

TESTIMONY OF TRISH MASKEW, PRESIDENT, ETHICA,
INC.; AND JARED ROLSKY, BOARD MEMBER, JOINT
COUNCIL ON INTERNATIONAL CHILDREN'S SERVICES

MS. MASKEW. Thank you, Mr. Chairman, and thank you for the opportunity to testify today. I am Trish Maskew, President of Ethica, a nonprofit advocacy group dedicated to improving ethics in adoption. Ethica was founded in 2002, in the wake of the Cambodian adoption crisis, as an independent voice for reform. And to maintain our independence, Ethica does not accept monetary support from anyone who places children for adoption.

Before founding Ethica, I worked for an adoption agency and I also served on the board of directors and as interim director of Joint Council. When the problems in Cambodia came to light, I had recently been asked by my agency's director to take over the program there. In the year that followed, I became disillusioned and shocked at the unethical and illegal activity that some were engaged in. I entered the world of adoption believing what I had always heard, that most agencies operated ethically and that there were a few bad apples. I know longer believe that is true. While I believe that the vast majority of adoption professionals are well intentioned, the unregulated environment they work in, the money that can be made, and most often their are concern for children and their desire to help encourage bad practices and lead some to employ situational ethics, believing that the end justifies the means. Some try to excuse the situation in Cambodia by noting that all of the cases were cleared and only two people were convicted of illegal activity. But the truth is that agencies were falsifying home studies, bending the rules and engaging in willful blindness, ignoring the red flags that signal trafficking, bribery, and visa fraud. Perhaps most shocking to me was the realization that other professionals who stood side by side with me throughout that crisis were able to walk away and continue operating in the same fashion in other countries.

As I became increasingly aware of these problems, I knew I would never again be able to work in an agency and be responsible for families and children until practices improved. I became convinced that adoption needed an entity that was free of the financial interests that encourage bad practices, and so I resigned and 6 months later I founded Ethica. I have also parented several children, including two sons adopted internationally. And in 2003, I was invited to The Hague, where I researched and wrote the first draft of an implementation manual of the Adoption Convention.

Adoption is one of the most unregulated industries in America today, and as a parent and an adoption professional, I don't use that word lightly, but adoption is big business and regulation hasn't changed with the times.

Recently Ethica, in cooperation with the National Association of Attorneys General, conducted a survey on adoption regulation, and while the full report is still in progress, the preliminary data shows that only three States require specific licensure for international adoption. Only two require that agencies provide educational background information on their overseas employees. The reality is that most States did not acknowledge the vast differences between adoption from foster care and international adoption. One area that is greatly impacted by this is post-placement monitoring. In adoption from foster care, a family might have lengthy visits with a child and a long post-placement period before

adoption, and so regulations generally only require monitoring until an adoption is finalized. But a family adopts internationally, they might find themselves the legal parent of a child within hours of their first meeting. There is virtually no time to assess the rightness of the placement and no guarantee the foreign staff has any child welfare training. These parents return to the State with a finalized adoption and no post-placement monitoring. Some States, however, require that adoptive parents readopt the child, because the State doesn't recognize the foreign adoption decree. And in those States there is more opportunity for monitoring, because regulations can be applied to parents adopting internationally.

The lack of appropriate regulation in adoption today means that the driving force between decisions and policies is often the market and not the best interest of children. Too often an adoption is done in the best interest of the adoptive parent. And while we all recognize that the child, and sometimes birth and adoptive parents are victimized by this, Ethica also recognizes that there can be a fourth victim, adoption agencies who try to operate in the best interest of children. There is sadly too many agencies that cut corners in ways that are dangerous, as we have seen today, and they should be stopped. But there are other agencies that acknowledge that more services are needed than are mandated by law. If an adoption agency were to place an older child from Russia, for example, and know that it is in the best interest of the child that they monitor that family, even if the State doesn't require it, they could choose to require the family to sign a contract, saying that they would do post-placement monitoring, and some agencies do this. But if an adoptive parent has three agencies in their town who will do a home study and only one requires post-placement monitoring, the parents are most likely going to choose the easiest and fastest route.

The same principle holds true for home studies. When I did my first home study in 1994, my agency required us to complete the same training program required for families from foster care, which was 10 weeks of classes in addition to home study visits. Those classes were invaluable to me as a parent and no doubt helped my agency get a better sense of me as well. Since that time, however, agencies have been moving to fewer and fewer requirements, because regulation doesn't require them and because they are in constant competition with other agencies that will do home studies without education, sometimes in only 3 to 4 weeks. One has to wonder if 10 weeks of classes would have allowed time to interview Mr. Mancuso's birth daughter, or maybe to probe his motivations for adopting. Likewise, we have to wonder whether a single post-placement visit would have said Masha years of abuse. While I believe it is impossible for anyone to design a home study that would be 100 percent effective in protecting children, I also believe it would help to require that parents adopting internationally have the same training and post-placement supervision as those adopting from foster care.

Some believe that the hate regulations will fix this problem, but we are not so optimistic. Among the many problems in the regulations, they mandate that every parent undergo 10 hours of training, but they allow such training to be done in the form of on-line classes or video tapes. I do not see how requiring Mr. Mancuso to watch 10 hours of videotapes in his own home would have protected Masha. The regulations also require post-placement monitoring, but only until an adoption is finalized. And finally, the regulations will only apply to adoptions between Hague countries, leaving many children, currently all those adopted from Russia, unprotected. By failing to adequately regulate this

industry, we do a grave disservice to children. It is our hope that someday that will change. Thank you.

[The prepared statement of Trish Maskew follows:]

PREPARED STATEMENT OF TRISH MASKEW, PRESIDENT, ETHICA, INC.

Thank you for the opportunity to testify today. I'm Trish Maskew, president of Ethica, a non-profit advocacy group dedicated to improving ethics in adoption. Ethica was founded in 2002, in the wake of the Cambodia adoption crisis, as an independent voice for reform. To maintain our independence, Ethica does not accept monetary support from anyone who places children for adoption.

Before founding Ethica, I worked for an adoption agency and I also served on the Board of Directors, and as interim director, of Joint Council. When the problems in Cambodia came to light, I'd recently been asked by my agency's director to take over the program there. In the year that followed, I became disillusioned and shocked at the unethical and illegal activity that some were engaged in. I entered the world of adoption believing what I'd always heard-that most agencies operated ethically and that there were a few bad players that were ruining it for everyone. I no longer believe that is true. While I believe that the vast majority of adoption professionals are well intentioned, the unregulated environment they work in, the money that can be made, and, most often, their concern for children and their desire to help, encourage bad practices and lead some to employ situational ethics believing that the end justifies the means.

Some tried to excuse the situation in Cambodia by noting that all the cases were cleared and only two people were convicted of illegal activity (a subject I explored in depth in an article entitled "Child Trafficking and Intercountry Adoption: The Cambodian Experience, Cumberland Law Review, 2005) but the truth is that agencies were falsifying homestudies, bending the rules, and engaging in willful blindness, ignoring the red flags that signaled trafficking, bribery and visa fraud. Perhaps most shocking to me was the realization that other professionals who stood side by side with me through that crisis were able to walk away and continue operating in the same fashion in other countries. As I became increasingly aware of the problems, I knew that I would never again be able to work in an agency, and be responsible for families and children, until practices improved. I became convinced that adoption needed an entity that was free of the financial interests that encouraged bad practices. I resigned and six months later, I founded Ethica.

I've parented several children, including two sons adopted internationally. In 2003, I was invited to The Hague where I researched and wrote the first draft of an implementation manual on the adoption convention.

Adoption is one of the most unregulated industries in America today. As a parent and an adoption professional, I do not use that word lightly, but adoption is big business and regulation has not changed with the times.

Recently Ethica, in cooperation with the National Association of Attorneys General, conducted a survey on adoption regulation. While the full report is still in progress, initial data shows that only three states require specific licensure for international adoption. Only two require that agencies provide educational background information on their

overseas employees. The reality is that most states do not acknowledge the vast differences between adoption from foster care and international adoption.

One area that is greatly impacted is post-placement monitoring. In adoption from foster care, a family may have lengthy visits with the child and a long post-placement period before adoption, and so regulations generally only require monitoring until finalization. But when a family adopts internationally, they may find themselves the legal parents of a child within hours of their first meeting. There is virtually no time for the parents to assess the rightness of a placement, and no guarantee that the foreign staff has any child welfare training. These parents return to their state with a finalized adoption and no post-placement monitoring.

Some states do require that the adoptive parents re-adopt a child because the state does not recognize the foreign adoption decree. In those states, there is more opportunity for monitoring because regulations can be applied to internationally adopting parents.

The lack of appropriate regulation in adoption today means that the driving force behind decisions and policies is often the market, not the best interests of children. Too often, an adoption is done in the best interests of the parent. And while we all recognize that the child, and sometimes birth and adoptive parents, are victimized, Ethica also recognizes that there can be a fourth victim--adoption agencies that try to operate in the best interests of the child.

There are sadly too many agencies that cut corners in ways that are dangerous. Yet there are other agencies that acknowledge that more services are needed than are mandated by law. If an adoption agency places an older child from Russia and knows, unequivocally, that it is the best interests of the child to monitor that family even though the state doesn't require it, they could choose to require the family to sign a contract mandating post-placement monitoring. Some agencies do. But if an adoptive parent has three agencies in their town that will do homestudies and only one agency requires post-placement services, the parents will most likely choose to go the least expensive, easiest route.

The same principle holds true for homestudies. When I did my first homestudy in 1994, my agency required us to complete the same training program required for families adopting from foster care--10 weeks of classes in addition to homestudy visits. Those classes were invaluable to me as a parent, and no doubt helped my agency get a better sense of me as well. Since that time, however, agencies have been moving to fewer and fewer requirements because regulation doesn't require them and because they are in constant competition with other agencies that will do homestudies without education, sometimes in only 3-4 weeks.

One has to wonder if 10 weeks of classes would have allowed time to interview Mr. Mancuso's birth daughter, or to probe his motivations for adopting. Likewise, one has to wonder whether a single post-placement visit would have saved Masha years of abuse. While I believe it is impossible for anyone to design a homestudy that would be 100% effective in protecting children, I also believe that it would help to require that parents adopting internationally have the same training and post-placement supervision as those adopting from foster care.

Some believe that the Hague regulations will fix the problem. We are not so optimistic. While the regulations mandate that every parent undergo ten hours of training, they allow such training to be done in the form of online classes or videotapes. I do not see how requiring Mr. Mancuso to watch ten hours of videotapes in his own home would have protected Masha.

The regulations also require post-placement monitoring only until an

adoption is finalized. And finally, the regulations will only apply to adoptions between two Hague countries, leaving many children, currently including all those adopted from Russia, unprotected.

By failing to adequately regulate this industry, we do a grave disservice to children. It is our hope that someday that will change.

MR. WHITFIELD. Thank you, Ms. Maskew. Now, I understand that you may or may not have to leave before we finish, so if you do, we will understand and thank you for being here. Mr. Rolsky, you are recognized for 5 minutes for your opening statement.

MR. ROLSKY. Thank you, Chairman Whitfield and Ranking Member Stupak. I am pleased to be here to talk to the subcommittee about exploitation of children, and I hope the hearings will result in the goal of helping promote safe, loving and permanent homes for all children. I am going to address today something about the Joint Council on International Children's Services, what the Council believes and specific areas of home study preparation and post-placement services in adoption and how these definitions have evolved over the years, interstate adoption standards and lastly, the importance of post-placement and post-adoption reporting.

I have a Masters Degree in social work from the University of Pennsylvania. I have been working in the field of mental health and adoptions for over 35 years. I am currently the Executive Director of Golden Cradle Adoption Services, who serves both domestic and international adoptions, and we are located in Cherry Hill, New Jersey, which, I guess, says something about some of these issues. I am also a recent member of the Board of Directors of the Joint Council on International Children's Services and last year was chair of the Ethics Committee, whose job was to establish standards of practice, to revise and establish new standards of practice for our member agencies.

JCICS has been involved in international child welfare since 1976 and over that time has developed an appreciation of the complexity related to the processes and approaches that serve to protect children while hopefully meeting their needs of permanency, safety, and love. Collectively, we have over 240 members and those organizations serve approximately 80 percent of all the international adoptions in the United States. JCICS, as a value, believes that all children need to have a permanent home, deserve to have permanent, loving homes when the child cannot be safely cared for by their birth families, or in permanent adoptive homes within their country of birth.

We believe that inter-country adoption can be a positive option for these children. It is one of the largest child welfare organizations around and the mission is to advocate on behalf of children in need of permanent, safe, loving homes, promote ethical child welfare practices, strengthen professional standards, and educate adoptive families, social service professionals and government representatives throughout the world. International child welfare agencies, child advocacy groups, parent support groups, and international medical clinics choose to be members of the Joint Council.

All of our member agencies are required to subscribe to and establish standards of practice which is designed to protect the rights of children, above all else, as well as birth parents and adoptive parents. Some of the definitions of the things that we have been talking about today have changed over the years, especially since the 1990s, when this incident occurred and I just want to address that. Post-placement services today is defined by, as a result of the Hague Treaty; it means services to the child and the family from placement through finalization. Post-adoption

services, which was referred to today without a definition, basically means services after the finalization to that family and that child.

Prior to the Hague Convention on the Protection of Children and Co-Operation in Respect of Intercountry Adoption, there was little differentiation between those two definitions. All services after the placement of the child, whether finalized or not, were considered post-placement services. Every State, country, and commonwealth creates and enforces the post-placement requirements for the adopting families. The purpose of this is always to ensure the safety, well-being, and optimal development of the child.

The most usual consequences of a family's failure to meet post-placement requirements, which means the mandated ones, can ultimately be the removal of the child from the home by the adoption agency, and I want to clarify that that is when it is a post-adoption service mandated by State law. Post-adoption, there is no consequence that is backed up by law. Home study is the education and investigative process that determines the suitability of a family for the placement of a child. As in post-placement services, every State creates its own specific standards, but they are all looking to ensure that the family will provide a home that is safe, loving and caring.

Just as an example, New Jersey, which is one of the, whether for good or evil, today obviously, is one of the more stringent, highly-regulated States when it comes to specifying issues around adoption, requires--and it was mentioned earlier--four references; one neighbor, one person who knows them for more than 5 years, one employer, and one other. No family members can be a reference. Other States, Pennsylvania requires three and they don't specify much more beyond that. Interstate--JCICS's standards of practice have been submitted for the record and you have them there, require all agencies to be licensed in the State which they incorporated.

Many agencies, to facilitate working across State jurisdictions, have inter-agency service agreements. In New Jersey, a licensed agency is required to have an interstate adoption agreement, or we call it a service agreement. If my agency in New Jersey works with a family in Pennsylvania, we are required to have a written service agreement, it is not a contract, it is a service agreement, with the Pennsylvania agency who is licensed to do those services in that State. In addition, we have to get a copy of their license.

In particular, post-placement supervision, in this kind of a situation, would have to be done with a licensed Pennsylvania agency when it is interstate with these two States. The frequency and the content and the specifics of the post-placement report would be governed by the most stringent of the State's requirements. For instance, when we do a placement of a child for a family in Pennsylvania, the home study has to meet Pennsylvania and New Jersey requirements. New Jersey requirements are more stringent.

The other thing that wasn't mentioned today but needs to be looked at is re-adoption. Re-adoption is something that most families, certainly back then, would have done, and that would have fallen under the State of Pennsylvania's requirements. When re-adoption is required, the county judge makes a statement as to how many post-placement visits need to be done. The weakness here, though, is there was no State definition of what that should be. Some counties will just say just give me the papers; others will say I want all three visits. I want it just like the full adoption. There is no consistent legal process for re-adoption in any State, I might add, and the trend is to make them easier.

The country of origin also has post-placement requirements; we have heard about that. Over the period of time that we have been talking about it, they vary from two to four visits from Russia over a 1 to 4-year period. Because the adoption is finalized in the country, when they come here, there is no legal backing for an agency, for an individual or whatever, to require, enforce except through the contract that they signed, the post-placement supervision.

I won't go into the details, but you probably already heard testimony about Ukraine and Russia's problems with unfulfilled post-placement reports. JCICS has been strongly trying to get involved with these two countries to try to do some enforcing, getting to the agencies and so on, but at this point, we haven't been given that information to do it. But certainly, JCICS has offered their resources in that regard.

I just want to, since I am way over, on behalf of all the members and all the colleagues in the adoption community, I think, I know we appreciate the Congress's interest in this and especially the subcommittee, to try to give us some resources, some tools in order to enable us to provide the kind of safety net that is required and necessary for children who come here from other countries. It wouldn't hurt, at the same time, to encourage all the other States who have very lax adoption laws, to raise to a standard, to rise to a standard that would be a real protection to children today.