

# Cambodia's Invisible Labor Force

Does Safe Migration Prevent Human Trafficking?

Written By: Naomi Burnett



## 1. Introduction

Human trafficking is one of the greatest crimes of the 21st century. It is a persistent violation of the rights and lives of children, men and women. We live in a globalized world that facilitates the movement of goods, information and people across borders. Globalization can significantly affect development and contribute to poverty reduction. Many Southeast Asian countries including Cambodia are, however, at the bottom of the world's supply chains for garments, food and labor. The high demand for goods and cheap labor, coupled with widespread poverty, provide a fertile ground for exploitative labor conditions. Globalization is arguably one of the greatest forces behind the emergence of large scale migration and trafficking patterns (Smit, 2004). The Asia-Pacific Region is home to millions of migrants, and numbers are expected to continue to increase. This paper will focus specifically on Cambodia. As one of Southeast Asia's poorest countries, Cambodia experiences significant amounts of both cross-border and internal migration and trafficking. It is a country of origin, transit and destination. For the purpose of this analysis, the focus will be on Cambodia as a site of origin.

It is important to note that there is no single narrative to describe trafficking experiences, as deceit and exploitation can occur before, during and/or after the process of migration. Trafficking is a highly complex phenomenon that denies any simplified explanations. The following chapter will therefore clarify the concept of trafficking and its intersections with other concepts such as forced labor or migration. Human trafficking can, for example, be found in cases of forced labor. According to the International Labor Organization (ILO) (2012), 11.7 million forced laborers were in the Asia-Pacific Region in 2012, some, or even many of whom were trafficked. Since trafficking occurs within the greater context of global migration and labor patterns, it is helpful to address the issue from a human rights, specifically migrant and labor rights, perspective. This paper will therefore take a rights based approach.

Human trafficking occurs within the context of labor migration. The Mekong Migration Network estimates that the Greater Mekong Subregion (Cambodia, Lao, Thailand, Vietnam, Myanmar and Yunnan Province in China) is home to about 3-5 million migrants (Mekong Migration Network, 2009). Migration in and of itself is not necessarily negative. It becomes so when unsafe labor migration practices, which are especially common in the Greater Mekong Subregion, put migrants at risk of abuse and exploitation. The dramatic rise of labor migration from Cambodia is cause for grave concern. Between 2004 and 2011, the number of registered migrants increased by 272 percent, with 53,160 migrants registered in 2009-2010 alone (The Asia Foundation, 2013). As the majority of migrants leave Cambodia through irregular channels, the actual number of Cambodian labor migrants is estimated to be much higher. The International Organization for Migration (IOM) (2014) reported that over 225,000 Cambodian migrants fled Thailand in 2014,

### Imprint:

Edited by Naomi Burnett

Introduction and concluding observations by Naomi Burnett, Phnom Penh, March 2015

Layout by Marco dos Santos Pina, [www.santospina.com](http://www.santospina.com), [info@santospina.com](mailto:info@santospina.com)

### Disclaimer:

The views expressed in this publication reflect those of the authors and do not necessarily reflect the views of the Heinrich Böll Foundation nor the views of its partner organisations and funders.



following the military junta's crackdown on illegal migrants. Aside from the number of repatriations and persons seeking protective services, there are no uniform attempts to estimate the amount of persons trafficked from Cambodia.

Many international and local nongovernmental organizations (NGOs) operate in Cambodia to prevent trafficking, protect the victims and prosecute the perpetrators. Amongst the anti-trafficking community it is widely recognized that trafficking arises during processes of migration. In the past years anti-trafficking programs have incorporated this knowledge. Safe migration initiatives have taken center stage in anti-trafficking efforts. Numerous NGOs have offered training, information leaflets and hotlines to future migrants and Cambodians working abroad. This begs the question whether safe migration approaches have been effective in curtailing trafficking. The following chapters will shed light on what kind of safe migration measures have been taken in Cambodia, their effectiveness and what must be improved to ensure the protection of vulnerable migrants.

## 1.1 Research Objectives and Methodology

The objective of the research presented in this report is to conceptualize safe migration within the counter-trafficking discourse, and evaluate the effectiveness of such initiatives based on the experiences of NGOs working in this field in Cambodia. The information offered in this paper is based on a study of literature, as well as a case study derived from personal research in Cambodia.

Communications and interviews were carried out with a representative from UN-ACT (United Nations for Cooperation against Trafficking in Persons), the Global Alliance against Traffic in Women (GAATW) and several local NGOs. Among the consulted organizations were CARAM (Coordination on Action Research on AIDS and Mobility), LSCW (Legal Support for Children and Women), CCPCR (Cambodian Center for the Protection of Children's Rights) and CWCC (Cambodian Women's Crisis Center). Representatives from two other organizations were interviewed, but wish to remain anonymous. To protect the identity of these organizations and ensure they remain anonymous, they will not be referred to directly in this report.

## 1.2 Limitations

Due to definitional issues, the underground nature of the crime and underreporting, most numbers on trafficking are based on assumptions and guesses. There are no agreed upon estimates of how many people fall prey to traffickers in Cambodia, and most cases will never get public attention or end up in court.

Another limitation of the research is that safe migration is still a fairly new concept in the anti-trafficking field. The body of formal literature and research on the subject leaves much to be desired. Furthermore similar to trafficking, there is little conceptual clarity of what is meant by safe migration. Although the words in themselves seem rather self-explanatory, the concept is interpreted in a variety of ways. The novelty of the concept also means that there are few examples of best practice.

## 2. Conceptualizing Human Trafficking

Human Trafficking is a multifarious concept that intersects with a number of other concepts such as exploitation, forced labor and smuggling. Although worldwide concern about trafficking has grown in the governmental, non-governmental and press communities, a lack of a concrete understanding of what trafficking is undermines many trafficking campaigns and debates. Sensationalist tales of young women being kidnapped and sold into sexual slavery dominate the discourse. Labor trafficking for purposes other than sex is rarely in the dialectic. A clear understanding of the concept is, however, important to distinguish trafficking from other forms of abuses within migration and labor situations, and to prevent trafficking from becoming a 'catch-all phrase' that is thrown around negligently; thus trivializing its meaning. Moreover trafficking must be clearly defined so that one has a means of differentiating between victims of trafficking and victims of other crimes, as victims of trafficking are awarded special protection under the law. The word trafficking must therefore be used with care and only in cases where its usage is appropriate.

### 2.1 Definitions

This paper will make use of the definition provided by the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children (hereafter referred to as the Palermo Protocol) to the United Nations Convention Against Transnational Organized Crime. It defines trafficking on a continuum of cross-border movement, where trafficking is placed as the most exploitive form of movement. The Palermo Protocol definition reads as follows:

*“Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring [sic] or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of po-*

*wer or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (emphasis added). Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour [sic] or services, slavery or practices similar to slavery, servitude or the removal of organs" (UN General Assembly, 2000).*

From the definition above it is clear that in order to constitute a case of trafficking, three elements must be met; the act, the means and the purpose of exploitation, with the 'means' element becoming redundant in cases of child trafficking. It is important to understand that a crime can constitute trafficking without exploitation actually having occurred. It is enough that the 'act' and 'means' were committed for the purpose of exploitation (Global Migration Group, 2013).

As 'exploitation' is at the core of the concept of trafficking, one must understand exploitation and its intersection with trafficking to fully grasp what trafficking is. Although the term is widely used, exploitation has no single international legal definition. A common interpretation of the term is "particularly harsh and abusive conditions of work or 'conditions of work inconsistent with human dignity'" (Global Migration Group, 2013, p.5). The IOM Glossary on Migration defines exploitation as "The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit" (Perruchoud, 2004). Not all exploitation of migrants occurs within human trafficking, and non-trafficked migrants are very often exploited.

The most extreme form of exploitation occurs in the form of forced labor, a term which tends to be equated with trafficking. In contrast to exploitation forced labor is defined in international law. Article 2 (1) of the ILO Forced Labor Convention (C. 29) defines forced labor as: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (ILO, 1930). A close relationship between human trafficking and forced labor exists, but the concepts are distinct of one another and not all cases of trafficking constitute cases of forced labor. There are some types of trafficking which cannot be placed within a labor context. For example trafficking for the purpose of organ removal, adoption or forced marriage (Global Migration Group, 2013). For the purpose of this paper the focus will be on trafficking for labor exploitation.

Another common conflation occurs between the terms trafficking and smuggling, and in many cases an individual's migration story can include elements of both smuggling and trafficking. In the United Nations Smuggling Protocol, smuggling is defined as "the procurement, in order to obtain, directly or indirectly, a financial or other

material benefit of the illegal entry of a person into a State Party of which the person is not a national or permanent resident" (UN General Assembly, 2000). Whilst both trafficking and smuggling occur during processes of irregular migration, trafficking can also occur during regular migration. Moreover trafficking contains an element of force and/or deception with the end goal of exploitation. Smuggling, on the other hand, occurs solely for financial or other benefit (GAATW, Smuggling, 2011).

As has become evident above, human trafficking is a complicated concept with many gray areas that make it hard to distinguish at what point a migration process becomes trafficking. A migration process may start out as voluntary and regular, and then become irregular after a certain amount of time. Similarly there are different degrees of exploitation and force. Migration and trafficking should therefore be seen along a continuum. The Global Migration Group's (2013) publication on exploitation and abuse establishes such a scale; at the one end of the scale there is 'freely chosen decent work based upon free consent'. At the other end of the scale is 'forced labor with no consent'. When the 'act' and 'means' are present, trafficking in persons lies somewhere in between the two extremes, with the 'means' element causing it to lean more towards the 'forced labor' end of the spectrum.

## 3. Conceptualizing Safe Migration

As trafficking occurs within migration, but not all migrants end up as victims of trafficking, it is important to identify the factors causing one migration process to be successful whilst another is not. In the recent past, the anti-trafficking community has increasingly focused on ways to promote safer migration practices that decrease the risk of migrants ending up in exploitive situations.

### 3.1 Definitions

Although safe migration initiatives are widespread in the anti-trafficking field, few efforts have been made to define this new concept, and no universally accepted definition exists. Although the term is regularly used, everyone seems to have a slightly different understanding of what the concept entails. This chapter aims to disentangle the discourse of safe migration, and isolate the elements most commonly associated with the concept. In this paper, safe migration will be defined as a process by which future migrants are made aware of facts and rights relating to migration and labor in order to avoid risks and abuse prior to, during and after the actual process of migration. Safe migration is also used for the protection of migrants who are already abroad.

### 3.2 Core Themes

Several international as well as local organizations have developed safe migration initiatives. Although they tend to differ in the details, several core messages can be found throughout. Firstly, a list of necessary documents for traveling abroad is usually provided. These include a passport, an entry visa if required and in some cases an immunization card. The IOM (2011) Fact Sheet on Safe Migration also lists the rights migrant laborers have, especially if they are detained having entered their host country illegally. These rights include the right to legal assistance as well as the right to dignified, respectful treatment in prison. Furthermore by virtue of the universality of all human rights; all migrants, whether documented or undocumented, should enjoy the fulfillment of their basic rights, for example the right to receive medical treatment in an emergency. Knowledge of one's basic rights is an essential component of migrating safely, as it allows migrants who experience abuse to claim their rights.

Another theme that can be found in most safe migration checklists is that of decent labor conditions. The necessity of having a proper employment contract is emphasized as well as details relating to employment at the destination site. For example, rates of pay, hours of work, holiday payments, working conditions, etc. In ideal cases, this information is given in a way that is tailored to the needs of specific migrants, depending on which sector and country they are planning to be employed in. Potential migrants must be aware of what kind of pay and working conditions they are entitled to in their destination country, to ensure they do not end up working in exploitative conditions.

The third theme common to most safe migration information materials is that of contact details. Organizations such as the ILO or IOM advise migrants to inform themselves prior to migrating on whom they can contact if they face problems abroad. Oftentimes migrants end up in countries where they do not speak and read the language. Asking for help from local authorities can be tedious, and in cases of undocumented migration migrants fear that going to the local authorities may result in deportation at best, a prison sentence for entering the country illegally at worst. Thus a list of contact details should be created prior to departure. This should not only include numbers of friends and family, but also NGOs, the embassy of their passport country, migrant associations and anyone else who might be able to offer assistance in the host country (IOM, 2011). ILO's safe migration advice sheet also advises that these numbers should be memorized (ILO, 2014). Every organization urges migrants to stay in contact with their family, NGOs and any known migrant networks after arrival in the host country.

During the interviews conducted for this research, each interviewee was asked how they would define safe migration. Having worked on safe migration programs for numerous years, all of the respondents gave one clear answer: If possible, it is important to migrate legally! Migrants who migrate legally have a passport, a work permit, and

a contract with their employer. There is far less room for exploitive practices (although it is important to note that trafficking can occur during regular processes of migration as well). Furthermore legal migrants have the ability to seek aid, medical services and claim their rights in the destination country. As an official in Battambang (2011) argues, irregular migrants cannot do so: „When they are sick they dare not go to hospital...they buy medicines from their fellow Cambodian migrants“ (as cited in Hing, Lun & Phann, 2011, p.18). Irregular migrants, on the other hand, are at much higher risk of exploitation, arrest, detention and deportation. As one respondent said: “Illegal migration jeopardizes a migrants future, they may be safe today but tomorrow, they are not” (Trafficking expert, 3 March, 2015).

Another theme that ran through all the interviews was the need to make informed, smart decisions based upon extensive research prior to migration. Migrants should inform themselves about the country they are going to, and which documents will be needed upon arrival. Furthermore, migrants should weigh the costs of migrating against the benefits they will receive. Migration is a costly process, and if one calculates the additional living costs associated with living in Thailand, for example, the cost of migration and the emotional costs of being far away from family and friends, mean that the costs may outweigh the benefits (Trafficking expert, 3 March, 2015). Furthermore migrants to-be should do research into which recruiting agency is well-regarded, and inform themselves through migrant networks and NGOs on how best to go through the legal process of migration.

The interviewees all emphasized that safe migration initiatives should not stop people from migrating. Rather, migrants should receive the necessary information to make informed decisions and choices in order to prevent harm. Safe migration is not just about the time before departure. Staying in contact with migrants once they are abroad is also a big part of safe migration programs. NGOs try to monitor whether migrants are working in the jobs they were supposed to work in, and earning decent wages under decent conditions. One of the greatest measures as to whether a migrant has migrated safely is not only that he/she has not been cheated, but also that he/she is able to send remittances back home. One interviewee explained “ If they just migrate and do not have an income and send remittances, then they are not safe” (Meas, 3 March, 2015). Lastly, it is important that the migrants return home safely and healthy. Their condition upon return should not be worse than prior to departure.

### 3.3 Methods of Realization

Safe migration initiatives come in many different forms. Most organizations have created short information brochures and flyers with safe migration checklists, information, and contact details. Some organizations do pre-departure orientation trainings, which aim to provide practical knowledge and strategies for migration so that migrants-to-be can maximize the benefits and minimize the dangers of migration. Information campaigns in the media and on billboards have also been used to encourage migrants to migrate safely (Siddiqui, Rashid & Zeitlyn, 2008). Oxfam (2013) for example, has used a mobile theatre to inform potential migrants. They used a stage performance with dance, song and acting to tell the story of a young woman who left home to work in a garment factory under terrible conditions. Throughout the performance the audience was asked to suggest ways in which the woman could improve her situation, thus raising the viewers' risk awareness. Many NGOs also have programs to stay in touch with migrants after they have migrated, hotlines that migrants in need can call and programs to help repatriate migrants wishing to return home from exploitive circumstances.

## 4. Taking a Rights Based Approach

“Violations of human rights are both a cause and a consequence of trafficking in persons. Accordingly it is essential that the protection of all human rights must be at the center of any measures being taken to prevent and end trafficking. Anti-trafficking measures shall not adversely affect the human rights and dignity of all persons and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum-seekers” (UN High Commissioner for Human Rights as cited in Sanghera, 2002). Safe migration discourses are overarched by a human rights, migration rights and labor rights based framework. In virtue of the universality of human rights, this is the best way to ensure that informal modes of migration as well as unregulated forms of labor are not left out of the picture. No migrant, no matter how he/she migrated and where they are working, should face human rights abuses. Every migrant should have the opportunity to exercise and claim their rights. When individuals are trafficked their fundamental freedoms and human rights are compromised. There is a substantial body of international law applicable to trafficked persons, including laws on forced labor and practices associated with trafficking such as torture. By framing trafficking as a violation of human rights, migrants rights, and labor rights, trafficking can be addressed and tackled without damaging legitimate forms of labor and migration. Migration for work abroad is not necessarily harmful, and should not be viewed as such.

### 4.1 International Legal Framework

Many United Nations Conventions pertain to trafficking, exploitation or migration in some way. It is not, however, within the scope of this paper to lay out all human rights considerations applicable to migrants. This chapter will therefore only briefly outline the main considerations applicable to the exploitation of migrants, particularly migrants who find themselves in irregular situations. International human rights apply to all individuals within the territory of a state, irrespective of their citizenship and how they entered the territory (Global Migration Group, 2013). Like nationals of the state, migrants have the right to be protected from exploitation, slavery and or torture. Moreover, they also have economic, social and cultural rights such as the right to adequate housing or health. In reality, however, many states do not grant migrants in irregular situations the protection of the rights that they are entitled to under international law.

The principle of non-discrimination is therefore fundamental to any rights-based approach to exploitation and trafficking. Enshrined in, amongst others, Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), Article 1 of the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD, 1969), Article 7 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW, 1990) as well as Article 2 of the Convention on the Rights of the Child (CRC, 1989), the right to non-discrimination is a fundamental principle in international law. The general idea that can be extracted from all these articles is that human rights are granted to all human beings in virtue of their humanity. In its Recommended Principles and Guidelines on Human Rights and Human Trafficking, the Office of the United Nations High Commissioner for Human Rights specified that rights are only allowed to be distinguished based on a person's immigration status, when such a distinction serves a legitimate purpose, and that purpose is proportional to the achievement of that purpose (Global Migration Group, 2013). Apart from the Convention on the Rights of Migrant Workers, Cambodia has ratified all of the above treaties (OHCHR, n.d.).

Several other rights are important in relation to human trafficking. The prohibition against torture, and other forms of cruel, inhuman or degrading treatment or punishment can be found in Article 7 of the International Covenant on Civil and Political Rights (ICCPR, 1966), Art. 37 of the CRC as well as the Convention Against Torture (CAT, 1984). Other rights include the right to safeguards against arbitrary arrest and detention (ICCPR, 1966, Art.9) and the prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfill a contractual obligation (ICCPR, 1966, Art. 11). ILO Conventions 29 (C29, 1930) and 105 (C105, 1959) deal with forced labor. These two documents are exceptionally powerful as they not only promote fundamental principles and rights at work, but have also been almost

universally ratified. C29 prohibits forced labor in all kinds of “work or service”. C29 can therefore be used by the lawyers of trafficked persons in cases where trafficking occurred in sectors that are not recognized under national legislation, for example domestic work or sex work (GAATW, Trafficking, 2011). C105 adds further specificity to C29's exceptions, for example on prison labor or military service.

## 4.2 Regional Law and Cooperation

Human trafficking is one of the greatest human rights challenges in the Southeast Asia. Trafficking flows between various countries in the region and beyond continue to flourish (UN-ACT, 2015). A range of regional frameworks to respond to human trafficking have been established, among them the Association of Southeast Asian Nations (ASEAN) Declaration and the United Nations Action for Cooperation against Trafficking in Persons (UN-ACT). There are also a series of bilateral agreements in the region, however the implementation of these instruments must still be strengthened (20).

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers was adopted in 2007 in Cebu City, Philippines. The ASEAN foreign ministers got together and committed themselves to establishing closer regional cooperation. The Declaration urges both the sending and receiving states to respect and protect the fundamental rights and the dignity of all migrant workers and their families, also for those migrants who are undocumented. Moreover the Declaration calls for a harmonization of policies in protecting migrant workers from abusive and exploitive working conditions in receiving states, but also for sending states to facilitate regular recruitment and enhance the promotion of migrant workers' rights. The Declaration sets out a number of different principles, both for sending and receiving states, in order to protect migrant workers (ASEAN Declaration, 2007). It is, however, not binding on member states.

The COMMIT Process is an intergovernmental process targeted at countering trafficking in ASEAN through regional cooperation, with UN-ACT functioning as the secretariat. COMMIT derives its relevance from harmonizing anti-trafficking initiatives to ensure that they are becoming more transparent, inclusive and participatory. UN-ACT emphasizes the importance of bringing civil society organizations to the table and involved them in the process of drafting the Subregional Plan of Action which will be adopted in April 2015. Moreover COMMIT is ASEAN plus China, the added value of including China being that all different stakeholders in the region are included (Boll, 2015). Although ASEAN has been working on trafficking for years, little progress has been made as ASEAN does not have a tradition of binding agreements. Eight years ago a convention on trafficking was drafted which has still not been adopted. The COMMIT process is therefore necessary to foster regional cooperation in preventing trafficking.

# 5. Human Trafficking in Cambodia: A Case Study

Cambodia experiences a significant amount of labor trafficking as a country of transit, destination and origin. In this chapter, the trafficking situation in Cambodia will be introduced; Who is trafficked, by whom, where and for what purpose? Why are Cambodians migrating and what programs and instruments are in place to protect them when they do so? In order to answer these questions, data was collected from experts on trafficking in Cambodia, through a trafficking workshop in Phnom Penh and interviews.

## 5.1 Trafficking Trends

Often considered to affect women and girls only, trafficking in and out of Cambodia affects both men and women, depending on the country of destination. Young Cambodian boys and girls, as well as elderly citizens, are being trafficked to Vietnam as beggars. Small numbers of migrants are trafficked into construction, logging, factory work and agriculture (AFPPD, 2013). Incidences of trafficking of young men to work on construction sites in Japan, Korea and Taiwan, disguised as traineeship programs, have also been reported. CARAM has recorded over 20 cases where Cambodian workers have been abused in Japan. Sent by recruiting agencies as trainees, they ended up under exploitative conditions. Once they arrived in Japan their passports and atm cards were confiscated. On pay day, the traffickers paid the victims with money taken out their own accounts (Meas, 2015). The number of these cases has, however, declined in recent years. Three major areas of concern remain: Cambodian men in the Thai fishing industry, female domestic workers in Malaysia as well as Cambodian bridal trafficking to China.

Cambodian men are trafficked into the Thai fishing industry. It is estimated that about one million Cambodians have migrated to Thailand through regular and irregular channels (Meas, 2015). Horrific stories of the conditions on Thai fishing boats make the headlines in Cambodia on a regular basis. Fishermen are expected to work 16 to 18 hours a day with no day off, limited food and little or no salary (Ly, 2015). Moreover trafficked fishermen often have to endure abuse by their captain and are not able to leave the vessel for years at a time (Hornung, 2015). The issue of Thai fishing boats is very complex, as it constitutes a case of transnational crime. Thai boats can end up in Indonesian or Malaysian waters, thus complicating questions of responsibility and redress (Ly, March 5, 2015). Moreover Cambodians who have jumped off Thai fishing boats in Malaysian waters have landed in detention centers for having entered the country illegally. The Cambodian embassy in Malaysia is dramatically understaffed to deal with these cases and, without the

help of NGOs, many Cambodian trafficking victims are stuck in Malaysian prisons. At this point in time around 1000 Cambodian migrant workers are detained in Malaysian prisons (Meas, 2015).

Another cause for concern within the Cambodian anti-trafficking community is the trafficking of women into domestic labor in Malaysia. Until 2011 recruitment agencies helped Cambodian women go to Malaysia and find jobs as domestic workers. According to Mr. Meas (2015), Cambodian domestic workers in Malaysia are a particularly difficult case as Malaysian labor law does not cover the domestic sector. Violence against domestic workers is thus regarded as an internal conflict which must be dealt with within the family, rather than a conflict between employer and employee. There were repeated reports of abuse and suicides, despite these women having gone through legal channels. Moreover, the Malaysian government refused to sign a Memorandum of Understanding (MOU) with Cambodia on dealing with migrant workers. Thus, Cambodia issued a ban on migration for purposes of domestic labor to Malaysia in 2011. Opinions on the appropriateness of the ban differ. Ms. Pok (March 5, 2015) argues that the ban is appropriate because there is no MOU with Malaysia. Without an MOU, Cambodia is unable to place conditions on the treatment of its citizens in Malaysia. Ms. Ly (March 5, 2015), on the other hand, believes that the ban has made Cambodian migrant workers more vulnerable, as Cambodian women now transit through Thailand, and enter Malaysia illegally. Moreover when the ban was issued, all recruitment agencies who were sending women to Malaysia closed. Cambodian women who were already working in Malaysia at the time were left without support.

The third trafficking trend currently facing Cambodia is the trafficking of young women and girls to Taiwan, Korea and China for marriage under slavery-like conditions. It is estimated that about 5000 women have been trafficked for this purpose (Meas, March 3, 2015). Especially cases of trafficking to China have significantly increased. After decades of rigorous family planning, China is facing a serious gender imbalance with an estimated 30 million bachelors by 2020 (Fang, 2014). The going rate for Cambodian brides is between 10,000-20,000\$ (Chan, 2015). LSCW records the stories of repatriated women from China. In many cases the women are exploited as housekeepers and/or sexual slaves, with one woman reporting having to have had sexual intercourse with her husband eight times a day until she could not take it anymore and escaped. Another victim reported that her husband sent her to work in a brothel to help him pay off the 20,000\$ he spent on their marriage arrangement (Ly, March 5, 2015). Cases of bride trafficking in Taiwan are also problematic as the Cambodian government cannot deal with these cases diplomatically. The Cambodian government has no diplomatic ties with, or embassy in Taiwan as it views Taiwan as part of China. Thus only NGOs can deal with the Taiwanese government and address cases of trafficking there (Meas, March 4, 2015).

The question of who the brokers are is a far more complicated one. It is important to have a differentiated view of the term 'broker', as not all brokers are inherently evil. Although some brokers operate as organized criminal networks, not all brokers fit this stereotypical view. Brokers can be regular or irregular, private persons, organizations or the government. Oftentimes brokers are families or friends (Molland, 2012). Even during processes of irregular migration, brokers may not have anything to do with the end-product of exploitation. It is therefore dangerous to generalize and immediately condemn everyone who is labeled a 'broker'. Although general trends in who is trafficked where and for what purpose can be established, it remains important to understand that trafficking experiences vary from individual to individual and no generalized narrative can ever cover the majority of experiences. This is especially evident when it comes to the question of brokers.

## 5.2 Understanding the Causes of Migration from Cambodia

As a relatively poor South-East Asian country that is still transitioning to democracy and has only recently started to experience significant economic growth, Cambodia is particularly vulnerable to high levels of trafficking. Labor trafficking in particular is fueled by economic disparities within, and between countries. In order to tackle the issue of trafficking, it is essential to understand the root causes of why Cambodians migrate for work abroad. This section will therefore examine both the push as well as the pull factors encouraging Cambodians to seek employment outside of Cambodia.

### 5.2.1 Push Factors

The primary factor causing Cambodians to migrate abroad is poverty and economic necessity. Limited opportunities for education, training as well as employment, especially in rural areas, has resulted in a large group of 'unskilled' workers who are unable to find employment and earn enough money to provide for themselves and their families. Moreover Cambodia is a country in which 50% of the population is under 20. Although the job creation rate has increased in the past years due to Cambodian economic development and international investors and corporations entering the country, the job creation rate does not support the influx of 300,000 young Cambodians joining the job market annually (Trafficking Expert, March 3, 2015). Cambodian cultural values dictate that young men and women have a duty to help and provide income for their family, a tradition that shows few signs of erosion (Meas, March 3, 2015). Within Cambodia, however, many individuals do not have the skills to earn enough money to support their family. In other cases, they have the skills and an idea, but lack the capital to set up a small business (Nget, March 4, 2015).

Disaster and debt can be seen as secondary factors, factors that cause poverty and therefore expediate the need to migrate in order to economically sustain oneself and one's family. In rural Cambodia, farmers are dependent on their yield as well as the market price their crops can be sold at. As rural Cambodia lacks adequate water systems to facilitate the growth of crops during dry season, many farmers are unable to produce crops like soybeans (Nget, March 4, 2015). Furthermore climate change and the rise in more severe weather conditions has contributed to disasters such as severe flooding. An official in Kampong Thom stated „People mostly went to work in Thailand because of flood and drought...they could not produce much rice here“ (as cited in Hing, Lun & Phann, 2011). When disasters such as floods and droughts disrupt business, many families are forced to take loans in order to survive. Families with bank loans may recover from the debt, but many take loans from private creditors at interest rates of up to 20%. Once families have entered into a cycle of debt, some family members, especially the young ones, are forced to migrate in order to earn money to pay off the family's debt (Ly, March 5, 2015).

#### 5.2.2 Pull Factors

Brokers, migrant networks as well as family and friends working abroad have a large influence on many Cambodian's decision to migrate. Cambodians are easily influenced or deceived as there is a general lack of knowledge on matters of migration. Furthermore in Thailand, there exists a minimum wage of 300 baht which is about \$10 a day. Cambodians seeking a better job and the possibility to improve their living conditions are attracted by Thailand's minimum wage, as an 'unskilled' laborer in Cambodia will only earn around 7-8\$ a day. When one compensates for the cost of travel, being away from one's home and family as well as the higher living costs in Thailand, it becomes evident that the costs barely outweigh the benefits of migrating to Thailand. A combination of a lack of information as well as seeing and hearing others returning home with some money causes many Cambodians to migrate to Thailand irrespectively (Pok, March 5, 2015).

## 5.3 What is Being Done to Promote Safe Migration in Cambodia?

Both the government and NGOs have created, and attempted to implement, ways to improve the experiences of Cambodian migrants without infringing upon their right to mobility. Laws and decrees have been issued by the government, and mechanisms set in place to prevent trafficking and protect the victims. NGOs have also undertaken a variety of programs to prevent trafficking, protect the victims and prosecute the perpetrators. This section will specifically focus on legislation and the different approaches to safe migration taken within Cambodia.

#### 5.3.1 Government Actions

The 1993 Cambodian Constitution as well as the 1996 Law on Kidnapping and Trafficking outlawed the sale of human beings. In 2008 the legislation was updated with the Law on Suppression of Trafficking in Humans and Sexual Exploitation. This law brought the definition of trafficking in line with the Palermo Protocol. Thus all forms of trafficking, including forced labor, are punishable by law, relative to the seriousness of the crime committed (AFPPD, 2013). The Guidelines on how to implement this law include provisions for survivors such as the right to immediate protection and support. Cambodian Labor Law also criminalizes forced labor, but the penalty for breaching this law is only a fine, or one month in prison. Sub-decree no. 190 deals with the Management of Sending Cambodian Workers Abroad with Private Recruitment Agencies (AFPPD, 2013). Based on this decree, recruiting agencies must register with the Ministry of Labor and deposit 100,000 dollars to operate legally. Several ministries, including the Ministry of Women's Affairs, the Ministry of Labor and the Ministry of Justice as well as a National Committee to lead the Suppression of Human Trafficking currently work on improving the trafficking situation in Cambodia.

#### 5.3.2 NGO Actions

The Cambodian government has issued a substantive amount of legislation dealing with trafficking, but most of the work on the ground is carried out by NGOs, as the government does not currently allocate resources for safe migration (Trafficking Expert, March 6, 2015). The common notion of safe migration tends to place safe migration programs in the prevention stage of anti-trafficking efforts, occasionally also in the protection stage. Thus discussion of law enforcement and prosecution measures will be reserved for the next chapters. Three main approaches to safe migration are particularly common in Cambodia: Information dissemination and awareness raising, support for the family of migrants to ensure that migration actually results in an improvement of livelihoods, and the protection of migrants abroad.

Several NGOs operating in Cambodia offer safe migration programs for potential migrants based on spreading information and awareness. CWCC, for example, offered a project called SMART (Safe Migration and Reduction of Trafficking) aimed at raising awareness on how to migrate safely, what to do before migration and where to go if problems are faced. CWCC also ran an info-kiosk and a mobile cinema at the Poipet border-crossing (Pok, March 5, 2015). Before the ban of domestic workers to Malaysia, CARAM conducted pre-departure trainings. After recruitment, domestic workers were required to wait in training centers for three months to one year. Thus there was ample chance to reach them prior to departure. CARAM has also published booklets for the pre-departure stage with information about choosing a recruitment agency, migrant rights and how to migrate safely (Meas, March 3, 2015). CCPCR conducts capacity building trainings to local authorities on understanding migration and promoting safe migration practices within high-risk communities (Nget, March 4, 2015). Other NGOs, whose names will not

be mentioned for purposes of anonymity, have supported youth activists at the community level. As Cambodia is, demographically speaking, a young country, young people are especially at risk as they are the migrants of the future. Special awareness programs including, leaflets, case stories and quizzes are used to spread knowledge within communities in an interactive way.

Another aspect of safe migration is ensuring that migration results in an improvement of the conditions causing the individual to migrate initially. Thus many NGOs view working with the families of migrants as an essential component of safe migration. For example, CWCC is conducting trainings at the community level to encourage families to spend and save the remittances wisely and for the benefit of the family. Such a 'saving for change' approach is deemed necessary, as safe migration entails that the migrant is able to improve his/her family's living standard (Pok, March 5, 2015). CCPCR has taken a similar approach as CWCC. They have established a program where they create self-help groups within communities encouraging the exchange of information on how to increase one's livelihood. Simply receiving remittances will not effectively help families who have no idea how to spend them wisely (Nget, March 4, 2015).

Safe migration programs do not stop once the migrant has left the country. Migrants who experience challenges and abuse abroad must be able to contact NGOs for help, and in some cases, repatriation. LSCW offers a hotline where victims or family members of victims can contact LSCW staff. LSCW also works together with local authorities to ensure that every district has a focal point who can refer cases needing assistance to LSCW. Victims and their families receive free legal consultation and advice, as well as help with the repatriation process (Ly, March 5, 2015). CARAM also offers a hotline that migrants in need can call to get counseling and repatriation in severe cases (Meas, March 3, 2015). Such services are a vital element of safe migration as even migrants who are fully aware of their rights may end up in exploitive situations. Ensuring that harm is minimized in such cases and migrants can return to Cambodia swiftly and safely, is of utmost importance.

## 6. Safe Migration: An Effective Approach to Curtailing Trafficking?

After having established what safe migration entails, what the trafficking situation in Cambodia looks like and how safe migration is being implemented in Cambodia, the question arises whether safe migration has effectively countered human trafficking? If migration is at the core of trafficking, it seems reasonable, in theory, that encouraging safer migration behaviors will lead to a reduction in trafficking cases. In reality, however, the opposite seems to hold true. Trafficking numbers in Cambodia are not decreasing. Does this mean that safe migration has failed?

### 6.1 Lessons from Cambodia

When asked whether they believe that their safe migration programs have been successful, most interviewees gave mixed responses. Information raising projects give migrants awareness of their rights. Migrants who are aware of their rights know that they can, and how to claim their rights in both the pre-departure and post-arrival stage. Mr Meas (March 3, 2015) has observed an increase in migrants reporting abuses and claiming their rights since the introduction of safe migration initiatives. The repatriation of victims has also increased over the past years, as victims and their families are more aware of whom they can turn to for help. Mr. Nget (March 4, 2015) from CCPCR also finds improvement in information and communication levels. When he started work in the field 20 years ago, local authorities lacked information. After years of strengthening the assistance structures of local authorities, the government is aware of safe migration and willing to promote safe migration to the people.

"Increasing awareness levels and knowledge is good, but it's not good enough" (Trafficking Expert, March 3, 2015). Safe migration seems to be useful for migrants who face difficulties whilst migrating, but in terms of deterring migrants from migrating unsafely, little progress has been made. This can be attributed to the economic necessity driving the migration of many Cambodians, the high incentives to migrate through irregular channels as well as systemic obstacles such as the widespread corruption and a lack of monitoring of existing trafficking prevention mechanisms. Safe migration alone will not prevent trafficking as it does not touch the root of migration which, in most cases, is economic necessity. "When we disseminate information through media and public forums, migrants do not care. They care about their economic standard of living, how they can find food and money for their family" (Meas, March 3, 2015). Mr. Nget (March 4, 2015) made a similar observation: "We must improve the income generation for poor people. Information alone cannot prevent trafficking and migration. Cambodians need food and money to support their children to go to school, improve their health and their living conditions"

One of the main messages that echoed forth from the interviews was an emphasis on the importance of migrating legally to reduce vulnerability during migration and in the destination country. However, despite safe migration trainings, migrants continue to cross the Thai and Malaysian borders through illegal channels. In the case of Malaysia, female domestic workers have little choice due to the ongoing ban. In the case of Thailand, high incentives to cross the border illegally mean that over 90% of migrants enter Thailand through irregular channels (Pok, March 5, 2015). Irregular migrants may face arrest and are highly vulnerable to exploitation. However, they can travel immediately and pay less. Following the mass-return of Cambodian migrants in Thailand after the coup, the governments passed a decree to facilitate legal migration to Thailand. The criteria to migrate legally is, however, very high. A letter of engagement, a passport, and a health certificate are required. A study conducted by the ILO found that Cambodian migrants to Thailand using legal channels paid around 120-250 dollars in total and waited up to a year until they were able to leave (Meas, March 3, 2015). An official in Battambang stated „The poor cannot wait two or three months...they are hungry now and need to fill their stomachs sooner rather than later“ (as cited in Hing, Lun & Phann, 2011, p.14). Moreover it took migrants approximately a year of wages to gain back the money spent on migrating. Migrating illegally is, in an immediate sense, far more appealing as one can reach Thailand within a day and simply pays a broker between 4000 and 5000 baht (120-150\$). When economic pressures are high, long-term thinking seems to be undermined by short-term gain (Trafficking Expert, March 6, 2015). Moreover following the coup and the mass exodus of Cambodian workers from Thailand back to Cambodia, one-stop service centers were offered for workers to cross the border and then register. By January 31st 136,000 Cambodians had registered in Thailand. However, this does not mean they have a job and registration is only completed once they have a work permit. Only approximately 17,000 have a work permit. The remaining Cambodians working in Thailand are highly vulnerable to exploitation and deportation (Ly, March 5, 2015).

On a systemic level, safe migration is challenged by a misunderstanding of the situation by authorities and widespread corruption. Trafficking practices change regularly as they adapt to changing circumstances and flows of migration. It is therefore difficult for local authorities to be up to date on the latest trafficking methods. For example, one interviewee explained how her organization was working on repatriating a group of men from Malaysia. As they had a passport, a visa and a work permit the police informed them that it was not a case of trafficking. Previously, the majority of cases consisted of individuals who had migrated without papers. However, currently, many trafficking cases involve individuals who have all their documents with them, but were still recruited by use of deceit, transported and exploited.

The Cambodian government seems to be very weak in controlling recruiting agencies. Currently, about 50 recruiting agencies have registered with the Ministry of Labor to operate formally. However, although they are formally registered, some are not compliant

with the law and do not follow official recruitment procedures. Reports of minors being recruited as well as the issuing of documents with an altered identity and age are common. The monitoring of recruiting agencies and enforcement of rules and regulations is basically non-existent. This can be - at least partly - attributed to the widespread corruption in Cambodia as some recruiting agencies are owned by government officials themselves. Only one recruiting agency has been named and shamed, and so far no one has been charged (Trafficking Expert, March 3, 2015). Safe migration is an excellent approach in theory as it encourages migrants to use safe and legal channels of migration. However, in practice it was found that even legal channels are not necessarily safe.

Another challenge to safe migration is the cross-border nature of the issue. Trafficking is a crime that often occurs to nationals of one country in another country. Since most exploitation occurs in the destination country, limited cooperation between countries in the region renders many migrants unprotected. Although migrants who have been exposed to safe migration guidelines in some way are urged to stay in contact with NGOs and migrant networks back home, most stop communicating after approximately three months (Meas, March 3, 2015). As trafficking can occur months or even years after arriving in the destination country, many migrants may migrate safely and then experience trafficking at a later point in time. Once they are abroad, however, communication and aid is far more difficult than prior to departure. Moreover embassies in receiving countries such as Malaysia are vastly understaffed. It is estimated that thousands of Cambodians are detained in Malaysian detention centers, trying to seek repatriation. The lack of staff to deal with such cases impedes the victims' rights to a quick alleviation of the situation. In China, repatriation is difficult as it is incredibly hard to find NGOs willing to help with the repatriation of victims.

## 7. What Could be Done? Recommendations for Cambodia

It is indisputable that human trafficking is a great challenge in Cambodia. Cambodian children, women and men are trafficked internally and across borders. They are exploited on construction sites, fishing boats and in private households. Their human rights are violated on a daily basis. How can we secure the mobility rights of migrants, whilst ensuring their basic human rights are not violated? This chapter will offer four concrete recommendations of how the Cambodian government and NGOs can protect Cambodian migrants from human trafficking.

## 7.1 Improve the Standard of Living at Origin

Especially poor Cambodians from areas with few employment opportunities are forced to migrate out of economic necessity. For many, hopes of improving their family's living conditions exceed considerations of the dangers of migrating through irregular channels. If Cambodians were able to earn enough money within the country to support themselves and their families, far fewer would migrate in search of employment. Working on improving the standard of living within Cambodia is therefore a vital part of anti-trafficking prevention. In recent years globalization has brought substantial economic growth to Cambodia. Many of those interviewed said finding opportunities within the country is becoming increasingly easier and worthwhile when balanced against the risks of working abroad. Especially for women there are many job opportunities in the garment factories.

Information about job opportunities within Cambodia is not widespread, and many Cambodians are not aware of the possibilities for employment within their own country. The government and NGOs need to promote such awareness in order to encourage Cambodians to remain in Cambodia rather than migrate. The government should advertise jobs available in the country (Ly, March 5, 2015). Actors must be careful, however, to not position migration itself as an inherently negative thing. Migration is only bad when it is not well managed, and this type of migration, more often than not, affects the poor. Ms. Pok (March 5, 2015) stressed the importance of tailoring the information on available jobs within Cambodia to the audience. Rather than talking about concepts and theory, information sessions should highlight only a few very basic things. Simplified messages in line with common thinking are most effective. For example, explaining how the government is currently attracting investors, and therefore needs workers to contribute to the labor supply. "The government needs you and your contribution is important to the national economy and the development of our country". Such positive and clear statements have, in Ms. Pok's experience, been far more effective than an overload of complex information. The same advice can also be applied to safe migration trainings. Potential migrants should be told that they are important and the country needs their remittances. If they do not migrate safely and fall into trafficking, they will not be able to help their family and country. Appealing to a migrant's pride and values can be a lot more effective than simply giving them a lot of information in a dry manner.

Livelihoods within Cambodia can also be improved by providing specific skills training. The government as well as NGOs need to carry out assessments to learn more about the job market and which precise skills are required so individuals are not being taught unnecessary skills. Individuals who receive such vocational trainings enter the job market with slightly higher skill levels, and are not classified as completely 'unskilled' (Trafficking Expert, March 3, 2015). In Cambodian garment factories Cambodians are hired as 'low skilled' workers, but the quality checks prior to shipment are done by Filipinas. Checking whether garments fit the standards for shipping is a higher paid job. When

asked why Cambodians do not do that job, factory spokespersons argued that Cambodians are unable to perform that job carefully and precisely as they are "not serious enough" (Pok, March 5, 2015). There must be a way to train Cambodians to have the capacities for these kinds of higher paying factory jobs. Why is Cambodia bringing in Filipinas to work in its garment factories when it has a huge labor force of its own? The answer lies in the low education and skill levels of many Cambodian workers. This, however, is something that can - and must - be improved.

## 7.2 Prosecute the Perpetrators

As mentioned in a previous chapter, prosecution does not, theoretically speaking, constitute an element of safe migration. Prosecution tends to be seen as a reactionary rather than a preventive response, occurring after the crime has been committed and harm has already been caused. However, all interviewees underlined the importance of improving the prosecution of trafficking offenders as a means of trafficking prevention, since it deters future offenders. Sadly, little progress is being made in prosecuting trafficking offenders in Cambodia for a variety of reasons including the victims' lack of trust in the court system that is highly victim-unfriendly, as well as structural problems such as corruption.

Prosecution in trafficking cases is very difficult due to the nature of the crime. As deceit and deception are at the heart of most trafficking cases, most victims are unaware of the identity of the broker and trafficker. Furthermore, although the crimes are committed in the destination country, prosecution takes place in the country of origin. Language barriers result in most victims not even knowing or understanding the name of the factory of ship they were held in. The lack of concrete evidence means that many times there is not enough information for the prosecution to build a strong case (Meas, March 3, 2015). A further barrier to prosecuting traffickers is the lack of victim participation. This is due to the fact that many victims have lost faith in the Cambodian court system as well as court proceedings that are highly victim unfriendly. When a trafficking case goes to court it can take up to 10 years until a verdict is handed down (Ly, February 16, 2015). Moreover the victims carry the costs of getting to the court themselves. For victims with few financial resources, paying for transportation and losing a days worth of wages is a major deterrent from bringing a case. Within court rooms, victims often have to face the perpetrators, who may subject them to threats and cause re-traumatization (Trafficking Expert, March 3, 2015). Most Cambodians have no faith in their court system, and very few perpetrators are prosecuted.

Another major challenge to successful prosecution is the widespread corruption in the Cambodian court system. An interviewee that will not be identified for purposes of security described Cambodian courts as follows: "Cambodian courts are a business, not a place for people to find justice" (Trafficking Expert, March 6, 2015). Cases of victims being paid to withdraw their complaints from the court, and judges or prosecutors being bribed to favor the defendant are common. Another interviewee stated that Cambodia

has a system of selective justice, where friends of ministers and other important people receive justice or are protected from punishment, whilst others are not. Evidence for this can be found in the Supreme Court's acquittal of a former police chief convicted of trafficking in 2011 (US Department of State, 2014). One way to improve the court system would be to discipline corrupt judges and prosecutors and replace them with professional staff that earn a proper salary that they can survive on. Corruption is more or less accepted and taken for granted in Cambodia, and no clear messages are sent that corruption is wrong. However as long as public officials do not earn enough in salary to cover their basic living costs, corruption as a means of supplementing income will continue (Trafficking Expert, March 6, 2015). The overall failure of the Cambodian government to prosecute offenders of trafficking has contributed to a climate of impunity and a denial of justice to victims (US Department of State, 2014). Justice will never be found as long as the system is corrupt and victims do not believe in it, but prosecution plays a vital role in prevention.

### 7.3 Alter and Monitor Recruitment Agency Practices

As was established in previous chapters, migrating via legal channels is an essential element of safe migration, as long as the legal channels comply with established norms of conduct. Thus, altering recruitment agency practices and monitoring the performance of agencies can greatly impact the safety of migrants. Currently, most Cambodians choose to migrate through illegal channels as legal channels are both costly and time consuming (Miller & Baumeister, 2013). If legal channels were more time efficient and the costs of legal migration were reduced, far more migrants would migrate legally. Several interviewees argued that recruitment agencies should have a zero fee policy for migrants. Rather than migrants spending up to a year's wage on the cost of migration, fees should be taken from the employers seeking laborers (Ly, March 5, 2015). This is in line with the ILO's Recommended Guidelines for Migrant Recruitment Policy and Practice in the Greater Mekong Sub-Region. All costs should be borne by employers, and no fees should be deducted from workers' salaries (ILO, 2008). An Expert Group on Trafficking in Human Beings of the European Commission found that "established legal channels [...] substantially decrease the risk for potential labour migrants to be trafficked and end up in slavery like conditions" (GAATW, Rumour, 2011, p.60). A lack of documentation exposes migrants to greater risk of exploitation, and the establishment of simple, inexpensive and well-publicized legal channels would limit the possibility of trafficking substantially (GAATW, Rumour, 2011).

In addition to altering legal recruitment practices to make them easier for migrants, the government should improve the monitoring of recruitment agencies. Some recruiting agencies are run by officials from the Ministry of Labor. Such high ranking individuals are known to have good relationships with the police and border officials,

rampant corruption is evident (Trafficking Expert, March 6, 2015). Cases of recruitment agencies falsifying migrants' legal identification and age verification documents in order to facilitate the recruitment of children have been documented (US Department of State, 2014). The ILO's Guidelines on Recruitment establish that governments must monitor recruitment agencies and hold them liable for illegal acts that may contribute to trafficking (ILO, 2008). The 2014 Trafficking in Persons Report found that "the government made only one arrest and issued no punishments for illegal recruitment practices this year. Local observers believe corruption to be the cause of impunity afforded to recruiting firms, including some with reported financial ties to senior government officials, engaging in recruitment practices that contribute to trafficking". As long as not all legal channels are safe, and the government does not monitor the recruitment agencies, safe migration will not be successful.

### 7.4 Implement a Human Rights Based Approach

In preventing abuses during processes of migration, it is important to understand that governments, through their binding commitment to international treaties, are legally obligated to respect, protect and fulfill the human rights of all human beings within their territory, irrespective of their citizenship. Human rights are not just rights, but also a foundation on which governments can build policies. The Office of the High Commissioner for Human Rights states that "a human rights-based approach provides an extensive baseline of protection for all migrants and constitutes a framework of action and set of guidelines and tools for migration policymakers. Such actions are not only the legal obligations of Governments, they also make sound public policy sense" (Global Migration Group, 2013, p.44). A human-rights based approach offers countries of origin, transit and destination as well as international and national organizations a common language to negotiate measures to curtail trafficking. Human rights standards offer a "non-negotiable baseline on which coherent responses can be built" (Global Migration Group, 2013, p.44).

Although Cambodia has ratified most international human rights treaties, and incorporated principles set out in human rights treaties into its legislation, migrants' rights are violated on a daily basis. Advanced legal mechanisms to protect Cambodians from trafficking are in place, but they lack enforcement. As one interviewee stated: "In theory there are a lot of mechanisms in Cambodia to support migrants and trafficking victims, but they are not implemented and enforced. Currently the NGOs act as the government, but the NGOs should not have to continue to push the government to accountability for its own people" (Trafficking Expert, March 3, 2015). Without implementation, laws and policies lose their meaning. It is essential that the government starts taking concrete steps to put into practice what it has achieved on paper. According to the World Bank, Cambodian workers abroad sent home at least \$256M in remittances in 2012 (Lewis, 2013). It is unfathomable that supporting successful and safe migration is not a top priority for the Cambodian government.

## 8. ASEAN Integration: Predicament or Opportunity?

The end of 2015 marks ASEAN economic integration. The ASEAN economic community is no longer merely a plan for the future, but a reality that the region's businesses, governments and migrants will have no choice but to embrace. ASEAN economic integration is based on the free flow of goods, capital and people within the ASEAN region. How will Cambodia cope with the impact of integration, and what does it mean for future migrants? It is impossible to predict exactly what will happen at the end of 2015, and it seems as if there is cause for both pessimism and optimism.

Most of the interviewees for this research are worried about ASEAN economic integration, as they believe that Cambodia is not ready yet for such a drastic step. They fear that because the differences in levels of economic development between the different countries in ASEAN are so great, there will be a major brain drain of educated people from Cambodia to more developed countries. Although economic integration is mainly targeted at 'skilled' laborers, non-skilled workers might also leave the country in larger numbers than before, leaving the Cambodian economy in a bad state. The question of what will happen with 'unskilled' migrants when borders open has not been addressed by decision-makers. Furthermore, many Cambodians are not highly educated and do not understand what ASEAN integration means for them. They are also not able to compete with the skilled workers from countries like Singapore.

The lack of fully functioning structures to facilitate migration in Cambodia, compared to countries such as the Philippines, is also of great concern. The Philippine government facilitates and secures the safe migration of its citizens far more than the Cambodian government does. An entire government department exists just to record migrant workers, the Cambodian government does not have this capacity. The Philippine national economy has benefitted greatly from remittances, and the government is aware of this and therefore monitors and controls the process successfully. In the Philippines jobs are advertised by country and skill, and vocational skills trainings are provided tailored to the demand. Before migrating, individuals must take a mandatory exam testing their knowledge of how to migrate safely. The whole system is very structured and, as a result, far more Filipinos migrate safely through regular channels than Cambodians do (Pok, March 5, 2015). Cambodian migrants remain vulnerable.

Cambodia does not have MOU's on migrant workers with all countries within ASEAN and there is no ASEAN-wide treaty on migrant worker protection. Without a MOU with relevant sending states, domestic workers will continue to face abuse in Malaysia. Currently source countries such as Lao, Cambodia and Myanmar are not working to-

gether to put pressure on the demand side for minimum labor standards. After Cambodia banned migration to Malaysia for domestic workers, other countries sent more migrants instead. If the protection mechanisms for migrant workers are not improved before ASEAN economic integration is completed, it could have disastrous consequences (Trafficking Expert, March 3, 2015).

On the other hand, ASEAN integration also offers opportunities for economic development. The ILO states that "given economic disparities, legal labour migration may benefit both sending and receiving countries [...] Returning migrants may stimulate local development in 'sending areas' which, in turn, may help to reduce trafficking" (Molland, 2012). Moreover, an integrated ASEAN market will also attract many new investors to Cambodia. These companies and factories will provide jobs and opportunities for Cambodians within Cambodia. If the country manages to provide some vocational training tailored to the specific demands, many workers could find employment within Cambodia and would not be forced to migrate abroad to sustain themselves and their families (Trafficking Expert, March 3, 2015). Economic development in Cambodia could increase the overall standard of living, especially if corruption is tackled. All these developments will, however, take time. Whether economic integration will be beneficial for Cambodia remains to be seen, but there is some cause for optimism.

## 9. Conclusion

Over the last decades, globalization has resulted in an increased flow of goods, capital and information. Labor markets internationalized, and many opportunities for unskilled as well as skilled laborers from less developed countries opened up in destination countries. It is the century of migration. Although the world has become more interconnected, borders have increasingly tightened (Miller & Baumeister, 2013). Clandestine migration services are in high demand. Consequently migrants, especially those using irregular services, are highly vulnerable to exploitation and abuse. Human trafficking is one of the greatest crimes of our century, and a major violation of migrants' fundamental human rights.

As one of the poorest countries in the Southeast Asia, Cambodia experiences a significant amount of labor migration. Thousands cross the borders every year, legally and illegally, in hope of securing a brighter future for themselves and their families. Oftentimes these hopes are shattered as they find themselves in exploitive situations that are very different from what they expected prior to migration. As migration is the framework within which human trafficking occurs, safe migration initiatives have become a popular trafficking-prevention method in Cambodia's NGO community. Safe migration

programs come in a variety of forms, from information leaflets to trainings, repatriation and hotline services. Safe migration is part of trafficking prevention and protection, and has contributed greatly to a raised awareness of migrants' rights in Cambodia. Awareness of their rights and how to claim them has, in turn, contributed to the successful repatriation of many trafficking victims.

However, as the interviews conducted with leading anti-trafficking NGOs in Cambodia revealed, safe migration has not been able to prevent risky trafficking behavior. Cambodians still migrate through illegal channels, and trafficking has increased in recent years rather than declined. Many only contact NGOs and migration networks once they are in trouble, and want help with repatriation. As relative economic deprivation lies at the core of human trafficking, safe migration alone is not enough to curtail trafficking. As long as the livelihoods of all Cambodians are not secured, they will continue to take risks during migration, despite knowledge of the dangers.

Moreover, the traffickers and brokers responsible for exploiting migrants, are rarely prosecuted and corruption in the courts as well as victim-unfriendly court-rooms resulting in many victims not taking their cases to court, have led to a culture of impunity for trafficking offenders. As long as the trafficking of human beings has no serious and tangible consequences, traffickers will continue to traffic. A similar trend can be viewed in terms of recruiting agencies. Although, legal and policy frameworks exist to regulate recruiting agencies and protect migrants, corruption and a lack of monitoring results in unsafe practices, even in legal migration processes.

The Cambodian government, with the help of NGOs and governments in destination countries has the obligation to protect its migrant workers from abuse. This is especially important with the impending ASEAN economic integration at the end of this year which is likely to accelerate migration within the region. Every individual, irrespective of where they are located and which nationality they have, enjoys fundamental human rights. Protecting these rights should be at the centre of every government's migration policy.

## 10. Bibliography

- Asian Forum of Parliamentarians on Population and Development (AFPPD). (2013). *Human Trafficking In Southeast Asia Policy Brief*. Retrieved on March 28, 2015 from <[http://www.afppd.org/files/1113/8206/9530/Policy\\_Brief.pdf](http://www.afppd.org/files/1113/8206/9530/Policy_Brief.pdf)>.
- Boll, S. (February 16, 2015 ). *Workshop on Current Challenges in Human Trafficking* [workshop].
- Chan, S. (February 16, 2015 ). *Workshop on Current Challenges in Human Trafficking* [workshop].
- Fang, L. (December 12, 2014). The Jiangxi Township Doing a Brisk Trade in Cambodian Wives. *Caixin Online*. Retrieved from < <http://english.caixin.com/2014-08-12/100715994.html>>.
- Global Alliance Against Traffic in Women (GAATW). (2011). FAQ2: *Smuggling and Trafficking Intersections*. Bangkok: Rebecca Napier-Moore.
- Global Alliance Against Traffic in Women (GAATW). (2011). *More 'Trafficking' Less 'Trafficked' Trafficking Exploitation Outside the Sex Sector in Europe*. Bangkok: Nerea Bilbatua and Xenia Commandeur.
- Global Alliance Against Traffic in Women (GAATW). (2011). *What's the Cost of a Rumour? A guide to sorting out the myths and the facts about sporting events and trafficking*. Bangkok: Julie Ham
- Global Migration Group. (2013). *Exploitation and abuse of international migrants, particularly those in an irregular situation*. United Nations Office on Drugs and Crime.
- Hing, V., Lun, P. & Phann, D. (2011). *Irregular Migration From Cambodia Characteristics, Challenges and Regulatory Approach*. Phnom Penh: Cambodia Development Resource Institute.
- Hornung, M. (2015). *Three Years on the High Seas: The Case of Prum Vannak*. In *Perspectives Asia: A Continent on the Move*. Berlin: Heinrich Böll Stiftung.
- International Labour Office (ILO). (2012). *ILO Global Estimate of Forced Labour: Results and Methodology*. International Labour Office.
- International Labour Organization (ILO). *Abolition of Forced Labour Convention*, (ILO No. 105), 1959.

International Labor Organization (ILO). Convention concerning Forced or Compulsory Labour, (ILO No. 29), 1930.

International Labor Organization. (2008). *Recommended Guidelines for Migrant Recruitment Policy and Practice in the Greater Mekong Sub-Region*. Retrieved on March 28, 2015 from <<http://apmagnet.ilo.org/resources/resource-content/recommended-guidelines-for-migrant-recruitment-policy-and-practice-in-the-greater-mekong-sub-region>>.

International Labor Organization (ILO). (2014). *Referral Directory Services for Labour Migrants and Survivors of Trafficking*. Retrieved from <[http://ilo.org/asia/whatwedo/publications/WCMS\\_335666/lang--en/index.htm](http://ilo.org/asia/whatwedo/publications/WCMS_335666/lang--en/index.htm)>.

International Organization for Migration (IOM). (2014). *Emergency Response for Cambodian Migrants Returning from Thailand*. Washington, Phnom Penh.

International Organization for Migration (IOM). (2011). *IOM Fact Sheet on Safe Migration* [Fact sheet]. Retrieved from <[https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/zambia/iom\\_fact\\_sheet\\_safe\\_migration.pdf](https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/zambia/iom_fact_sheet_safe_migration.pdf)>.

Lewis, S. (May 21, 2013). Cambodians Abroad Sent Home \$256 Last Year. The Cambodia Daily. Retrieved from <<https://www.cambodiadaily.com/archives/cambodians-abroad-sent-home-256m-last-year-25574/>>.

Ly, V. (February 16, 2015 ). *Workshop on Current Challenges in Human Trafficking* [workshop].

Ly, V. (2015, March 5). Personal Interview.

Meas, S. (2015, March 3). Personal Interview.

Mekong Migration Network (MMN) and Asian Migrant Centre (AMC). (2009). *Migration in the Greater Mekong Subregion*. Hong Kong: Clear-Cut Publishing & Printing Co.

Miller, R., Baumeister, S. (2013). *Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?* In *Anti Trafficking Review* (15-32).

Molland, S. (2012). Safe Migration, Dilettante Brokers and the Appropriation of Legality: Lao-Thai "Trafficking" in the Context of Regulating Labour Migration. *Pacific Affairs*, 85(1), 117-136.

Nget, T. (2015, March 4). Personal Interview.

Office of the High Commissioner for Human Rights Cambodia Country Office. (n.d). Retrieved on March 28, 2015 from <<http://cambodia.ohchr.org/EN/PagesFiles/What-HumanRightsIndex.htm>>.

Oxfam- Quebec. (2013). *Anti-Human Trafficking and Safe Migration an Overview of 10 Years of Experience in the Greater Mekong Sub-Region*. Retrieved on 28 March, 2015 from <<http://oxfam.qc.ca/files/u4/bulletin/2014-03/AHT%20Booklet%20Online.pdf>>.

Perruchoud, R. (2004). *International migration law: Glossary on migration*. International Organization for Migration.

Pok, P. (2015, March 5). Personal Interview.

Sanghera, J. (2002). *Safe Migration and Citizenship Rights for Women and Adolescent Girls*. In UNIFEM's *Promoting Gender Equality to Combat Trafficking in Women and Children* (58-71). The United Nations Development Fund for Women.

Siddiqui, I., Rashid, R., & Zeitlyn, B. (2008). Information campaigns on safe migration and predeparture training. *Sussex: Development Research Centre on Migration, Globalisation and Poverty*.

Smit, V. (2004). Safe Migration: a Role in Curtailing Human Trafficking?.

The Asia Foundation. (2013). *Combating Human Trafficking in Cambodia*. Phnom Penh, Cambodia.

Trafficking Expert. (2015, March 3). Personal Interview.

Trafficking Expert. (2015, March 6). Personal Interview.

The Association of Southeast Asian Nations (ASEAN). (2007). *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*. Retrieved on March 28, 2015, from <<http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3>>.

UN-ACT. (2015). *Migration Experiences of Cambodian Workers Deported from Thailand in 2009, 2010 & 2012 Poipet, Cambodia*. Bangkok.

UN General Assembly. (15 November 2000). *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime*. Retrieved on 27 March, 2015 from <[http://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM\\_Protocol\\_English.pdf](http://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf)>.

U.N. Doc. A/39/51, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), G.A. Res. 39/46, 1984, (entry into force June 26, 1987).

U.N. Doc. A/44/49, *Convention on the Rights of the Child* (CRC), 20 November 1989 (entry into force 20 September 1990).

U.N. Doc. A/6014, *International Convention on the Elimination of All Forms of Racial Discrimination*, G.A. Res. 2106 (XX), 1966 (entry into force January 4, 1969).

U.N. Doc. A/45/49, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, G.A. Res. 45/158, 1990, (entry into force July 1 2003).

U.N. Doc. A/6316, *International Covenant on Civil and Political Rights* (ICCPR), G.A. Res. 2200A (XXI), 1966 (entry into force March 23, 1976).

U.N. Doc. A/6316, *International Covenant on Economic, Social and Cultural Rights* (ICESCR), G.A. Res. 2200A (XXI), 1966, (entry into force March 23, 1976).

UN General Assembly. (15 November 2000). *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*. Retrieved on 27 March, 2015 from <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>>.

US Department of State. (2014). *Trafficking in Persons Report: Cambodia*. Retrieved on March 25, 2015, from <<http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226693.htm>>.

# Cambodia

## Cambodia's Invisible Labor Force

