Tammy Davis-Charles. Photo: Craig Skehan

The house is owned by 27-year-old businessman Ezra Natan Artman, a director of more than dozen companies registered at the address, who was formerly known as Ezra Natan Silman.

The Silman family, headed by Maurice Silman of Elwood has business interests spanning property, minerals, oil and gas and fish farming, and own the Artman Gallery catering to developing artists in Caulfield.

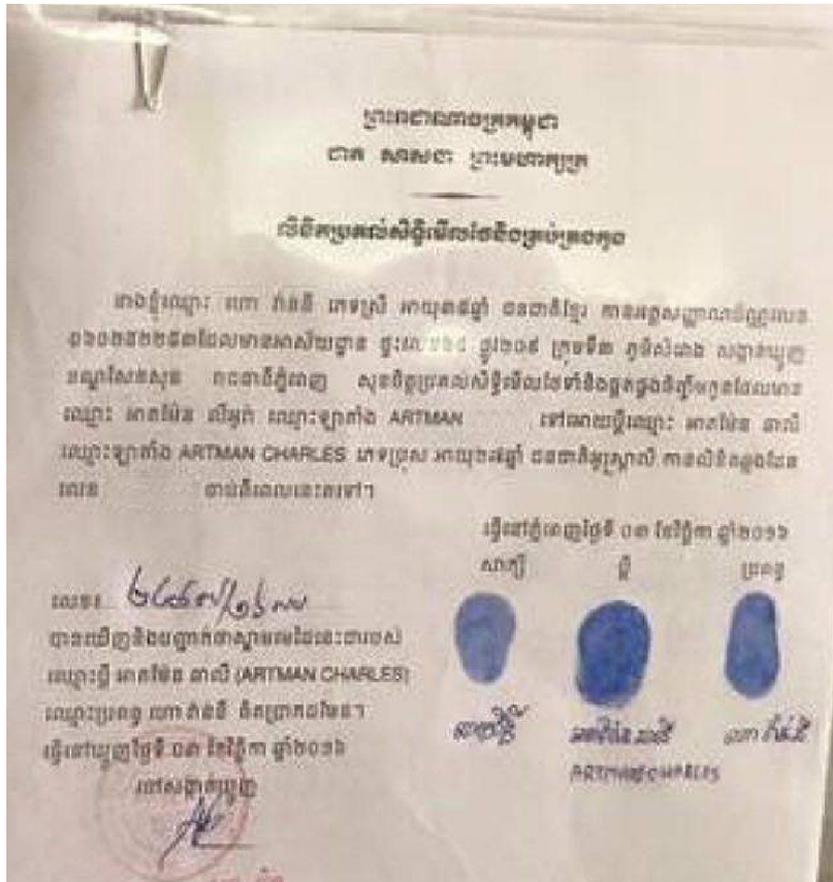
There is no suggestion that Charles Artman brought Sally to Australia illegally or that the girl did not meet the requirements of Australia's Passport or Citizenship acts.

Like many countries, Cambodia does not have laws that relate directly to surrogacy, leaving would-be parents confused and vulnerable in the country's corrupt and murky judicial system.

Hour Vanny recognises Artman as the baby's father, having told an interpreter at the Australian embassy she agreed the finance manager could have custody of the baby and that she had been paid \$US10,000, as promised by Davis-Charles, who has been arrested and is awaiting trial in Phnom Penh on charges related to engaging in surrogacy and

... and the... on charges related to engaging in surrogacy and falsifying documents.

A letter from Cambodian surrogate mother Hour Vanny authorising Charles Artman to take custody of the baby she carried.



"I said 'Yes, I agree', because I volunteered. What else could I do?" Hour Vanny said.

However the case and others involving Australians in Cambodia raise questions about the integrity of [Australia's passport protocols](#) and Canberra's lack of policies to deal with surrogacy overseas, particularly in impoverished and corrupt countries like Cambodia, where experts say surrogate mothers and children are vulnerable to exploitation and abuse.

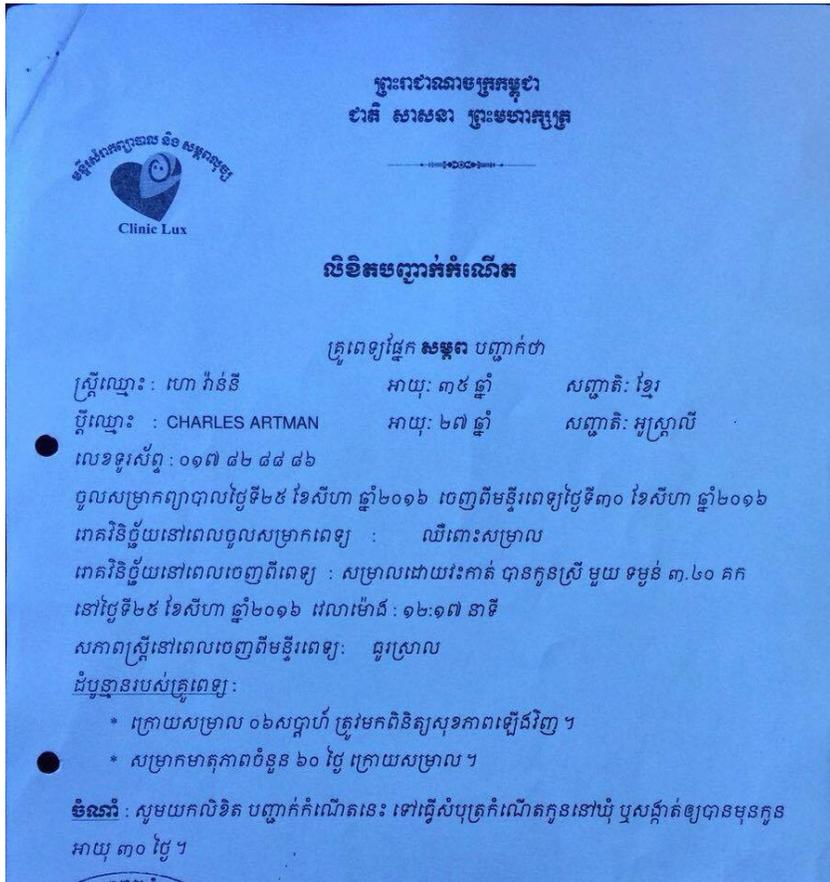
Australian diplomatic missions do not have authority to investigate circumstances which lead to a passport application for a child being lodged, including any separation of twins, as happened in the [Baby Gammy case in Thailand in 2014](#).

Australia insists it has no role to play when overseas surrogacy arrangements are negotiated, a stand which has strained ties with Cambodia as the deeply Buddhist country struggles to decide how to deal with surrogacy.

Australian regulations require that for a baby to be granted citizenship the child's identity must be substantiated with a combination of birth certificates, hospital records, DNA tests and information from any surrogacy contract.

Birth certificate showing Charles Artman is the husband of Hour Vannv.

What countries are offering surrogates? What are the risks of local surrogacy?



The identities of the commissioning parents, birth mother and child must be established.

Both Hour Vanny and Artman had DNA tests done by a Canberra-approved clinic in Phnom Penh.

Cambodian authorities are unhappy that Australian embassy officials will not pass on to them the identities of Australians who have entered into agreements that have resulted in at least 70 babies being conceived to Cambodian surrogates, most of them married women in impoverished villages.

They believe the Australian government is shirking its responsibility for the dozens of Australians who came to Cambodia to engage in a practice that is little understood in Cambodian society.

For months, the Turnbull government has been sitting on a parliamentary committee report recommending sweeping changes to how Australia handles surrogacy overseas, including that arrangements Australians enter into be the subject of detailed scrutiny to protect the rights of both the birth mother and child.

The report recommended that commercial surrogacy remain illegal in Australia but supported allowing altruistic surrogacy, where costs such as legal and medical expenses are reimbursed to surrogate mothers.

It acknowledged that laws in Queensland, NSW and the ACT banning Australians from seeking surrogacy abroad are ineffective after

Australians from seeking surrogacy abroad are ineffective, and

thousands of Australians have gone overseas seeking surrogacy arrangements in recent years.

The report said despite objections by some people opposing all forms of surrogacy on ethical grounds, the focus must be on how potential risks and harm from international commercial surrogacy can be minimised, given there is no reasonable prospect of a worldwide ban on the practice in the near future.

It found that children have the right to know and understand the circumstances of their birth and genetic heritage and that information should be provided on birth certificates.

Attorney-General George Brandis has not responded to the report, which was tabled in May.

In Cambodia, a human tragedy that is now unfolding came as no surprise to observers of a multibillion-dollar international surrogacy industry where players operate across multiple borders, flying surrogates, eggs, doctors and intending parents to whichever country is the most porous for their business.

The operators look for poor, lightly regulated countries that don't have laws dealing with surrogacy.

When those countries regulate the industry, the operators pack up and move to more hospitable jurisdictions in a seemingly never-ending cycle.

Cambodia was the fourth Asian nation in the past two years to announce a sudden ban on surrogacy after similar crackdowns in India, Thailand and Sri Lanka.

The government in [Phnom Penh had declared in October that commercial surrogacy would be treated as human trafficking](#) until laws were passed dealing with the practice.

But through its [smartraveller.gov.au](#) website, Australia had been warning for months that commercial surrogacy was illegal in the country and that those who entered into agreements could face jail.

Phnom Penh had become the default Asian surrogacy hub in Asia, catering first for the gay Chinese market and then for predominantly gay Westerners locked out of affordable or legal options in their home countries.

"Cambodia's surrogacy infrastructure was a hastily built rollercoaster with a high risk of collateral damage when it inevitably crashed," said Sam Everingham, global director of the non-profit Australian consultancy Families Through Surrogacy.

"Recruiting illiterate surrogates in a country with high levels of corruption to carry in many cases twin pregnancies for foreigners is not a humane, sustainable business model," he said.

Everingham, who has dealt with scores of surrogacy cases overseas, cites concerns about high rates of multiple embryo transfers, often without consultation with the commissioning parents, which in turn leads to high rates of twin pregnancies and high rates of pre-term deliveries and their associated complications.

He said in third-world surrogacy markets there are unacceptable levels of embryo mix-ups during storage and transfers and commissioning parents have little recourse to funds where services are not provided or a market is shut down, as has happened in Cambodia.

Everingham said there is a lack of understanding among commissioning parents of the importance of engaging with known donors for the sake of their unborn children and a lack of provision for overseas surrogate-born children to be recognised as the legal children of commissioning parents under Family Law Provisions.

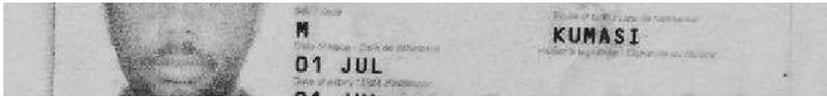
"Australian states can't wait for George Brandis to initiate reform," he said.

"Instead they need to instigate change to facilitate access to well-managed domestic surrogacy, so far fewer Australians need to go abroad."

In Cambodia, hundreds of pregnant surrogates have now either gone into hiding, fearing arrest, or are travelling to neighbouring countries like Thailand, where the Australian embassy in Bangkok is still processing passports for surrogate-born babies, despite the military government there shutting down surrogacy clinics in late 2014.

Charles Artman's Passport





There are grave concerns the women will not receive medical check-ups and medicines they need during their pregnancies. The women fear for the future of the babies and worry they will not be paid.

Several pregnant surrogate mothers in villages outside of Phnom Penh told Fairfax Media that they agreed to be surrogates even on the understanding that they would be left to bring up any baby found to have a disability. Abnormal fetuses are routinely aborted.

Birth mothers, including Hour Vanny, have been required to undergo caesarean deliveries despite wanting to have natural births.

John Pascoe, chief judge of Australia's Federal Court, has warned that often, in the commissioning parent's desperation to get a child, the rights and interests of the child are sidelined or forgotten.

"Particularly in commercial surrogacy arrangements, the unborn child is treated as a commodity and the subject of a contract. The unborn child is viewed as an object that is essentially for sale," he said.

"There is tension between those who characterise surrogacy payments as 'money for services rendered' and those who see the payment as a purchase price for a child."

Investigations in Phnom Penh have centred on Davis-Charles, a mother of six, including twin boys born through surrogacy in Thailand, who police say arranged at least 25 babies to be carried by surrogates, charging \$US50,000 for fees and services for each baby.

Her immediate future is grim. She is in Prey Sar prison, a former Khmer Rouge torture centre, awaiting a trial that is months away.

But already some of the roughly 50 other surrogacy operators in Phnom Penh have moved to Vientiane in neighbouring Laos, another corrupt country with lax laws and regulations and a poor human rights record. Like Cambodia, the country has no laws dealing with surrogacy.

The daily average income there is only \$US1.25.

Vientiane has only two international standard hospitals and surrogacy experts say newborns delivered pre-term would likely require transfer to a hospital in Thailand for neonatal care.

Among those operating in Vientiane is Thai-born Monash University-trained Dr Pisit Tantiwattanakul, who gained notoriety in Bangkok in 2014 when authorities forced the closure of his All IVF Clinic, then one of the most popular with Australians seeking surrogacy services in Thailand.

All IVF Clinic provided surrogacy services for a Japanese man who

fathered at least 15 babies with Thai surrogate mothers, prompting claims that Pisit was running a baby factory.

Pisit, now head of IVF International Laos, denied any wrongdoing.

On December 2, Australia updated its smartraveller.gov.au website to warn for the first time that commercial surrogacy is illegal in Laos and that Australians should not enter into agreements with surrogates there.

Observers of transnational surrogacy warn that if history is any guide, many Australians desperate to have children won't listen before Laos' communist politburo, dominated by military generals, orders a crackdown, followed by the inevitable heartbreak.

The question is where the operators will turn to then.

** Not her real name.*

with Daniel Flitton

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