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From Sex Work to Entertainment and Trafficking: Implications of a Paradigm Shift for Sexuality, Law and Activism in Cambodia

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FROM SEX WORK TO ENTERTAINMENT AND TRAFFICKING: IMPLICATIONS OF A PARADIGM SHIFT FOR SEXUALITY, LAW AND ACTIVISM IN CAMBODIA

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List of Abbreviations

AFESIP	Acting for Women in Distressing Situations
AIDS	Acquired immunodeficiency syndrome
APHEDA	Australian People for Health, Education and Development Abroad
APNSW	Asia Pacific Network of Sex Workers
ART	Anti-Retroviral Therapy
ASEAN	Association of South East Asian Nations
CACHA	Cambodian Alliances for Combating HIV/AIDS
CBCA	Cambodian Business Coalition on AIDS
CBO	Community Based Organisation
CCC	Country Coordinating Committee
CCM	Country Coordinating Mechanism of the GFATM
CD4	blood cells that fight infection whose numbers decline as HIV progresses and rise after effective treatment
CDHS	Cambodia Demographic and Health Survey
CFSWF	Cambodian Food Service Workers Federation
CLC	Cambodian Labour Confederation
CPITC	Community Peer-Initiated Testing and Counselling
CPU	Cambodian Prostitutes Union
CSO	Civil Society Organisations
CUP	100% Condom Use Programme
CWDA	Cambodian Women's Development Agency
DSWs	Direct Sex Workers
ECPAT	End Child Prostitution, Abuse and Trafficking in Cambodia
EWs	Entertainment Workers
EXIT	End Exploitation and Trafficking
FEWs	Female Entertainment Workers
FHI	Family Health International
FSWs	Freelance Sex Workers
GBV	Gender-Based Violence
GFATM	The Global Fund to Fight AIDS, Tuberculosis and Malaria
HACC	HIV/AIDS Coordinating Committee
HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
IDEA	Independent Democratic Informal Employees Association
IDSWs	Indirect Sex Workers
ILO	International Labour Organization
KHANA	Khmer HIV/AIDS NGOs Alliances
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LSHTSE	Law on Suppression of Human Trafficking and Sexual Exploitation
MARPs	Most At Risk Populations
MCPI	MARPs Community Partnership Initiative
MEWs	Male Entertainment Workers
MoH	Ministry of Health
MoI	Ministry of the Interior
MoSVY	Ministry of Social Affairs, Veterans, and Youth Rehabilitation
MSM	Men Who Have Sex with Men
NAA	National AIDS Authority
NCHADS	National Centre for HIV/AIDS, Dermatology, and Sexually Transmitted Diseases
NGO	Non-Governmental Organisation
NSP	Needle and Syringe Programming

NSWP	Global Network of Sex Work Projects
PEPFAR	US President's Emergency Plan for AIDS Relief
PLRI	Paulo Longo Research Initiative
PSI	Population Services International
PSWBI	Promoting Safety of Women Workers in the Beer Industry
SABC	Solidarity Association of Beer Promoters in Cambodia
SOMO	Centre for Research on Multinational Corporations
SOP	Standard Operating Procedures
SiRCHESI	Siem Reap Citizens for Health, Educational and Social Issues
STIs	Sexual Transmitted Infection
TIP	United States Trafficking in Persons Report
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations for Development Program
UNFPA	United Nations Population Fund
UNGASS	United Nations General Assembly Special Session
UNICEF	The United Nations Children's Fund
UNTAC	United Nations Transitional Authority in Cambodia
USAID	US Agency for International Development
VCT	Voluntary Testing and Counselling
WHO	World Health Organization
WAC	Womyn's Agenda for Change
WNU	Women's Network for Unity
YEWs	Youth Entertainment Workers

Executive Summary

At the behest of the US government, policy and legislation were introduced in Cambodia in 2008–9 that made virtually all activities associated with commercial sex illegal. The law confirmed the illegality of human trafficking and procuring for prostitution through the use of force or coercion and extended it to criminalising all third party involvement in sex work. This is defined as sexual exploitation and it includes supplying accommodation, transport, employment, advertising or any other services to sex workers regardless of consent. Freelance prostitution is criminalised through soliciting laws and by a government policy on 'safer communities'. Women who sell sexual services were thus recognised in law only as victims of trafficking and sexual exploitation or as criminals. Women who sell sex were re-classified as 'entertainment workers' (EWs) and the term 'sex worker' was removed from all official documents.

In the wake of this new law, most brothels were closed, street prostitution was dramatically reduced and commercial sex shifted to restaurants, entertainment and massage venues where sex must be negotiated without the official knowledge of the venue operator before being carried out in nearby guesthouses. The law and its enforcement was criticised by sex workers' networks, human rights organisations and health agencies who said it violated human rights, would fail to capture perpetrators of abuse and contribute to the spread of HIV and STIs.

The HIV programme which had been designed to reach sex workers in brothels and on the street collapsed. The government has since struggled to replace it with a programme for the newly created 'entertainment' industry. This is difficult because entertainment venues are based on denial of prostitution and their operators can be charged with serious offences if condoms are found.

This case study describes and examines the impact of the changes brought about by the law focusing particularly on conditions in the entertainment venues; the role of the many national and international policies and institutions that aim to help sex workers and the opportunities for sex workers to develop, articulate and advance demands. The paper concludes with ideas about ways in which sex workers might participate in and influence process in which specific, self-identified outcomes can be attained. It argues that re-configuration of the institutions and networks that represent sex workers and victims of trafficking in Cambodia, or provide services to them is needed for affected women to achieve the power and autonomy they need to realise rights in the new landscape of commercial sex in Cambodia. It suggests that grants from international donors should be made to local, member-driven organisations that reflect local identities and economic realities and pursue goals that sex workers have identified independently of externally defined priorities such as HIV. It also recommends that the government revise its definition of trafficking and sexual exploitation and that it exercise more scrutiny over both police and anti-trafficking NGOs.

1 Introduction

1.1 A new law to govern sex work in Cambodia

Cambodia was chosen for this case study because the changes in law and policy that have occurred since 2007 exemplify regional and global trends towards commercial sex. These laws aim to reduce trafficking and sexual exploitation by prohibiting most activities associated with prostitution and by seeking to end demand for commercial sex. The US Department of State recommended that the Cambodia government enact comprehensive anti-trafficking legislation and make greater efforts to prosecute and convict public officials who profit from or are involved in trafficking. Contestation and revision of the law and policies around sex work and trafficking in Cambodia has involved various stakeholders and is well documented, which makes observation and analysis of its intended and unintended consequences possible.

In March 2008 a new act, the Law on Suppression of Human Trafficking and Sexual Exploitation (LSHTSE), was introduced. Its stated aim was to reduce sex trafficking and sexual exploitation by criminalising various types of sexual behaviour including sex for reward, soliciting for prostitution and almost all social and financial transactions connected with commercial sex. It contains provisions against human trafficking involving force or coercion as well as against 'sexual exploitation' which applies to people involved in commercial sex other than the client and the sex worker. This includes brothel owners or 'pimps' but it also extends to indirect involvement such as co-habiting with a sex worker, renting a room to her, driving her in a taxi, or serving her food and drink in a bar. These provisions mean that, as well as these people being criminalised, women who sell sexual services from brothels and rented rooms are 'victims of sexual exploitation' under the law and as such, they are not distinguished from 'victims of human trafficking'. The only ways for women who sell sex to avoid being classified as victims of sexual exploitation or trafficking is to work in a venue that prohibits prostitution, or from homes they own without any involvement of others, which is virtually impossible given the economic position of most sex workers.

With prostitution effectively made illegal by the LSHTSE, the immediate effect of the law and its enforcement has been a dramatic reduction in brothels and street sex work in Phnom Penh and other cities and the relocation of the sex industry into restaurants, cafés, and entertainment and massage venues. Sexual services are negotiated in these venues before being carried out in guesthouses or other nearby venues. To be safe from prosecution, managers of bars and restaurants in which freelance sex workers previously met customers must take steps to ensure that no prostitutes are soliciting on their premises (Godwin 2012; Maher *et al.* 2011).

The law was criticised and resisted by sex workers, human rights organisations and health agencies who said it violated human rights, would fail to capture perpetrators of abuse and would contribute to the spread of HIV and STIs by relocating sex work to venues where condoms would be discouraged or prohibited to avoid charges of sexual exploitation, procuring or trafficking. In 2009 there were early signs that the new ways of selling sex had created new threats to health and human rights and predictions that the situation would worsen. This paper uses these predictions as a lens for comparing the situation in 2008 and 2012.



WNU Day of action to protest the 2009 Law for Suppression of Sexual Exploitation and Human Trafficking. Photo: Paulo Longo Research Initiative, 2008.

The legal changes also gave rise to new language, identities, definitions and taxonomies around commercial sex as well as new institutions and institutional approaches to it. The term 'sex worker', (and versions of it such as 'indirect/direct sex worker'; street/brothel-based sex worker; male/female/transgender sex worker), has been replaced by 'entertainment worker' which is abbreviated to 'EW'. How language and configurations of community in Cambodia affects sex workers' vision of themselves individually and collectively and how they organise to develop and assert social, legal and political demands is explored later in this paper.

1.2 History repeating itself

The Law to Eliminate Human Trafficking and Sexual Exploitation 2008 supersedes the 1996 Law on Suppression of Kidnapping and Trafficking/Sale of Human Persons and Exploitation of Human Persons. It is the latest in a long line of anti-prostitution law in Cambodia. In her doctoral thesis on the Cambodian sex industry, 'My Blood, Sweat and Tears', Larissa Sandy (2006) describes the history of prostitution law beginning in the colonial period, and extending through the reign of Sihanouk's (1961) and Hun Sen's governments in 1996, 1997, 1999 and 2001. She traces the different sections of the sex industry targeted in the various campaigns and identifies the impact of the different approaches. She suggests that the following drivers have influenced Cambodia's crackdowns: containment and control in 1996; urban regeneration in 1999; public health in 1997 and public order in 2001. She adds that:

Prostitution is a site at which the geo-political and social struggles of the day are played out. The suppression of trafficking seamlessly joins this list as 2008's justification. (Sandy 2006: 6)

This time, in 2008, the driver is the need to curry favour with the US in order to maintain the flow of development aid by complying with the US government's requirements for combating trafficking. Each year the United States publishes a report about Trafficking in Persons (the TIP Report) that describes trafficking in various countries and ranks governments into tiers according to the steps they are taking to eliminate it. Tier 1 countries are those that have taken all the steps that the US sees as necessary for combating trafficking (such as 'rescue and rehabilitation' and criminal prohibitions), Tier 2 are those that are trying and the lowest rating Tier 3 are those not taking the appropriate steps, by, for example, allowing all or part of the sex trade to be conducted legally. These ratings are tied to continued aid from the US. Cambodia had been on the 'Tier 2 Watch List' after being relegated to the lowest category, Tier 3, in 2005 in the wake of the national police chief Hok Lundy being convicted of human trafficking (Kyodo News 2006). Then, for two consecutive years (2006–7), Cambodia was placed on the Tier 2 Watch List and urged to take immediate action to avoid being dropped to Tier 3 again and losing aid money.

Sex Work is Work

The unwillingness or inability of people to recognise that people can freely decide to engage in sex work means that sex workers are often automatically labelled as victims of trafficking when they are not. Often sex workers are portrayed as passive victims who need to be saved. Assuming that all sex workers are trafficked denies the autonomy and agency of people who sell sex. Moreover, such perspectives mean that anti-trafficking efforts typically ignore the possibility of engaging sex workers as partners in identifying, preventing and resolving situations that do involve trafficked people. (UNDP 2012)

1.3 HIV and sex work in Cambodia

Since the first case of HIV was detected in 1991 the number of infections has increased steadily and Cambodia is considered to have the highest prevalence of HIV in Asia. According to the government, Cambodia's HIV epidemic is spread primarily through heterosexual transmission and revolves largely around the sex industry. By 1998 the official HIV prevalence was 43 per cent among commercial or brothel-based 'direct sex workers', and 19 per cent among beer sellers and other 'indirect sex workers' (NCHADS 1998).

Cambodia's HIV prevention programmes for sex workers began in 1993. They were arranged around drop-in centres and outreach to streets and brothels to provide education, subsidised condoms and referrals to STI diagnosis and treatment. In 1998 the government launched its 100% Condom Use Programme (CUP) that required brothels to display instructions that condoms were to be used by order of the government, to register sex workers and to take them for STI and HIV tests. Police were authorised to visit brothels to ensure that HIV prevention information was available and verify condom use by inspecting sex workers' STI clinic records.

In 2004 the first anti-retroviral therapy (ART) programme began. All people living with HIV/AIDS with a CD4 below 200 can receive free ART and ART coverage, which was estimated to be 89.5 per cent of the total eligible population by 2012 (National AIDS Authority 2012). However, treatment of opportunistic infections and other costs of living with HIV are not free. In some places entertainment workers can receive free ART if they have a CD4 count below 500 (Rácz and Grumiau 2012).

The Cambodian HIV agency attributed a reduction from 3.2 per cent in 1997 to 0.9 per cent to the '100% Condom use Programme' (The Body 2008). However, claims of success of the programme have met with scepticism from several directions primarily because the HIV prevalence among some groups of sex workers remained high as did STI levels which were much the same in 2005 as in 2001, despite the 100% CUP (Sopheab and Morineau 2008). The programme was controversial with allegations of human rights abuses, unreliable condom supplies and uneven coverage (Lowe 2003). A recent UN report on HIV programmes in the region has concluded that the authoritarian approach of the 100% CUP is counterproductive.

Experience has shown that asking law enforcement officers, health professionals and sex establishment managers to take the lead on safer sex programming is counterproductive and can disempower and penalise sex workers. Sex workers and their clients should be the main implementers and decision-makers in making sex work safer. Other stakeholders can be useful partners but should not be given an authority role. (Godwin 2012: 44)

HIV prevention and care services in Cambodia are substantially supported by the United States Government through the United States Agency for International Development (USAID). Since 2004 it has been a requirement that groups receiving HIV/AIDS funds from

the US Department of Health and Human Services certify they have a 'policy explicitly opposing prostitution'. This policy mandates that grantees refrain from engaging in speech or conduct that is inconsistent with the US government's views on the subject, even when such speech and conduct are financed by private funds (OSF 2007).

Sex workers' groups worldwide have vigorously protested the pledge and it has been legally challenged by US NGOs (Brennan Centre for Justice 2011). The Global Commission on HIV and the Law said the pledge puts grantees in 'an impossible bind: if they don't sign, they are denied the funds they need to control and combat HIV. If they sign, recipient organisations are barred from supporting sex workers in taking control over their own lives ... including taking steps to avoid HIV and prevent its spread' (Provost 2012). In Cambodia, as elsewhere, this provision means that significant HIV funding is not available to sex workers' groups and there are pre-set limits on the advocacy that groups associated with HIV agencies can do.¹

1.4 Method and limitations

A literature search was conducted of peer-reviewed articles, published grey literature and unpublished primary documents supplied by the WNU. Nine in-depth interviews were conducted with key informants in Phnom Penh and Siem Riep representing the CFSWF; IDEA; CBCA; GFATM CCM; FHI; SIRCHESI; HACC; and KHANA. Interviewees were asked about the mission and current work of their organisation and its future directions; the impact of law and policy on sex/entertainment workers; the impact of law and policy on their work with sex/entertainment workers; and overall observations about the way in which services and advocacy are conducted in respect of sex/entertainment work.

Two interviews were conducted in English and the others with simultaneous interpretation. Notes were taken in Khmer and English by Cheryl Overs and Pen Mony. Three of the interviews were conducted once accompanying researchers and outreach workers had completed their interviews, in order to observe key informants' work in entertainment venues in Phnom Penh and Siem Riep at their request.

This case study focuses exclusively on female sex workers despite recognising that men and transpersons also sell sex in Cambodia. This gendering reflects the way the law is written and enforced and is consistent with the regulation, suppression and control of female sex workers and concern about female victims of trafficking for sexual exploitation. This in turn is conversant with ways in which women's sexuality is more likely to be subject to social regulation and the gendered configuration of institutions that address commercial sex in Cambodia. The case study examines discourses that support re-classification of female sex workers as entertainment workers or victims of sexual exploitation. Although 'EW' can be applied to men who sell sex, (male entertainment workers or MEWs), it is a feminised term.

This case study focuses on adults that sell sex despite recognising that there is important overlap between child commercial sex abuse and commercial sex involving adults. Minors are excluded from the ambit of this case study because prostitution involving minors involves a different set of issues and it is addressed by different laws, policies and different institutions.

¹ The pledge is enforced by a chain of institutions that includes the State Department, USAID, US missions and the Collaborating Agencies (grantees) which means it is not applied consistently. Enforcement was more vigorous during the Bush administration than the Obama administration. In Cambodia the enforcement currently seems quite weak so that entertainment workers from Community Based Organisations (CBOs) attached to USAID funded organisations are not specifically restrained by it.

The Rule of Law

The term 'rule of law' refers to principles and systems that ensure that all persons, including the government and other institutions, are accountable under law and that there are fair, stable and properly publicised laws that are broadly understood and enforced fairly by executive and judicial institutions that are impartial, ethical and separate from each other. Societies without rule of law, or where it is weak, are characterised by poorly drafted and conflicting law and corruption in state and other institutions that leads to injustice, violence and human rights abuses. Religious, ethnic and sexual minorities are particularly vulnerable in such states.

Yash Ghai, Special Representative of the UN Secretary General on Human Rights in Cambodia from 2005 to 2008, characterised Cambodia not as a country with weak rule of law, but a country whose government has specifically rejected the very concept:

One does not need expertise in human rights to recognise that many policies of the [Cambodian] government have subverted the essential principles of democracy and due process, deprived people of their economic resources and means of livelihood, and denied them their dignity... I believe the deliberate rejection of the concept of a state governed by the rule of law has been central to the ruling party's hold on power. (Yash Ghai quoted in Ghai and Cotterill 2010)

Cambodia's corrupt, inaccessible and inefficient judicial system, corruption among police and other public servants and the misuse of laws to 'advance the economic interests of the rich and powerful' who have impunity to the law are well documented. Corruption is endemic so that even the smallest transactions are liable to corrupt surcharges and nepotism in common. Where these permeate NGOs they reduce the efficacy of international aid and negate any opportunities for meaningful participation or empowerment.

In this environment sex workers are vulnerable to being made to work in substandard conditions; underpaid; unlawfully deprived of property, liberty or livelihood; having their rights to free association and family violated, being trafficked or subjected to other rape and violence. The lack of rule of law means that no redress for any of this is possible through the available institutions.

2 The Law on Suppression of Human Trafficking and Sexual Exploitation

2.1 The Cambodian sex industry

As in other places, understandings of the nature and extent of sex work in Cambodia are hampered by lack of rigorous research. Lack of reasonable estimates of the numbers of people buying and selling sex means that there are no accurate denominators and valid comparisons over time are difficult to make. For example, the ILO calculates that 21,463 women entered the entertainment industry between late 2007 and early 2009 but these figures were arrived at by comparing data from studies that used different definitions (Leng and Sovannary 2008; NCHADS 2009a). Godwin (2012) estimated that there were between 42,000 and 47,000 sex workers nationwide, with approximately 21,000 in Phnom Penh. The Women's Network for Unity estimated that there were less than 1,000 people working in the streets and parks in Phnom Penh in 2011, while the Cambodian Prostitutes Union estimated that there are around 1,100 (Phal 2012). There is less interest, and less evidence, in the numbers of men buying sex. One estimate is 220,000 men who buy sex in Cambodia (CDHS 2005 cited in CACHA 2009). Numbers of trafficking cases are also contested which is inevitable given the changes to its legal definition, the polarised policy and hyperbolic publicity around it.²

This distorting effect of the shifting terms used to describe different kinds of commercial sex and those who buy or sell sex is clear in Cambodia's HIV statistics. Apparent declines in HIV and STIs among sex workers in the 1990s in Cambodia were applauded by the international community. However these gains, or some portion of them, could have been due to some people formerly classified as sex workers being reallocated into new categories including 'sweethearts', transgender sex workers and 'long hair MSMs'. In other words, the research universe had changed which casts doubt over any claims made about HIV among sex workers in Cambodia in the relevant period.

2.2 A crackdown and responses to it

During 2008 and 2009 raids that closed brothels and led to the arrests of sex workers took place throughout the country and were widely reported in the press. According to an NGO that provided condoms to the sex industry, Population Services International, at least 381 brothels around the country were closed down between March and June of 2008. Family Health International also noted that many sex workers were arrested and detained (Chhay and Lodish 2008).

Throughout 2008 and 2009 many women arrested under the LSHTSE were detained in 'Social Affairs Centres' run by the Phnom Penh Social Affairs Department as part of the Ministry of Social Affairs (MoSVY). Consistent with the LSHTSE, these arrests were described by government, police and anti-trafficking agencies as 'rescues' and the detentions as 'rehabilitation' (Keo 2011).

² There have been several well-publicised events and campaigns against trafficking including mass media such as MTV's 'No EXIT' campaign that distributed thousands of free t-shirts at free concerts.



Human Rights abuses of detention centre inmates were documented and investigated by local and international agencies. Photo: Korsang, 2008

As arrests and brothel closures began, a steady stream of complaints of severe abuse and appalling conditions in the detention centres began to emerge through NGOs which documented rape, beatings, slapping, pinching, and forced labour (LICADHO 2008). At the same time the consequences of lost livelihoods and displacement began to emerge.

Phnom Penh's two main sex worker organisations, Women's Network for Unity (WNU) and the Cambodian Prostitutes Union (CPU), conducted a vigorous campaign against the law, raising public awareness of the arrests and detentions and the impact of loss of livelihoods, especially for those who would not relocate to entertainment venues because they are not willing to do so, are too old, HIV positive or not attractive enough.

The WNU collated stories from sex workers who lost their jobs, homes or property in the crackdown and many described having to suddenly leave their accommodation, possibly to another town or city. Several reported that they had been forced to sell property or send dependants away and of becoming homeless. This is a typical account:

Early March 2008, I was caught while working along the park. They brought me to ...Prey Speu center. I was locked up there for three days and only got out when my husband and my mother brought the money to get me out. They had to spend USD150 to get me out. We were forced to sell our hut, which worth 500USD, for USD150 in order to get me out. Now I rent a room for 5000R (\$ 1.50) for myself and my children. (Overs 2009)

Some women reported missing HIV medications and not being able to access condoms as a result of these shifts in the sex industry. The impact on HIV prevention was also immediately noted:

Closure of sex venues in the country meant that programmes to provide condoms, clinical services and information to sex workers effectively collapsed. Sex workers relocated to venues that purport to offer only massage or karaoke. Condoms in them could be used as evidence of prostitution. Street workers have also stopped carrying condoms for the same reason. (Overs 2009)

On June 4 2008 the WNU held an 'Open Day of Action' that was attended by 500 sex workers and 200 NGO workers, police, UN officials and journalists. A film and a monograph both named 'Caught between the Tiger and the Crocodile' was produced by the APNSW (2009) and the WNU that helped bring international attention to the issue (Khmer Society 2009). The APNSW issued the following statement:

HIV has reduced markedly in Cambodia as a result of sex workers' motivation to protect themselves, their families and their clients and the HIV prevention and care services delivered by communities, international and local NGOs and the Cambodian Government. This has been most successful where female sex workers have had access to orderly workplaces, friendly primary health services, information, ARVs and affordable condoms. It has been least successful where sex workers and their families are subject to harassment, violence, arbitrary arrest and detention, and confiscation of property. (press statement in possession of author)

Overs identified six strategies used by Phnom Penh sex workers' to resist or survive the situation in 2009. They were run, hide, disguise, diversify, protest and pray. Overs framed these as signposts of the consequences of the elimination of 'sex work' as a recognised legal concept and its replacement with 'entertainment' as the paradigm around which commercial sex would be arranged and hidden, articulated and denied (Overs 2009). The reference to protesting and prayer was based on initial reactions that Overs observed, which were in some cases combined into public praying for a fairer deal for sex workers or, as a journalist described it, a 'Buddhist sit-in'.

In November 2008 CACHA, a network of NGOs and HIV agencies that conducted research in Siem Reap, Banteay Mean Chey, Sihanoukville and Phnom Penh said:

Entertainment workers in Cambodia are now facing challenges that have not been seen in the past decade. More than half of brothels were closed. Entertainment workers can no longer carry condoms with them. A lot of them had been arrested, detained, beaten and in some cases raped. A proportion of them no longer have access to ARV medicines. The move of entertainment workers from brothel-based to be freelance (or indirect) entertainment workers is obvious and widespread throughout the country. Moreover, the entertainment workers and brothel owners were arrested especially after the implementation of the new Law on the Suppression of Human trafficking and Sexual Exploitation. It is foreseen that, if no appropriate measures are put in place on time, the HIV prevalence among entertainment workers will increase, meaning the second wave HIV in Cambodia will be inevitable. (CACHA 2009: 16)

The CACHA study found that only 5 per cent of 'direct' (although now illegal) sex workers pay a third party to find clients or otherwise support their sex work (CACHA 2009: 28) and pointed out that fewer than 1 per cent of respondents reported having been trafficked (discussed in more detail in Section 5.1 below). It also observed declines in numbers of entertainment and sex workers attending the available STI and HIV testing services in all four provinces (although attendance for STI care in Phnom Penh was the exception).

The study emphasised the negative impact of alcohol and the heightened frequency of 'drunkenness with loss of control' by entertainment workers compared to 'direct sex workers' (41 per cent and 29 per cent respectively reporting drunkenness in previous week). It also explored law enforcement issues and its findings included 'uniformed services and local authority have not clearly separated those who are trafficked and sexually exploited from those who are voluntarily selling sex' (CACHA 2009: 49).

A War on Modern Day Slavery?

Human trafficking has been likened by the UN, US, other western governments, and many NGOs as 'modern day slavery'. It has been presented as a transnational enterprise, controlled by organised crime, which enslaves 12.3 million people, generates \$32 billion in profit for human traffickers, and poses a serious threat to national and global security. While these alarming claims have received little support from the scarce empirical literature on human trafficking and the handful of studies on traffickers, the world, and with it Cambodia, had been called to wage a 'war on human trafficking'. (Keo 2009)

Data from Phnom Penh, Banteay Mean Chey, Siem Riep and Sihanoukville showed that half of those arrested in the crackdowns of 2008 were released without intervention or with intervention from NGOs. Money or valuable items were also used [to secure better outcomes] during or after the arrest (respectively 7 per cent and 27 per cent). Six per cent of those arrested stated that they had offered sex as a means of escape. In-depth interviews revealed that most of those who had been arrested were not told the reasons for the arrest. The CACHA study highlights the need to build institutions that have the capacity to support entertainment workers. It also highlights a key barrier – that 27 per cent of respondents had no education at all and most have very little formal education. It also noted the lack of a 'united direction for advocacy' among the respondents.

Another study in 2008 by local human rights organisation, LICADHO, confirmed systematic unlawful detention of prostitutes, vagrants, beggars, and Phnom Penh street dwellers (LICADHO 2008) as part of the crackdown associated with the 2008 LSHTSE. It reported finding no evidence of any educational activities at the centres it investigated, such as the Koh Kor and Preu Speu detention centres, which sharply contradicted claims made by police (Nguon and Barton 2008) and the Ministry of Women's Affairs that the women are 'rescued' and re-educated for new jobs (Chou Bun Eng, unpublished speech, cited in Overs 2009: 25).

In 2010 Human Rights Watch also conducted an investigation of specific abuses by police, municipal park guards and employees at government-run Social Affairs centres. It interviewed sex workers and confirmed the findings of the LICADHO and WNU (HRW 2010). It pointed out that by 2010 the system for processing rescued women set out by the government was in place in Phnom Penh. Those who were considered not victims of coercive trafficking were allowed to go home or 'signed over' to an NGO while those deemed to be victims of trafficking were sent to private rehabilitation NGOs, primarily AFESIP. But Human Rights Watch found the process to be flawed. In Phnom Penh women detained under the LSHTSE but who deny being victims of trafficking and sexual exploitation were 'asked' by staff of the Phnom Penh Municipal Social Affairs Office to sign an agreement before being released into the custody of an NGO. A copy was obtained by Human Rights Watch. It states:

I pledge before the Phnom Penh Ministry of Social Affairs, Veterans, and Youth Rehabilitation that in the future I will stop carrying out indecent acts that affect morality, tradition, and public order; and ensure that I will not commit such acts a second time; and when the Phnom Penh Ministry of Social Affairs, Veterans, and Youth Rehabilitation refers me to an NGO to receive services, I will put all my effort into improving myself to be a good citizen living in society as others do. If I commit such acts in the future, I take full responsibility before the law and the Phnom Penh Ministry of Social Affairs, Veterans, and Youth Rehabilitation.

As HRW pointed out, this document has no standing in Cambodian law and would fail any test under international law. However, it also observed that most agreed to sign the agreement because they are scared and wanted their freedom despite there being no legal

basis for detention or for releasing them into anyone's 'custody'. According to HRW such an agreement as a pre-requisite to release from unlawful detention 'constitutes ... unlawful interference with the right to liberty and security' (HRW 2010). It also provides a clear example of how lack of rule of law leads to human rights abuses by leaving citizens to the mercy of pseudo law.

HRW recommended suspending the soliciting provision of the law pending resolution of human rights issues around arrests of street sex workers (Recommendation 4). This was disappointing to activists who had hoped for stronger recommendations from HRW and who worried that such a limited recommendation may be seen as tacit approval of the other provisions of the law (personal communication Andrew Hunter APNSW director).

2.3 Responses to the responses

The campaign around the introduction of the new law attracted considerable international attention including in the international press (for example, *The Economist* 2009). Much of this concern focused on the implications of the law on HIV prevention services (Pearshouse 2008). Despite early statements by the Ministry of Health's National Centre for HIV/AIDS that the 100% Condom Programme would continue, as more and more brothels were closed it became apparent that it would not be possible for police to simultaneously close and inspect brothels. When asked about the implications of the law for the 100% CUP the anti-trafficking police chief, Bith Kim Hong, confirmed the brothel closures and dismissed public health concerns. He said:

NGOs that work with HIV/Aids think differently from the police. Stopping [brothels] from existing is better than having brothels ... when there are no brothels HIV/Aids cannot spread. (Overs 2009)

By September of 2008 Cambodia's National AIDS Authority admitted that the country's HIV programmes for sex workers were 'facing difficulties' and that the 'enforcement of the anti-trafficking law harms the 100 per cent use in brothels' (The Body 2008). In October 2008, eight months after the promulgation of the law, the Taskforce on Human Trafficking and Smuggling and Labor and Sexual Exploitation of Women and Children issued a 'Guideline on the implementation of the Law on Suppression of Human Trafficking and Sexual Exploitation', ostensibly to address the above criticisms (Kingdom of Cambodia Taskforce Against Human Trafficking and Smuggling 2008). The guidelines instruct sex businesses how to present themselves as entertainment venues to avoid charges of procuring and trafficking. For example, it instructs operators not to take money from employees in exchange for allowing them to leave venues during work hours to provide sexual services to clients ... *However, [the guidelines propose instead that] 'if the payment is a compensation for absence from the work place it is not considered to be linked to procurement for prostitution'* (author's emphasis) (see Section 3.3 for a discussion on the implications of this official guidance).



The crackdowns were widely reported in both English and Khmer media. This arrest occurred at Wat Phnom in 2008. Photo: *Rasmei Kampuchea Daily*, 2008

Accusations about improper behaviour by police unsurprisingly met with denial by the Head of Phnom Penh anti-trafficking police, Bith Kim Hong (AFP 2008). He rejected sex workers' collective allegations and challenged them to make individual formal complaints while citing the new rhetoric of anti-trafficking: 'we never arrest prostitutes but rather we save them from brothels' (Barton 2008).

This chapter of Cambodia's Sexual Exploitation and Trafficking law thus ends with the government, sex workers, NGOs, anti-trafficking organisations and sex business entrepreneurs scrambling to adjust to the new circumstances. There is an ironic postscript too. The United States Trafficking in Persons Report of 2010 admonished Cambodia for human rights violations associated with enforcement of the law.

3 Four years on

3.1 The sex industry, reformatted

Although no formal research has taken place that maps the changes in detail, all interviewees confirmed that most of the sex industry in both Siem Riep and Phnom Penh now operates from entertainment venues where clients and sex workers meet before going to guesthouses. There are various descriptions of the new ways in which sex is sold by women and bought by men in Cambodia. The following is based on a 2010 study by APHEDA.

Karaoke bars can be open-air street cafés, small one-room venues or large, multi-story entertainment centres. They offer karaoke booths and other services, such as massage and food. Karaoke bars are common fronts for commercial sex and may have rooms available on-site, or arrangements with nearby guesthouses, that can be used for sex. Women receive a basic, monthly wage and may negotiate or decline an offer of sex with a client. Discussions of money for sex are not officially shared with managers or owners who, under the new law, can only take profit from renting the room, selling food, drinks and entertainment. However, there is some suggestion that women pay the house if they go out with clients during their working time, despite the guidelines forbidding this practice.

Massage parlours, as well as saunas, spas or similar establishments may be fronts for commercial sex but again, only for the meeting, with sex provided in a nearby guesthouse. Alternatively the massage may have a 'happy ending', meaning that it ends with the client being masturbated.

Beer gardens are usually open-air and offer cheap beer and cheap local food with entertainment, such as a big screen TV or live bands. Workers may include hostesses, waitresses, singers and beer promoters depending on venue size. The workers can negotiate sex directly with clients and usually meet after they finish work if the venue is complying with the law, or pay the owner a commission for time away during work hours. Beer promoters also work in restaurants, bars, beer gardens, entertainment venues and at private functions. Their employment can be either by contract with the beer company or on commission. They are paid between US\$50 and US\$110 for a six-evening week of encouraging clients to choose their brand of beer.

Freelance sex workers solicit for clients in public places, coffee shops and bars during the day and night mainly in Phnom Penh. Prices are low and sex usually occurs in guesthouses, in a nearby house shared with other workers or in a secluded but public place. Clients are generally low-income workers. Freelance workers are the most at risk of police arrest, theft and abuse by clients. Freelance workers tend to work in groups for safety and may make arrangements to mask their sex work, for example by posing as snack vendors. Many homeless women sell sex in this way in Phnom Penh. The last count was KHANA's estimate of 337 street workers in Phnom Penh (Leng and Sovannary 2008). Street prostitution does still occur in Phnom Penh despite the 2008 LSHTSE, albeit much less and much more hidden. The WNU, Smart Girls and CPU Phnom Penh all reported dealing with street workers. According to press reports, 440 street-based sex workers were detained in Phnom Penh in preparation for the 2012 ASEAN Summit (UNDP 2009).

There is no consensus about the relative merits of various ways of selling sex, other than agreement that few are ideal. Maher *et al.* (2011) sees 'managerial support and protection' as worthwhile while others suggest that freelance sex work is safer because managers create vulnerability by encouraging drinking and discouraging condom use. The WNU

stresses the value of being 'freelance' and often points out that many sex workers work independently.

3.2 The HIV programme, restarted

In 2010 the National AIDS Authority (NAA) held a series of dissemination meetings with the stated purpose of 'clarifying' some of the confusion over the implementation of HIV programming for entertainment workers. This was based on a revision of the Standard Operating Procedures (SOPs) for Continuum of Prevention to Care and Treatment for Women Entertainment Workers which was first created in 2006 to support the 100% CUP implementation, and revised in 2008 in an attempt to salvage an HIV prevention programme in the new environment. The government's commitment to the 100% CUP was reiterated and all entertainment establishments were instructed to encourage the use of condoms. At the same time the Ministry of Interior issued a Letter of Declaration to 'clarify' that the 100% CUP does not conflict with the 2008 Law on Suppression of Human Trafficking and Sexual Exploitation. The declaration states that police will not use condoms as evidence for arrest except in rape-related cases (HACC 2011).

The revised approach includes recognition of the need for 'improved understanding of the importance of early HIV diagnosis and treatment for preventing HIV transmission' which means the importance of testing all sex workers for HIV. Thus a 'complementary initiative' is Community Peer-Initiated Testing and Counselling (CPITC) which replaces voluntary testing and counselling (VCT). The SOPs also promoted 'peer-based interventions' among entertainment workers and set out directions to local health authorities to form 'technical/working groups' and committees consisting of government officials, staff of HIV agencies and representatives of entertainment workers. Each committee was tasked with mobilising teams of 'peer educators' to distribute condoms in and around entertainment venues and make referrals for HIV testing and sexual health services. The document also instructs HIV agencies to record the names/nicknames, age, type of work, date moved in/out, education received, and contact details of all entertainment workers and to provide this data to the local committee (NCHADS 2009b).

Despite all of this existing 'on paper', most interviewees said that little of it has actually happened. The National EW network is not functioning, the registrations have not taken place and it appears that some or all of the committees had not been meeting at the time of writing in early 2013.



A typical entertainment venue in which dozens of women serve beer or work as hostesses before selling sex to customers. Photo: Jenni Mansell, 2012

3.3 Conditions and pay in entertainment venues

Since entertainment venues have become the main gateway to commercial sex, conditions in them have become important. Women work in the venues in different capacities including 'beer promotion girls' employed by beer companies, hostesses employed by the venue and 'hostesses' that go to entertainment venues to meet customers for commercial sex or to earn tips from them without any relationship with the venue. All interviewees raised three main concerns in relation to conditions in entertainment venues:

- that excessive drinking and sexual harassment are routine aspects of the work;
- that the monthly salary beer promoters receive is well below a living wage and other benefits are not available;
- that HIV risks are exacerbated by the covert way sex work takes place within these settings to avoid transgressing the law.

Lubek reports that SiRCHESI raised concerns that HIV risk was linked to consumption of alcohol being promoted by beer sellers of global brands in its earliest workshops in 2002–4. Since then, he and others have shown that both women employed as beer promotion girls and those who simply go to entertainment venues to socialise with customers are at significant risk of overconsumption of alcohol. Findings showed that women were constantly pressured to drink on the job; only 1 per cent abstained, and the quantities they drank were between 4 and 10 standard units daily – an average of 5 units equal to 5 glasses, or 1.5 litres of beer 27 days a month, which is well above the WHO standards of harmful and hazardous drinking (Green and Lubek 2010; Lubek *et al.* 2009).

Far from being a safe place to work, the picture that emerges from these interviews is that entertainment establishments are places in which workers are made vulnerable to serious harm while carrying out their regular duties. (ILO 2011)

In 2010 Green and Lubek summarised SiRCHESI's research about workplace health, safety and financial security for over 900 Cambodian beer sellers, describing Siem Riep's entertainment venues as toxic workplaces (Green and Lubek 2010). An American who manages a tourist restaurant/bar in Phnom Penh put the alcohol use into context. He said that everyone knows that prostitution is hidden behind various activities to avoid law. 'But,' he said, 'as cover stories go, it's difficult to think of a worse one than drinking'. He went on to point out that not only has alcohol consumption become the dominant gateway to buying sex, it is made worse by women only being permitted to leave with clients at closing time, which means after many hours of drinking. He contrasted this to Thailand where sex workers can leave bars with clients during work hours and the bars often serve the women soft drinks, not alcohol.

NGOs and researchers rightly focus on entertainment workers' lack of a living wage as a fundamental right and as a key to reducing vulnerability. But the starting point of their analysis can be a problematic assumption – that most or all women enter entertainment work not planning to sell sex but do so when they discover they cannot live on their US\$55 monthly salary. However, given the lack of brothels or other ways for clients and sex workers to meet in Cambodia, logic suggests that many sex workers would go to entertainment venues to meet clients and this was confirmed in interviews. In other words, no matter what the law or the NGOs say there are still sex workers and they are working from entertainment venues.

That is not to say that some women who were not planning to sell sex begin to do so as a result of working in an entertainment venue. Entertainment workers can increase their income by a significant percentage with only a slight increase in time and a relatively small cost in terms of stigma (as entertainment workers are stigmatised as sex workers anyway).

Thus, the rise of the entertainment venue not only links commercial sex to dangerous levels of alcohol consumption, it may provide a smoother entry point into sex work than seeking work in a brothel or street soliciting, as UNICEF and others have suggested (UNICEF 2102).



Beer promoter at work. Photo: S. Smith Patrick, *The Cambodia Herald*, 2013

3.4. The Safe Communities Policy, and reactions to it

In August 2010, the Co-minister of the Ministry of Interior announced the Village/Commune Safety Policy (MoI 2010) that urges local authorities to ensure that there is no stealing, drug production or dealing, prostitution, child trafficking, domestic violence, gangsters, illegal gaming, use of illegal weapons or crime occurring at any commune in Cambodia.³

This appears to have driven a fresh wave of arrests and detention of ‘street people’. The negative implications of this second crackdown were again acknowledged by the government which, again, said there was a ‘misunderstanding’ (Thomson *et al.* 2012). The solution government has offered to this ‘misunderstanding’ is the Most At Risk Populations (MARPs) Community Partnership Initiative (MCPI) which consists of ‘sensitisation information sessions’ for police ‘about the HIV prevention needs of MARPs and the role of the police in the HIV prevention enabling environment’ (NAA 2010). Little other information is available about the MCPI but apparently a protocol is being developed that diverts “MARPS” from arrest to HIV prevention services’ (NAA 2010). How this might happen legally, what it means to ‘refer’ a person away from arrest and what HIV prevention services will form the alternative is not specified. To replace criminal penalties with an HIV test may sound humane at first glance but it raises serious medical ethical issues.

According to the drug harm reduction agency, Korsang, this policy affects many of its clients. It points out that many women and girls who are homeless, mentally ill, or use drugs also sell or trade sex. Being caught in a criminal justice system that processes them as victims of sexual exploitation/trafficking or as vagrants and criminals prevents them getting the continuity of services they need. In some cases this is immediate, such as when arrest leads to missed doses of HIV medications. In insisting on HIV testing, it also contradicts HIV prevention policies.

³ The issuing of an administrative directive to instruct police to enforce existing law might surprise some readers, but it is not uncommon in jurisdictions where there is badly drafted legislation, poor enforcement procedures and where courts are unreliable and inaccessible.

4 Institutions and organisations

4.1 HIV/AIDS organisations

HIV prevention in Cambodia is based on peer education, ensuring availability of condoms, voluntary HIV testing, STI care, information, education, social support, and counselling. Peer education, drop-in centres and community mobilisation are also components of the package of services approved by the Cambodian Ministry of Health.

HIV services are provided to entertainment workers by implementing agencies that are funded by several international donors of which USAID is the largest. Programmes are implemented either directly by a local branch of the implementing agency, through local NGOs that are subcontracted for specific activities or a combination of the two.

The configuration of agencies providing different components of health promotion, clinical services, human and labour rights advocacy and services has shifted over the years.⁴ The current set of interventions are effectively ‘one stop shops’ that provide all of the components of the package of HIV services to the sub-population they are targeting (Beer Promoters, YEWS, MEWS, FEWS, MSM, trafficking victims; drug users) as well as advocacy.⁵ Referrals between NGO services appear to be limited. Some organisations supply their members with cards that they claim will enable the bearer to obtain free medical services at specific hospitals and clinics.

Several of the HIV NGOs have formed ‘Community Based Organisations’ (CBOs) of entertainment workers to participate in advocacy and to pursue self-help goals such as income generation. Such groups have mostly been funded by the ‘parent’ NGO which also recruits peer educators from the CBO members.⁶

All USAID international contracting agencies in Cambodia have a policy stating that they oppose prostitution and will not support any organisation that campaigns for legalisation of it (Ditmore and Allman 2010).⁷

There are several organisations working with entertainment workers throughout the country independently of US funding. For example, SiRCHESI (referred to in Section 3.3) is funded by small independent donors and operated by volunteers and part-time local staff. It focuses on the health conditions of women in Siem Riep’s entertainment venues and has lobbied around issues of alcohol consumption, sexual harassment, lack of a living wage and accountability of beer companies.

⁴ International implementing agencies have included Family Health International, Médecins Sans Frontières, PSI, CARE, Pact and the Khmer HIV/AIDS NGOs Alliance (KHANA).

⁵ Note this appears to be more pronounced in Phnom Penh than Siem Riep where entertainment workers move freely between the KHANA (USAID) funded project, the CFSWF and SiRCHESI and are even being encouraged to do so.

⁶ Note the SABC which is funded independently of CARE is an exception. The CPU is semi-autonomous.

⁷ UN agencies have played different roles in the Cambodian landscape of entertainment and sex work. The 2009 law exposed the contradictions within the United Nations. On one hand UNICEF sponsored the development of the law while UNAIDS was placed in the position of salvaging the 100% CUP HIV prevention programme it was leading with the government that was based on identifiable brothels. But the UN’s views on prostitution/sex work in general can be most clearly traced through the organisation’s policies concerning human trafficking. Historically, UN policies on human trafficking have focused primarily on sex work, signifying the commonplace conflation of the two issues. There has, however, also been strong support for decriminalisation or legalisation of sex work from UN agencies concerned with health and development.



Data is gathered about alcohol consumption by SiRCHESI. Photo: SiRCHESI, 2012

4.2 UN agencies

UNAIDS Cambodia has consistently supported advocacy on sex workers' rights issues and rights-based HIV programming. However, in 2008 two of the agencies whose HIV work it coordinates, namely UNICEF and UNDP supported the LSHTSE both directly and through the technical support to the government.

In 2008 the lead UN agency for sex work and HIV issues, UNFPA, was subject to directives from headquarters that have been described as 'abolitionist' (Ahmed 2011), because they recommended governments reduce HIV by trying to minimise or abolish sex work by preventing girls and women from entering into it. After protests from activists, a subsequent 'Guidance Note' (Seshu *et al.* 2008) was issued in 2009 which, perhaps along with a change of director in UNAIDS, signalled a change in the approach of at least a part of the UN. The new directions stress the value of decriminalising sex work, dealing with exploitation as a labour issue and the meaningful participation of sex workers (UNAIDS 2009). Two other influential UN documents recently strongly recommend decriminalisation of sex work and its delineation from trafficking. They are the Global Commission on HIV and the Law (UNDP 2012) and WHO guidelines on providing sexual health services to sex workers (WHO 2012).

4.3 Associations of sex/entertainment workers

There are several organisations of entertainment and sex workers in Phnom Penh and Siem Riep. The main ones are:

(i) The **National Network of Entertainment Workers**, a coalition to 'enhance coordination and organization around common issues of concern'. It was formed by UNAIDS in 2010, which claims that the network is a coordination and facilitation mechanism 'recognised by all stakeholders and the government'. In 2011 an election was held among the organisations invited to form the network and five regional representatives and a National Coordinator were elected. The co-coordinator represents the sex worker networks on the Country Coordinating Mechanism of the Global Fund. The dynamics of the network are confusing – including to the coordinator who reports having had no contact with other network members or any resources since the 2011 election. It appears that after the network was created on paper, and the need for a sex worker representative for the GFATM CCC satisfied, no further action has been taken. The theoretical existence and official recognition of this organisation reduces rather than increases sex workers' opportunities to participate by taking up space and allowing the impression to form that participation is happening where it is not.⁸

(ii) The **Cambodian Women's Development Agency** has created two organisations that advocate on behalf of sex workers. They are Samakee Strey and the Cambodian Prostitutes Union (CPU). CPU consists of a team leader, an assistant, an outreach worker, ten peer

⁸ UNDP reported the existence of this network in its *Sex Work and the Law in Asia and the Pacific* (Godwin 2012).

educators, and 380 members. It works in Phnom Penh only and mainly works with HIV positive women.

(iii) **Women's Network for Unity**. Women's Network for Unity (WNU) is a sex worker organisation that includes all genders. It was established in 2002 as a community group by an NGO, Womyn's Agenda for Change (WAC). In the following years it enlisted up to 5,000 members⁹ and mobilised outreach teams providing condoms and information throughout Phnom Penh and some provinces. It gained international recognition in 2004 when it successfully challenged the conditions being offered to sex workers to participate in a trial of an HIV prevention medicine (Forbes and Mudaliar 2009). WAC closed in 2009 by which time WNU was registered as an independent NGO. It was operated by a secretariat of ten people representing a network of NGOs addressing poverty, sexuality and human rights. However, independence was difficult to sustain because there was little capacity in the group to raise and manage funds or to respond to the new demographics of Cambodia's post-LSHTSE sex industry. By 2011 WNU was operating under the control of a new NGO created by former WAC employees¹⁰ and its activities for sex workers had been scaled down. Although it has claimed as many as 6,400 members¹¹ recent records show much lower membership¹² and none of the leaders interviewed in Siem Riep knew of it. This contributes to the impression that its reach and influence has decreased while that of well-resourced service organisations has increased. Nevertheless WNU continues to use the term 'sex worker' rather than 'EW' and its independence from HIV funding means it is well placed to critique policy.

(iv) The **Solidarity Association of Beer Promoters in Cambodia (SABC)** was established in 2009 under the auspices of CARE to advocate for the rights and safety of women working in the beer industry. It was registered as an NGO with the Ministry of Interior in late 2010. So far it has supported Beer Promoters 'through life-skills, gender-based violence, women empowerment, sexual and reproductive health, HIV prevention, and peer education' by CARE International Cambodia. It is financed by the UN Fund to End Violence against Women and KHANA (UN Women 2012).

4.4 Labour organisations

(i) The **Cambodian Food Service Workers' Federation (CFSWF)** is a 'genuine, independent, grassroots and democratic union, affiliated to the independent trade union confederation, the Cambodian Labour Confederation (CLC) which is affiliated (through the Cambodian Trade Union Coordination Council) to the International Trade Union Confederation' (APHEDA/ILO 2011). Although relatively new, founded in 2006, CFSWF is actively recruiting and providing services to entertainment sector workers. It has successfully focused on building both membership and capacity to act on members' interests through a partnership with, and financial support from, Union Aid Abroad – APHEDA. All workers in the entertainment industry can join the union, not only those with formal employment contracts.¹³ In Siem Riep the local CFSWF organiser described the aims of the union with clarity and the services it provides. The union representative visits every local entertainment establishment.

The philosophical position of CFSWF on sex or entertainment work negates the Cambodian legal position that all sex work is illegal because of its association with trafficking; instead it reflects contemporary discourses of sex work as legitimate labour with an emphasis on achieving better outcomes in the context of weak rule of law and weak institutions for

⁹ www.wnu.womynsagenda.org.

¹⁰ Social Action for Change, http://ajws.org/where_we_work/asia/cambodia/social_action_for_change_sac.html.

¹¹ See www.straight.com/article-799916/vancouver/cambodian-sex-workers-want-say.

¹² WNU members by location listed in Monthly WNU Meeting Minutes 25th August 2011.

¹³ For more information see www.apheda.org.au/projects/cambodia/pages/1330057610_6515.html.

protecting labour rights. It privileges conditions of employment in the entertainment sector as an essential precursor to reducing all work-related vulnerability, including those associated with providing sexual services. The union says it recognises that it is possible to sell sex safely but that it is more likely to be unsafe where the sex worker is powerless and underpaid.



The Cambodian Food Service Workers Union has taken action to secure better conditions for beer promotion workers. Photo: CFSWF, 2011

CFSWF faces significant barriers. The tradition of unionism in Cambodia is weak and is mainly associated with large unions in garment factories and other formal settings and may be seen as oppressive themselves. However, the main barrier identified by the union is that it must function in an arena dominated by what Poetshka describes as an ‘NGO culture’ in which grants enable NGOs to distribute incentives as expenses and per diems to beneficiaries (APHEDA/ILO 2011) and so to ‘buy’ short-term allegiances.

The issues raised by CFSWF about alcohol and sex workers’ vulnerability take place in the context of a country that has not yet adopted policies to encourage ‘socially responsible drinking’ through public education, age restrictions, driving campaigns, enforced drunk driving limits, or roadside breathalyser testing; although this will emerge in coming years. As this occurs there will be opportunities to extend further protection and benefits to women in the alcohol industry.

(ii) The **Independent Democratic Informal Employees Association (IDEA)** is an NGO that advocates and provides services to workers in Cambodia’s extensive informal sector. It is funded by a combination of membership fees and small grants. Members include garbage collectors, moto-taxi drivers, snack vendors, cleaners, cooks and entertainment workers.

IDEA is expanding its services to entertainment workers and hopes to create alliances that can help protect those who sell sexual services in less formal settings than entertainment venues. It argues that should its claims for recognition of informal workers be successful, many of the associated risks and abuses faced by sex workers could be reduced. Its director stated that:

The labour and civil rights challenges facing employed sex workers are similar to those of other employees. The challenges facing workers who have no employer are similar to those faced by many workers in Cambodia’s large informal sector.
(pers. comm., interview)

Having said that, IDEA also says it understands that there is unique stigma around sex work that drives vulnerability. It points out that other IDEA members’ occupations are also highly

stigmatised and they suffer discrimination and maltreatment by authorities and 'superior citizens'.

IDEA provides informal workers with legal advice and on-the-spot negotiation with police. IDEA particularly deals with consequences of the police corruption, the 'safe communities' policy and the anti-trafficking law. It notes that other informal workers, especially tuk-tuk and moto drivers, are vulnerable to being charged with trafficking offences under the LSHTSE (this is confirmed by Bouhours *et al.* 2012). This gives police additional power over informal workers and increases the workers' vulnerability according to IDEA. Freelance sex workers also share other issues with informal workers such as access to health and welfare benefits and the need for better health and safety conditions.

IDEA is hoping to conduct some innovative community based anti-violence programmes among informal workers who regularly witness violence against street-based sex workers and assist them.

4.5 Anti-trafficking and rehabilitation organisations

In 2007 there were an estimated 200 institutions working on trafficking and sexual exploitation in Cambodia employing some 5,000 people (Delauney 2007). Considerable expansion has taken place in the sector since the LSHTSE legislation, whose ostensible purpose of stopping sex trafficking and sexual exploitation presumably requires a system for processing rescued victims.

While those charged with criminal offence are dealt with by the existing criminal justice system, and in some cases detained in the Ministry of Social Affairs centres, the increasing numbers of women being detained in raids has led to increased need for anti-trafficking organisations to help conduct raids and house those who are detained (called 'aftercare'). Local anti-trafficking organisations are mainly operated by local NGOs that have responded to the market and grant offers for anti-trafficking activities and by ideologically-motivated, foreign religious organisations.

Serious questions about financial practices and human rights violations hang over some of these new anti-trafficking organisations, including allegations that women have been unlawfully detained in substandard conditions; being subject to religious indoctrination and being made to provide unpaid labour. One shelter in particular, AFESIP, has attracted criticism as women have broken out from it more than once and its founder has been exposed for making false claims in the course of fundraising in the US and Europe (Marks and Sovuthy 2012). Regardless of the merits of any one case, it is true to say that abuses within NGO shelters and orphanages have drawn attention and highlighted the lack of proper regulatory oversight of such facilities.

5 Commentary

The author has described the LSHTSE and the changes it has brought to how sex is bought and sold in practice, as well as to how it is defined and conceptualised. Overs has in particular emphasised that, since 2008, 'sex work' and 'sex workers' have not only disappeared from Cambodian law and policy, the terms are no longer in the language used by the institutions or sex workers. In this sense the law ensures that no recognition of commercial sex can occur and therefore no demands related to it can be heard.

In the following section the author considers this new situation with reference to particular questions and issues. Has the law helped reduce human trafficking? What does the end of the term 'sex worker' and its replacement with 'entertainment worker' mean for policy and law or for community organising? How can sex workers formulate ideas, articulate strategies or link with other social and political groups in the current context? What potential for advancements does the recognition in law and policy of the category 'entertainment worker' and 'beer promotion girl' bring and how might they be realised? What can be done about human rights violations, stigma and discrimination?

5.1 Human trafficking and sexual exploitation

Sex work, sexual exploitation and human trafficking: different philosophies, different strategies

View 1. Prostitution is indivisible from trafficking because it is inherently violent and no woman consents to it. People who recruit or profit from sex work are traffickers and should be punished. All commercial sex should be abolished.

View 2. Although some adult women might choose to sell sex the majority are coerced, recruited or forced into it by poverty. This can be addressed by prosecuting third parties that profit from sex work by supplying premises, clients or transport as procurers, traffickers or exploiters. Women who have been forced, or who are selling sex reluctantly, should be rehabilitated. Adult women who want to sell sex should be allowed to do so but without public soliciting, advertising or access to transport or formal workplaces and without legal recognition as workers and citizens.

View 3. Sex work is a legitimate occupation and the sex industry should be governed by the same laws that govern other businesses, including the same laws and regulations that are used to prevent abuse and exploitation of adults and minors in others sectors. Anti-trafficking resources and criminal provisions related to human trafficking should be carefully targeted to effectively address child abuse and cases of women forced into commercial sex without consent or made to sell sex in conditions to which they have not consented.

It is not only beyond the scope of this case study to assess the impact of law on the incidence of trafficking in Cambodia; it may be beyond anyone's scope to make accurate estimates of the numbers of trafficking victims because the definition is not fixed. Where trafficking is defined as adults (sex workers and non-sex workers) held or transported by force and made to sell sex in slavery-like conditions, estimates are as low as 1 per cent, as in the CACHA study already cited (CACHA 2009). Where the definition excludes sex workers, but includes women procured into prostitution and all commercial sexual abuse of children, the estimates are higher. For example, using this definition PACT found 31 per cent trafficked in a sample of 420 sex workers in four sites in Cambodia in 2004 (Arensen *et al.* 2004). When the meaning of 'trafficking' extends further to include sexually abused children and all women who 'sell sex within an establishment generating profit for that establishment'

the figures skyrocket. As ECPAT point out to justify using this definition in their research, consensual adult commercial sex falls within the definition of trafficking in Cambodian law (ECPAT 2012: 3).

This debate – about the extent to which human trafficking, sexual exploitation and commercial sex overlap – is at the heart of the problem of definition (see Box 4). Keo argues that this reflects security, moral, and human rights agendas that have set off a security and moral panic about trafficking that is ‘fuelled by exaggerated claims about the prevalence, profitability, or role of organized crime in human trafficking’ (Keo 2011). The UNAIDS Advisory Group on HIV and Sex Work emphasised the difference between sex work and trafficking:

the exercise of agency – that is, people determining for themselves what they want to do and when – is central to the definition of consent to sell sex. Trafficking, on the other hand, involves coercion and deceit, resulting in loss of agency on the part of the trafficked person. (UNAIDS Advisory Group on HIV and Sex Work 2011)

A picture emerges from the available literature and interviews, of unfocused and chaotic enforcement by a dysfunctional criminal justice system and inept or corrupt police, some of whom are undoubtedly directly involved in the sex industry.¹⁴ In 2009 the US State Department said in its TIP report that Cambodian ‘police and judicial officials are both directly and indirectly involved in trafficking’ (US State Dept 2009).

According to its opponents the law has resulted not only in abuse of sex workers and their families and the creation of a hidden and more dangerous sex industry; but there has also been a clear failure to punish actual traffickers and therefore to deter potential ones. According to official sources there were 64 human trafficking and 65 sexual exploitation cases in the whole country in 2010 (UNICEF 2012). A look at those incarcerated for these offences adds to the argument. Incarcerated traffickers in Cambodia were found to be:

poor, uneducated individuals, and 80% are women. Their activities are unsophisticated and conducted by sole operators or small casual 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 criminal justice system, they serve long prison sentences and as many as 60% are probably the victims of miscarriages of justice. (Bouhours *et al.* 2012)

‘There is no need to use coercion because there are plenty of women ready to work as sex workers’. (Choumpou, sentenced to 7 years in prison for procuring a woman for prostitution)

Bouhours *et al.* (2012) quote an NGO lawyer who said that most offenders were unaware that they had committed offences that qualify as human trafficking and most police did not know the content of the law but relied instead on stories and vague directions. Even if the rule of law was followed in Cambodia and there was reasonable policing, suppressing all commercial sex would still be a ‘scattergun’ approach likely to miss the mark and squander resources in the way Bouhours *et al.* suggest. Chuang makes a similar point, framing it as a question of the best use of resources:

¹⁴ The former Deputy Director of the Police Anti-Human Trafficking and Juvenile Protection Department was convicted for complicity in trafficking and sentenced to five years’ imprisonment; two officials under his supervision were also convicted and sentenced to seven years’ imprisonment: www.ijm.org/news/ijm-cambodia-former-chief-police-convicted-trafficking-crimes-historic-ruling. In Sihanoukville women and girls detained in brothel raids were sold back to brothel keepers for US\$50 each: www.state.gov/documents/organization/142982.pdf

Whatever one thinks about the merits of prostitution/sex work, we cannot afford to have the limited resources devoted to anti-trafficking diverted to the broader issue of fighting prostitution, particularly given recent studies demonstrating the ineffectiveness of such campaigns and their potential for collateral damage. (Chuang 2009)

5.2 Taking the sex out of sex work

There are several implications to the word 'sex' disappearing from official and popular language around commercial sex. In most discussions, the sale of sexual services is now conceptualised as something that some entertainment workers might do as a response to poverty, or if physically forced. By forging denial, or at least side-lining sex, the euphemised term 'entertainment work' obscures a raft of important issues, including stigma, violence and health risks that are associated with sex, not entertainment. This appears to lead to missed opportunities for progressive interventions, more effective sexual health programmes and for sex workers to speak out or form associations.

It is clearly unsatisfactory that, in a country in which the majority of men pay for sex and there is a high HIV burden, the government HIV prevention programme for sex workers had to be salvaged by an administrative directive that condoms be allowed in venues where sex is sold in contradiction of its own legislation. Remembering that HIV is transmitted by sex should remind us that to be effective, HIV education must provide information about sex; so programmes cannot be optimal in venues where sex is illicit and where promoting safe sex cannot be permitted to avoid trafficking charges.

The change in terms invisibilises the sex workers who were displaced in the 2008–9 crackdowns and it is difficult to compare data from before and after the changes. This means that no accurate map of the places and people involved in commercial sex exists, although one is needed to plan and evaluate services. Ethnographic or demographic research about Cambodian sex workers has, as one researcher described it, 'hit a brick wall'. Research on sexual behaviour research also appears to have declined as a result of the new paradigm. Client sexual behaviour is more obscure in their new role as customer of an open entertainment venue than it was when they were brothel goers or customers of freelance sex workers.

Some interviewees pointed out that de-sexing sex work would be welcomed by many of the staff of institutions working with sex workers. Many NGO project officers have conservative personal ideas about gender and sex which are reflected in their own lives and their relationships with sex workers.

'De-sexing' sex work also limits formation of alliances that could enable exploration of sexuality, gender and identity. As discussed in Section 1.3, institutions must work around the anti-prostitution pledge and the US governments' categorisation of people who sell sex as 'MARPS' (most at risk populations). They have no reason to make space for activism or cultural development around sexuality.

In contrast, the WNU has a strong history of activism on sexuality issues that has been made possible because it has been funded by small international donors, not through USAID's funds for HIV prevention. On the one hand, gay male and transgender sex workers and lesbians were always a part of the WNU. Although male sex workers' involvement has declined, the link with the lesbian community remains strong and the WNU participates in Phnom Penh's active gay community events.

5.3 Claiming labour rights

Reframing sex workers as 'entertainment workers' brings opportunities for labour organising that could lead to legal and regulatory frameworks that address issues such as living wages, health and safety, and the security of entertainment workers.

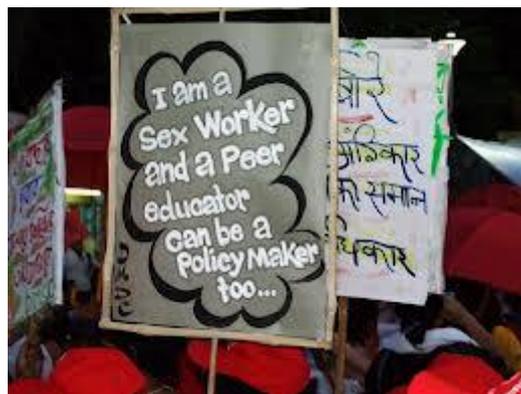
If the right conditions prevail, a shift to a labour rights approach would mean that unions and their members would become significant institutions and actors. The tools available to them are a full complement of legal, and administrative actions, as well as industrial negotiations that can set new labour standards and enforce existing ones. This contrasts markedly with the current paradigm in which the actors working to achieve these goals are the UN and NGOs. The only tool available to NGOs is 'advocacy' which in practice means little more than endorsing the government directives and guidelines that have been described, especially where advocates are USAID-funded and therefore subject to the Anti-Prostitution Pledge. For these reasons this 'labour' rights approach has the potential to be both more effective and more sustainable.

Several obstacles to unionisation and labour rights have been identified by the ILO and CFSWF (Vuthy 2011). Primary among these is lack of Rule of Law which is well documented in Cambodia (see Box 7). CFSWF points out that the judicial and administrative functions around arbitration and enforcement of labour standards are frequently corrupt or dysfunctional. This means that effecting change through legal processes such as court proceedings or arbitration is more difficult and expensive to effect than it should be. Shortcomings in the criminal justice system and their impact on the human rights of sex workers were identified by all non-government actors, including Human Rights Watch and LICADHO, as constraining prospects for effective positive change.

A second important barrier is that it is difficult for organisations that function in the local 'market' to compete for members and therefore resources with internationally funded NGOs.

A third is the stigma of entertainment or sex work which provides an additional disincentive to involvement along with lack of education and fear of reprisals in the work place.

5.4 Climbing the participation ladder



Sex Workers are increasingly demanding access to higher rungs on the ladder of power. Photo: South Korea Research Project, 2012

There are many ways of achieving a 'culture of silence' (Freire 1970). Outright oppression enacted as violence or discrimination against those who speak out is a way powerful interests can silence demands of lesser citizens. In Cambodia there is no evidence that government agencies' oppression of sex workers or of the broader community is targeted at

activists or carried out with the aim of preventing sex workers raising human rights issues. On the contrary, periodic public demonstrations of dissent by minorities, including sexual minorities, may help the government by confirming that freedom of speech is respected in Cambodia. Rather, powerful limits on participation can be located within local law and policy and in the system for distributing development aid.

Although 'EW' groups formed under the auspices of HIV agencies or other NGOs can be construed as spaces in which the voices of sex workers can be amplified, equally they can be seen as filtering or distorting messages. Greenall frames this as selective listening to 'the right voices':

As the principle of actively involving communities and people who are affected in the response to HIV has become central to the response to AIDS, the various movers and shakers have looked for ways to enshrine it in policy, to systematize it. Local, provincial, national AIDS coordination committees are all supposed to have community members on them. Donors like the Global Fund to fight AIDS, TB and Malaria want to know that various categories of people affected have played a role in designing any projects they fund. Governments and international advisors, have created space, often because they know that's where the smart money is. But the thing is, it's so damn hard for those who are in charge to make this work - given their assumptions, that is. As one senior government official said to me last year, "we're happy to involve the [insert category of marginalized population here], but they need to pick the right representative". The right representative. Right, presumably meaning those who will stay broadly on-message, and who understand the ins and outs of epidemiology, evidence-based policy making and global financing. Good luck with that. (Greenall 2012)

The 'right voices' in Cambodia are those that use the term entertainment work not sex work, those that agree to mobilise voluntary labour to conduct public health activities, those that do not demand that sex work be legalised and those that endorse government and international HIV policies.

Since the beginning of the HIV pandemic substantial international funding has been spent on programmes for sex and entertainment workers in Cambodia, including for community mobilisation and participation in planning policy and programming. The measurable positive achievements of these service delivery organisations, such as condom distribution and STI care, are clear and, although it is less measurable, several important advocacy goals have been achieved over the years too. However de-recognition of sex workers and configuring entertainment workers into small, separate organisations has the potential to limit and silence, especially where those groups are dependent on international HIV funds and more especially when they are dependent on US funds. This is both illustrated and reinforced by the fact that members of these 'community based' organisations are not free to choose which terms they use to describe themselves, their communities and their activities.

In 2009 WNU members stressed the difficulty they have competing with organisations that have fundraising capacity. Schmid observes:

An unfortunate reality facing NGOs is the need to divert the efforts of staff, and thus funds, towards the ongoing project of keeping the organization running. The pursuit of continued funding, and the need to report on where and how those funds were used, is no small task. In the smaller organizations, marketing and self-promotion becomes the responsibility of people whose specialty may be in counselling, advocacy, or education. (Schmid 2011)

Transparency and governance are also an issue in the context of competition for access to international funding. Two sex worker interviewees said they recognised their own lack of capacity including their limited knowledge of the grants their organisation has received. One person said they could not challenge those in charge because they raise the funds and conduct the election [that determines her and others' future access to resources]. Whether or not the returning officer is *actually* likely to interfere with the election is speculative, but the comment is illustrative of the limit placed on sex workers' voices even within their own organisations in the light of their dependency on 'technical support'. Cornwall identified the ability of vested interests to hijack even well-intentioned efforts to involve marginalised communities in a passage which has particular resonance in this context:

'You can't eat participation can you?' said one disgruntled would-be community representative who was expected to mobilise his fellow community members without receiving any of the handsome salaries that his NGO counterparts were paid. (Cornwall 2008)

Dependency on what Cornwall calls 'gatekeepers', local elites who can speak English and access international funds in Cambodia, is not limited to sex workers. The broader context and impact was described thus by Hughes:

Developing within a system dominated by views from outside, whose standards by which they are judged and chosen for receiving funds, those who work for local NGOs learned to speak the language of and conduct themselves in the manner preferred by the Northern NGOs and governments. International dominance and leadership became the norm in Cambodia, and the availability of international funds has entailed that those Cambodian NGOs who conformed to international agendas have flourished, permitting the consolidation of the international perspectives. (Hughes 2003)

To locate current sex worker participation and to identify where it should aim to be, Arnstein's participation ladder provides a useful tool:

The bottom rungs of the ladder are (1) Manipulation and (2) Therapy. These two rungs describe levels of "non-participation" that have been contrived by some to substitute for genuine participation. Their real objective is not to enable people to participate in planning or conducting programs, but to enable powerholders to "educate" or "cure" the participants. Rungs 3 and 4 progress to levels of "tokenism" that allow the have-nots to hear and to have a voice: (3) Informing and (4) Consultation. When they are proffered by powerholders as the total extent of participation, citizens may indeed hear and be heard. But under these conditions they lack the power to insure that their views will be heeded by the powerful. When participation is restricted to these levels, there is no follow-through, no "muscle," hence no assurance of changing the status quo. Rung (5) Placation is simply a higher level tokenism because the ground rules allow have-nots to advise, but retain for the powerholders the continued right to decide. Further up the ladder are levels of citizen power with increasing degrees of decision-making clout. Citizens can enter into a (6) Partnership that enables them to negotiate and engage in trade-offs with traditional power holders. At the topmost rungs, (7) Delegated Power and (8) Citizen Control, have-not citizens obtain the majority of decision-making seats, or full managerial power. (Arnstein 1969)

Since there are no official spaces in which they can speak on their own terms and they have limited control over the organisations that represent them in policy discussions, Cambodian sex workers occupy, at worst, the lowest rung on Arnstein's ladder – there only to be

manipulated, cured or educated – or, at best, the second lowest – to be informed and consulted.

The matter of competition arose repeatedly. To secure recognition and access to local influence and foreign resources NGOs need to deliver services to, or speak for, as many people as possible. This leads to competition between NGOs for members or beneficiaries so that 'membership' can be purely instrumental, amounting to no more than a signature on a form. At worst, this system leads to unchecked claims about numbers of members and quality or quantity of their participation. Even stand-over tactics to deter members from signing up to other NGOs or CBOs were mentioned. In this environment local organisations find it difficult to compete for members with internationally-backed organisations. As one interviewee put it, 'they can attract entertainment workers with incentives from t-shirts, food and free medicine and even overseas trips'.

This should be particularly relevant to international agencies that should try to ensure that aid money facilitates rather than hampers sustainable local organising.

Greenall (2013) frames this in simple terms and stresses the importance of recognising indigenous discourses and actions that exist outside of the development framework:

[A]cknowledgement of the limited role played by aid in development implies an acknowledgement that there is a lot more going on. And that other stuff that is going on, although it is happening alongside remarkable gains that humanitarian aid has helped to produce, is happening independently. And it is coming from people themselves.

Rather than an admission of defeat or a matter for pessimism, this analysis of the dynamics of participation of Cambodian sex workers can be used to identify ways to help sex workers in Cambodia transcend the participation ladder towards a form of involvement that transforms lives for the better. To do this, sex workers need to grasp more effective tools and learn to use them in uninvited as well as invited spaces, in other words, to exercise power.

6 Ways forward

Some obvious recommendations flow from the information gathered for this case study. Ideally the Cambodian government would pass new legislation to prevent human trafficking that is confined to situations of force. It would ensure that HIV prevention and care for sex workers and clients is based on guaranteed safe places to sell and buy sex and universal access to health services rather than on rebranding commercial sex as entertainment and enacting policy that ensures it is conducted in the suboptimal circumstances described. To achieve this, the law should be reformed consistent with the recommendations of the Global Commission on HIV and the Law. And all of that should be underpinned by improvements in Cambodia's legal and administrative systems and its adherence to the rule of law. Ideally the US government would repeal the PEPFAR 'Anti-Prostitution Pledge' too.

However, limited change is realistically possible in this context while law and policy are driven by the US government, dependency is entrenched within organisations and all sectors are adversely affected by lack of the rule of law, and the weak organisations and low expectations that creates. So rather than suggesting ideal scenarios I focus on actions that international aid agencies, local NGOs, the UN, relevant ministries and sex workers themselves could take to improve policy and programming in the current political and legal context. These are arranged around better information, clearer understandings of trafficking and sexual exploitation; better international grant-making; and support for local organising, independent of the HIV sector and international funding. Above all I stress the importance of meaningful rather than tokenistic participation of those affected by the laws and policies that govern how sex is bought and sold.

6.1 Turning on the light: research for better health and human rights

The recent history of sex work law in Cambodia can be seen as a tale of shifting words, concepts and bodies. The result is a vacuum of knowledge and a sex industry operating amid a hotchpotch of policies and programmes. To move forward it will be necessary to have much clearer understandings of sex work and human trafficking. To do this various kinds of studies are needed including research to:

- identify the impact of laws and policies on a broad range of outcomes including the range of industrial, social and public health issues touched upon in this case study;
- identify the extent and nature of human trafficking in Cambodia and effective (and ineffective) responses to it;
- map the nature and scope of the post-2008 sex industry including estimating the incidence of HIV and STIs and relevant sexual behaviour of all women who sell sex;¹⁵
- map the nature and scope of the institutions and organisations that provide services to people who sell sex and victims of human trafficking;
- gain better insight into the lives of sex and entertainment workers and their relationships and communities through ethnographic studies that explore kinship, social capital, class, sexual identities and ethnicity;
- document models of sex workers' participation in the country and the region, including opportunities and barriers for various sub-populations (migrants, drug users, transgenders);

¹⁵ This recommendation applies in particular to the GFATM which will provide long-term support for Cambodia's HIV programme. It will be well placed to insist on accurate data about sex workers and their clients that is properly delineated from 'trafficking and sexual exploitation' and other activities contained within 'entertainment work.'

- gather information about the economic and social impacts of conditions in the sex industry including the impact of alcohol, sexual harassment, violence, unprotected sex and the lack of a living wage, workplace rights and other legal protections.

6.2 Untangling words, ideas and laws

Sexual abuse of adults and minors; human trafficking; debt bondage; and smuggling undocumented migrants are all legitimate targets for criminal law. However, sex workers' groups in Cambodia have asserted that criminality and trafficking are not prevented by the LSHTSE but are facilitated or incentivised by it. There is evidence that is true, so removing these laws – the decriminalisation of sex work – will help eliminate human trafficking and other abuses of sex workers. In the meantime, the US and Cambodian governments and civil society can take action to enhance efforts to eliminate trafficking and reduce potential damage.

- Although the LSHTSE conflates trafficking, procuring and exploiting, the Cambodian government can and should focus enforcement exclusively on situations of force or coercion. To formally commit to this would, among other things, enable research and knowledge for better health and human rights. It would also reduce the influence of third parties by re-opening spaces in which freelance sex work could take place.
- The US government should include considerations of sex workers' rights to livelihood, life and association when it scrutinises the impact of Cambodia's anti-trafficking efforts for its annual TIP report. It should consider the impact of anti-trafficking effort on everybody affected by those initiatives as a matter of both ethical obligation and accuracy. This can only be achieved by entering into dialogue all stakeholders including sex workers.
- The Cambodian government should take immediate steps to ensure that all anti-trafficking organisations and their activities are lawful and effective. It should introduce a system for identifying and endorsing transparent, ethically conducted organisations and ensuring that those that are not are closed.
- The process of 'raid and rescue' missions followed by detention and rehabilitation of adults should be abandoned and replaced by a voluntary system. In a country as poor as Cambodia this is feasible because there is demand for shelter and social support for women in the sex industry (trafficked and not).
- Services for girls who have been involved in prostitution should be better integrated with welfare services for other minors.
- International civil society and the UN should prioritise research and advocacy to generate support for law, policies and interventions against human trafficking that are better targeted, more effective and less harmful. They should also support awareness-raising activities that replace myths and stigma about trafficking and sex work in Cambodia and other places with more accurate and nuanced understandings.

6.3 Participating meaningfully despite not officially existing

Several barriers to meaningful participation have been identified. Primary among these is that sex workers are no longer a recognised category of person in Cambodia. Participation is therefore restricted to designated subcategories advocating for their interests on set topics, in invited spaces.

Sex workers' rights advocates usually recommend that participation of sex workers be improved by strengthening sex worker-led groups with more and larger grants. However, I have argued that international funding is contributing to the problem by creating dependency and competition for resources between, and within, NGOs, between sex workers and between sex workers and non-sex workers and that this benefits local elites and silences some voices while privileging those that echo external priorities.

Below are ideas of ways to redress some of these problems by creating new models that encourage meaningful participation.

- International agencies that support NGOs to work with sex workers should develop indicators of meaningful participation (as distinct from tokenistic participation) and build them into the grant-making process.
- Separate funds should be available to HIV organisations and to local, member-driven organisations that pursue objectives that sex workers have identified independently of donor priorities. International donor, NGO and activist communities should distinguish between funds linked to subcontracts for HIV service delivery and funds that are available to communities to mobilise around issues they select.
- Grants should be made to organisations that reflect local identities and economic realities. This may be achieved by linking grants for non-clinical services and advocacy to revenue from fees or dues (sometimes called matched funding).
- The role of sex and entertainment workers within NGOs that deliver services to sex and entertainment workers should be thoroughly examined. NGOs must be incentivised to provide equal opportunities to both sex workers and non-sex workers and to recognise and reward skills and contributions fairly.
- The institutions and groupings through which sex workers can form ideas about mutual interests, articulate demands and pursue specific goals should be expanded. Those groupings may be 'workers in the informal economy'; 'employees of alcohol companies'; 'sexual minorities'; 'migrants'; 'people living with HIV' or 'women'. The CFSWF, IDEA and the Cambodian Business Coalition on AIDS are examples of organisations that sex workers could join, or are joining, to realise rights. They should be supported by contributions to core costs; recruitment and campaigning; negotiation and arbitration, policy advocacy and work-related advice and representation.
- The actions sex workers can take to redress the specific problems identified should be expanded to include legal actions, industrial negotiation and arbitration awards, inclusion in economic programmes and workers/citizens welfare schemes; exploration of new sexual identities or the inclusion of sex workers in broader campaigns on, for example violence against women, poverty, disability or alcohol awareness. Even cultural activities such as theatre or dance should not be overlooked as tools for learning and teaching; building mutual support, exploring identities, lobbying or enacting resistance.

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