



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

425 I Street NW
Washington, DC 20536

February 7, 2002

Dear Prospective Adoptive Parents:

In December 2001, after much thought and with great reluctance, I made the decision to suspend the processing of Cambodian orphan petitions. This was an especially difficult decision because I understand the many roads, often filled with heartbreak and heartache, so many of you have traveled leading you to pursue international adoption. As a parent, I can also understand the joy felt by those of you who have finally been matched with a child.

I want to relate to you one of the many real life reasons for my decision. In September 2001, we received reports of two Cambodian children -- one four days old and the other six months old -- who were abducted from their birth mothers earlier in the year by an organization claiming to assist widows and orphans. The birth mothers contacted a non-governmental organization seeking assistance to locate their missing babies. INS officers discovered that one of the children had been matched for adoption with a U.S. family in a case that was pending at the U.S. Embassy in Phnom Penh. Although the Cambodian Government already had given permission for this child to be adopted, the supporting documentation -- birth certificate, certificate of abandonment, certificate of orphan status, and biography of the alleged abandoned child -- was false. Both children have now been returned to their birth mothers.

Further investigation led to the discovery of questionable documentation in a number of other cases. We have a moral and legal obligation to ensure that no other Cambodian children, who are being offered for adoption by American families, are in a similar situation. While I know it is difficult to see a child living in an institutionalized setting, there are some situations where a child is temporarily displaced and not an orphan without parents or family. INS' responsibility to determine that a child is truly an orphan must not be tainted by any action that results in the exploitation of innocent children by separating them from their biological families as a result of fraud, trafficking in human beings or other criminal activity. While some may perceive this as bureaucratic, these requirements are mandated by law and ensure that the rights of the adoptive child, natural parents, and prospective adoptive parents are protected.

United States immigration law requires a petitioner to establish that a child meets a very specific legal definition of "orphan" before an adoption petition is approved. Unfortunately, because there is no systematic record keeping and because of questionable documentation in Cambodia, we are unable, in many cases, to make that determination with a reasonable degree of certainty. In some cases, we are required to undertake field investigations in an effort to establish the facts. You should know that, on occasion, our field investigators have been personally threatened when they have attempted to develop information in certain cases.

It is imperative that we establish a child's true legal status and identity and that we protect American families from being defrauded or unknowingly participating in an adoption where the child is not a true orphan. In order to bring that about, I am undertaking several initiatives to improve and strengthen the integrity of the adoption program. In particular, INS and the Department of State are working with the Cambodian Government to establish an adoption process that will protect the interest of the Cambodian people and prospective adoptive parents. Although we cannot force the Cambodian government to correct the problems with its process or to rid its adoption system of practices that are abhorrent to all civilized people, we can and will make sure that our processes do not cause American families to unknowingly find themselves in the emotionally-wrenching position in which some families have found or now find themselves. I have dedicated substantial additional INS resources to resolve this issue as expeditiously as possible.

I hope you will understand and agree that until the Government of Cambodia puts in place a transparent, regularized, and consistent adoption process, the processing of Cambodian orphan petitions for immigration to the United States must remain suspended. This is necessary to protect the rights of all parties, most importantly, the children. I assure you that all of us at INS, both here in the United States and overseas, are working literally day and night to bring this situation to an honorable and joyful conclusion.

Sincerely,

James W. Ziglar
Commissioner