

C/59/D/606/2014 (Nov. 15, 2016).

39 International Covenant on Civil and Political Rights arts. 21–22, Dec. 16, 1966, 999 U.N.T.S. 171. 40 International Covenant on Economic, Social and Cultural Rights art. 8, Dec. 16, 1966, 993 U.N.T.S. 3.

41 Freedom in the World 2018: Western Sahara, §§ E, G, FREEDOM HOUSE (2018), <https://freedomhouse.org/country/western-sahara/freedom-world/2018>.

42 Yaiza Martín-Fradejas, ‘I’m Being Attacked for Being a Journalist’: Morocco Criticized over Press Freedom in Western Sahara (Nov. 7, 2019), <https://www.euronews.com/2019/07/11/i-m-being-attacked-for-being-a-journalist-morocco-criticised-over-press-freedom-in-wester>.

43 Riot Police Block Demonstrators During a Job Protest After Two Miners Died While Working in a Clandestine Coal Mine, in Jerada, Morocco, HUMAN RIGHTS WATCH (Dec. 27, 2017), <https://www.hrw.org/world-report/2019/country-chapters/morocco/western-sahara>.

44 Public Statement: UN Must Monitor Human Rights in Western Sahara and Sahrawi Refugee Camps, AMNESTY INTERNATIONAL (Oct. 10, 2018), <https://www.amnesty.org/download/Documents/MDE2992252018ENGLISH.pdf>.

45 Democracy Now!, supra note 36.

46 Human Rights Watch, supra note 18.

47 Amnesty International, supra note 44.

48 Amnesty International, supra note 44.

49 Office of the UN High Commissioner for Human Rights, Report of the OHCHR Mission to Western Sahara and the Refugee Camps in Tindouf, Sept. 8, 2006, <http://www.arso.org/OHCHR-rep2006en.pdf>.

The Link Between Tourism and Child Abuse in Cambodian ‘Orphanages’

by Madison Bingle

In February 2019, the U.S. Attorney’s Office in Oregon sentenced Daniel Stephen Johnson to a lifetime in prison for repeatedly sexually abusing children in an unlicensed orphanage that he operated under the guise of a missionary in Cambodia.[1] This case is one of many, and exemplifies the pressing need for the implementation of comprehensive protective policies to safeguard children living in Cambodian orphanages.

The link between child abuse in Cambodian orphanages and tourism is a complex issue stemming from Cambodia’s recent history of war and genocide. In 1992, the United Nations Transitional Authority in Cambodia (UNTAC) and many foreign NGOs entered the country in an effort to aid in Cambodia’s

reconstruction.[2] In the process, UNTAC and NGOs expanded the market for Western tourism, as well as highlighted the vulnerabilities of Cambodian people during the post-genocide era.[3] However, as tourists began flocking to Cambodia’s historical memorials and ancient temples, the country also drew two other types of tourists — those looking to volunteer, and those looking to engage in sex tourism.[4] More specifically, “orphanage tourism” became a tourist commodity in Cambodia.[5] While orphanage tourism and sex tourism are different, the prevalence of sex tourism in Cambodia and orphanage tourism has significant overlap.[6] Rising tourism rates coincided with increasing amounts of children living in residential care institutions, commonly known as orphanages.[7] Children in these facilities are particularly vulnerable to abuse and exploitation.[8]

According to UNICEF estimates, the number of orphans decreased substantially between 2009 and 2014.[9] Despite there being fewer orphans, the number of orphanages and children living in orphanages has doubled.[10] In 2005, there were approximately 150 orphanages, and in 2019, there were over 400.[11] Additionally, an inspection by the Cambodian government revealed that out of the 16,000 Cambodian children housed in orphanages, 68 percent have at least one living parent.[12] The problem became so great that UNICEF began referring to so-called orphanages as residential living institutions.[13] Many low income families are persuaded by institution directors to place their children in residential care facilities, thinking that their children will have better lives there, with access to food, education, and medical care.[14] But, the reality is that many children in residential care institutions are subjected to abuse and neglect.[15] Some institutions force children to make handicrafts or force them to perform dances for visiting tourists — making these institutions the means of a type of modern slavery.[16] Thus, the demand for this type of tourism led to an increased number of children in residential care institutions who are significantly more likely to be exposed to physical and sexual abuse, as well as deliberate under-nourishment to solicit more donations.[17]

Cambodia has ratified the UN Convention on the Rights of the Child.[18] Article 20 states that children displaced from their family units “shall be entitled to special protection and assistance provided by the

State.”[19] Additionally, Articles 34 and 39 protect children from physical and sexual abuse and mandate special assistance if exposed to violence.[20] Furthermore, in the 2015 Méndez Report, UN Special Rapporteur on Torture, Juan E. Méndez, illuminated the need to recognize orphanages and residential care facilities as detention centers under international law. [21] In this report, a State party to the UN Convention against Torture (CAT) must ensure specific standards to protect people from torture.[22] As a ratified member of the CAT, Cambodia has duties under Article 11, which requires that detention centers are kept under systematic review by the State. The Mendez Report elaborates that states have an obligation to “prevent torture or other ill-treatment of children, together with their rights to liberty and family life, through legislation, policies, and practices that allow children to remain with family members or guardians in a non-custodial, community-based context.”[23]

As a party to the Convention on the Rights of the Child, the Cambodian government has made significant efforts to comply with the treaty, and it has implemented an Action Plan for Improving Child Care.[24] In 2015, the government initiated the Sub-Decree on the Management of Residential Care Centers, which attempts to map and ultimately regulate the residential care institutions across the country.[25] Additionally, they have introduced a reintegration program working with NGOs, such as the Cambodian Child’s Trust, to provide resources to families who are reintegrating children back into their homes.[26] Since 2015, Cambodia has reduced the number of residential care institutions by 35 percent, and the number of children living in these institutions has decreased by 54 percent. [27] While these numbers are promising, the continued allowance of orphanage tourism and the overall lack of comprehensive legislation fails to adequately protect children in Cambodia.[28] Likewise, Cambodia has failed to provide a network of social workers to aid in rehabilitation efforts for children who have been abused while living in these institutions.[29] Attempting to draw attention to its own citizens’ role in perpetuating the social issue in Cambodia, Australia is the first country to implement legislation identifying the practice of short-term volunteering in orphanages as a form of modern slavery.[30] While this recognition of the issue may impact internal guilt that foreign citizens have in the harming of Cambodian children, the policy has yet to stop other countries from allowing its

citizens to partake in volunteer tourism.[31]

The link between child abuse in Cambodian orphanages and tourism is often overlooked by the good intentions of those volunteering. However, the nature of Cambodia’s tourism, paired with lacking legislative components to protect children in residential care institutions is a violation of the UN Convention on the Rights of the Child — specifically specifically a child’s right to a family and the right to integrate into the community.[32] It also violates obligations under the UN Convention against Torture, under Article 11.[33] The efforts of the Cambodian government to prevent the institutionalization of children as a result of tourism is increasing; however, it still needs to implement policies that prevent unlicensed orphanages and untrained volunteers from working with children to be compliant with its international legal obligations under these two conventions. Finally, the role that foreign governments play in their citizens perpetuating the institutionalization of children in Cambodia must be recognized on a global scale.

1 Oregon Man Gets Life in Prison for Sexually Abusing Kids at Orphanage in Cambodia, *The Cambodia Daily*, (Feb. 2, 2019), <https://english.cambodiadaily.com/crime/oregon-man-gets-life-in-prison-for-sexually-abusing-kids-at-orphanage-in-cambodia-145238/>; Oregon Man Found Guilty of Sexually Abusing Children at Orphanage in Cambodia, Dep’t of Just. U.S. Attn’y Office D. Or., (May 16, 2018), <https://www.justice.gov/usao-or/pr/oregon-man-found-guilty-sexually-abusing-children-orphanage-cambodia>.

2 Naranhkiri Tith, *The Challenge of Sustainable Economic Growth and Development in Cambodia*, in *Cambodia and the International Community: The Quest for Peace, Development, and Democracy* (Frederick Z. Brown & David G. Timberman eds. 2000), http://library.law.columbia.edu/urlmirror/CJAL/14C-JAL235/ass02_d.html; Susan Rosas, *Sex Trafficking in Cambodia as a Complex Humanitarian Emergency*, *U. Chi. Advocates Forum* (2011), <https://www.ssa.uchicago.edu/student-journal-advocates-forum>.

3 Fred de Sam Lazaro, *Why Cambodian Orphanages House so Many Children Whose Parents are Still Alive*, *PBS News Hour*, (Oct, 24, 2019), <https://www.pbs.org/newshour/show/why-cambodian-orphanages-house-so-many-children-whose-parents-are-still-alive>; Rosas, *supra* note 3.

4 Rosas, *supra* note 3.

5 Tess Guiney, *Orphanage Tourism in Cambodia: The Complexities of “Doing Good” in Popular Humanitarianism*, (June 2015) (unpublished Ph.D. dissertation, University of Otago, Dunedin) <https://pdfs.semanticscholar.org/704c/4d0252e34b5bced99c3bd-7d8659c22da21e9.pdf>.

6 *Id.*

7 de Sam Lazaro, *supra* note 4.

8 Eric Rosenthal, A Mandate to End Placement of Children in Institutions and Orphanages, in Protection Children against Torture in Detention: Global Solutions for a Global Problem, Am. U. Wash.C. L. Ant-Torture Initiative, (Nov. 16, 2018), <https://www.driadvocacy.org/wp-content/uploads/Rosenthal-Torture-seg-Feb16.pdf>.

9 A Statistical Profile of Child Protection in Cambodia, Unicef, (2019), https://www.unicef.org/cambodia/media/711/file/Cambodia_Report_Final_web_ready_HIGH.pdf%20.pdf.

10 Juliana Ruhfus, Cambodia's Orphan Business, Aljazeera, (June 27, 2012), <https://www.aljazeera.com/programmes/peopleandpower/2012/05/201252243030438171.html>.

11 de Sam Lazaro, supra note 4.

12 Id.; Child Protection, UNICEF Cambodia, (Aug. 2019), <https://www.unicef.org/cambodia/reports/child-protection>.

13 Buthdy Sem, Escaping the Misery of Orphanage Life, UNICEF Cambodia, (June 4, 2019), <https://www.unicef.org/cambodia/stories/escaping-misery-orphanage-life>.

14 de Sam Lazaro, supra note 4; James Farley, Potential Short-Term International Volunteers; Perception of Children's Residential Care in Cambodia, Friends-International, (2015), <https://www.thinkchildsafe.org/thinkbefore donating/wp-content/uploads/Voluntourist-Perceptions-Research.pdf>; Christopher Knaus, The Race to Rescue Cambodian Children From Orphanages Exploiting Them for Profit, The Guardian (Aug. 18, 2017), <https://www.theguardian.com/world/2017/aug/19/the-race-to-rescue-cambodian-children-from-orphanages-exploiting-them-for-profit>.

15 de Sam Lazaro, supra note 4.

16 Claire Bennett, Australia Oulawing Orphanage Tourism Goes Only Part of the Way, The Globe Post, (Dec. 6, 2018), <https://theglobepost.com/2018/12/06/australia-orphanage-tourism/>.

17 Id.

18 Convention on the Rights of a Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

19 Convention on the Rights of a Child, Art. 20, 1989, 1577 U.N.T.S. 3.

20 Convention on the Rights of a Child, Art. 34, 1989, 1577 U.N.T.S. 3.; Convention on the Rights of a Child, Art. 39, 1989, 1577 U.N.T.S. 3.

21 Rosenthal, supra note 9.

22 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N. T. S. 85.

23 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 11, 1984, 1465 U.N. T. S. 85; Rosenthal, supra note 9.

24 Child Protection, supra note 13.

25 Id.

26 de Sam Lazaro, supra note 4.

27 Child Protection, supra note 13.

28 Id.

29 Id.

30 Orphanage Trafficking, Inquiry into Establishing a Modern Slavery Act in Australia, Parliament of Austl. (last visited Mar. 28, 2019). https://www.apf.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report/section?id=committees%2Freport-jnt%2F024102%2F25036.

31 Australia says orphanage trafficking is modern-day slav-

ery, BBC News, (Nov. 29, 2018), <https://www.bbc.com/news/world-australia-46390627>.

32 Convention on the Rights of a Child, Nov. 20, 1989, 1577 U.N.T.S. 3; Eric Rosenthal, The Right of All Children to Grow Up with a Family under International Law: Implications for Placement in Orphanages, Residential Care, and Group Homes, 25 Buff. Hum. Rts. L. Rev. 101 (2019).

33 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Art. 11, 1984, 1465 U.N. T. S. 85; Rosenthal, supra note 9.



PHOTO OF CAMBODIAN CHILDREN OUTSIDE THE KHMER LITERACY SCHOOL VIA WIKIMEDIA COMMONS USER CAMBODIA4KIDS, LICENSED UNDER CC-BY-2.0

Indonesian Government Proposes Legislation Attacking Anti-Corruption Agency, Brutally Cracks Down on Student Protesters

by Hailey Ferguson

Anti-corruption protests have been a growing trend around the world as citizens increasingly are rising up to oppose government activity that has led to systemic and endemic corruption. In the past two months, Indonesian students have led peaceful protests op-