

A Lawmaker's Guide to
**STOPPING ORPHANAGE
TRAFFICKING**



INTERPARLIAMENTARY TASKFORCE
ON HUMAN TRAFFICKING

www.TaskforceonHT.org

MESSAGE FROM ANNE BASHAM, FOUNDER & CHAIR OF THE INTERPARLIAMENTARY TASKFORCE ON HUMAN TRAFFICKING:

"Human trafficking is the fastest growing criminal enterprise in the world, and millions of people are caught in sexual exploitation, labor exploitation, forced marriage, and other forms of modern slavery—including orphanage trafficking. Trafficking is a global problem, and children are uniquely vulnerable; almost one third of all victims are under the age of 18. Orphanage trafficking, the recruitment or transfer of children from their families into orphanages for the purpose of exploitation or profit, is a transnational issue that requires multilateral solutions. Legislators have a unique ability to stop this complex crime at the root.



Good laws save lives. The Interparliamentary Taskforce on Human Trafficking (ITHT) is the first global consortium to convene leading lawmakers, government leaders, stakeholders and lived-experience experts to stop human trafficking through policy solutions. Strategic legislation empowers law enforcement agencies, attorneys, the judiciary, and survivors themselves, strengthening rule of law and bolstering national and global security. I invite you to join us in our mission, and I trust you will find this practical guide for legislators valuable in your efforts to combat orphanage trafficking."



MESSAGE FROM SENATOR LINDA REYNOLDS, AUSTRALIA:

"With over 50 million people trapped in modern slavery today, it can be overwhelming for Legislators and Governments to determine how and where they can start to reduce the number of trafficked and enslaved human beings. A good place to start is with the up to 5.4 million¹ children who are institutionalised, many of whom live in unregulated orphanages or may have been recruited into care for the purposes of exploitation in what is referred to as orphanage trafficking. This is a recently exposed form of trafficking where generous donors have inadvertently created a demand for orphans to volunteer with and donate to. Consequently, criminals have willingly created an artificial supply of orphans by unnecessarily removing vulnerable children from their families into so-called orphanages, a lucrative multi billion-dollar enterprise.

As repugnant as this trade in children is, the good news is that we can stop this form of child trafficking by eliminating the demand. We work together to remove poverty from homes, not children. We can achieve this by collaborating globally to encourage donors and volunteers to engage in ethical volunteering by supporting accredited family-based programs instead of residential care. We work together to remove poverty from homes, not children.

Today we know that 80-90% of children residing in these institutions have at least one living parent and whose families, with support, could care for them. Many parents were deceived into voluntarily relinquishing their children,

with promises of a better future and financial incentives. These children are often moved to new locations and false paperwork is created; therefore, it is harder for their parents to locate them and they can also be sold or illegally adopted. These children are called "paper orphans".

A question I asked myself early on in my journey to learn more about voluntourism and orphanage trafficking was this - if in Australia, we know that residential care is harmful for our own children, why are we rushing to support the residential care of millions of other people's children? Once you see the double standard or inadvertent paternalism, you also realise why vulnerable well-meaning donors are susceptible to scams such as this. No one wants to believe that instead of supporting a poor orphan, they have in effect paid a child trafficker to remove the child from their family.

Like any complex global problem, I realise that it will take more than a single nation to address this problem. Addressing orphanage trafficking requires a multifaceted approach based on the four Ps: protection, prevention, prosecution, and partnerships.

With the support of global experts and as Rapporteur, I took through the Inter-Parliamentary Union (IPU) Assembly the first global Resolution on Orphanage Trafficking which was supported by all 180 member parliaments.

This briefing book has been prepared by the Inter-Parliamentary Taskforce on Human Trafficking on how, through a combination of global partnerships and domestic action, together we can educate, advocate and legislate to end orphanage trafficking. Those of us from nations that have created this trade in children have the moral responsibility to end it."

MESSAGE FROM STEPHEN UCEMBE, REGIONAL ADVOCACY MANAGER FOR HOPES AND HOMES FOR CHILDREN AND LIVED EXPERIENCE EXPERT:

"Having spent 15 years of my childhood in an orphanage, I understand the experience of growing up without family and in an isolated environment detached from the experiences of family and community. After being placed in the orphanage at the age of five, I expected to stay briefly because, although my mother had passed away, my father and siblings were still alive. However, time passed, and I gradually forgot about home, felt abandoned by my other siblings, and eventually forgot my mother tongue.

I left the orphanage as an adult, and my father visited me only once during my childhood in the orphanage. Later, I learned that he was prohibited from visiting us again by the orphanage social worker. He was warned that if he ever visited, our support would be terminated and we would be taken back to live with him, fearing that we would lose support if he visited, he stopped. For the orphanage, his visit would undermine its "orphanage" status- we would have a father, while they claimed we were orphans.

The orphanage confined and reduced us to objects and commodities, often paraded in the open to entertain and





attract sympathy. Consequently, given donations and funding from visitors, volunteers, and donors made us feel like aliens. The orphanage kept many of us confined as baits for funding, not allowing us to go home to visit families and relatives.

The concrete walls around the orphanage isolated and divided us from the surrounding community. Social interactions were limited to fellow children, and the walls, meant as protection, often felt intended to conceal the suffering and violence within, hiding the abuse and neglect that we felt. Despite occasional outings, the place felt like a prison, and we were only allowed out two or three times a year.

Most orphanages not only prioritize profiteering over the well-being of children, but also survival over thriving children. They deprive children the essential elements for them to flourish and thrive. Children require more than the basic needs that most claim to provide; to thrive, they need identity and belonging, relationships, and care that only a family can provide.

Poverty is a major factor in separation and should not be a reason for separation from family; efforts should focus on support for the family and not removing children from families. Our interventions should focus on enhancing family and community-based child care and protection systems to prevent unnecessary separations and placements in these harmful and exploitative orphanages.

Developing countries have seen a rise in unregulated orphanages due to substantial funding from developed nations. This funding has become a significant incentive for unscrupulous individuals, groups, and organizations to remove children from families for confinement into these orphanages, consequently subjecting children to significant violence and other child rights violations. The donors who have been part of this problem, and especially from the north, can be part of the solution by redirecting resources from orphanages to family and community based care initiatives.

Lastly, governments must protect vulnerable children

from the harm and exploitation of orphanages and guarantee equal rights and opportunities for their growth and development. Governments should commit to ending the era of orphanages and investing in family care for children by aligning their legislative and policy frameworks accordingly. We can't continue to ignore the evidence of harm in orphanages documented for over 8 decades. Every hour that passes without action on these orphanages results in ongoing violence, abuse, and exploitation. It is an urgent call!

A call to social justice, equality and inclusivity for all children. By allowing some children to be institutionalized, we contribute to an unjust and unequal society, we disadvantage these children from the start, and set them up for challenges that may impact their entire lives."





WHAT IS ORPHANAGE TRAFFICKING?

Orphanage trafficking is the recruitment or transfer of children into residential care institutions for the purpose of exploitation and profit.² It is an issue of supply and demand where the prevalence of volunteers and donors who wish to support orphaned children in other countries creates a demand for children to be harbored in institutions or orphanages. To meet the demand, children are recruited or transferred from families into institutions for the purpose of exploitation or profit. Orphanage trafficking shares close links with the sale of children as in some instances children are bought and sold into residential care for purposes of exploitation and profit. Legally these situations may be prosecuted as sale of children where ongoing exploitation is difficult to prove or sustain as a charge for prosecution.

The links between residential care and trafficking have been in focus in recent years. In 2016, the *Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography* to the Human Rights Council highlighted research indicating that

orphanages were recruiting children and maintaining them in poor conditions to prompt foreign charity and donations:

Research has provided evidence of systems in which the owners of orphanages use intermediaries to get children who look poor to orphanages, in order to satisfy a fee-based volunteering demand, generating significant profits. Traffickers lure poverty-stricken families into giving away their children, under promises of good living conditions and education. Children are then often left in poor conditions, in order to prompt foreign charity, and forced to perform activities to please foreign volunteers.³

In the United States Trafficking in Persons Report 2018, a special section entitled "Child Institutionalization and Human Trafficking" highlighted how children are both trafficked into and out of orphanages outlining that the "physical and psychological effects of staying in residential institutions, combined with societal

isolation and often subpar regulatory oversight by governments, place these children in situations of heightened vulnerability to human trafficking".⁴ Such heightened vulnerability results in the increased likelihood of exploitation of children, with cases of orphanages doubling as brothels and children being forced into commercial sexual exploitation and forced labor detailed in the report.⁵ Profits from voluntourism "incentivise nefarious orphanage owners to increase revenue by expanding child recruitment operations in order to open more facilities" thereby facilitating "child trafficking rings."⁶

In 2019, the Report of the Secretary General on the Status of the Convention on the Rights of the Child to the United Nations General Assembly (UNGA) detailed awareness-raising campaigns that 'sought to highlight the potential harm to children stemming from a wave of short-term, unqualified staff, volunteers and interns in orphanages around the world' as an 'emerging area of progress'.⁷ In the 2019 UNGA Resolution on the Rights of the Child, United Nations Member States acknowledged the link between orphanage tourism, trafficking and exploitation, and committed to taking appropriate measures to prevent and address the harms associated with orphanage tourism and volunteering.⁸

In 2023, the Inter-Parliamentary Union (IPU) adopted an historic resolution on Orphanage Trafficking: The Role of Parliaments in Reducing Harm led by Senator Reynolds and supported by several members of the ITHT Working Group on Orphanage Trafficking. This world leading resolution was unilaterally adopted by 189 parliaments and calls upon global parliaments to take action on orphanage trafficking through legislation and advocacy.

The harms associated with orphanage tourism and volunteering are increasingly being recognised by governments. Countries such as the United Kingdom (UK), Netherlands, Australia and the United States (US) have issued travel advice alerting prospective volunteers to the harms and risks associated with orphanage tourism and links to child exploitation and trafficking.⁹ In the US, this was linked to the Department of State's examination of child institutionalization and

human trafficking in the 2018 Trafficking in Persons report.¹⁰

As a contributing country, Australia has taken several steps to regulate charities' engagement with orphanage tourism and volunteering, including restricting access to government funding and introducing regulatory measures for charities with overseas activities. Residential care for children, overseas volunteering and child sponsorship are categorized as high-risk activities under the regulations, and charities are required to meet minimum safeguarding requirements and relevant minimum standards, as set out in Australian law and the laws of the occurring country.¹¹ Effectively this makes Australian charities' support for unregistered overseas institutions, including through contributing volunteers or facilitating orphanage tourism, an ineligible activity for Australian charities, including churches.¹² The UK and Australia acknowledged orphanage trafficking as a reportable type of modern slavery under their respective Modern Slavery Acts.¹³ Australia explicitly identified engagement with children through orphanage tourism and other forms of voluntourism as a specific sector or industry risk indicator for modern slavery in the Acts guidance material for reporting entities.¹⁴

Occurring country governments are progressively recognising orphanages as venues for the sexual exploitation of children in travel and tourism (SECTT).¹⁵ Whilst voluntourism remains largely unregulated, in countries such as Cambodia and Thailand, governments have formed partnerships with key child protection organizations and taken steps to reduce the prevalence of orphanage tourism to combat SECTT.¹⁶ In the Asia Pacific region, the Asia-Pacific Economic Cooperation (APEC) Tourism Working Group released Voluntourism Best Practices in the Asia Pacific Region in 2018 which explicitly discourages orphanage voluntourism in member economies' tourism sectors.¹⁷ The ECPAT Legal Checklist: Key Interventions to Protect Children from Sexual Exploitation in Travel and Tourism¹⁸ provides an excellent framework for addressing the potential harms of exploitation in residential care.

MESSAGE FROM THE HONORABLE ANNE MUSIWA, RAPPOREUR FOR THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD SPECIAL RAPPOREUR FOR CHILDREN WITHOUT PARENTAL CARE IN AFRICA



"Orphanage Trafficking is a serious crime which is both a regional and global issue, and is also multifaceted. The problem is largely fuelled by often well-meaning individuals, groups, and firms from countries in the North. These countries in this context are referred to as contributing countries, as they have people, groups or organizations who donate resources and funds to orphanages.

Many developing countries are occurring countries (also called host countries) in the Orphanage Trafficking context, where children are removed from their families and communities for reasons such as poverty, disability, health and education. Significantly, there are many children who are unnecessarily separated from their families for purposes of exploitation and used as bait for funding by unscrupulous individuals, groups and organizations.

In occurring countries, orphanage trafficking is a recently exposed issue, such that many orphanages are privately run, unregistered, and operating outside Government monitoring systems and lack clear governance policies. Thus, these institutions are not subject to regular inspections, which could aid in law enforcement.

This reveals that orphanage trafficking is a collective undertaking between the occurring countries, contributing countries and other stakeholders in the sector. It is critical to work with contributing countries to stop funding a practice that encourages the separation of children from their families and communities and consequent placement in orphanages/children's homes. The funding from the contributing countries needs to be redirected to family and community based interventions that enhance prevention of separation of children from their families.

The funding can be used to alleviate poverty by strengthening families and communities livelihoods. Multisectorial response is key to ensuring volunteers understand ethical voluntourism in occurring countries, that they do not end up violating the rights of children, which include dignity and respect, reducing children to objects and encouraging their exploitation.

Regional and international child rights treaty bodies have a responsibility of monitoring States and advocating for having children in families and their protection from all forms of exploitation. The regional treaty bodies in the quest for deinstitutionalisation of children in occurring countries, should investigate cases of orphanage trafficking and make necessary recommendations to those States.

Governments have a critical role to play by ensuring oversight and coordination, appropriate legal frameworks to be enforced, and implementing policies and standards to bring orphanage trafficking to an end. Communities and families must also be involved and be vigilant as orphanage trafficking compromises national, regional and global and economic security, harming the well-being of societies."

“As a teen, I volunteered in an orphanage in Central America where I was encouraged to interact and play with the children. My trip was well-intentioned, but when we left many of these children were heartbroken.”

- ANNE BASHAM, FOUNDER & CHAIR OF THE
INTERPARLIAMENTARY TASKFORCE ON HUMAN TRAFFICKING

THE SCOPE OF ORPHANAGE TRAFFICKING

There are 5.37¹⁹ million children living in residential care settings globally.²⁰ Approximately 80% of these children²¹ have living parents or kin. Residential care settings expose children to an increased risk of, and vulnerability to, sale and sexual exploitation, trafficking, exploitation and modern slavery. The 2019 United Nations Global Study on Children Deprived of Liberty reported that ‘conditions in institutions are often characterised by violence, sexual abuse and neglect, amounting to inhuman and degrading treatment’ and that child protection systems that favoured institutionalisation were sometimes characterised by ‘profit motives or the commodification of the care of children’.²² A 2020 Lancet Commission found that children residing in residential care were ‘at risk of severe physical or sexual abuse, violation of fundamental human rights, trafficking for sex or labour, exploitation through orphan tourism, and risk to health and wellbeing after being subjected to medical experimentation’.²³

Orphanage trafficking has been reported in upwards of 40 countries, with the majority in Asia and Africa.²⁴ In many of these countries, a significant proportion of residential care institutions are unregistered and operating unlawfully. Unregistered institutions

operating outside of the purview of the government are high risk settings for orphanage trafficking. Children in these facilities are much more likely to have been recruited, removed from their families unlawfully and admitted into residential care without the involvement of mandated child protection authorities. The circumvention of gatekeeping, designed to ensure children’s admission was necessary and in their best interests, increases the risk of children being recruited and harbored in the institution for profit purposes, including through child sponsorship, foreign donations and orphanage tourism. The lack of routine monitoring of unregistered facilities increases the risk of children experiencing exploitation post admission in the institution.

Enumeration studies conducted in some countries have provided useful data on the number of children in unregistered institutions who have been admitted irregularly (through recruitment, unlawful removal or transfer outside of formal gatekeeping mechanisms).²⁵ However, to date, further research to ascertain how many of these children were recruited or transferred for the purpose of exploitation or profit has not been conducted. As such, country level and global estimates on orphanage trafficking are



“Families who are simply poor or needing support are coerced or deceived into relinquishing their children to institutions who strip them of their parental rights.”

- PAROSHA CHANDRAN, PROFESSOR OF MODERN SLAVERY
LAW AT KING'S COLLEGE LONDON

not yet available. It is imperative these gaps in data on orphanage trafficking are addressed through investment in research, including country level residential care institution enumeration studies, case law analysis and global prevalence studies.

Orphanage tourism has been documented in 37 countries²⁶ and an estimated 4 million people from the US alone volunteer in orphanages every year.²⁷ This results in children being vulnerable to forms of labor and sexual exploitation with children residing in the most corrupt centers 'often perceived to be accessible for more than humanitarian activities.'²⁸ A

2021 study estimated that US Christians donate \$3.3 billion annually to residential care facilities.²⁹ The scale of foreign funding and orphanage tourism propping up the residential model of care undermines the efforts of national authorities to reform their care systems and redirect resources towards family-based services. In some countries, institutions are established in tourist destinations to meet the demand for orphanage tourism. Where children are separated from their families to live in institutions to meet this demand, or to attract or sustain foreign funding, their right to a family life, to parental contact, and to be protected from exploitation³⁰ may be undermined and violated.³¹

INTERNATIONAL COMMITMENTS AND GUIDANCE

In addition to the Palermo Protocol, there is guidance and several international commitments which form the legal basis for action by legislators. These include:

- A/RES/74/133 2019 UNGA Resolution on the Rights of the Child, Article 35: Urges States to take action to ensure the enjoyment of human rights for all children without parental care, in accordance with the international human rights framework [...], and also to take action to provide a range of alternative care options and to protect all children without parental care, including by: [...] (t) Taking appropriate measures to protect children who are victims of trafficking and are deprived of parental care, as well as enacting and enforcing legislation to prevent and combat the trafficking in and exploitation of children in care facilities, and supporting children who are victims of human trafficking in returning to their families and in receiving appropriate mental health and psychological assistance that is victim-centered and trauma-informed, and taking appropriate measures to prevent and address the harms related to volunteering programmes in orphanages, including in the context of tourism, which can lead to trafficking and exploitation.
- A/77/41 2022 Committee on the Rights of the Child: Recommendations from 2021 Day of General Discussion on children's rights and alternative care Annex II. D.1.29: States should adopt legislation and regulations to eliminate orphanage tourism and volunteering in orphanages, prevent incentives driving institutionalization and family separation, and ensure adequate offenses and penalties to prevent and enable the prosecution of violations of children's rights in alternative care, including orphanage trafficking.
- CRPD/C/5 2022 Committee on the Rights of Persons with Disabilities: Guidelines on deinstitutionalization, including in emergencies. XII.143: States parties should prevent volunteering by foreign tourists in institutions (known as "voluntourism"), by providing appropriate travel guidance and raising awareness about the Convention and the dangers of institutionalization.

Legislators are in a unique position to implement positive change in stopping orphanage trafficking through their ability to legislate, advocate and educate.

"The cycle of trauma is perpetuated when voluntourists form connections with children only to depart, reinforcing the belief that those who care will eventually leave."

- REBECCA NHEP, SENIOR TECHNICAL
ADVISOR FOR THE BETTER CARE NETWORK



EDUCATE

Legislators in both contributing country and occurring country governments can undertake several measures to educate the public:

OCCURRING COUNTRY GOVERNMENT

Public Information Campaigns

- Awareness Drives: Informing the public about the reality of orphanage trafficking and encouraging support for family-based care and publicly endorsing related policies, standards and laws.
- Media Engagement: Using documentaries, news stories, and social media campaigns to highlight the issue and educate the public.

Encouraging Ethical Tourism

- Tourism Policies: Implementing campaigns and policies that discourage orphanage tourism and promote responsible child-safe tourism practices.
- Tourism Outreach: Contacting associations and organizations responsible for setting tourism standards about orphanage trafficking and ethical voluntourism.
- Traveler Education: Providing information to tourists about the negative impact of orphanage visits and encouraging them to support ethical organizations.
- Community Outreach: Connecting with faith-based groups and volunteer organizations about orphanage trafficking and ethical voluntourism.

COLLABORATIVE EFFORTS BETWEEN OCCURRING COUNTRIES AND CONTRIBUTING COUNTRIES

International Cooperation

- Cross-border Initiatives: Working with international bodies and NGOs to create cohesive strategies and share best practices.
- Bilateral Agreements: Establishing and publicizing agreements between contributing and occurring countries to tackle orphanage trafficking together.

NGO Partnerships

- Collaboration with NGOs: Partnering with reputable NGOs to amplify educational efforts and provide on-ground support.

Data Sharing

- Research and Reports: Conducting and sharing research on orphanage trafficking to inform policies and public understanding.³²
- Transparency: Encouraging transparency and data sharing between countries to track and combat trafficking networks. *Contributing Country Governments*

Public Awareness Campaigns

- Media Outreach: Using TV, radio, newspapers, and social media to inform the public about the dangers and signs of orphanage trafficking and publicly endorse related policies, standards and laws.
- Community Programs: Partnering with local NGOs to conduct workshops and seminars in communities, especially in vulnerable areas.

School Education Programs

- Curriculum Integration: Including topics on child rights and the dangers of trafficking in school curricula.
- Interactive Sessions: Organizing talks and activities involving students, teachers, and parents to raise awareness.

Support for Families

- Economic Assistance: Providing financial aid and resources to families at risk of placing their children in orphanages due to poverty.
- Counseling Services: Offering psychological and social support to struggling families.
- Upstream Services: Advocating for increased funding for upstream services that address the vulnerabilities that put children at risk of being separated from their families and recruited to orphanages for care when other family options are present.
- Family Empowerment and Policy Development: Prioritizing family empowerment by developing and strengthening family-centered policies, including parental leave, affordable, quality childcare services, and parenting support, as well as child-sensitive social protection policies and services.

By implementing measures such as these, legislators can play a pivotal role in educating the public.

“Orphanage operators have worked out that they can make a good profit from international funding and from voluntourists coming and donating money. The sad truth is that much of that donated money never reaches the children themselves and donated goods are often sold by the orphanages for profit.”

- DR. KATE VAN DOORE, DEPUTY HEAD
OF SCHOOL AT GRIFFITH LAW SCHOOL

“Shifting support from residential models of care to strengthening families and supporting family-based models of care is a realistic solution. Family-centered support allows parents the opportunity to care well for their children, ensures better outcomes for their development, and avoids contributing to the problem of orphanage trafficking...Decades of research have found that, compared to children in residential facilities, children in families, even poor families, develop better. Children who spend time in orphanages don’t develop the way their peers raised in families do, and they also often struggle later in life. Family provides the love, belonging and identity children need to thrive into adulthood.”

- NICK EVANS, CEO AND CO-FOUNDER, HOPELAND

PRACTICAL STEPS

ADVOCATE

Legislators in occurring countries can advocate to other government agencies, leaders and civic organizations which provide oversight. Legislators in contributing countries can provide funding and support for advocacy activities. For example, legislators in both occurring and contributing countries can engage in:

International Agreements and Cooperation

- Bilateral and Multilateral Cooperation: Working with other countries and international organizations to share information, coordinate efforts, and implement joint strategies to combat orphanage trafficking.

Promotion of Ethical Voluntourism

- Support for Ethical Alternatives: Encouraging support for family-based and community-based care should be prioritized and family reunification programs instead of orphanages. Increased home-based care within families ensures that children are not being exploited.

Data Collection and Research³³

- Research and Data Collection: Supporting research initiatives to better understand the scope and dynamics of orphanage trafficking, including its root causes and impact on children.
- Data Sharing: Facilitating data sharing networks among law enforcement agencies, NGOs, and international bodies as necessary in order to identify patterns and effectively counteract trafficking networks.

Capacity Building and Training for Those who Administer the Law

- Law Enforcement Training: Providing specialized training for law enforcement officials to recognize and respond to orphanage trafficking cases effectively.
- Judicial Training: Educating judges and prosecutors on the legal complexities of orphanage trafficking cases to ensure appropriate legal action is taken.
- Indicators: Utilizing indicators of orphanage trafficking acts, purposes and means for timely detection.³⁴

Victim Support and Rehabilitation

- Victim Support: Ensuring comprehensive support services for victims, including legal support, emergency alternative care, psychological support, education, family tracing, and family reintegration efforts where possible.
- Reintegration Programs: Implementing programs to facilitate the successful reintegration of trafficked children into family and community and prevent re-victimization.
- Victim Compensation: Establishing mechanisms to provide financial compensation to victims, including but not limited to, covering costs for medical care, psychological treatment, education, and other essential services to aid in their recovery and long-term rehabilitation.

Monitoring and Evaluation

- Monitoring Mechanisms: Establishing monitoring mechanisms to assess the implementation and effectiveness of anti-trafficking legislation and policies.
- Evaluation: Regularly evaluating the impact of legislative measures and policy interventions to identify areas for improvement and adaptation.





LEGISLATE

To address both in-country and external causal factors that drive and enable orphanage trafficking, governments of occurring and contributing countries must work in tandem, under the framework of international cooperation, to implement practical measures to combat the sale and exploitation of children in institutional care settings, including orphanage trafficking.³⁵

OCCURRING COUNTRY GOVERNMENTS

Occurring country governments should adopt a whole-of-government approach and ensure the protection of children in alternative care by:

The Harms of Orphanage Volunteering

- Developing an official position on condemning the harms of orphanage volunteering.
- Establishing enforceable prohibitions on orphanage tourism, and train public authorities to “spot the signs” and refer suspected cases to law enforcement.

Criminalizing Orphanage Trafficking

- Investigating if legislative provisions recommended in the *Model Law on Institutional Childcare Trafficking for Purposes of Financial Exploitation*³⁶ by Professor Parosha Chandran and Lumos are applicable and/or utilizing it as a reference point for analyzing current laws and proposals.
- Ensuring human trafficking offenses that exist in domestic law specifically include the criminalization and prosecution of orphanage trafficking, including the criminalization and prosecution of businesses as well as of individual perpetrators, and that commensurate penalties exist or are introduced in law.
- Ensuring there is extra-territorial jurisdiction for such offenses.
- Ensuring there are participatory offenses in domestic law enabling the criminalization of those who aid, abet and conspire to commit such offenses.
- Ensuring that domestic laws criminalize and penalize ‘orphanage exploitation’ crimes, including the sale of children into institutional care and the exploitation of children in institutional care, including via slavery, servitude and forced labor offenses as free-standing child offenses distinct from other human trafficking offenses.

- Ensuring that child protection, law enforcement, prosecutors and judges receive targeted training enabling the effective detection, investigation, prosecution and conviction of individuals and businesses.
- Ensuring that all public bodies that may come across child and youth victims of orphanage trafficking or orphanage exploitation crimes receive targeted training to identify victims of these crimes and that if cases are detected emergency protocols are enacted so children and youth are removed from harm.
- Ensuring that no child or youth is prosecuted or punished for any unlawful act related to their trafficking or exploitation.
- Developing criminal laws and regulations to prevent the on-line exploitation, abuse and commodification of children and youth in institutional care.
- Developing trafficking laws that recognize 'profit-making' as a purpose of exploitation in anti-trafficking legislation such as Article 10 'Unlawful Removal with Purpose' of Cambodia's Law on Suppression of Human Trafficking and Sexual Exploitation 2008³⁷

Preventing Orphanage Trafficking and Protecting Victims:

- Ensuring that national referral mechanisms that help identify victims of trafficking are modified or adapted to include the identification of victims of orphanage trafficking and orphanage exploitation, and that data is recorded in relation to this form of harm.³⁸
- Ensuring that all officials whose work involves children are trained to identify potential victims of orphanage trafficking and orphanage exploitation.
- Ensuring that all officials whose work involves children are informed of a child-centric, trauma-informed approach to identifying victims and enabling them to receive safety and care.
- Ensuring child protection actors and care providers have regular training on all the risks of trafficking and exploitation that are associated with institutional care.
- Improving cooperation between child protection, law enforcement, and anti-trafficking sectors such as by increased sensitization of orphanage trafficking indicators, strengthening of mandatory reporting and risk-procedures, and implementing robust processes to remove children from harmful institutions where there is a likelihood of risk or harm.³⁹
- Strengthening the alternative care system by improved gatekeeping mechanisms, enforcement of legal registration requirements, ongoing monitoring, timely and appropriate responses to violations, and other relevant actions.
- Instituting moratoriums on the opening of new child care institutions, including in emergency response contexts.
- Instituting moratoriums on state and private funding of child care institutions including in emergency response contexts until risk assessments have been properly conducted.
- Implementing systems that monitor and regulate the funding of orphanages to ensure oversight and accountability.
- Integrating prohibitions on orphanage tourism into existing child protection, child welfare, and institutional care regulations.
- Ensuring there are comprehensive policies and programs to: 1) support older youth reaching majority age such as vocational training before they leave care and work opportunities afterwards, 2) manage their transition to independent living in a way that dramatically reduces the risk of them falling into trafficking or exploitation upon leaving institutional care, and 3) provide them ongoing guidance or support until at least aged 21.

- Ensuring there are child and youth friendly reporting mechanisms to file complaints and report abuse, and that they are informed about their rights to use these mechanisms and how to access them.
- Capturing data about these issues from child protection and law enforcement personnel to enhance detection and prosecution and to help inform effective policy.
- Establishing reparations including compensation for victims of child abuse and exploitation in alternative institutional care (including victims subjected to the sale of children into institutional care, orphanage trafficking and other forms of orphanage exploitation).
- Introducing transparency in supply chain laws and/or due diligence laws with mandatory, enforceable reporting processes that require businesses to investigate and disclose whether there is any risk of orphanage trafficking or orphanage exploitation in their provision of goods and services.

CONTRIBUTING COUNTRY GOVERNMENTS

Contributing country governments should adopt a whole of government approach and consider the implications of their extraterritorial human rights obligations, including:

- Developing an official position condemning the harms of orphanage volunteering.
- Investigating if legislative provisions recommended in the *Model Law on Institutional Childcare Trafficking for Purposes of Financial Exploitation*⁴⁰ by Professor Parosha Chandran and Lumos are applicable and/or utilizing it as a reference point for analyzing current laws and proposals.
- Establishing extra-territorial jurisdiction, for all offenses involving sale of children, child trafficking and child exploitation, including slavery, servitude and forced labor.
- Ensuring trafficking, slavery, servitude and forced labor laws can be utilized to criminalize orphanage trafficking, including for the purpose of profit.
- Ensuring trafficking, slavery, servitude and forced labor laws include criminal liability for businesses as well as individual perpetrators of orphanage trafficking, in addition to the potential of extradition for individuals.
- Ensuring there are participatory offenses in domestic law enabling the criminalization of those who aid, abet and conspire to commit such offenses.
- Ensuring that no child or youth is prosecuted or punished for any unlawful act related to their trafficking or exploitation.
- Ensuring that child protection, law enforcement, prosecutors and judges receive targeted training enabling the effective detection, investigation, prosecution and conviction of individuals and businesses involved in orphanage trafficking.
- Enabling law enforcement to conduct cross-border investigations to identify perpetrators and crimes committed outside and within their jurisdiction, and to enable extradition requests when necessary.
- Ensuring that criminal and civil laws enable victims of orphanage trafficking to obtain reparations, including compensation, and that procedures exist to enable such compensation to be received by the victims if they are in the country of their origin.
- Introducing transparency in supply chain laws and/or due diligence laws with mandatory, enforceable reporting processes that require businesses to investigate and disclose whether there is any risk of orphanage trafficking or orphanage exploitation in their provision of goods and services.
- Issuing travel advice/travel warnings to discourage citizen participation in orphanage tourism.



- Instituting whole of government policies that make programs and projects in residential care facilities ineligible for funding, including but not limited to Overseas Development Aid.
- Making compliance with regulations on orphanage volunteering a condition for receiving government funding.
- Prohibiting orphanage tourism in government-led or sponsored community engagement activities.
- Developing criminal laws and regulations to prevent the on-line exploitation, abuse and commodification of children and youth in institutional care.
- Regulating the extraterritorial activities of domiciled not for profit and voluntourism sector entities that intersect with residential institutional care facilities to ensure child safeguarding.
- Capturing data that can inform the effectiveness of these actions.⁴¹
- Funding research on orphanage trafficking to enumerate the need and how it operates in the national context.

CASE STUDY: EVIDENCE-BASED INDICATORS OF ORPHANAGE TRAFFICKING

A first of its kind study conducted in Cambodia in 2022 found 68 out of 102 investigated cases of sexual or labor exploitation of children in residential care, met the criteria for orphanage trafficking.⁴² This likely represents only the tip of the iceberg in terms of the actual number of orphanage trafficking cases, due to underreporting, a narrow investigative focus on sexual exploitation and lack of awareness of profit as a purpose for orphanage trafficking criminalized under Cambodia's child trafficking offenses. In addition to an analysis of cases, the study produced the first set of evidence-based indicators of orphanage trafficking that can be used to enhance detection and victim identification. These indicators were integrated into social work case management tools to improve the identification of victims of orphanage trafficking. This tool was piloted in the context of the closure of several residential care institutions that were unregistered and the delivery of reintegration case management services to the children previously in care. By employing these strategies, legislators can play a vital role in combating orphanage trafficking and protecting vulnerable children from exploitation and abuse.

HOW CAN I LEARN MORE?

- Contact the Interparliamentary Taskforce on Human Trafficking at <https://taskforceonht.org/contact>.
- See the Thematic Brief on Voluntourism and Trafficking in Orphanages.
- Watch our brief summary video.
- Visit the following websites: The Better Care Network, Lumos, ReThink Orphanages, ECPAT International and The Code, or Global Volunteering Standards.



Thank you for your dedication and efforts to address the critical issue of orphanage trafficking. As world legislators, you hold the power to implement impactful changes that can protect vulnerable children from exploitation. We deeply appreciate your commitment to this cause and urge you to continue your advocacy, public education, and legislative endeavors. By working together and fostering international cooperation, we can create a safer and more just world for every child. Your leadership and action are essential in driving forward the solutions that will end orphanage trafficking and secure a brighter future for countless children. Thank you for your ongoing work and steadfast dedication to making a difference.

CONTRIBUTORS TO THIS GUIDE INCLUDE:

- Anne Basham, Founder & Chair of the Interparliamentary Taskforce on Human Trafficking
- Parosha Chandran, Barrister and Professor of Practice in Modern Slavery Law, King's College London
- Nick Evans, CEO, Co-Founder Hopeland
- Hon. Anne Musiwe, Special Rapporteur on Children Without Parental Care
- Rebecca Nhep, Senior Technical Advisor for the Better Care Network
- Dr. Kjersti Olson, Program Director for the Working Group on Orphanage Trafficking
- Senator Linda Reynolds, Member of Parliament, Australia
- Stephen Ucembe, Regional Advocacy Manager for Hope and Homes for Children - Lived Experience Expert
- Dr. Kate van Doore, Deputy Head of School, Griffith Law School

THIS PROJECT WAS MADE POSSIBLE BY THE GENEROUS SUPPORT OF:

- The Foundation United
- Dennis Baker, DM Baker Media



ENDNOTES

¹ Prevalence and number of children living in institutional care: global, regional, and country estimates, Desmond, Chris et al., *The Lancet Child & Adolescent Health*, Volume 4, Issue 5, 370 - 377

² Kathryn E van Doore, *Orphanage Trafficking in International Law* (2022, Cambridge University Press) 4.

³ Maud de Boer-Buquicchio, Report of the Special Rapporteur of the Human Rights Council on the sale of children, child prostitution and child pornography, UN Doc A/HRC/34/55 (22 December 2016): 16/25.

⁴ United States Department of State, *Trafficking in Persons Report 2017* (2017) 22.

⁵ Ibid.

⁶ Ibid.

⁷ *Status on the Convention on the Rights of the Child, Report of the Secretary General*, 74th sess, Provisional Agenda Item 68(a), UN Doc A/74/231 (26 July 2019) 9/17.

⁸ *Rights of the Child*, GA Res 74/133, UN GAOR, 74th sess, 50th plen mtg, Agenda Item 66(a), UN Doc A/Res/74/133 (20 January 2020), art 35 (t) A/74/395 <https://undocs.org/A/74/395>.

⁹ <https://www.nederlandwereldwijd.nl/reizen/vrijwilligerswerk-weeshuistoerisme-buitenland?>, <https://www.dfat.gov.au/people-to-people/volunteers/Pages/smart-volunteering>, <https://www.gov.uk/guidance/safer-adventure-travel-and-volunteering-overseas#volunteering>, <https://travel.state.gov/content/travel/en/international-travel/before-you-go/travelers-with-special-considerations/volunteering-abroad.html>

¹⁰ U.S Department of State, *Child Institutionalisation and Human Trafficking Fact Sheet*, (Report, US Department of State, 2018) <https://www.state.gov/child-institutionalization-and-human-trafficking/>

¹¹ ACNC, External Conduct Standards, Standard 4, <https://www.acnc.gov.au/for-charities/manage-your-charity/governance-hub/acnc-external-conduct-standards/external-conduct-2>

¹² ReThink Orphanages Australia, *Working with Children in Residential Care: Implications of the ACNC External Conduct Standards for Australian Charities*, (Report, ReThink Orphanages Australia, 2019).

¹³ Modern Slavery Act 2018 (Cth), Australia; Secretary of State for the Home Department, Independent Review of the Modern Slavery Act 2015 (Report, UK Home Department, 2019) 63; Commonwealth Government of Australia, Modern Slavery Act 2018: Guidance for reporting entities (Report, Commonwealth of Australia, 2019), 80.

¹⁴ Commonwealth Government of Australia, Modern Slavery Act 2018: Guidance for reporting entities, (2019) 80.

¹⁵ ECPAT, *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism*, (Report, ECPAT, 2016).

¹⁶ <https://thinkchildsafe.org/public-authorities/>

¹⁷ S Milne, E Thorburn, I Hermann, R Hopkins, & F Moscoso, *Voluntourism Best Practices: Promoting Inclusive Community-Based Sustainable Tourism Initiatives*, (Report, Asia-Pacific Economic Cooperation, 2018).

¹⁸ ECPAT, Legal Checklist, <https://ecpat.org/resource/legal-checklist-key-legal-interventions-to-protect-children-from-sexual-exploitation-in-travel-and-tourism/>

¹⁹ Chris Desmond et al., "Prevalence and number of children living in institutional care: global, regional, and country estimates," *The Lancet Child & Adolescent Health* 4(5) (2020) 370.

²⁰ The disparity in estimates is due to some governments not knowing how many orphanages are in their country, or the number of children living in them, despite having legislative and policy frameworks that require orphanages to register or seek authorisation to operate as a residential care centre for children: John Williamson and Aaron Greenberg, *Families, not orphanages* (Better Care Network, 2010) 3.

²¹ https://www.thinkchildsafe.org/thinkbeforevisiting/resources/STC_keeping_children_out_of_institutions_why_we_should_invest_in_family_based_care.pdf

²² Manfred Nowak, Report of the Independent Expert leading the United Nations Global Study on Children *Deprived of Liberty*, UN Doc A/74/136 (2019) 13/23.

²³ Marinus H. van Ijzendoorn et al., "Institutionalisation and deinstitutionalisation of children 1: a systematic and integrative review of evidence regarding effects on development," *The Lancet Psychiatry* 7(8) (2020) 706.

- ²⁴ Lumos. (2021). *Cycles of Exploitation: The links between children's institutions and human trafficking*, London. We Are Lumos.
- ²⁵ Ladaphongphatthana, K., Lillicrap, A., & Thanapanyaworakun, W. (2022). *Counting every child, identifying over 120,000 children in residential care in Thailand*. Manuscript in the publication process; Ministry of Social Affairs, Veterans and Youth Rehabilitation (2017). Mapping of the Residential Care Facilities in the Capital and 24 Provinces, Feb 2017, Phnom Penh. UNICEF. (2019) *The enactment of the new Child Rights Law by the Government of Myanmar a landmark step*. Available at: <https://www.unicef.org/myanmar/press-releases/enactment-new-child-rights-law-government-myanmar-landmark-step-unicef> (Accessed: 3 March 2023); Department of Social Welfare and UNICEF (2011) *Situation of Children in Residential Care Facilities in Myanmar*. Yangon. Carolyn Adrien, "FOLLOWING THE MONEY: THE RELATIONSHIP BETWEEN PRIVATE AID, ORPHANAGE PREVALENCE, AND CHILD OUT-FOSTERING IN HAITI." (2023); Kwabena Frimpong-Manso, "Funding orphanages on donations and gifts: Implications for orphans in Ghana," *New ideas in Psychology* 60 (2021); Chinwe U Nnama-Okechukwu and Uzoma O Okoye, "Rethinking institutional care using family-based alternative child care system for orphans and vulnerable children in Nigeria," *Journal of Social Work in Developing Societies* 1, no. 3 (2019).
- ²⁶ Better Care Network, *Orphanage Tourism Research* (Report, Better Care Network, 2018).
- ²⁷ Tess Guiney, 'Orphanage Tourism' in Cambodia: When Residential Care Centres Become Tourist Attractions', (2012) *Pacific News* 9.
- ²⁸ Tess Guiney and Mary Mostafanezhad, "The political economy of orphanage tourism in Cambodia," *Tourist Studies* 15(2) (2015) 141.
- ²⁹ Barna Group, Residential Care: US Christian Giving and Missions (Report, Barna Group, 2021) In APEC countries, 79% of all volunteering with children takes place in residential care settings. S Milne, E Thorburn, I Hermann, R Hopkins, & F Moscoso, *Voluntourism Best Practices: Promoting Inclusive Community-Based Sustainable Tourism Initiatives*, (Report, Asia-Pacific Economic Cooperation, 2018).
- ³⁰ Orphanage tourism has been linked to child sexual exploitation in travel and tourism, with situational and preferential offenders gaining access to vulnerable children through volunteer placements in residential care settings.
- ³¹ Hannah Reid, 'Orphanage Tourism and the Convention on the Rights of the Child', in Joseph Cheer et al, *Modern Day Slavery and Orphanage Tourism* (CABI, 2019).
- ³² DIRECTIVE (EU) 2024/1712 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401712
- ³³ DIRECTIVE (EU) 2024/1712 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401712
- ³⁴ https://bettercarenetwork.org/sites/default/files/2023-08/about_orphanage_trafficking_descriptions_and_indicators_generic_final.pdf
- ³⁵ The following recommendations are taken from Kathryn E van Doore and Rebecca Nhep (2023) 'Orphanage Trafficking and the Sustainable Development Goals', 10(1) *Institutionalised Children Explorations and Beyond* 76-84.
- ³⁶ Appendix 2, page 101, https://lumos.contentfiles.net/media/documents/document/2021/12/LUMOS_Cycles_of_exploitation.pdf
- ³⁷ <https://www.mekongmigration.org/wp-content/uploads/2008/05/PDF500KB.pdf>
- ³⁸ DIRECTIVE (EU) 2024/1712 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401712
- ³⁹ See Annexure 2: Kathryn E van Doore & Rebecca Nhep, *The Legal Framework of Orphanage Trafficking in Cambodia, Nepal and Uganda: Summary Report* (Report, Law Futures Centre & Better Care Network, 2022).
- ⁴⁰ Appendix 2, page 101, https://lumos.contentfiles.net/media/documents/document/2021/12/LUMOS_Cycles_of_exploitation.pdf
- ⁴¹ DIRECTIVE (EU) 2024/1712 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401712
- ⁴² Rebecca Nhep & Kathryn E van Doore, *The Legal Framework of Orphanage Trafficking in Cambodia* (Report, Law Futures Centre & Better Care Network, 2022).





INTERPARLIAMENTARY TASKFORCE
ON HUMAN TRAFFICKING