**Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material**

**Inputs from OHCHR Cambodia**

**Identity, origins and parentage**

* **Provide information on existing laws, regulations or practices for the establishment, recognition and contestation of legal parentage. Indicate specifically how the best interests of the child are factored in.**

In June 2017, the National Committee for Counter Trafficking (NCCT) issued a guideline on the methodology and procedure for intended parents to request that the child born from surrogacy be raised abroad by filing an application at the Cambodian Court, through their own embassy or consulate based in Cambodia. This measure was effective until January 2018.

**Sale of children**

* **Provide information on the laws prohibiting the sale and trafficking of children as well as corresponding implementation measures. Note whether and how such general safeguards against the sale and trafficking of children apply in the context of surrogacy arrangements.**

The Law on Suppression of Human Trafficking and Sexual Exploitation aims to suppress acts of human trafficking and sexual exploitation. Article 16 on the act of selling, buying or exchanging of human being for cross-border transfer has been used in two criminal cases against surrogate women. In addition, article 332 of the Criminal Code on intermediary between an adoptive parent and pregnant women has been used in the first surrogacy case against three intermediaries. The National Committee for Counter Trafficking (NCCT) is a national mechanism that gathers information and coordinates the work of ministries, institutions, national and international NGOs, the private sector, and other stakeholders to collaborate in combating human trafficking.

* **Describe any safeguards against the sale of children and child trafficking specifically created for surrogacy arrangements.**

No specific safeguards have been created.

* **Comment on the adequacy of current safeguards against the sale of children and child trafficking in the context of surrogacy arrangements.**

The Ministry of Health and the Ministry of Justice issued directives banning surrogacy in October and November 2016, respectively. Later, the first draft law on surrogacy was prepared by the Ministry of Women’s Affairs in August 2017 upon instructions by the Prime Minister. In July 2017, the Ministry of Interior issued a Guideline for babies born to surrogate mother requiring presenting the child to a consulate every year. The second draft law on surrogacy was finalized by the Ministry of Justice in March 2018. Until now, the draft law is still being debated at the inter-ministerial level.

* **Note situations and provide data, if any, where a lack of safeguards have allowed or unduly risked violations of these norms in the context of surrogacy arrangements.**

There are two criminal cases against surrogate women currently under investigation in Cambodia. The cases involve 43 surrogate women who were charged with selling, buying or exchanging of human being for cross-border transfer according to article 16 of the Law on Suppression of Human Trafficking and Sexual Exploitation. In the first case, 32 surrogate women were arrested, detained and released on bail months after their initial arrest. The majority of women gave birth while in detention at a police hospital, where the children remained in inadequate conditions, such as not having adequate access to fresh air. The women were released on bail after five months in pre-trial detention on the condition that they keep and raise the children and that they present them to their local police station every month. In a separate case, 11 surrogate women were in detention in Correctional Center 2, which has a large rate of overcrowding since their arrest in November 2018. They were also released on bail under judicial supervision in April 2019. Some of the intended parents have seen the children, while others’ attempts have been unsuccessful. The situation remains uncertain for the children, the surrogate women and the intended parents. After the ban in late 2016, the authorities allowed for a “humanitarian window” to allow children who were born after the ban to be adopted by the intended parents. Although the authorities have stated that this will not be the case for the children born to these 43 women, it is unclear whether it might still be a possibility.

* **Note the number and types of cases where safeguards against the sale of children have been used in criminal cases in the context of surrogacy arrangements.**

There are two criminal cases against surrogate women currently under investigation in Cambodia. They involve 43 women. All these 43 surrogate women were released on bail under judicial supervision. Nine alleged ringleaders were arrested and charged, while an additional three were charged in absentia. Additionally, three people were convicted in 2017 on charges of acting as an intermediary in case of adoption or abandonment and fraudulent request for document, under articles 331 and 632 of the Criminal Code, respectively.

**Data**

* **Indicate if surrogacy arrangements are legal in your State and if so how many occur every year.**

Surrogacy is banned in Cambodia.

* **For countries where surrogacy is permitted, please indicate the number of cases, if any, of contract breaches or of refusal to transfer the child.**

N/A

* **Indicate if intermediaries facilitating surrogacy arrangements must be registered and, if so, how many are registered in your State.**

N/A

* **For countries where surrogacy is prohibited, please indicate the number of cases, on an annual basis, where nationals have made a surrogacy arrangement abroad and have returned to their country of origin with the surrogate-born child.**

No information available.

* **Following on the previous question, please indicate under which circumstances authorities have allowed their nationals to bring the child born from a surrogacy arrangement back into their country of origin and if so please indicate which ones (e.g. domestic parenting orders, judgements, best interests of the child determinations, etc.), and how often they have been used.**

In June 2017, the National Committee for Counter Trafficking (NCCT) issued a guideline on the methodology and procedure for intended parents to request that the child born from surrogacy be raised abroad by filing an application at the Cambodian Court, through their own embassy or consulate based in Cambodia. This measure was effective until January 2018.

* **Lastly, in the same context, please indicate how many cases have led to the non-recognition of parentage orders established in the State where the surrogacy arrangement occurred.**

No information available.