

Human trafficking and moral panic in Cambodia: The unintended consequences of good intentions

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Introduction

Cambodia was one of the first countries to enact an anti-trafficking law in 1996. This was one of the harshest laws in the country and punished trafficking as severely as premeditated murder. Although there was some concern about human trafficking (HT) within Cambodia, a global campaign led by the United States (US), was waging a “war on human trafficking” that required action to ensure the continuation of development aid. Human trafficking, or “modern day slavery,” was described by the United States Department of State (DSUS) and the United Nations Office on Drugs and Crime (UNODC), as a transnational enterprise controlled by organized crime, which enslaves 12.3 million people, generates \$32 billion in profit for human traffickers, is the third most profitable business for organized crime, and poses a serious threat to national and global security (DSUS, 2006, 2009b, UNODC, 2007, 2008). Such estimates reflect the impact of the moral panic about HT and have subsequently been found to be unreliable and estimates of profit significantly inflated (UNODC 2012, 2010)¹.

Yet, in 2006, one of the authors had conducted semi-structured interviews with nine boys and eight girls² who had been “trafficked” to work in Thailand and subsequently reintegrated into their family or

¹ For example the latest report on HT ventures no estimates except in the ‘billions’: see UNODC 2012, and relatively modest estimates for some regions are ventured in UNODC 2010.

² They were all under of 18 years.

community (Keo 2006). To his surprise, none of them saw themselves as “victims.” They had willingly followed their recruiters to Thailand to earn an income and support their impoverished family. Rather, they considered themselves heroes and heroines, and models of good children for their ability to work and share the burden of supporting their family. Most had been “trafficked” by their families, relatives, or neighbors, and a few by strangers. Few had suffered physical abuse and most of them had been treated well. From their accounts, human trafficking did not sound like a risky activity, and traffickers did not seem to make big profits. Since the late 1990s the other authors had been engaged in a longitudinal study of the trends and patterns of criminal activity, including victim surveys in Cambodia and had found scant evidence for the salience of HT as a major crime problem or evidence of the role of organized crime in HT in Cambodia. However, the extent of organized crime in South East Asia was difficult to estimate. Apart from NGOs reports and a few studies focusing on trafficked persons, virtually nothing was known about the perpetrators of human trafficking in Cambodia or elsewhere.

Here we present the results of our study of human traffickers in Cambodia. As far as we know, ours was the first study to draw on in-depth interviews with alleged offenders. The aim of this paper is not to review, investigate, and analyze the global HT moral panic (see Keo, 2011) but to present the results of our study of human traffickers in Cambodia. It focuses not only on their characteristics, the methods they use, but also the way in which HT, especially as a customary practice, was problematized and criminalized and the outcomes of these decisions in this poor developing post-conflict country. This study illustrates the construction and the negative consequences of the HT panic in Cambodia. We argue that the hegemonic security, moral (especially prostitution), and human rights agendas of the West initiated a security and moral panic about trafficking. Pressured by foreign and local NGOs and the need for foreign aid, Cambodia adopted a repressive legalistic response. In the hands of a dysfunctional criminal justice system (CJS), harsh laws did not deter potential traffickers but produced serious unintended consequences that turned the law into an instrument of corruption and injustice against the powerless.

The Human Trafficking Global Moral Panic

Following an independent and critical review of nearly 1,000 publications on human trafficking we reached the same conclusions as had a growing number of researchers (e.g., Anderson and Andrijasevic 2008; Bruckert and Parent 2002; Davies 2009; Doezenia 2000; Steinfatt 2011; Weitzer 2005, 2007; Zhang 2009). The literature is replete with unsubstantiated extraordinary estimates of the extent and

profitability of the phenomenon, as well as unsupported claims about its control by organized crime syndicates. These outlandish statistics, estimates, and claims are recycled and augmented report after report by uncritical authors who routinely conflate HT with human smuggling and prostitution. Weitzer (2005, 2007) has shown that an unusual alliance of moral entrepreneurs, including ideologically-motivated radical feminists committed to the abolition of prostitution, had a strong involvement in the global HT panic, and the work of others (see Doezema; Frances 2007; Hyam 1992; Levitt and Dubner 2009; Sandy 2007) suggests that it is reminiscent of the White Slavery moral panic of the 19th and early 20th centuries.

We found only two studies that focused on human traffickers, as distinct from trafficked persons and their rescuers. Levenkron (2007) examined the court dossiers of 325 Israeli traffickers and their accomplices convicted between 1990 and 2007. Nair (2004) conducted interviews with 160 active sex traffickers of women and children in 12 states of India, and 561 trafficked persons.³ Nearly half (47%) of these trafficked persons reported that their traffickers were females. In contrast, Levenkron found that only 10.5% of the Israeli sample was female. Apart from this important sex difference, which raises interesting questions about the involvement of women in trafficking activities and their treatment by the CJS in the different societal contexts of developing and developed countries, both studies found that most traffickers engaged in trafficking activities in an attempt to escape poverty and solve dire financial situations. These studies did not support claims about the high profitability and involvement of organized crime in HT. On the contrary, they showed that HT was generally perpetuated by individual traffickers or small and loosely organized criminal networks. Brown (2007) conducted in-depth interviews with 515 Cambodian girls and women sex workers and reached a similar conclusion. Many of the female traffickers had themselves been previously trafficked as sex workers, and Nair's findings supported Surtees (2008) who argued that "forced recruitment" is relatively uncommon.

The Cambodian Context

Cambodia is among the poorest countries in the world, ranked 137th out of 182 countries on the Human Development Index (UNDP 2009). In 2004, it was estimated that 35% of Cambodians were living under the poverty line, measured at \$0.45 per person per day (World Bank, n.d.). Over half of the population is either illiterate or never completed primary school and lack of education among females

³ Levenkron did not specify which definition of trafficking was used, but Nair adopted the UN definition.

is common (NIS 2009). A highly centralized administrative structure, corruption, nepotism and cronyism, lack of transparency, and incompetent officials, including in the CJS, inhibit good governance (Global Witness 2007; Kato et al. 2000; DSUS 2007; Global Witness 2007, 2009; Amnesty International 2009; Sorpong 2006).

The entire policing system is tarnished by allegations of malpractice, corruption, and favoritism. Torture, forced confessions, and illegal arrests and detentions have been frequently reported by the media and human rights NGOs (The Asia Human Rights Commission [AHRC], 2001). Recruitments, appointments, and operations are politicized, and influenced by cronyism. There is a general lack of professionalism within the police forces, and many units are understaffed (Jaleel 1998). The reputation of the judiciary is equally compromised by allegations of dependence and corruption (Strangio 2010). The working environment in the courts is generally sub-standard. A chronic under-staffing and a lack of judges and courtrooms lead to a build-up of caseloads followed by swift and unfair rulings (Khiev 2004; Fernando 1998; Keo and Broadhurst 2011). In addition, judges may experience intimidation and their personal safety is not guaranteed. A substantial pay rise in 2003 did not reduce judicial irregularities (LICADHO 2007).

The origin of the 1996 law

Following the arrival in 1992 of the United Nations Transitional Authority in Cambodia (UNTAC), which coincided with a boom in the local sex industry and the proliferation of foreign, mostly Western NGOs, Cambodia joined the battle against trafficking to protect children and women from the consequences of this crime. These NGOs needed funds to sustain themselves and pay salaries and benefits that greatly exceeded the type of salaries and benefits offered in the Cambodian public sector. From only 25 in the 1980s, the number of NGOs had grown to over 2,000 by 2008 (Ek and Sok 2008; Gollogly 2002; Guthrie 2008; Kao 2000; Landau 2008; RGC n.d. ; Sunderji 2005). As human trafficking and its control is a cross-cutting issue, involving multiple approaches and discourses, it was embedded within various sectors of NGO activity with an estimated 200 institutions working on the problem in Cambodia and employing some 5,000 people (Delauney 2007).

A specific anti-trafficking law, *the Law on Suppression of the Kidnapping, Trafficking, and the Exploitation of Human Beings*, was enacted in 1996, and in 2000, the Ministry of Interior (MOI) created the Department of Anti-Trafficking and Juvenile Protection Police (DATJP) with financial and

technical support from various anti-trafficking NGOs. Article 3 of the hastily drafted 1996 anti-trafficking law stated:

Any person who lures a human being, male or female, minor or adult of whichever nationality by ways of enticing or by any other means, promising to offer any money or jewelry, *with or without the person's consent*, by ways of forcing, threatening or using of hypnotic drugs, in order to kidnap him/her for sale or prostitution shall be subjected to imprisonment from ten (10) to fifteen (15) years. The perpetrator shall be punished to imprisonment from fifteen (15) to twenty (20) years if such victim is a minor of less than 15 years old (*italics added*). Those who are accomplices, traffickers/sellers, buyers, shall be subject to the same punishment term as which of the perpetrator(s). Shall also be considered as accomplices, those who provide money or means for committing offences.

The law did not define “trafficking” but amalgamated selling, procuring, and forcing or not forcing people for prostitution, whether the “victims” were moved or not across or within national borders. The terms “victim,” “accomplice,” and “buyer” were not defined either. The unqualified term “accomplice” meant that a wide range of people, including a brothel’s security guards, cleaners, cooks, and law enforcement or military personnel providing protection to brothels could be subjected to the same punishment as someone procuring for prostitution or a trafficker ([Perrin et al. 2001; Yasumobu 2004](#)).

The 1996 law was enacted with little understanding of trafficking and was, *de facto*, a law against the organization of commercial prostitution. The legal ambiguity surrounding consent (“...*with or without the person's consent* ...”) permitted manipulation in which virtually all sex workers could be declared victims and those helping and/or managing sex work, human traffickers. Yet, Keo, in a number of studies (2009b, 2010) had shown that most girls and women who had been “trafficked” between 2007 and 2009 in Cambodia were in destitute situations, aware that they were being recruited into commercial sex work and willing to do such work. In 2009 his study revealed that 95% of trafficked girls and women were recruited voluntarily, and 76% of them had agreed to engage in prostitution at the time of recruitment.

In 2007, the Cambodian government established a National Taskforce (NTF) to work in cooperation with a myriad of government and non-government anti-trafficking agencies. The US-based NGO Asia Foundation received some \$3 million from USAID to conduct a counter-trafficking program in Cambodia, and is believed to have been behind the establishment of the NTF. In 2008, with the help of a Japanese consultant, the Ministry of Justice drafted a new anti-trafficking law, which was passed on

the 18th of January 2008 after pressure from the Bush Administration (Human Rights Watch 2010) basically codified commercial sex as .

The 2008 law on the *Suppression of Human Trafficking and Sexual Exploitation* did not correct the inconsistencies of the 1996 law but rather cast an even wider net encompassing child and adult prostitution, pornography, indecency against minors (those under fifteen years of age) the management of prostitution, and the nebulous concept of human trafficking. Implicitly, the law conveyed the message that the “prostitution institution” was intrinsic to human trafficking, and if it did not expressly prohibit voluntary prostitution it created conditions that made lawful prostitution virtually impossible (Keo, 2009a). Terms such as “exploitation” and “organized group,” which are crucial when one has to interpret and enforce the law, were left to the interpretation of CJS officials. The Cambodian Centre for Human Rights (CCHR 2010) monitored trafficking trials and concluded: “it is clear that the application of the law has been inconsistent at best and incorrect at worst. ... It casts doubt on the judiciary’s understanding of LHTSE (the anti-trafficking law).”

The key articles of the new law as described in chapter 2⁴ “The act of Selling/Buying or Exchanging of Human Being” illustrate:

Article 8: Definition of Unlawful Removal

The act of unlawful removal in this law shall mean to:

1) remove a person from his/her current place of residence to a place under the actor’s or a third person’s control by means of force, threat, deception, abuse of power, or enticement, or 2) without legal authority or any other legal justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, care taker or guardian.

Article 10: Unlawful Removal with Purpose

A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years. The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when: the victim is a minor, the offence is committed by a public official who abuses his/her authority over the victim, the offence is committed by an organized group.

The terms “any form of exploitation” in this Article and Article 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs. The consent of the victim to any of the intended purpose set forth in paragraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1) of Article 8 of this law is used.

⁴Source: the UNICEF Unofficial Translation of the Law dated 03/03/08. The substantive chapters include: chapter 3 that deals with offences of confinement, chapter 4 addresses specifically prostitution and child prostitution, chapter 5 pornography, chapter 6 indecency against minors under fifteen years and chapter 7 civil remedies (annulling contracts, enabling restitution and confiscation for the benefit of victims).

Article 9 applies the law to minors, Article 11 refers to cross-border movement of victims and Article 12 recruitment for exploitation while the “act of selling buying or exchanging of human being” in general (Article 14) or for a specific purpose (Article 15) of “profit making, sexual aggression, production of pornography, marriage against will of victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years. The act of selling, buying or exchanging is defined in Article 13 as meaning “...to unlawfully deliver the control over a person to another, or to unlawfully receive the control over a person from another, in exchange for anything of value including any services and human beings. The act of procuring the act of selling, buying or exchanging a human being as an intermediary shall be punished the same as the act of selling, buying or exchanging a human being”.

Prostitution and human trafficking in Cambodia: fiction and reality

The UNTAC administration was a major driving force behind the rapid boom in the sex industry and the growing demand for the services of sex workers (Davidson 1998). Estimates of the number of prostitutes working in Cambodia are inconsistent at best. In 2000, the Cambodia Human Development Report echoed the estimate made by the NGO Human Rights Vigilance of Cambodia (HRVC), which claimed that 80,000 to 100,000 prostitutes worked in Cambodia. A survey by UNICEF in 2003 suggested that Cambodia had 55,000 sex workers. However, after careful scrutiny and applying direct observations Steinfatt (2003; 2011) showed that these figures were unreliable. By triangulating different sources Steinfatt et al. (2002) put the number of sex workers operating in sex establishments in 2002 at 20,829; among them 2,488 may have been “trafficked.” A follow-up study in 2003 estimated that there were 18,256 direct prostitutes⁵ in Cambodia, 2,000 of them regarded as “trafficked” persons (Steinfatt 2003). Steinfatt’s estimates of the sex worker population were about five times lower than the year 2000 estimate made by the US NGO Human Rights Vigilance Cambodia (HRVC). More recent figures put the number of sex workers in Cambodia at 17,000, 75% of them working outside brothels as independent or indirect sex workers (HACC 2008). The proportion of trafficked women in the studies that attempted to estimate their number among Cambodian prostitutes, ranged from 6.3% to 47%, and these figures were themselves based on rough estimates of the number of prostitutes or illegal migrants (Derks, Henke, and Ly 2006).

⁵ “Direct sex workers” refer to those working in brothels or places of prostitution. “Indirect sex workers” refer to those working in settings that are not supposed to be places of prostitution.

Trafficking statistics in Cambodia are inconsistent and unreliable. In 2003, 17 trafficking events were recorded by the police and represented 0.3% of the total number of recorded crimes. In 2008, the proportion of trafficking events (N=108) had increased to 3.7% of all recorded crime events. It is difficult to assess the accuracy of these figures. For example, official statistics from 2005 to 2009 recorded no human trafficking event, but the 2008 *Annual Report of the National Police* reported 77 and 108 events in 2007 and 2008 respectively. From 2003 to 2009, the Cambodian police would have cleared 23,604 criminal events; of these, 379 (1.6%) involved human trafficking, and 585 alleged traffickers were arrested (1.7% of all arrested offenders).

In 2006, the then Police Commissioner, Hok Longdy, remarked, “we cracked down on 614 cases of sex trading offences, arrested 670 ringleaders (67 female), all of whom were referred to the court, and we rescued 789 females. Among these offenders, 92 were charged” (NPC 2007: 3). These figures do not match official statistics, but, as it is often also the case, the Commissioner did not clearly differentiate between offences relating to prostitution and the selling of sex and those relating to human trafficking.

In 2007 and 2008 the Cambodian League for the Promotion of and Defense of Human Rights (LICADHO 2009) conducted prison surveys with large samples representing 56% of the total prison population in Cambodia. In 2007, 3.5% of inmates were incarcerated for human trafficking and among them 80% were female. In 2008, 3.8% of inmates in the sample were incarcerated for human trafficking, and among them 77% were female. In both years, among the 25 reported types of crime, human trafficking was the crime for which the larger numbers of females were incarcerated. LICADHO (2008) received many complaints from women who said they had been wrongly imprisoned or had received a long sentence for failing to pay a bribe and noted that the majority of female prisoners did not have access to legal advice or representation.

Methods

We investigated five major themes about traffickers in Cambodia: who are they, how they operate, how much profit they make, why they became involved in human trafficking, and how the Cambodian CJS controls their activities? We used a multi-method and multi-source research design and drew on police and prison records and interviews with 466 individuals including police, prison, and court officers;

NGO workers; villagers and migrants; but particularly 91 incarcerated traffickers.⁶ In Cambodia, court records or dossiers are not available to the public and researchers and we could not replicate the Israeli study by Levenkron (2007) or triangulate with their court dossiers the information provided in the interviews by the incarcerated traffickers. For some of our traffickers, we were able to check their accounts by visiting village heads/commune officials and in some cases complainants or the police involved. Our sample included the five provincial prisons of Banteay Meanchey, Battambang, Koh Kong, Kompong Cham and Svay Rieng, and the three Correctional Centers in Phnom Penh (CC1 and CC2) and Kompong Cham (CC3). These prisons contained 55% of the total prison population in 2008, and were all situated in areas often mentioned either as sources or destinations for internal and cross-border trafficking (Brown, 2007; Derks, Henke, and Ly 2006; ECPAT-Cambodia 2005; MOSVY 2005). A comparison with prison statistics between 1997 and 2007 suggested that our sample was representative of the population of incarcerated traffickers.

Our sample of 91 interviewees represented 45.7% of all incarcerated traffickers then held in the eight prisons. Although 71.4% of these imprisoned traffickers were female, our sample only included 53.8% (n=49) female traffickers. We oversampled male traffickers (n=42) for two important reasons. First, a review of the literature indicated that female offenders were rarely involved in organized crime (OC); therefore, it may not have been possible to detect participation in OC with only a small sample of male interviewees. Second, the Israeli study suggested that male traffickers had a greater likelihood of conviction (89.5%) than females (10.5%), because the seriousness of their involvement was perceived as greater than that of female traffickers.

Demographic profiles

The majority of the 91 incarcerated participants were Cambodian (81.3%) and the others Vietnamese or Thai. Their age ranged from 16 to 64 years, with a mean age of 38.5 years. Two male offenders had been under the age of 16 at arrest. On average female traffickers were significantly older than male (37.7 years and 32.3 years respectively). Nearly 80% of the incarcerated participants were or had been married, but over a quarter of them (26.4%) were now widowed or divorced. Men were significantly more likely to be single than women (33.3% and 10.2% respectively), but a larger share of women (38.8%) than men (11.9%) were divorced or widowed. Among those who were or had been married, 80% had children, and 18% had large families of five to eight children.

⁶ We defined “human traffickers” as any person charged or convicted under Article 3 of the 1996 anti-trafficking law.

Most of the participants had very limited education: nearly one-third (30.8%) were Khmer illiterate (with a similar proportion of males and females), the majority (54.9%) had only a primary school level, 12.1% had a secondary school level, and only 2.2% had gone beyond secondary school. Even when they did attend school, women had significantly fewer years of education than men (2.1 years of schooling compared to 6.6 years). A series of questions about their resources and lifestyle revealed that by Cambodian standards,⁷ 80% were “poor” or “very poor,” and 20% just above the poverty line.

Offending profiles

The majority of the participants had been charged with or convicted of human trafficking (69.2%), but there were differences in the offending patterns of male and female inmates. Over 87% of the women had been charged/convicted of human trafficking compared to only 47.7% of the men. On the other hand, a larger proportion of men (26.1%) than women (4.1%) had been charged/convicted of procuring for prostitution. Of the 91 incarcerated participants, 83 had been convicted and eight were in remand. A large majority of the 83 convicted individuals (n=70, 84.3%) had been convicted of human trafficking or abduction, or for being an accomplice in such cases, and 13 were in prison for procuring for prostitution. Of the 70 participants convicted of human trafficking, 21 (15 women and six men) admitted to their offence during our interview and/or their narratives matched the broad definition of their offence by engaging in some form of deception or coercion. We refer to them as “*real traffickers*.”

However, 49 participants did not admit that they had committed the offence and their accounts suggest that they had not been convicted “beyond a reasonable doubt.” At best they appear to have been doubtfully and at worst wrongly convicted. There was little or no substantial evidence in their narrative linking their activities to human trafficking, as defined by Article 3 of the 1996 Law. We refer to them as the “*doubtfully convicted*”. The 13 participants convicted of *procuring for prostitution* admitted to their offence or their narratives supported their conviction. Just over half the participants had been convicted for victimizing adults only (55.4%); around one-quarter (27.7%) children only; and the rest both children and adults. The “doubtfully convicted” were significantly more likely to have adult (alleged) victims (71.4%) than the two other groups.

⁷ In 2004, the World Bank set a poverty line in Cambodia at \$0.45 per person per day.

Sentencing profiles

The prison terms of the 83 convicted participants ranged from two to 27 years. While nearly one-third of the men (32.5%) had received sentences shorter than ten years, only 5% had been sentenced to over 15 years. For female participants, the pattern was the opposite: 11.6% had been sentenced to two to nine years jail, but 23.3% had received jail terms longer than 15 years. We assessed whether sex, age, marital status, education, socio-economic status (SES), ethnicity, primary occupation, convicted offence, and having a child as victim impacted the length of the prison term imposed. Apart from age, SES⁸, and involvement of a child as the victim, all the independent variables had a statistically significant relationship with length of sentence. Women received significantly longer prison terms than men (on average 13.5 and 10.6 years respectively), as did participants who had been sentenced for human trafficking compared to those sentenced for procuring for prostitution (12.7 and nine years respectively). In addition, non-Cambodians (i.e., Vietnamese and Thai), those who were married or divorced, had little education, and had worked as sex workers received significantly longer sentences than participants who were Cambodian, single, had better education, and had been in low-profile jobs, unemployed, or career criminals (i.e., the latter had been previously convicted or disclosed to us of having committed other crimes). This could suggest discriminatory practices by the CJS against women or at least against the most destitute defendants, as women were also significantly more likely than men to be destitute. Bribing police or judges was a way of avoiding arrest or reducing one's sentence, and the most destitute defendants were the ones least able to pay a bribe. While length of sentence was not entirely arbitrary since traffickers were more severely punished than procurers for prostitution, other factors such as the offender's sex, education, ethnicity, and occupation point to a CJS bias against the most powerless.

Evidence and negative outcomes of the HT panic in Cambodia

Of the 21 participants categorized as “real traffickers,” 11 claimed they had no prior knowledge that their conduct constituted human trafficking. Nine were aware that their activity was unlawful, but they either had assumed that the punishment was not severe or had no idea about its seriousness. Only one was fully cognizant of the severity of his offence. For 17 of them, it was the first time that they had attempted to traffic someone, but four had successfully trafficked people more than once in the past. Six of the 21 “real traffickers” had trafficked adult women for prostitution. The other 15 (4 men and 11

⁸ There was little variance in the scale (basically they were all more or less poor). The objective measure “level of education” can be regarded as a proxy for SES.

women) had abducted a child whom they intended to sell, or seduced a child into sex work or some other forms of labor as illustrated in case study 1 below.

Case 1: 15 years in jail for \$200⁹

Romdoul, 38, and her husband moved from Prey Veng province to work in Phnom Penh, leaving their three children in the care of her mother. Romdoul quit her job and left her husband when she discovered that he was having an affair with a co-worker. Then, she met Cheakmeas, a 58-year-old woman who was a job broker. With Cheakmeas' help, Romdoul got a job in a clothes shop, where she was earning \$35 a month. Some weeks later, she decided that she wanted to return to home and look after her children. Cheakmeas told her that she knew a couple who was willing to offer \$200 to adopt a child. Romdoul abducted her friend's 1-year-old daughter and gave the girl to Cheakmeas who took her to the couple. The girl's mother reported the two women to the police. Romdoul and Cheakmeas were apprehended and sentenced to 15 years imprisonment.

Participants, convicted mainly of procuring for prostitution, who had previously managed brothels, reported that brothel owners generally refrained from involving children and coercing women into prostitution. Choumpou, a 43-year-old man, sentenced to seven years imprisonment for procuring a woman for prostitution declared:

The police tend to take action when a trafficking case is reported. They have more tolerance for brothels not involved in forced prostitution. Some NGOs keep a close eye on brothels. Brothel owners, therefore, avoid forced and child prostitution. Besides, there is no need to use coercion because there are plenty of women ready to work as sex workers.

A deputy prosecutor who had worked on many sex trafficking cases told us that most of these cases turned out to be cases of procuring for prostitution, not sex trafficking, as shown in case study 2. He also confirmed Choumpou's claim that, today, brothel operators did not need to traffic anyone, because many women were "willing to prostitute themselves for a myriad of reasons."

Case 2: A brothel owner who sold drugs

Kaky, a 44-year-old illiterate man with three children, left the army after he was maimed by a landmine. He opened a small karaoke and hot-pot restaurant in a rural district of Battambang.

⁹ We use fictional names in our accounts of cases described here.

Eventually, his business evolved into a brothel fronting as karaoke parlor. Kaky did not recruit women directly, but offered small commissions (\$5 to \$10) to *motodub* who introduced women to work in his brothel. Customers paid between \$1.25 and \$2.5 for having sex with Kaki's employees, from which Kaki took 50%. In addition to the rent and utility costs, he had to pay \$25 a month in bribes to local authorities, and civilian and military police. To increase his modest earnings, he started selling drugs to men who visited his brothel. It lasted only a few years before he was arrested and sentenced to 10 years imprisonment for procuring for prostitution and dealing drugs. In this case, Kaky was prosecuted not because he coerced women into prostitution, but because under Article 5 of the 1996 Law, operating a brothel is considered a criminal act.

As for the role or degree of organizational structure among the 21 "real traffickers, 15 of them were "sole operators," five were linked to three independent small social networks, and only one claimed to be a former member of a large OC syndicate in Cambodia. There were a few cases in which several individuals had been apprehended and convicted for their connection in a trafficking incident, but there was no evidence to suggest that they belonged to a criminal organization. From their accounts, it rather appeared that they were individuals who happened to be acquainted. For example, a trafficker abducted and sold a child to another person with whom s/he may or may not have had a prior relationship. The seller and buyer of the child were then arrested and convicted of trafficking. Mostly they were recruiters or procurers of people to be used by others such as owners of brothels and karaoke parlors, child adopters, and child molesters to whom they were connected to some degree. Only two of the 21 "real traffickers" continued to exploit the trafficked persons after they had arrived at the destination. Eleven of the 21 "real traffickers" had prior relationships with the trafficked persons who were family members, relatives, friends, acquaintances, lovers, or neighbors.

Case 3: A sole operator:

Somaly, a 54-year-old widow had an adult granddaughter, Sopham, who had been disowned by her parents. One day, Sopham came with two female friends, including Rodeng who was 16, and asked Somaly to help the three of them find a job. Somaly recommended them to a garment factory where she was employed at the time. However, after nine days, the three girls were fired. Unable to help them with a new job, Somaly persuaded them to work in a brothel fronting as a coining house¹⁰ run by Ms. Rolous (another participant), who gave Somaly \$100 as commission. A month later, Rodeng's sister

¹⁰ A traditional form of medicinal massage common in Cambodia,

found out that Rodeng was working at the coining house and called the police who arrested Rolous and Somaly. Rolous was sentenced to 18 years imprisonment for human trafficking and procuring for prostitution, and Somaly to 14 years. This case did not involve coercion or transportation of the person to a different location, but it is legally a case of human trafficking because money had been exchanged, and whether the “trafficked” person consented or not to enter into sex work was irrelevant under the 1996 Law.

Case 4: A social network

Each of the three networks consisted of three to six individuals who had formed an informal alliance without clearly defined roles and responsibilities or a hierarchy. The networks were family- or friend-based, weak, amateurish, and with no clearly formulated plan. They were based on the temporary partnership of a few individuals looking for ways of making quick money and who came up with the idea of abducting a child, or procuring or trafficking a woman into prostitution. Ms. Seng and her husband were two of the participants who belonged to such a network. In 2006, Ms. Seng, who worked as a bartender and occasionally, prostituted herself, her husband, and a street-seller procured two young girls to a US national. The street-seller introduced the daughters of her friend to Seng for a small commission. Seng’s husband transported the girls to the house of the child molester. All four were apprehended: Ms. Seng and the street-seller were convicted of child trafficking, Seng’s husband, of being an accomplice, and the American national, of child molesting.

The shared characteristics of the networks described by my participants did not match any of the features of criminal organizations defined by the UNTOC: they were small, independent, poorly resourced, and loosely organized networks. They were involved in one-off operations with no long-term goals or established leadership. Their characteristics were far more similar to the Chinese human smuggler rings studied by Zhang and Chin (2002, 2004).

One of the 21 “real traffickers,” Mr. Lvear, claimed to be a former member of a large OC syndicate. The interviews with him took place over four days. What he described was a Mafia-like syndicate characterized by a clear power structure. However, human trafficking was not part of its activities, which primarily involved drug production and distribution, home and street robbery, fencing of stolen motor vehicles, production of pornographic films, and death squad operations. He believed that the syndicate was under the control of a few senior Cambodian military officials and benefited from sophisticated links with law enforcement officers and other syndicates in Thailand and Malaysia.

He had already served seven of his 11-year term in prison for attempting to sell a woman into a brothel (see case study 5). His story about the syndicate was not always credible and some parts of it sounded exaggerated. Most of his accounts could not be verified, and the little that could did not match his claims. Finally, his trafficking activities, as far as his story went, had little connection with the syndicate. They were side operations for his own personal benefit, akin to moonlighting. Mr. Lvear's story was an important one because he claimed to have been a member of a criminal organization. The interviewer therefore thoroughly cross-examined what Mr. Lvear was telling him and went to a village in Kompong Cham province, where Mr. Lvear claimed that, in 1998, he had trafficked three women to be sold in Sihanouk Ville. The interviewer talked to local people and authorities about the case, but no one had ever heard of such an incident. Yet, according to Mr. Lvear, not just one but three local women had allegedly been trafficked.

The prevalent social, cultural, and criminal justice conditions in Cambodia made the *modus operandi* of traffickers rather simple, which also make the role of organized crime (OC) and its over such activities unnecessary and improbable. Twelve “real traffickers”, particularly women offenders in sex trafficking cases, had used seduction or inducement to recruit people. The trafficked persons were induced to follow the traffickers because the latter had created expectations of a better livelihood in a new place. Only two traffickers used feigned love to lure the woman they wanted to traffic into a brothel. Abduction was only used with young children to be sold into adoption. Seven participants (including five women) abducted small children who were too young to be seduced. The following story, told separately by Mr. Lvear and another trafficker convicted for the same case, illustrates how deception and feigned love were used in an attempt to traffic a young woman.

Case 5: Feigned love

Speu and his friend Pnaov used to steal and rob people in the street to feed their drug habit. One day they met another friend, Mr. Lvear. They told him that they wanted to sell Speu's girlfriend, Orng, to buy drugs. Lvear, who had experience in trafficking women, told Speu and Pnaov to convince her to go to Sihanouk Ville where he knew a brothel owner. That very night, Speu and Pnaov enticed Orng to participate in their small criminal enterprise. They told her that they needed money to buy guns for their robbery business. They loved her very much, but getting this money was important, and she could help them by working in a brothel for a while. Once they had the money and made a few robberies, they would get her out of the brothel and would be able to take good care of her.

The next morning, Orng followed Speu, Pnaov, and Lvear to Sihanouk Ville. They were attempting to pawn Orng at a brothel for \$120, when the member of an NGO that had been investigating Lvear's activities for years reported them to the police. The three men were arrested, and Orng was rescued. Corrupt police officers asked Speu \$1,200 for their release. He did not have the money, so the three men were incarcerated. Pnaov's family, however, managed to strike a deal with the court and Pnaov was released. Speu and Lvear were sentenced to 10 and 11 years respectively for sex trafficking.

Among the 91 incarcerated participants, 27.5% (17 females and eight males) had been arrested for their alleged involvement in cross-border trafficking. Because the majority of the incidents reported by the incarcerated participants occurred within Cambodia, complex and costly means of transportation were not necessary. A trafficker told us:

I managed to convince two girls to work in a karaoke parlor in Koh Kong. We made appointment to travel in a shared taxi from Phnom Penh to Koh Kong. Because the girls were willing to go with me, the taxi driver was not suspicious. We acted as if we were ordinary passengers (Champey, female, aged 61, 10 years imprisonment for trafficking).

Five male participants had been convicted of procuring for prostitution as spruikers or brothel employees. The latter are generally independent male agents, who are not paid a fixed monthly salary but a small commission depending on the number of customers they manage to introduce to the brothel. They earn around \$0.25 per customer. The competition between spruikers in red light districts is fierce, and on average, spruikers get about \$2.5 a day or \$75 a month. One of them reported:

I am an orphan and migrated from Vietnam with three friends. Once in Cambodia, my friends got jobs as builders, but I could not find a job. Then, I met a brothel owner who asked me to be a spruiker at his Svay Park brothel. He told me that it was easy and not illegal. It was easy, but competitive. I just hung around the red light district, approached men and told them that the brothel had lots of beautiful girls and they were not expensive. I got \$0.25 for each customer I introduced to the brothel, and each night I earned about \$3. After three years on the job, I was arrested in a raid. The brothel owner was never arrested (Krouch, 22-year-old man, sentenced to 10 years imprisonment in CC1).

Eight participants (three females) were sentenced for procuring for prostitution as brothel operators, and three of them (two females) were also charged with sex trafficking. The accounts of the eight participants do not suggest that they were operating very lucrative businesses. They rented the

premises, which doubled as a brothel and their own residence. They were aware that operating brothels was illegal, but they reported that corrupt local authorities, police, and the gendarmes turned a blind eye as long as brothel operators were prepared to pay bribes to them. Rent seeking by corrupt officials cost them between \$5 and \$50 a month. In fact, thirteen of the participants, especially those sentenced for procuring for prostitution, reported that some junior police officers were actively involved in the operation of sex establishments and protection rackets.¹¹

The brothels they operated housed no more than five to ten women, and the cost of sex services ranged from \$2.5 to \$5. In the most profitable and rare scenario involving ten women serving ten clients a day, and charging \$5 per client, the brothel operator would make \$250 per day, from which all operating costs need to be deducted. However, most operators are unlikely to earn even half this top income, as Sbei Roeung, a 28-year-old female brothel operator, sentenced to six years imprisonment for procuring for prostitution, complained:

People think brothel owners make a lot of money, but they have no idea of our difficulties. We risk prosecution. We are harassed by police and local authorities, especially when we fail to pay the bribes in time. Our earnings are spent on bribery, rent, food for our girls, utilities and more. Often the girls borrow money from us, and some run away without repaying the loan. Some even report to the police that they have been trafficked so they can default on the loan.

Case 6: workers and beggars

Two male participants had been involved in labor trafficking. Karot had been convicted of trafficking two children to work in plantations in Thailand. He had brought groups of illegal Cambodian laborers into Thailand before. As a group leader, he was responsible for subcontracting assignments with plantation owners to perform specific jobs such as cutting trees, removing grass, and so on. He then came to the plantation with a team of workers who did the jobs, negotiated a lump sum payment with the owner, and paid his workers as he wished. He himself labored to increase his income, which altogether was about \$10 a day. By Cambodian living standards, this was a good income, since most workers get about \$2.5 a day. However, the last time he attempted to bring two children to work in Thailand, he was arrested. He could not afford the \$1,500 demanded by the police for his freedom, and was sentenced to 10 years imprisonment for labor trafficking.

¹¹ DSUS (2009) reported that a number of police and government officials extorted money or accepted bribes from brothel operators, and that courts acquitted traffickers in return for bribes. Former Phnom Penh Police Commissioner, Heng Pov, who was in office between 2004 and 2006, is currently serving a 92 years prison term for a number of crimes, including murder, extortion, and kidnapping (Chrann 2009).

Lamut and his wife rented four children from their neighbors in Svay Rieng province, which borders Vietnam, and Lamut took the children to Ho Chi Minh City and asked them to beg in the streets. He claimed that he made only about \$75 per month after paying rent, food, medical care, and transportation for those children. In 2005, after a few years in this business, he and his wife were arrested. Lamut was sentenced to 17 years imprisonment. His wife received a 15-year suspended sentence so she could stay out of prison and care for their two young children and an aging mother.

Case 7: A smugglee turned smuggler

Kabas, 41, a widow with a grade 2 education and supporting eight children, had spent \$87 to be smuggled to Bangkok to work in a restaurant. Later, she returned to Cambodia to fetch two of her children and brought them with her to beg in Bangkok. Because she could speak Thai and knew the routes to Thailand, she commuted easily and cheaply between the two countries with no need for smugglers. As she got acquainted with some Cambodian and Thai border controllers, she started smuggling people. Within a few years, she managed to smuggle 30 elderly women to work as beggars in Bangkok. Deducting transportation costs, she made \$12.5 per smugglee. She was eventually arrested and convicted to eight years imprisonment for human trafficking and smuggling. She said:

People think smugglers make heaps of money, but in fact they do not. They have to share the proceeds with border patrollers of both sides. Had I \$3,000 for a bribe, I would not be spending time behind bars.

Whether the participants were involved in human trafficking, human smuggling, and/or procuring for prostitution, their accounts don't show that these activities are particularly lucrative. However, the findings also suggest that if an illegitimate opportunity such as human trafficking is not very lucrative in Cambodia, it is still more lucrative than the legitimate work opportunities that are available to many Cambodians. In addition, many Cambodians, and particularly those in our sample, do not even have access to these legitimate work opportunities because of their lack of education and skills. The data suggest that their involvement was strongly influenced by both push and pull factors, or in other words, by both a lack of legitimate opportunities and the presence of illegitimate opportunities to ensure their survival. Given that poor and uneducated women were overrepresented in the statistics of incarcerated traffickers, that, apart from some interpersonal skills, no particular knowledge and practice were necessary to participate in trafficking, and traffickers and trafficked persons were an overlapping population, namely poor uneducated women. Thus human trafficking appears to be a particularly

suitable illegitimate opportunity for women, especially poor and uneducated women of the developing world, who become both the victims and perpetrators of human trafficking, in a social phenomenon that Sassen (2002: 258) has called the “feminization of the global circuits of survival.”

Case 8: Pushed and pulled into sex-trafficking

At 22, Kadas, then a young sex worker in Vietnam, paid \$20 to have herself smuggled into Cambodia hoping that she could make more money to support her family. In Phnom Penh, she worked as a bartender in a bar catering for westerners, and she provided sexual services on negotiation. She formed a close sexual relationship with a US customer, Mr. Sam, but continued to be a bartender. He gave her \$60 a month so she could pay her rent. Sam had started to ask her to find young girls for him, and through her social network, she managed to procure him several under-aged girls.

Kadas generally brought the girls and their parents to meet Sam so they could make a deal with him directly. Sam gave Kadas \$20 every time she taught a girl some sexual skills to pleasure him. In 2006, Kadas and Sam were arrested, and she was sentenced to 27 years imprisonment. Kadas reported that she was unaware that introducing willing girls with the consent of their parents to have sex with a foreigner and teaching them sexual skills was a serious crime. These activities were rather common practices at the bar where she worked.

The stories of the 49 participants that we categorized as “doubtfully convicted,” suggested their treatment by the CJS at the time of their arrest and/or judgment, showed at best, negligence by the CJS and at worst, corruption. For the “real traffickers,” the leading cause of arrest was a complaint to the police by the family of the alleged victim, but for the “doubtfully convicted,” it was direct “investigations” by the police. About half of the 83 convicted participants reported that if they had been able to pay the bribe requested by the police or the judiciary, they would not have been convicted or would have received a more lenient sentence. Many of these cases appeared among the stories of the “doubtfully convicted”. We do not claim that all these participants were innocent. Some of them had even confessed to us that they had committed other offences, such as drug trafficking, procuring for prostitution, and human smuggling. But, despite their involvement in other crimes, they denied being involved in human trafficking. Overall, the accounts of these 49 individuals suggest that they had been the subjects of abuse of power, of attempted extortion by unscrupulous individuals and corrupt CJS officials, and incompetent law enforcement. Corruption was a major factor in the unfair application of the law, and legal ambiguities could also be used as opportunities for abuse of power.

Case 9: The corruption of human trafficking laws

Mr. Saomaov, 48, worked as a builder to support a family of seven children. In 2004, he was sentenced to 13 years imprisonment for the abduction and sale of women. Saomaov and his family lived in a wooden shack in a squatter area of Phnom Penh. One of his neighbors, Mr. Pring, was an agent of Mr. Meng Say,¹² the former director of the Phnom Penh ATJPO. Pring was apparently also a drug dealer, as everyday many people came to his house riding motorcycles to buy drugs. Saomaov's house was connected to an old wooden bridge on which Pring's clients used to ride their motorcycles, creating noise and vibrations that disturbed Saomaov's family. One day, he asked Pring to tell his clients to ride more slowly. Pring became angry and warned Saomaov that he may end up in jail.

Soon after this incident, the police arrested Saomaov and referred him to the ATJPO. Saomaov was detained illegally for eight days while the police attempted to solicit \$500 from his family to secure his release. Saomaov and his family were too poor to pay such a bribe. The police told Saomaov to put his thumbprint on an interrogation report, and promised to free him the next day with \$1.25 for his transportation home. Saomaov is illiterate and he trusted the promise of the police officers, so he did as he was told. The next day, however, he was sent to jail and his case went to court. No victim or plaintiff appeared at his hearing. The only evidence against him was the police interrogation report containing his thumb-printed "confession" that he had trafficked women from Phnom Penh to Koh Kong, a province he told me he had never visited.

We spoke to a number of NGOs in Cambodia and they all confirmed that many judges handed down guilty rulings despite a lack of compelling evidence against an accused, especially if the latter could not afford to pay a bribe. We interviewed a judge who confirmed these allegations:

Even when evidence is slim, in the absence of financial reward, many judges I know tend to convict a person accused of trafficking. This is partly to avoid being seen as corrupt if they had acquitted the accused. As for me, I normally exonerate the accused if there is not enough evidence.

The following story is the only one for which it was possible to examine the case dossier made available by sources we cannot reveal.

¹² In 2007, the municipal court acquitted Mr. Meng Say, who in 2006 had been suspended for extorting money from South Korean nationals. Three other police officers, who were involved in the case, were sentenced between five and seven years imprisonment for corruption in trafficking incidents (DSUS 2009; Prak 23 March 2006; HumanTrafficking.Org 2011).

Case 10: Victim of false accusation

Bopha was sentenced to three years imprisonment and her father to 10 years for attempting to traffic two of her friends, Miss Malis and Miss Kabas. Mr. Cheak was a *motodub* and the only income earner in the family that included his sick wife and three children. Bopha was the second child. She dropped out of school in grade 3 because of dire poverty and to nurse her mother who eventually died at home from a brain tumor. After his wife's death, Cheak built a small wooden house on a land donated by villagers. He wanted Bopha to live with a relative in a provincial town. Bopha told her friends, Malis and Kabas, that she was leaving the village, and the two girls said they would like to go with her. The next day, Cheak rode downtown with Bopha, and on their way they met Malis and Kabas who asked for a lift, claiming that they had permission from their parents to go and work as fruit sellers. On their journey to town they were stopped by the local police who had received a complaint from the girls' parents, and Bopha and Cheak were arrested. The parents of Malis and Kabas wanted \$500 in exchange of which they would not press charges against Cheak and Bopha. Cheak did not have such a sum of money so he told them he would sell his motorcycle, but the girls' parents did not want to wait and lodged a formal complaint.

Three legal aid NGOs got involved in the case. One NGO represented Malis and Kabas against Cheak and Bopha's lawyers. According to Cheak's lawyer, also an NGO lawyer, at some stage Malis' and Kabas' parents asked him to help Cheak and Bopha by saying that they regretted having lodged a complaint and that the accused were innocent. Another lawyer told us that a week before the hearing hundreds of villagers, including Malis' and Kabas' parents, made a request to the court, endorsed by the local authorities, for the release of Cheak and Bopha, but the hearing went on.

Cheak reported that before handing down his verdict, the judge asked him and Bopha to wait outside the courtroom. Then, a court official, a prosecutor or a clerk, asked Cheak to give him \$500 and he would have them both exonerated by the judge. Cheak told this court official that he could sell his motorcycle to get the money. A bit later, Cheak and Bopha were invited back into the courtroom. They were convicted of attempting to traffic Malis and Kabas, and the motorcycle was confiscated as a criminal implement.

According to the lawyers representing Malis and Kabas, the two pieces of evidence against Cheak and Bopha were: (1) Cheak had been caught red-handed carrying Malis and Kabas on his motorbike, and (2) Malis and Kabas testified that they had been enticed by Bopha to come to town to sell fruits in the street. Cheak's lawyer said to the interviewer that after the trial, the judge had told him: "it does not

sound fair for the defendants, but I don't have a choice. I have to convict them to avoid criticism." We asked Cheak why he did not appeal the decision. Like many poor Cambodians he was fatalist, "it was my destiny to go to jail," he said. However, there were also more compelling reasons. He did not have the \$5 required for an appeal application, and perhaps more importantly he feared that the appeal court (AC) might increase his sentence.

The court dossier shows that after Cheak and Bopha were arrested, Malis and Kabas told the police that they had come voluntarily to town with Bopha. However, the two girls had been placed into an NGO shelter for children who are victims of violence, abuse, or human trafficking. According to Cheak's and Bopha's lawyers, the girls then changed their testimony, alleging that they had been enticed by Bopha to come and sell fruits in the streets. The lawyers suspected that Malis and Kabas might have indeed been enticed not by Bopha, but by their desire to be regarded as victims of child trafficking. This status meant that they met the NGO's criteria for support, such as free education, accommodation, food, and other types of assistance. We do not argue here that the suspicions of Cheak's and Bopha's lawyers about the role of the NGO in the two girls' changing their testimony is evidence of an NGOs' harmful activities, but these concerns point to some of the ways in which such NGOs can do harm unintentionally.

Case 11: Acquitted at last

Kuy was a poor fisherman in a province, spending most of his time alone on the river with little contact with the outside world. In 2004, he had an argument with his wife and beat her rather badly. Mr. Kroch, his brother-in-law, was very angry with Kuy for beating his sister. Kroch brought Kuy to the court office and asked the court to allow his sister to divorce Kuy. Kuy agreed to divorce, but he wanted custody of two of his four children. His wife did not agree because she wanted full custody of the four children. Instead of allowing a divorce, the judge ordered Kuy to be detained on the charge of attempting to sell his children. During his hearing, which lasted less than an hour in the absence of legal representation, Kuy was sentenced to 15 years imprisonment for attempted child trafficking. He said to the interviewer: "I spent most of the time on the water, fishing. I had little contact with others. I knew where to sell fish, but certainly not where to sell my two sons." In 2008, he was assisted by an NGO to appeal the provincial court's decision. During our fieldwork in Cambodia in late 2009, we asked a prison officer about Kuy, and found out that the appeal court had already acquitted him, making him the luckiest person among our sample of "doubtfully convicted" participants.

Failed attempts at extortion against poor individuals often ended up with the latter being accused and eventually convicted of trafficking. Sometimes it was the acquaintances or friends of the participants who first attempted to extort money from them, and when their demands failed they accused them of attempted trafficking. Five of the “doubtfully convicted” participants had been the victims of such attempts and accusations, and ended up in court where further demands for money were made, this time by officials of the court. Unable to pay for their acquittal, they were convicted. These stories reveal one of the typical mechanisms of the perversion of justice where failed extortion attempts are followed by false accusations and incorrect implementations of the law, which in turn becomes an instrument of victimization. They also document how unscrupulous individuals in collusion with corrupt police exploited the sensationalized issue of human trafficking to make false complaints and extort money. Three of the participants, all from different prisons told similar stories in which they appeared to have been doubtfully convicted following love affairs that others objected to, and, in collusion with the police, reported as human trafficking incidents. Such cases are not rare in Cambodia, and are regularly reported by local newspapers. Love affairs of this sort would surely anger parents because in Cambodian culture they bring shame to the family. To imprison and punish the violator, the aggrieved family can bribe the police or the judge who can now, in addition to rape charges,¹³ also use the anti-trafficking law.

The reliability of the stories of the “doubtfully convicted” can always be questioned on the ground that convicted traffickers would rather lie than admit guilt. However, we presented other data, which, if they do not constitute a triangulation of each case, lend credence to the accounts of the participants. For instance, 55 prison officers, six anti-trafficking policemen, and 14 officers of the court were also interviewed and their narratives confirmed the accounts of the 91 incarcerated participants that the 1996 Law had little deterrent effect and produced harmful unintended consequences. Most of the interviewed ATJPO officers confessed that they and their colleagues had, in fact, a very limited knowledge of human trafficking. Some had only attended a one-day training workshop on the subject. They blamed their poor performance on a lack of resources, training, and focus. Instead of spending time investigating potential trafficking incidents, they were told to cooperate with NGOs in raising public awareness about the dangers of illegal migration, prostitution and human trafficking.

¹³ There have been reports by the local media about rapes in Cambodia, which suggest that sometimes consenting girls claim rape to avoid the wrath of their parents and community. Other cases involve pre-marital sexual relationships that lead to monetary compensation or forced marriage.

The officers of the court like the convicted traffickers had limited knowledge of what constitutes human trafficking. According to the NGOs we contacted, few Cambodian judges know enough about human trafficking to deliver a sound and fair judgment. Accusations of extortion attempts by judicial officials, as documented in our case studies, were numerous¹⁴. Corrupt practices are so common in the judiciary that the judges and deputy prosecutors we talked to, did not even pretend they did not engage in them. Rather they attempted to downplay their role by blaming the system in which they operated and the corruption of the government officials. In the words of a deputy prosecutor:

Compared to government officials, courts and prosecutors have a modest living standard. We don't make as much money as they do. We deal mostly with the poor. Even if we only ask for a small bribe, the poor complain loudly, making it sounds like a big thing. Government officials deal with the rich. Even if they take a lot more, the rich are still happy and keep quiet.

Two experienced NGO lawyers remarked that most judges and prosecutors did not really know what constituted human trafficking. One of them concluded about the cases she had worked on:

Most offenders were unaware that they had committed offences qualified as human trafficking. A majority of law enforcement officers also did not have a good knowledge of the 1996 Law, which they had never read. Their actions are based on what they have been told, heard or what has been sensationalized. The dramatization of trafficking issues in Cambodia, created by a big group of powerful NGOs and UN agencies, seems to play a major part in the incorrect enforcement of the law.

A context for negative consequences

In the Cambodian context, our study does not support the popular claims about the high prevalence, profitability, or role of organized crime in human trafficking. Incarcerated traffickers in Cambodia are poor, uneducated individuals, and 80% are women. Their activities are unsophisticated and conducted by sole operators or small casual or informal networks. Pushed by a lack of legitimate opportunities and pulled by the presence of illegitimate opportunities, to survive they engage in trafficking for very modest gains. Caught in a corrupt CJS, they serve long prison sentences and as many as 60% are probably the victims of miscarriages of justice. Their accounts, confirmed by other groups we interviewed, revealed widespread malpractice and corruption among the police and court officials they encountered. The law enforcement response had become open to corruption and injustice rather than a mechanism for the protection of human rights.

¹⁴ In December 2010, a provincial prosecutor was arrested by the Anti-Corruption Unit for abuse of power, corruption, and extortion (South-East Asia Weekly, 6 December 2010).

The HT panic in Cambodia

Many social problems like crime, drug use, prostitution, and illegal migration, share an important characteristic: they are likely to provoke popular anxiety and moral outrage. Often, the level of popular anxiety and outrage is disproportionate to the prevalence of these problems. Popular perception is that of a growing problem despite contrary evidence. Criminologists are aware of the negative consequences of this gap between popular perceptions and evidence-based research findings, for both policy and legislative and other responses. A significant consequence is the diversion of attention and resources from other pressing social issues (Talbot 1999; Weitzer 2012). These anxiety-provoking problems are often dramatized, glamorized, and sensationalized in newspaper articles, movies, and TV shows that select the most fear-provoking and outrageous cases for popular consumption. The measured findings of serious evidence-based criminological studies would be expected to reduce misrepresentations and misperceptions, yet in spite of the evidence, these misrepresentations and misperceptions can reach vertiginous proportions. When such a situation arises a moral panic is in full sway. Cohen, proposed a ‘moral panic’ occurred when:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnosis and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible. Sometimes the object of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. Sometimes the panic passes over and is forgotten, except in folklore and collective memory; at other times it has more serious and long-lasting repercussions and might produce such changes as those in legal and social policy or even in the way the society conceives itself (Cohen 1973:2).

Talbot (1999) listed four recurring features of moral panics: (1) wildly inflated statistics that are circulated and reported without any skepticism or correction; (2) the rejection of credible counter-evidence; (3) unreliable research; and (4) indiscriminate merging of various crimes to make the problem look much more serious than it is. Drawing from Cohen’s and Talbot’s description of moral panics we can distinguish four sets of characteristics: (1) *the elements* delineated by Talbot and generally wrapped in highly emotional language and discourses; (2) *the vested interests* outlined by Cohen, which include moral entrepreneurs, journalists, politicians, rescuers, and other professionals

and sometimes among them academics and social scientists; (3) *the scope of the panic* ranging from the local to the national and international levels; and (4) *the negative consequences* such as bad legislation, misdirection of resources, the demonization of certain groups and the criminalization of innocent people. Our study of traffickers in Cambodia illustrates these four elements.

In the early 1990s, the end of the Cold War and the globalization of economic activities drove people from the third world to Western Europe, the US, and other developed nations. Pushed by socio-economic hardship and troubles at home, and pulled by the prospect of a livelihood in the developed world, many people from the developing world attempted to reach the developed world through the new global channels of migration (Massey 2003; Rao 2011). The western world, concerned about security and the protection of labor markets and cultural values, engaged in an intensified campaign against illegal migrations and those who facilitated them, a new breed of “international criminals”: the people smugglers were created (e.g., see Jackman 2011).

During the same period, governments and elements of civil society in the developed world, particularly in the US, “discovered” a related but even more alarming threat to humanity and global order, a threat spreading like an epidemic: human trafficking. Moral entrepreneurs with various agendas represented by six common counter-trafficking approaches (morality, demand, labor, migration, organized crime, and human rights) coalesced in an accelerating HT panic. Foreign NGOs and aid donors, the US in particular, influenced the design and adoption of the Cambodian anti-trafficking law. This law was poorly written, ambiguous, and confounded trafficking, smuggling, illegal migration, and prostitution and caste a wide net over many ill-defined ‘deviant’ behaviors. All this coincided in a country emerging from 30 years of armed conflict during which around two million Cambodians died. Cambodia was still grappling with high levels of violence, while poverty and social inequality were widespread. The CJS was weak and corrupt, the police and judiciary poorly trained and paid, and known to systematically engage in rent seeking and extortion. This anomic period in Cambodia was embedded in a larger, more global wave of change brought about by globalization, and itself generator of anomic conditions. The new rules of this transnational, globalized game created both legitimate and illegitimate opportunities in “global circuits of survival” (Sassen 2002). Through these circuits, women from developing countries like Cambodia increasingly moved abroad to try and make a living, and become exposed to the risk of being exploited and abused, but also to be criminalized.

When it was likely, in the context of the systemic corruption of the Cambodian CJS, regularly denounced by the same groups that advocated a legalistic response to trafficking, that the new law would not deliver justice but become an instrument of further injustice against the powerless, was it not irresponsible and unconscionable to consider such an approach. Given the known shortcomings of the CJS how can we explain the adoption of such a law? We have seen how the aims of well-meaning anti-trafficking NGOs could be seriously perverted in such an environment. Was the hegemonic agenda too irresistible or pressing and the moral and security panics too strong for their supporters to contemplate the disastrous effects of their “good work” on the powerless of the subordinate world.

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