



ABOUT ORPHANAGE TRAFFICKING: Description and Indicators

Results from the Enhancing
Identification, Prosecution and
Prevention of Orphanage Trafficking
Study: CAMBODIA

WHAT IS ORPHANAGE TRAFFICKING? International Definition

Orphanage trafficking is a form of child trafficking defined as the recruitment or transfer of children into orphanages, or any residential care facility (RCF), for a purpose of exploitation or profit. It involves both 'acts' and 'purposes of exploitation' that meet the definition of child trafficking under the Protocol to Prevent, Suppress and Punish Trafficking in Persons ('UN Trafficking Protocol').

Orphanage trafficking is associated with various purposes of exploitation, including:

- Sexual exploitation
- Labor exploitation
- Servitude or slavery like practices
- Other forms of exploitation including profit

HOW IS ORPHANAGE TRAFFICKING DEFINED UNDER CAMBODIAN LAW?

Under Cambodian law, orphanage trafficking fits within the definition of child trafficking in the Law on Suppression of Human Trafficking and Sexual Exploitation 2008 (TSE Law). Child trafficking is defined as the **unlawful removal of a child for a purpose of exploitation profit or adoption.**

Unlawful Removal is defined within the TSE Law in Article 8 as:

without legal authority or any other legal justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, caretaker or guardian.

This definition establishes 3 criteria to determine whether the removal of a child was unlawful, which are explained in the TSE Law Explanatory Notes and are summarized below:

Without legal authority is taken to mean:

removal by a person who does not possess legal authority or mandate, or by a person with legal authority who removes a child in a prohibited manner.

Without legal justification is taken to mean:

removal by a person acting outside of the scope of the law to remove a child, or taken away under conditions or circumstances not permitted by law.

Taken away from the legal custody is taken to mean:

taken away in cases where parental custody or legal guardianship has not been relinquished, terminated, suspended or transferred by law, or taken away from a situation where state guardianship is assumed (such as unaccompanied children or children on the streets) without the involvement of mandated authorities.

For children trafficked into orphanages, unlawful removal is therefore established when the removal of the child from family or guardian, and placement into the residential care facility, occurred in contravention of 'gatekeeping mechanisms' prescribed in laws and alternative care policy. These gatekeeping mechanisms describe which authorities are authorized to remove and refer a child into a residential care facility (legal authority), under what circumstances and the process that must be followed (legal justifications). In contrast to international law, the Cambodian law specifically includes illicit adoption as a purpose for unlawful removal.

HOW IS ORPHANAGE TRAFFICKING CRIMINALISED? **Cambodian Law**

Orphanage trafficking is criminalized under Article 10 of the TSE Law.

Article 10 Unlawful Removal with a Purpose

A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years. The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- *the victim is a minor,*
- *the offence is committed by a public official who abuses his/her authority over the victim,*
- *the offence is committed by an organized group.*

The terms “any form of exploitation” in this Article and Articles 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs.

Other acts involved in orphanage trafficking, including transporting, buying/selling, or receiving a child who was unlawfully removed with purpose, into an RCF, can also be prosecuted under a range of other offenses including:

- Article 15 The Act of Buying Selling or Exchanging of a Human Being with Purpose
- Article 17 Transportation with Purpose
- Article 19 Receipt of a Person with Purpose

This means that perpetrators involved in all elements of orphanage trafficking can be prosecuted under Cambodia’s child trafficking offenses.

HOW IS ORPHANAGE TRAFFICKING DETECTED? **Indicators and categories**

Orphanage trafficking can be detected by the presence of indicators. Indicators can be categorized around the different elements of orphanage trafficking. The first category of indicators deals with the ‘acts’, including unlawful removal (recruitment and/or transfer), transportation, receipt or sale or exchange of a child. The second category of indicators relate to the recognized ‘purposes for unlawful removal’, including sexual exploitation, labor exploitation, servitude and slavery like practices, profit, and adoption. The third category of indicators relates to the ‘means’, including deception, coercion, and threats.

Both the Palermo Protocol (UN Trafficking Protocol) and Cambodian Law recognize that, for children under 18, there is no requirement to prove ‘means’. However, as deception, coercion, and threats against children and their families are often present in orphanage trafficking cases this category of indicators is included in this document to aid in the detection of orphanage trafficking crimes and identification of victims. In some cases, these ‘means’ may be easier

to detect and interpret (indicators may be more visible, more readily disclosed, or easier to establish without putting children at further risk) than some of the 'purposes' involved in orphanage trafficking. Therefore, detecting means may trigger an intervention and wider investigation that will uncover evidence of the acts and purposes required for orphanage trafficking crimes to be established and prosecuted under Cambodia's child trafficking offenses.

Orphanage trafficking can be detected by a range of persons, including professionals and members of the community. The following groups of people are most likely to come across indicators of orphanage trafficking and have opportunities to identify victims:

- **Mandated child protection authorities:** may detect orphanage trafficking indicators when conducting routine RCF inspections, performing other monitoring functions, responding to reports or concerns in RCFs, or supporting RCFs to close or transition to other non-residential services.
- **Social workers:** may detect orphanage trafficking when providing case management or counselling services to children in RCFs or children/youth who have left RCFs.
- **Social service providers:** may detect orphanage trafficking when providing services to children in RCFs or children or youth who have left care, including in the context of aftercare services.
- **Local authorities:** may detect orphanage trafficking based on the presence of unlawfully operating RCFs or suspicious conduct in RCFs operating within their jurisdiction.
- **Law enforcement:** may detect orphanage trafficking in response to reports or complaints filed with police or the courts about abuse that occurred in RCFs.

Children or youth may also disclose abuse or conduct that constitutes exploitation in residential care settings to their families, teachers, or other trusted persons. This typically only happens once they have left care.

INDICATORS OF ORPHANAGE TRAFFICKING

1. Indicators of Acts

1.1. *Unlawful removal, recruitment, and transfer of a child into a residential care facility*

- Operation of an unauthorized RCF
- Irregular or unauthorized admission of children into RCFs
- Active recruitment of children from families
- Admission of children who are relatives of the staff/director in the RCF
- Advertising the residential care services in the community
- Incomplete or absent child files
- Incomplete child intake/admission forms
- Widespread irregularities in children's files and identity documents
- Fraudulent or falsified identity documents
- Falsified reasons for admission
- Paper orphaning
- Movement of children from one RCF to another
- Patron-client relationships occurring in the RCF (between directors, families and high-level patrons)
- Limited or no contact facilitated between children and families

2. Indicators of Purposes

2.1. *Sexual exploitation*

- Withdrawn, isolated, fearful, anxious, or aggressive behaviors amongst children
- Sexually harmful behaviors
- Grooming
- Volunteers or visitors taking children offsite unaccompanied
- Physical signs of abuse, STIs, pregnancy, self-harm, drug, and alcohol use
- Disclosures of sexual abuse made by children/youth

2.2. *Labor exploitation*

- Children working on farms, land, properties or in construction roles
- Children providing labor in businesses owned by the director or the director's family
- Children working in the homes of directors and/or staff (domestic and childcare duties)
- Children performing for volunteers/visitors

2.3. *Servitude and slavery like practices*

- Indicators of labor exploitation (as above)
- Never or rarely leaving the RCF or never without the accompaniment of the director or their family members (deprivation of liberty)
- School aged children not attending school

2.4. *Profit*

- Orphanage tourism, voluntourism and volunteering
- Inappropriate disclosure of children's personal details (poor confidentiality standards)
- Scripted and coached interactions between children and volunteers/visitors
- Sharing falsified, improbable or embellished narratives about children's backgrounds
- Involving children in begging, recruiting volunteers or visitors or other fundraising activities
- Poor standards of care (below minimum standard)
- Director/staff interference or lack of cooperation with reintegration
- Inflated admission numbers
- Significant discrepancy between the living standards of the director and the children in care
- Nepotism
- Financial misappropriation or fraud
- Sale of land/relocation of the RCF
- Lack of child safeguarding policies and mechanisms
- Giving children foreign or Christian names
- Overt emphasis on fundraising

2.5. *Adoption where unlawful removal has occurred*

- High numbers of infants and young children in care (under 5)
- High numbers of claims of abandonment or orphanhood of infants and small children without special needs (health or disability)
- Fraud in declarations of adoptability for intercountry adoptions
- Orphanage tourism/visits
- Irregular adoption fees or donations

3. Indicators of Means

3.1. *Deception, Coercion and Threats: Against families*

- Contracts or agreements with parents and families
- Lack of cooperation from parents during reintegration assessments

- Limited family contact
- Deception about the conditions of care
- Deception through false or unmet promises
- Abuse of vulnerable family situations
- Cultivation of dependency between directors and families
- Families in patron-client relationships with RCF directors

3.2. Deception, Coercion and Threats: Against children

- Inability to speak to children alone (social workers/inspectors)
- Rapid exit of some children (older children/youth) without due process
- Violence, physical or emotional/verbal abuse
- Noticeable changes in children's demeanor during assessments/interview
- Submissive, fearful, distressed, or anxious behavior
- Forced to lie to donors, volunteers, visitors and authorities
- Evidence of trauma bonds

KEY PUBLICATIONS

[The Legal Framework of Orphanage Trafficking in Cambodia](#)

[Implementing the Legal Framework for Orphanage Trafficking: Cambodia Case Study](#)

[Implementing the Legal Framework for Orphanage Trafficking: Cambodia summary report](#)

[Description of Indicators of Orphanage Trafficking: Cambodia](#)