

Will the Rục children come home? : Part III

Revisiting the words of a Rục mother, legal loopholes and Vietnamese social policy

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My concern about that situation of Rục children and questionable adoption practices was sparked off by a mother in the remote area of Quảng Bình province bordering Laos¹ asking me one day whether I thought her children had been sold. I was back in the area in 2007 after several years of absence researching completely different matters.

She explained that local officials from the “Trung tâm nuôi dưỡng người có công đối tượng xã hội” (Nurturing Centre) in Đồng Hới, the provincial capital, and communal authorities had come to the village offering help to the children. After some discussions and visits, several households agreed to send their children to the centre in Đồng Hới. These were supposed to be short stays, but now apparently many of the children were gone and had not come back to the Rục villages. The mother explained how she had become worried and gone to town to see her children, only to be informed that they were gone. “Thông cảm nhé đường xa quá”, officials had apparently told her implying that the distance had been too far to tell her about the children being adopted. She had received a photo picturing what seemed like a ceremony of her children being handed over to foreigners and was now seriously worried about the fate of her children. Others told me that some villagers had received money, apparently as “poverty alleviation” support. Figures mentioned were between 500.000 VND (some 31 USD) and 1.000.000 VND (some 62 USD). The mother interviewed did not know where the children were now.

She showed two “contracts”, which more specifically involved i) decisions from the provincial labour and social affairs administration and ii) a letter supposedly by herself. The decision from the social affairs administration, dated January 2006, confirmed the acceptance of her children for support in the provincial nurturing centre (likely to have been one more for the third child of hers) - and their return home upon improvement of their conditions.

The handwritten letter (dated 2005 without a specific date and month) to the nurturing centre supposedly written and signed by the illiterate mother (but in reality written by the centre representative) explained how she had lost her husband and had too many children to raise them properly. The letter expresses her desire to have two of her children, later amended to three, to be accepted in the centre as well as giving away all rights to the children to the centre (including adoption). The strong wording literally cutting the mother-child relationship in terms of rights and obligations stands in stark contrast with the provincial decision letters, which explicitly mentioned the return of the child once conditions had improved.

I have now realized that this type of wording was far from coincidental, but reflects somewhat of a loophole in Vietnamese adoption legislation. Furthermore, the mother did not know what she had entered into and now expressed worries that her children had been sold like “con lợn” (pigs).

¹ The Rục people, one of Vietnam’s smallest ethnic minority groups, only numbering some few hundred people live in Thượng Hóa commune, Minh Hóa district in the middle of Phong Nhà Kè Bàng World Heritage Site.

One of my first reactions had been that this could hardly be in accordance with neither Vietnamese legislation, nor international standards. Yet, it seems that parts of Vietnamese legislation related to adoption matters provide loopholes in this respect.

Vietnamese adoption legislation provides unusual emphasis and power in the hands of nurturing institutions, and little say and safeguard measures to poor birth mothers, as this Ruc mother, looking for alternatives and sending some of her children of to centres for support.

The core of the matter relates to Article 44 of decrees No. 68/2002/ND-CP and 69/2006/ND-CP. This article spells out some of the specific conditions allowing for the adoption of a child of particular relevance to understanding the case of the Ruc children. In the case of the Ruc children mentioned here, decree 68 was in vogueur.

Article 44 specifies that *heads of nurturing establishments can sign the papers agreeing to let children be adopted*. In other words, once the Ruc children had been sent to the centre, the head of the centre had in practice been granted unusual powers to determine the destiny of these children. As the birth mother now told me, these powers had now been used to send the children abroad. She, nor this author, does not know through which agency or to which country.

Legally speaking, heads of these centres can make such decisions on certain conditions. In decree 68, it specified that in « **cases where the father and/or mother of a child are/is still alive, there must also be the written agreement of the father and/or mother of that child, except where that child has been abandoned or left at a medical establishment, or when such child was sent into the nurturing establishment with his/her parents' written agreement to let their child be adopted** or the child's parents have lost their civil act capacity. » (emphasis added)².

Indeed, according to the illiterate Ruc mother, the representative of the centre had written up such a letter. I saw the copy, but she herself was not able to read it. It is fairly obvious that the mother did not know what was going on, and her visits to the provincial capital had been in vain. The comments would seem to indicate a likelihood that the adoption process, without consulting with the mother, had not happened in good faith.

From one perspective, however, the director was supposedly acting within the law given the presence of the letter where the illiterate mother supposedly gave away all rights and decision-making to the centre.

Yet, if one takes a closer look at the provincial decision for social relief support to the children mentioned above, one would then expect mentioning of adoption legislation and the possibility of the child being adopted as well. Neither were present.

Instead clear contradictions appear. What was mentioned as a legal basis was Decree 07/2000/ND-CP on social relief policies – as well as a specific article stating that the child

² I also include the wording from the revised decree 69 which has not solved the basic problem at stake in Article 44: a) The heads of the nurturing establishments lawfully set up in Vietnam voluntarily agree to let the adoption of children living in such establishments. In cases where the father and/or mother of a child are/is still alive, there must also be the written voluntary agreement of the father and/or mother of that child, except for the cases defined at Points a and c, Clause 2 of this Article or when such child was consigned into the nurturing establishment with his/her parents' written agreement to voluntarily let him/her be adopted; (Emphasis added)

would be returned once conditions had improved. Also mentioned is the provincial decree 42/2002/QĐ-UB, which speaks of organizing nurturing of the especially needy as well as providing guidance for nurturance in the community of other social relief beneficiaries (Article 2.2).

Indeed, from a Vietnamese social policy perspective, decree 07/2000/ND-CP clearly calls for social relief to « be chiefly rendered to families and communities where social relief beneficiaries live » (Article 3).

Yet, in practice the centre at least in the case of three children and likely others had letters written up from the (illiterate) parents to the centres allowing for the adoption of the child and handing over all rights to the centre. This stands in stark contrast with the idea of returning the child once conditions have improved.

This may indeed point to a possible conflict of interest between being a manager of a nurturing establishment aiming to return a child to his or her family, and a manager of an establishment receiving governmental support for each child in his centre (in this case 150.000 VND/ month³) as well as at times directly receiving or depending on support from foreign adoption organizations. This conflict of interest is further sharpened by the direct involvement of nurturing agencies in pro-actively looking for children, making adoption decisions **and** facilitating the matching of adoptive families and specific dossiers.

Thus registered adoption agencies in 2004 provided some 620.000 USD to 40 centres in 30 provinces, which apparently rose to 930.000 in 2005⁴. Such support has varied but reportedly included « building, repair and upgrading of their offices, purchase of medicines and medical instruments, provision of medical examination and treatment for children and job training for teenagers and partial support for payment of wages to their officials and employees. »

Was such support what had driven the apparent decision to have the child adopted without the informed consent of the Rục mother? What about the other children?

Whereas provincial decree 42/2002/QĐ-UB speaks of providing support to the needy through both nurturing centres and direct support to communities, there are indications of an over-emphasis on channeling ethnic minority children into nurturing centres, where support directly to the families in the communities would be more effective and beneficial to the child. This is not news for Vietnamese policy makers. Article 3 of the decree 07/2000/ND-CP clearly emphasizes social relief support where beneficiaries live, and that support through nurturing establishments is only for exceptional circumstance.

This is what should have been guiding the fate of Rục children. Not only according to the law, but likely according to most policy makers and the general Vietnamese population would conclude if they would hear the call from the Rục mother.

It would also seem obvious that a mother should have a right to make a voluntary informed decision about the fate of her children even if she is poor, illiterate and living in a remote corner of the province. Finally, from a social perspective, it would seem obvious that Rục children, or any other ethnic minority child would be better off at home than in a provincial

³ As established in Article 10 of the Social Relief law.

⁴ http://news.vnanet.vn/vietnamlaw/Reports.asp?CATEGORY_ID=1&NEWS_ID=1213&SUBCATEGORY_ID=8 (viewed 9/5/08)

centre or on a journey abroad. This is not to reduce the importance of social needs and support, nor to idealize their lives back home. Yet as Vietnamese social policy makers have said and legislated for years, social relief support should first and foremost be provided where beneficiaries live not in external institutions or abroad. Furthermore, adoption should be a last-resort measure.

Furthermore the current social relief law has no specific mentioning of sending needy ethnic minority children into nurturing establishments. The law mentions orphans, mentally ill, lonely elderly and seriously disabled persons in its articles 6 and 7. It is even mentioned in article 8 the other children who are sent voluntarily to such centres by parents would require families paying all costs. Other possible beneficiaries to be accepted include irregular “one-time” social relief support due to natural calamities or *force majeure* circumstances such as death, hunger and injured persons. Yet, these are exceptional measures, not regularized practice as in the case of ethnic minority children.

The law would seem to have been interpreted somewhat freely by local officials in terms of pro-actively seeking up and integrating ethnic minority children in the nurturing centre. I have not been able to do a more intensive survey, yet suspect ethnic minority children would seem to be overrepresented. An article from July 2007 also speaks of admitting 6 Vãn Kiêu ethnic minority from Truong Son commune in Quảng Ninh district children to the nurturing centre in July 07 (born between 2000 to 2005).

There seems to be a clear contradiction related to the continuous emphasis on including ethnic minority children in nurturing centres, where support would be better provided in the home communities – as Vietnamese law indeed stipulates.

Does this leave any hope then for the Rục mother seeing her children again? Most certainly.

The overarching policy statement in current Vietnamese adoption policy focuses adoption being carried out in the spirit of humanitarianism, « aiming to ensure the best interests for children and the respect for their fundamental rights. » This would arguably be brought into question when assessing the case and others. Apparently as many as 10 to 13 Rục children, many of them older children, had been sent to centre. Many of them have now been adopted.

In how many cases, had this involved illiterate parents writing off their rights to the child and decisions being made without the informed consent of the parents? Did this and other cases indeed involve general patterns of paternalism or even opportunism? What it has clearly not involved has been the genuine spirit of Vietnamese social and ethnic minority policy making seeking the best of the child. Yet, what it more specifically has involved will have to be determined by an in-depth investigation.

Furthermore, there is an urgent need to rethink current social and adoption policy and practice addressing the concerns raised above. Policy contradictions are part and parcel of dealing with complex social issues and Vietnam has already gone far in terms of improving its policies.

The Rục mother deserves to be heard. She may not have been able to read, reach authorities with her complaints and fully understand what was taking place. Yet, now is the time to identify not only where her children have gone, but equally listen to other Rục parents and possibly others.

During the war years, many ethnic minority families in the area helped and took care of young Vietnamese men venturing into the dangers of the Hồ Chí Minh trail under heavy American bombing. They found shelter, food and support from mothers and many soldiers, Uncle Hồ, the Party and the State have since then expressed their gratitude to the “đồng bào dân tộc thiểu số” for this help.

It is now time to “trả ơn” and recognize the deficiencies with current social support to these ethnic minority children. The Rục mother and others deserve to be heard and their cases investigated properly.

Social relief and current adoption policies are at least, in some cases, not having the intended effect, nor adequately designed to reach children in the best manner with sufficient safeguard mechanisms.

As mentioned earlier, I am convinced that not only Vietnamese authorities, but receiving countries, adoptive agencies and families will cooperate actively in securing the protection of these children and investigating the cases at stake.

I know few countries and cultures that value the mother child relationship as strongly and poetically as Vietnam. I am also convinced that the Vietnamese government will stop these loopholes as part of the efforts undertaken by Mr. Vũ Đức Long and the Vietnamese International Adoption Agency. Provincial authorities in Quảng Bình, who have done so much to rebuild a province after it was shattered during the war, will also need to look carefully at their social support and practice.

I can only repeat that it is now critical to document what has happened to the Rục children, and identify ways of restoring the relationship between the children, the parents and the community. Things may not have taken place in a correct manner, but it is not too late to restore what has been broken.

Both national, local and international registers should have the information necessary to identify the whereabouts of the children. As a second step, it is critical to what extent this is affecting other communities in the region as well.

A concerted effort is now clearly needed between Vietnamese authorities, international organizations, adoption agencies and embassies to do what they can to reunite the Rục mother and other parents with their children. This is the time to show that the emphasis in adoption agreements, international conventions and commitments on information sharing and cooperation for the best interest of the child really matters. « Trẻ em hôm nay, thế giới ngày mai » (children today, the world tomorrow) a billboard says in the district capital. This is the time to give the Rục mother a decent answer.

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