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Intercountry Adoption

Policies, Practices, and Outcomes

Edited by
JUDITH L. GIBBONS
Saint Louis University, USA
and
KAREN SMITH ROTABI
Virginia Commonwealth University, USA

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Chapter 4

Human Rights Considerations in Intercountry Adoption: The Children and Families of Cambodia and Marshall Islands

Jini L. Roby and Trish Maskew[1]

Intercountry adoption is often viewed as an act of international charity, with families in wealthy receiving countries accepting orphaned children from poor countries of origin into their homes as permanent members of the family (Freundlich, 1998; Sargent, 2003). The adoptive family thus gets its wish for more children, and needy children are provided with a permanent family through the professional assistance of an altruistic adoption agency—an idyllic scenario in which everyone's needs and wishes are fulfilled (Bartholet, 2007). However, this simplistic and benevolent view has been challenged by recent developments and raised awareness about the complexity of the issues, leading to a burgeoning discourse on human rights in the intercountry adoption process (Oreskovic and Maskew, 2008).

In this chapter, we examine major human rights concepts as they relate to intercountry adoption, and how they play out on the ground. First we will review the state of the academic discourse on human rights and intercountry adoption. Next, we will highlight the most pertinent human rights concepts implicated in intercountry adoptions and link them to the provisions of various human rights instruments. We will then discuss adoption-related human rights challenges in two case studies—Cambodia and the Republic of Marshall Islands—and review selected solutions that have been applied or proposed in their specific social and cultural contexts.

Discourse on Human Rights as Applied to Intercountry Adoption

Human rights discourse in the literature regarding intercountry adoption has been brewing for several decades (e.g., Melone, 1976); however, the discussion took

1 This chapter is based, in part, on Roby, J.L. and Ife, J. (2009). Human rights, politics and intercountry adoption: An examination of two sending countries. *International Social Work*, 52, 661-71. © Sage.

on greater urgency in the mid-1990s. In the absence of unified agreement on the definition of human rights as applied to the intercountry adoption context—whose human rights are implicated or how these rights should be considered within the intercountry adoption process—conceptualization of common themes and analyses are still in their infancy.

Many intercountry adoption human rights discussions focus on the rights of the child. Dillon (2003), for example, argues that leading international instruments guiding intercountry adoption do not go far enough in providing a child's right to a permanent family, particularly when children languish in institutions. Bartholet argues that a child's right to a family should override all other concerns, particularly the interests of the group (2000) or a low-resource country's sovereign right to refuse adoption, and that more autonomy should be given to private entities conducting such adoptions (2007). Oreskovic and Maskew (2008) have countered that there is insufficient evidence of how many children are truly without parental care, whether the current ICA legal regime assists those most in need, and whether the right of children to be raised by their biological families is being abused. Smolin (2004) and Maskew (2004) have criticized dynamics in intercountry adoption that resemble child trafficking, such as child-buying and exploitation of poor birth families. Roby (2007) traces the development of the child's rights in the intercountry adoption experience, and points out gaps in protection.

Some authors have focused on the human rights of birth parents, particularly birth mothers. Herrmann and Kasper (1992) stress that care must be taken to avoid exploitation of poor women in developing countries when carrying out adoptions. Perry (1998, 2006) has applied a gendered power construct to intercountry adoptions, as well as one of racial power inequality. Roby and Matsumura (2002), have reported that 83 percent of the birth mothers they interviewed in the Marshall Islands relinquished their children under a misunderstanding regarding the permanency of intercountry adoption—a flagrant violation of their right to give informed consent. Manley (2006) has characterized birthmothers as the "forgotten members of the adoption triad" (p. 627).

At the macro level, Melone (1976), Freundlich (1998) and others (Hollingsworth, 2003; Triseliotis, Shireman, and Hundleby, 1997) have cautioned that intercountry adoption may be a form of exploitation of poor countries by wealthy receiving countries. Breuning and Ishiyama (2009) have found a statistically significant correlation between the trade relationship of the countries of origin and receiving countries and intercountry adoption policy. Bergquist (2009) has questioned the motives of a powerful country in 'rescuing' the children of a country experiencing a natural disaster or political crisis (see Chapter 3). Roby and Ife (2009) examine human rights violations in context of political dynamics that influence national adoption policies in the countries of origin.

Human rights concepts, coupled with scientific research related to the harmful effects of institutional care and the benefits of family-based care (Nelson, et al., 2007; Ryan and Groza, 2004), have contributed to the development of international instruments related to the care of children including intercountry adoption as one

option on the continuum of care. In the next section, we review human rights protected under leading international instruments.

Human Rights Concepts Embodied in Relevant International Instruments

Several widely ratified international instruments address human rights in intercountry adoption. A brief summary of the leading instruments follows. While one should use caution when utilizing these international instruments in the effort to define and apply human rights (Dillon, 2003), it often becomes necessary to rely on them in the absence of other agreed upon standards (Roby and Ife, 2009).

The United Nations Convention on the Rights of the Child (CRC):

Concluded in 1990 and ratified by all but two members of the United Nations (Somalia and the USA), the CRC is the most widely agreed upon instrument articulating the rights of children (United Nations Treaty Collection, 2011a). Among other rights, the CRC affords children involved in intercountry adoption the right:

- to grow up in a family environment (preamble 6);
- to identity, name and family relationships without undue interference (Art. 8);
- to know and be cared for by their parents (Art. 7);
- to not be separated from their family without judicial review (Art. 9), and when separation is necessary to serve the child's best interest, to be cared for in a suitable alternative care environment including foster care, Islamic *kafala*, and adoption (Art. 20), with priority given to domestic placements (Art. 21);
- to a determination of child's best interest as the paramount consideration (Art. 21);
- to the services of competent authorities in the adoption process (Art. 21);
- to safeguards and standards equivalent to national adoption (Art. 21);
- to not be the subject of improper financial gain (Art. 21); and
- to an opportunity to express their view in administrative or judicial matters concerning themselves and to have these given proper weight (Art. 12).

The CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography ("Protocol on Sale of Children")

This instrument, concluded in 2002, has been ratified by 143 countries including the USA. Specific to intercountry adoption, the instrument furthers the purposes of several articles of the CRC including Article 21—the major source of substantive rights for children involved in intercountry adoption (United Nations Treaty

Collection, 2011b). It defines 'sale of children' as "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration" (Art 2.a), and mandates signatory States to criminalize the improper inducement of consent for the adoption (Art. 3.1.a.ii).

Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption ("the Hague Convention")

This convention, concluded in 1993, has been ratified by over 80 countries, both members and non-members of the Hague Conference on Private International Law. The Convention has the dual purpose of protecting participants in the adoption process and creating a framework for cooperation between sending and receiving countries. For children involved in intercountry adoption, the Hague Convention reinforces many of the rights provided under the CRC, as well as additional procedural rights such as the right:

- to a best interest determination (Art. 4a);
- to a determination of adoptability, based on legal availability, consideration of the child's ethnic, religious, and cultural background, family and social environment, and any special needs (Art. 16);
- to a determination on the availability of domestic placements before intercountry adoption is considered—known as the "subsidiarity principle" (Art. 4b);
- if of appropriate age and maturity, to be counseled and duly informed of the effects of adoption, to express his or her opinion about the adoption, and to give informed and voluntary consent in writing without inducement (Art. 4d); and
- to enjoy the full legal rights as a child of the adoptive parents (Art. 26)

The Hague Convention also provides procedural rights to parents and guardians whose consent is necessary in intercountry adoption. These include the right:

- to be counseled before giving consent, particularly as to the legal impact on the parent-child relationship, (Art. 4c(1));
- to give free and informed consent in writing (Art. 4c(2)),without inducement of payment or compensation of any kind (Art. 4c(3));
- of the mother not to give consent before the child is born (Art. 4c(4));

Case Studies: Cambodia and the Marshall Islands

In this section we examine the experiences of two sending countries: Cambodia and the Republic of Marshall Islands (RMI) in relation to human rights issues in intercountry adoption. We were each involved in the legislative process in these two countries and observed first hand much of what is reported here. These case studies provide comparisons and contrasts of how market forces, when left unregulated, violated fundamental human rights, demonstrate the struggle to cope with such forces, and describe the attempts made to incorporate human rights standards into their national policies.

Cambodia

Cambodia is a small southeast Asian country with about 14.7 million inhabitants (Central Intelligence Agency, 2011). It is impossible to separate a discussion of Cambodian adoption from the historical and political context of the country at large. Following a period of war, genocide, and extended internal conflict, Cambodia has enjoyed fewer than 15 years of relative peace and stability (January, 2007). The wounds of the recent history are still fresh, and many Cambodians live a hardscrabble existence. Much of the educated class was eliminated during the Pol Pot regime, and the effect of those years is still evident in governmental and educational structures as they struggle with the overwhelming challenges to establish a functional political infrastructure, educate their citizenry, and push forward with economic development.

Cambodian adoptions have been plagued by allegations of human rights abuses from their inception (Schuster Institute for Investigative Journalism, n.d.). Intercountry adoption began in Cambodia in the early 1990s with a handful of children being adopted into the USA each year, followed by rising numbers in the mid-1990s (Australian Intercountry Adoption Network, n.d.). In 2000, concerns about irregularities and lax procedures led to a shutdown of international adoptions to allow Cambodia to enact new rules governing adoptions. In March 2001, the Cambodian government issued a sub-decree, a document similar to a governmental agency policy, on intercountry adoption. With the new sub-decree, which outlined a brief and simple adoption proceeding for children as young as three months old, the number of families seeking to adopt children from Cambodia rapidly escalated. This rise coincided with two important developments—the closure or slowdown of other countries popular with adopting families, and an increase in the number of adoption 'facilitators' operating orphanages and adoption programs.

Within a few months of the announcement of the sub-decree, hundreds of applications poured into Cambodia, which quickly developed a reputation for fast adoptions of very young infants. The rapid increase in demand, coupled with the absence of appropriate government oversight and endemic corruption, led to rumors of profiteering and illegal adoption. In September 2001, two birth mothers approached a human rights organization seeking assistance because they had been prevented from retrieving children they had temporary placed in the custody of an orphanage. One of the children was found in the custody of a facilitator operating an orphanage and international adoption program. The child had been given a new identity and false paperwork had been prepared. He had already been adopted by American parents in Cambodia, and was days away from obtaining

a visa to enter the USA (Detailed summary of Cambodian adoption contained in Oreskovic and Maskew, 2008). The USA government closed adoption from Cambodia in December, 2001 with several other countries following suit in rapid succession. Subsequent investigations detailed numerous human rights abuses. An investigation by the USA government found evidence of a network of "child-finders" who moved children through the system, with each person in the chain being paid for their services. Payments to birth families were documented (Cross, 2005). Moreover, high ranking officials were implicated in the schemes (Oreskovic and Maskew, 2008).

Though many considered it likely, given the country's history, that there were tens of thousands of orphaned children needing adoptive parents in Cambodia and that closing adoptions would cause the number of children in institutions to skyrocket, subsequent investigations proved that supposition untrue. Statistics compiled by USAID in 2005 revealed that the orphanage population of infants and toddlers did not increase between closure of intercountry adoptions in 2001 and 2005. The survey found only 329 children under the age of three in care in 2005; male children over the age of nine were the largest group in care (USAID, 2005). In the years since, the government of Cambodia has compiled statistics on the number of children in institutions, finding that there are fewer than 600 children under the age of six in care in Cambodia at any given time, many of these being severely disabled. These numbers contrast starkly with the hundreds of infants that were leaving Cambodia through adoption in 2001. One news article revealed that on the day of their orphanage visit in the fall of 2001, one institution housed 157 children under the age of one, almost two thirds of them female (Corbett, 2002). The adoption population bore little resemblance to the general orphanage population in Cambodia, leading to a conclusion that unregulated adoption practice had increased the number of children coming into care, often through nefarious means.

Throughout the last decade, the Cambodian government, assisted by other countries and inter-governmental and non-governmental partners, has made numerous efforts to promulgate and implement new laws and regulations for intercountry adoption. Numerous obstacles stood in the way of success. In the aftermath of the Khmer Rouge, the governmental and legal structures of Cambodia were decimated. The country did not pass its Civil Code until 2007, and was still working on its implementation in 2008. A Criminal Code had not yet been passed. Without such basic frameworks, writing a new adoption law was not a legislative priority; moreover, the country lacked a reliable judicial and regulatory structure in which to anchor such a law. While the new intercountry law was being drafted, Cambodia became a signatory to the Hague Convention, and the Convention entered into force in 2007. However, several countries objected to Cambodia's accession because of persistent concerns about the status of the law and regulations, their implementation, and mechanisms to curb human rights abuses (Hague Conference on Private International Law, 2011c).

Cambodia also lacked basic social welfare mechanisms, or, until late 2011, a system of child welfare that could provide assistance to families or determine

when a child is eligible for adoption. Births are often not recorded, and families in crisis have almost no social services available. Statistics show that the number of children entering institutions rises rapidly at the age of six—because many parents make use of institutions to obtain education for their children. These children are not being permanently relinquished, nor are they without parental care. Their presence in an orphanage alone is not sufficient to determine their adoptability. Procedures for parents to permanently relinquish children, or to consent to adoption, are still being developed. Thus, in order to adequately determine a child's status, some basic structure must be implemented.

Perhaps the largest obstacle, and possibly the most intractable, is Cambodia's culture of corruption. Bribes, both large and small, are commonplace and accepted in virtually every transaction. Civil servants are so poorly paid that most consider it reasonable for a clerk, a policeman, or a village official to demand payment. Yet in some case, higher ranking officials benefit far more than the lowest paid civil servants.

Incremental progress is occurring. An adoption law was finally passed by the Cambodian legislature in 2009, and various assistance efforts have resulted in the development of procedures and forms necessary to implement portions of the law. However, basic enforcement mechanisms that could serve as a curb on potential nefarious activity do not yet exist. With corruption being so endemic, preventing the kind of illegal activity that occurred in 2001 will require numerous protective mechanisms, and more importantly, a commitment on the part of the Cambodian government to put the rights of children and families ahead of other concerns. Thus, while the international community has assisted Cambodia in developing the basic laws and tools to implement an adoption system that protects the rights of children and families, it will be incumbent on Cambodia itself to implement them in the way that does so.

Marshall Islands

The Republic of Marshall Islands (RMI) is a small Micronesian nation consisting of 29 atolls in Central Pacific with 66,000 inhabitants (Central Intelligence Agency, 2011). Named after a British explorer, the country has been controlled for the past several hundred years by Germany, Japan and the USA until the nation gained independence from the USA in 1986. Due to the destruction and dislocation of island communities caused by atomic bomb testing by the USA during World War II (1939-1945), the two countries entered into the Compact of Free Association, a major compensation and aid package providing 70 percent of the RMI national budget. Under the Compact, Marshallese citizens can enter the USA without a visa, excluding for purposes of permanent immigration—an important provision that contributed, ironically, to human rights abuses in intercountry adoptions (Roby and Matsumura, 2002).

Adoption of Marshallese children by American families began informally and benignly. In the early 1990s, USA military families living in the RMI befriended

local families and took in their children to raise. This was culturally compatible since the Marshallese have practiced kin-based informal adoptions for millennia; the adopted child belongs to both families and often returns to care for their biological parents in their old age. Hence, the concept of termination of parental rights was never instituted (Walsh, 1999). Upon completion of their military post, the American families simply took their 'adopted' children back to the USA under the Compact of Free Association, presumably to complete the adoption in state courts. No suitability evaluations were conducted of the adoptive families, no legal proceedings were held to examine the child's availability for adoption, and no professional or legal procedures were adhered to.

By mid-1990s word of healthy infants from the RMI and the ease of the process spread like wild fire in the USA adoption community (Walsh, 1999). Since there were no legal parameters, a wide range of adoption ethics were employed. While some USA adoption agencies meticulously applied the same high standards that they would adhere to back at home, others saw it as a free-for-all. Local 'finders' were rumored to be scouring maternity wards offering wads of cash to new mothers, and others going door to door asking grandmothers for their 'extra' grandchildren. Government leaders, teachers and even religious leaders were reportedly receiving 'commissions' for adoption referrals. In addition, pregnant women were brought to the USA to relinquish their children, most of them without understanding the legal implications of such actions (Roby and Matsumura, 2002).

In response, the Marshallese High Court developed a set of procedures to facilitate adoptions by agencies licensed in their state, supported by a number of basic documents including a home study of the adoptive family, birth and marriage certificates, and a consent document from the birth parents. Between 1996-1999, 600 children were adopted in the Marshallese court, constituting one percent of all Marshallese children, the highest *per capita* rate in the world (Walsh, 1999). However, children continued to be taken out of the RMI without documentation during this period and there is still no record of their numbers and what the ultimate outcomes were, although anecdotes abound of families unable to adopt these children in their state courts and of the inability to obtain USA citizenship (Roby, Wyatt, and Pettys, 2005).

In September 1999, in the midst of accusatory headlines the RMI Nitijela (national parliament) imposed a moratorium on international adoptions, pending passage of legislation. However, one effect of this moratorium was to push intercountry adoptions 'underground', as adoption agencies and facilitators accelerated their efforts to lure women with young children or pregnant women to the USA for relinquishments. A study conducted in 2000 showed that 83 percent of birthmothers reported that at the time of relinquishment they did not understand the finality of adoption (Roby and Matsumura, 2002).

The legislative process was arduous. Started in early 2000, the legislative effort at times seemed at a hopeless impasse as relentless debates raged for nearly three years, with opponents regarding intercountry adoption as a national shame and supporters viewing it as a legitimate option for some children. In addition, the policy foundation

was fragile since the RMI had ratified the CRC but not the Hague Convention, and no infrastructure or resources were in place to monitor intercountry adoptions. In the end, the USA, the only receiving country from the RMI, raised concerns and made intercountry adoption a focal point of the renewed Compact (effective through 2023). Thus, the Adoption Act was passed in late 2002 (Marshall Islands Public Law 2002-64; codified as Marshall Islands Revised Code [MIRC], §26-806), and the visa-free provision of the Compact was amended to exclude women and children entering the U.S. for purposes of adoption (U.S. Department of State, n.d.b). These laws became enforceable in 2003 and 2004 respectively.

Human Rights Considerations: Going Forward

In the foregoing section we presented case studies of two sending countries where children and families were subjected to human rights violations in the intercountry adoption process. In this section we discuss particular aspects of such violations and the remedies proposed or utilized. Cambodia acceded to the CRC in 1992, to the Optional Protocol on the Sale of Children in 2002, and to the Hague Convention in 2007. The RMI ratified the CRC in 1993 but has never ratified the Optional Protocol on the Sale of Children or the Hague Convention; however, the Marshallese legislation was drafted to provide protections similar to the Hague Convention. Cambodia passed comprehensive adoption legislation in 2009 but implementation is still not in full effect. The RMI passed the Adoption Act in 2002 and it has been implemented since 2003.

Adoptability of the Child

In both countries, parents often gave consent without full knowledge of the legal implications of adoption, or did so under fraudulent misrepresentation or as a result of financial inducement. In Cambodia, child finders and adoption mediators often took children from intact families and presented them as orphans in order to obtain entry into the receiving countries. Evidence suggests that fictional names, dates and status of parents were fabricated to expedite adoptions. In both countries older children were not given counseling or the opportunity to form and express their opinions about the adoption.

Legislative efforts have addressed human rights considerations in both countries. Under the RMI law, parents are provided with counseling with an emphasis on understanding the irrevocability and permanency of adoption. Solicitation of children for adoption, fraudulent misrepresentation of adoption, and financial inducements constitute criminal offenses under the Adoption Act; and a facilitator was jailed as an example of serious government intent. Although Lauryn Galindo was imprisoned in the USA under U.S. law for her Cambodian adoption activities prior to 2001 (Pound Pup Legacy, n.d.; see Chapter 5), adoptions of Cambodian children continued in virtually the same manner to several countries for years

thereafter without any reform of the Cambodian system. While the language of the new law contains many provisions to protect children and families, it remains to be seen how effective it will prove in practice. Neither country is fully equipped to prepare older children in terms of psycho-social aspects of adoption, a dimension of adoptability that needs more attention around the world (International Social Service, n.d.). However, as both governments take responsibility to bring their laws into practice, the full range of protections in this arena is possible.

Subsidiarity Principle

The subsidiarity principle (see Chapter 20) was completely ignored in both countries, as children targeted for intercountry adoptions were not provided with services to remain with their families, in the extended family network, or in their community or country. In fact, when intercountry adoption activities began, neither country had a child welfare policy and scrambled to regulate it as the only form of government-sponsored child welfare option, which was influenced more by foreign money than the true needs of the children and families.

Since the reform in the RMI, the Central Adoption Authority is tasked under the Adoption Act with the duty to refer birth families for family preservation services, but resources are scarce. Also under the Adoption Act, extended family members are invited to participate in pre-decision family group conferencing sessions, and most birth parents are able to find the support necessary to continue parenting their children. However, beyond these steps the RMI has yet to develop a full spectrum of family-based alternative care options. In Cambodia, a comprehensive set of alternative child welfare procedures were developed in 2009 with international assistance, closely adhering to the subsidiarity principle. These procedures were officially adopted as ministerial regulations in October 2011 after two years of being piloted, and initial indications are promising, especially at the very basic commune level where many of the traditional systems of caring for children seem to be reviving. The government needs to harness these resources and also bring additional assistance in order to protect the child's right under the subsidiarity principle. The greatest challenge to family preservation efforts will come when intercountry adoptions to the U.S. resume; if adequate protection is not in place, the enormous sums of money that enter the system could decimate any progress that has been made.

Protection from Commodification

In both countries children were used as commodities in the hands of local finders and adoption mediators, through financial inducements and other promises to birth parents. Much of the funds paid by adoptive parents enriched those involved in the schemes, from locals in the village who referred a mother to an orphanage to high ranking officials. In the RMI, the promise that the adoptive families would maintain

on-going contact exploited the cultural tradition of open adoptions; with the birth families later realizing they had been lied to by those profiting from adoption.

As mentioned previously, financial inducements and solicitations for adoption are criminal offenses in the RMI, punishable by imprisonment or a substantial fine, or both. This has had a chilling effect on such activities; however, solicitations still occur via the Compact's visa-free provision which is available as long as travel is not for the express purpose of placing a child for adoption. Now brokers tend to bring women out early in their pregnancy and have them relinquish their rights in the USA after the child is born. Short of a pregnancy test at the time of obtaining the RMI passport or at the point of entry into the USA, such clandestine practices are difficult to detect, although U.S. courts are increasingly becoming wary and are refusing to grant such adoptions.

Best Interest Determination

The best interest of the child—the *paramount* consideration in intercountry adoption (CRC Art. 21)—was often ignored in both countries, as adoptions were largely conducted in order to supply the 'right' children to adoptive families rather than finding the 'right' families based on the needs of the children. Little thought was given to the child's relationships with their parents and siblings, within their extended family network and communities. The child's sense of identity within his or her culture and ethnicity was given little consideration in the frenzy to meet the demand of the adoption business or in ill-informed efforts to 'rescue' children from poverty. In Cambodia, some adoption agencies and orphanages worked together to find and place children, often smoothing the way with bribes, a situation far from the ideal of carefully matching each individual child with the appropriate family. In the RMI the desire for younger babies pushed the timeline ever forward, until mothers were being smuggled out so that the baby could be delivered into the waiting arms of adoptive parents.

The impact of the RMI law, the USA implementation of the Hague Convention in April 2008, and the process of accrediting USA agencies, combined with rumors of courts refusing 'smuggled-in' adoptions have largely stemmed the tide of illegal and unethical adoptions in and from the RMI. In addition, the RMI central authority was trained to carefully consider the child's right to familial, ethnic and cultural identity, and to undergo a child's best interest study in each case. Child-centered adoption procedures emphasize not only ethical procedures but the life-long wellbeing of the child. A part of this emphasis is to require cultural education for parents who adopt from the RMI with a minimum time to be spent on location.

The Cambodian law also emphasizes a careful consideration of each child's needs, consideration of in-country alternatives, and counseling and informed consent of birth parents. It seeks to regulate those involved in the adoption process, and to centralize government functions. Gaps remain, however, particularly in relation to controlling improper financial gain, removing conflicts of interest, and

providing strong enforcement mechanisms. These gaps will have to be filled by regulations that build upon the law, the development of which is an ongoing effort. For Cambodia, the biggest challenge will be in ensuring that the on-the-ground process truly reflects the ideals enshrined in the law.

Conclusion

Human rights are intended to protect all people, but particularly those who are the least powerful in society. Children and birth families participating in intercountry adoption are often poor, have fewer economic and social resources, and are easy prey for exploitation. The rights enumerated in the CRC, the Optional Protocol on the Sale of Children, and the Hague Convention, when implemented appropriately in the social and cultural contexts of the countries of origin, can go a long way toward ensuring core human rights in intercountry adoption. The experiences of Cambodia and the RMI demonstrate that many factors influence the recognition of these rights, perhaps none more important than the political will to protect them.