

Country study

Labour migrants' vulnerability to human trafficking and labour exploitation in Southeast Asia: An analysis of Cambodia

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December 2023



Labour migration and trafficking in persons: a political
economy analysis

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Alffram, H. and Sok, L. (2023) Labour migrants' vulnerability to human trafficking and labour exploitation in Southeast Asia: An analysis of Cambodia. ODI Country study. London: ODI (<https://odi.org/en/about/our-work/political-economy-of-labour-exploitation-and-trafficking-in-persons-in-southeast-asia/>).

This document is an ODI publication, in partnership with ASEAN-ACT. ASEAN-ACT is supported by the Australian Government and implemented DT Global. The Australian Government has funded this publication through the Department of Foreign Affairs and Trade. The views expressed in this publication are the authors' alone and are not necessarily the views of the Australian Government.

Acknowledgements

The authors thank Paul Buckley, Naruephon Boonyaban and Lucia Pietropaoli for their support and valuable insights, as well as the wider ASEAN-ACT team. We are grateful to Georgia Plank for her valuable comments and feedback, and Kathryn Nwajiaku-Dahou for quality assurance. We would also like to recognise the support of Maegan Rodricks, Sherry Dixon and Rawena Russell in the publication process, Deborah Eade for copy-editing and Elaine Antwi for managing the project.

The paper was generously funded by the Australian Government through the ASEAN-Australia Counter Trafficking (ASEAN-ACT) program.

About this publication

This publication was produced as an output of a research partnership between ASEAN-ACT and ODI. The research involved conducting an applied political economy analysis to understand the dynamics of labour exploitation and trafficking in persons in Southeast Asia, for the purposes of: 1) improving the evidence base for ASEAN-ACT and partners' programming and policy engagement; and 2) developing and implementing a process for feeding that evidence into ASEAN-ACT and partners' programming and consultations on a regular basis.

The purpose of this research is to advance understanding of the vulnerabilities of labour migrants to exploitation and trafficking. This can contribute to improved response capabilities of state agencies and international programmes to address these issues and strengthen protection and support for labour migrants and victims of trafficking in persons.

Phase 1 of the research project includes four country studies: Cambodia, Laos, Thailand and Vietnam.

This Country Study is one of four countries assessed in Phase 1. In addition, thematic briefs distil findings from across the four country studies on key cross-cutting issues.

Research team

Henrik Alffram and Leang Sok

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Acronyms

ACRA	Association of Cambodian Recruitment Agencies
ASEAN	Association of Southeast Asian Nations
CLEC	Cambodian Legal Education Centre
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CPP	Cambodian People's Party
CSO	Civil Society Organisation
DSI	Department of Special Investigations
GDP	Gross Domestic Product
HRW	Human Rights Watch
ILO	International Labour Organization
IOM	International Organization for Migration
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MAC	Manpower Association of Cambodia
MFI	Microfinance institution
MOSVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
MoU	Memorandum of Understanding
MRC	Migrant Workers Resource Centre
NCCT	National Committee to Counter Trafficking
NGO	Non-governmental organisation
OHCHR	Office of the High Commissioner for Human Rights
PEA	Political economy analysis
PRA	Private Recruitment Agency
SDG	Sustainable Development Goal
TiP	Trafficking in Persons
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
UNTAC	United Nations Transitional Authority in Cambodia
USD	United States Dollar

Executive summary

This paper is part of a series of country studies commissioned by the ASEAN-Australia Counter-Trafficking Program (ASEAN ACT). It reviews the structural and political economy factors that affect Cambodian labour migrants' vulnerability to human trafficking. Data for the study was collected through a literature review, followed by interviews with informants, including government and non-government agencies, international organisations, and former migrant workers and victims of human trafficking.

Over the past few decades, several million Cambodian have sought employment abroad, in particular in Thailand but also in other countries in the region and beyond. The Cambodian government has encouraged labour migration, recognising that migration plays an important role in ensuring job opportunities for Cambodia's large working-age population and in contributing to the country's economic development. While labour migration can bring substantial benefits to individuals and to society at large, the lack of a straightforward, speedy, affordable, and transparent formal system for regular migration makes Cambodian migrants vulnerable to exploitation both in Cambodia and in destination countries.

Private recruitment agencies (PRAs) facilitate regular migration to most countries, but some have also contributed to unsafe migration and human trafficking. Although the PRAs have to be formally registered with the Ministry of Labour and Vocational Training, observers agree that there is a lack of effective oversight of the PRAs and their operations. Migrants who have not followed the formal migration process and do not have passports, work permits, or other legal documents tend to think that they have no rights and that nobody can be held to account for actions against them – a misconception that is sometimes shared by the Cambodian authorities.

While the Cambodian criminal justice system prosecutes hundreds of people annually for trafficking-related crimes, it is primarily those at the lowest level in the migration chain, who lack financial means and connections, who are convicted and imprisoned. Among foreign donors and some international non-governmental organisations (NGOs) concerned with human trafficking, there is a strong focus on the state's capacity to arrest and punish those involved in trafficking-related crimes. This interest in securing prison sentences has not always been accompanied by a recognition of the need for fair trial

standards to be upheld and for punishments to be proportional to the crimes committed.

In recent years, it has become more difficult to obtain an accurate picture of the problems of human trafficking in Cambodia and the government's efforts to address them. Traditionally, Cambodian human rights groups, legal aid organisations and some media outlets have been important in helping to raise the voices of victims of trafficking, providing a level of accountability for those who engage in it, and generally increasing knowledge about issues related to human trafficking. More recently, observers warn, civic space has been reduced. This may have affected the amount and quality of information available on issues of trafficking. Furthermore, the funding for counter-trafficking work has gradually declined, as many donors previously funding such work have reduced or ended their support. This has resulted in a research base that is largely outdated.

Migrant workers note that sharing information about issues related to abusive brokers and employers is one of the best ways to reduce vulnerabilities to human trafficking. While information tends to be shared by word of mouth between friends and acquaintances, there are also more structured efforts to assist potential migrants to seek information that could be strengthened. There is a lack of government resources for victim support, including funding for shelters, mental health services and assistance to Cambodian trafficking victims abroad. To a large extent, this type of support has been funded by donors. While it has traditionally focused on women and girls subjected to sexual exploitation, it is increasingly recognised that there is a need to also ensure support for victims of labour trafficking, including male victims.

This paper sets out recommendations relating to public policy reforms, capacity development and resource allocation. It recommends, among other things, that the Government of Cambodia should:

- Guarantee a speedy, low-cost migration process, ensuring that passports and other legal documents required for safe and regular migration can be obtained swiftly and at little or no cost;
- Enhance knowledge and understanding of human trafficking and increase the accountability of people involved in trafficking-related activities, through promoting freedom of expression, association and assembly;
- Re-introduce legislation that prohibits PRAs from charging fees to workers seeking to migrate, and making the employers bear these fees;
- Consider facilitating other paths to regular labour migration than those involving PRAs;

- Introduce effective oversight and inspection of microfinance institutions;
- Ensure that law enforcement efforts are focused on those most responsible for trafficking-related crimes;
- Strengthen the oversight and inspection of PRAs and impose sanctions on those that fail to comply with legislation, contribute to unsafe migration and trafficking; and
- Support and strengthen the capacity of provincial Migration Resource Centres (MRCs), commune councils, trade unions and, in particular, returned migrants to raise awareness about safe migration, the risks of trafficking and the avenues available for raising grievances.

1 Introduction

Human trafficking is a complex problem, which means there are many challenges to making effective policy responses. The dimensions and dynamics that affect human trafficking cut across political, economic, social and cultural institutions and structures. Trafficking in persons (TiP) is ultimately about exploitation and coercion by powerful interests, while those who are vulnerable to human trafficking are often among the most marginalised and voiceless in society. In the context of the Sustainable Development Goals (SDGs), particularly targets 16.2, 16.3 and 8.7¹ and the 'leave no one behind'² agenda, it is imperative to pay attention to these most marginalised groups. Analysis of interventions to date that seek to tackle human trafficking have demonstrated some successes, particularly in developing policy and awareness of the problem. However, fundamental challenges remain in relation to effective governance, justice, protection, and prevention responses. Some of these barriers are well recognised and documented, while others remain more ambiguous and understood only implicitly.

In Southeast Asia, migrant workers – the largest category of migrants globally – are among the most vulnerable to human trafficking. Across the region, there is demand for low-skilled workers, and individuals from lower-income countries with fewer job opportunities are willing to migrate to other countries to seek work (Oliver, 2019; Testaverde et al., 2017). While these migrants may set out willingly, they are vulnerable to exploitation at every stage of the journey. This is especially the case for those whose migration is not formal, i.e. migrants who travel outside existing visa regimes, which makes them irregular or undocumented in the destination countries, with fewer protections than those who migrate formally, since reporting to the authorities poses the risk of deportation (Chantavanich et al., 2013). In many countries, the response to human trafficking has focused on sexual exploitation, which has meant few are officially identified as victims of labour trafficking (Weitzer, 2014). The nature of labour

¹ The SDGs were agreed in 2015. The targets applicable to labour trafficking include 16.2: 'end abuse, exploitation, trafficking and all forms of violence and torture against children'; 16.3: 'promote the rule of law at the national and international levels, and ensure equal access to justice for all'; and 8.7: 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms'.

² 'Leave no one behind' is central to the SDGs, forming a commitment of all United Nations Member States to eradicate poverty in all its forms, end discrimination and exclusion, and reduce the inequalities and vulnerabilities that leave people behind and undermine the potential of individuals and of humanity as a whole.

trafficking is also less understood, both by policy-makers and organisations that support victims.

The ASEAN region is interconnected by the movement of migrant workers due to the disparities in economic and industrial development between its member states, and the relative ease of irregular movement between them. The differences between countries with labour surplus and demand means that labour migration will continue to characterise labour markets and societies in the region. However, there is a dearth of practice- and policy-oriented approaches that integrate the complexity of labour migration and also offer concrete recommendations on how to mitigate vulnerabilities to trafficking of labour migrants, and how victims of trafficking can be afforded greater protection and legal agency.

In light of this complexity, this country case study is one in a series that reviews the structural governance and political economy factors that affect labour migrants' vulnerability to human trafficking. This includes understanding the political economy of the structural, institutional and political constraints and enablers that shape prevention and protection capabilities, as well as advancing knowledge on pathways to reduce victims' vulnerability and improve their protection capacity, voice and agency.

2 The Cambodia Study

Over the past few decades, several million Cambodians have sought employment abroad, in particular in Thailand but also in other countries in the region and beyond. The Cambodian government has encouraged this development. It recognises the importance of migration in ensuring job opportunities for Cambodia's large working-age population and in contributing to the country's economic development, including through remittances. While labour migration can bring substantial benefits to individuals and to society at large, too many Cambodian migrants have been subjected to exploitation and human trafficking.

This study focuses on Cambodian labour migrants' vulnerabilities to human trafficking and on existing and potential measures to reduce and address these vulnerabilities. It provides an overview of Cambodian labour migration to other countries in the region, focusing in particular on migration to Thailand. Although it focuses on Cambodia as a country of origin for migration, it recognises its recently growing role as a destination country for labour-related human trafficking.

The remainder of this section presents the methodology used in undertaking the study. Section 3 explores the wider political, economic and social context in Cambodia that shapes labour migration. Section 4 looks at what is known about the scale and drivers of migration and discusses patterns of labour migration— who travels, where and why. This is followed by Section 5, which identifies key vulnerabilities at different stages of the journey from Cambodia to the migrants' destination country, in particular Thailand, and return to Cambodia. Section 6 assesses how these vulnerabilities can be mitigated and addressed to ensure safe migration. Finally, Section 7 presents the conclusions and sets out recommendations, primarily to the Cambodian government but also to civil society actors and donor-funded counter-trafficking initiatives.

2.1 Methodology

This paper is part of a series of country studies commissioned by the ASEAN-Australia Counter-Trafficking Program (ASEAN ACT), which was interested to understand the vulnerabilities of labour migrants in particular – as distinct from sex trafficking which has tended to garner

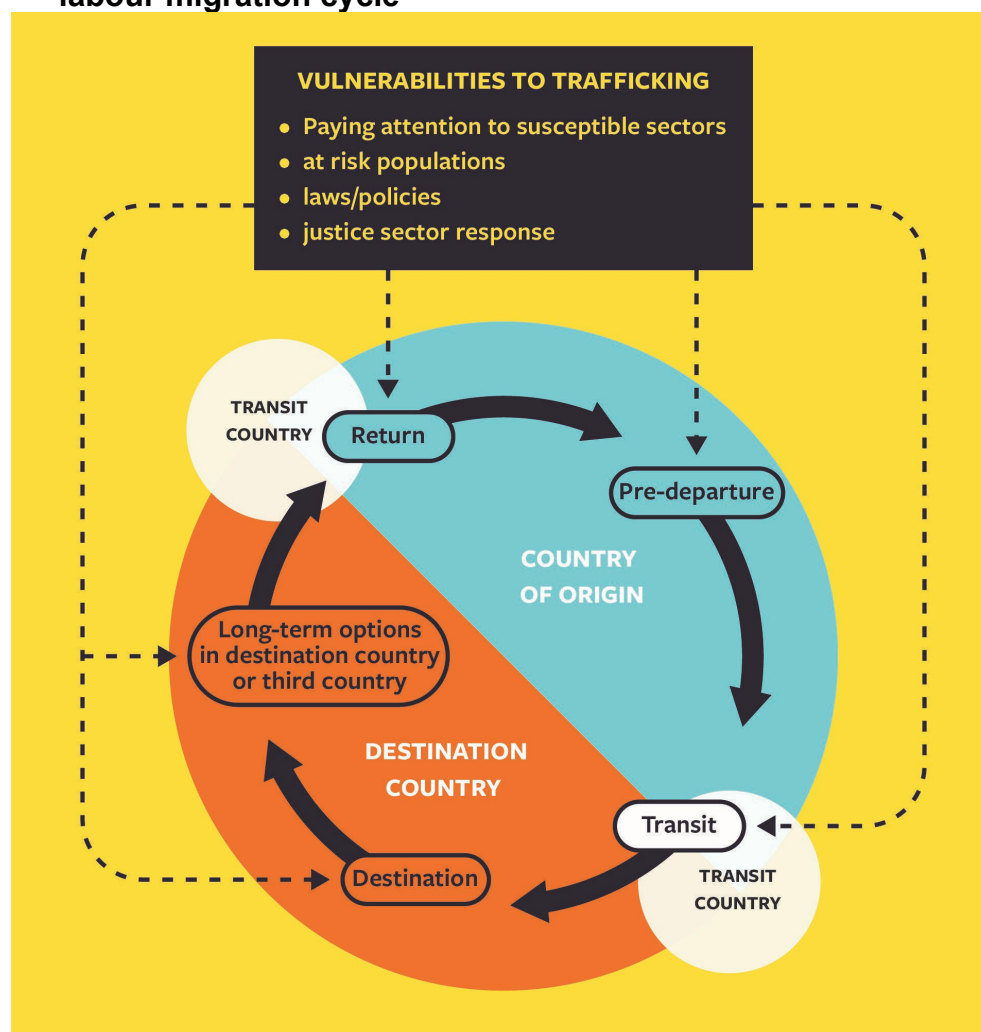
greater interest (Weitzer, 2014: 7).³ The research began by developing a political economy analysis (PEA) framework that sought to unpack the structural features, formal and informal rules, power relationships and interests that shape vulnerabilities of labour migrants to trafficking at each stage of the labour migration cycle. Using this framework as an organising device, a literature review was carried out and key informant interviews were undertaken in Cambodia. In addition, three workshops were held to distil and test findings with ASEAN ACT and the wider research team who were undertaking identical country studies in Cambodia, Laos, Thailand and Viet Nam concurrently (studies in other ASEAN countries will take place in a second phase).

The research used a political economy approach to examine how vulnerabilities to trafficking are shaped at each stage of the migration cycle. This approach highlights the role and interlinkages across formal institutions, law, informal rules and practices as well as wider social norms related to labour migration and trafficking in persons (TiP) in the region. It also engages with the incentives, interests and distribution of power among different actors, and how these shape behaviour and strategic choices. Importantly, the political economy lens engages with how these dynamics shift as relationships, rules and practices (formal and informal) change over time. It also identifies opportunities to advance change that supports improved prevention and protection capabilities in addressing vulnerabilities to trafficking.

Unpacking the political economy features commenced with the five stages of labour migration: pre-departure; transit; arrival in the destination country; long-term options in the destination or third country; and return (possibly involving transit) (Bisong and Knoll, 2020). Vulnerabilities to trafficking were identified and mapped at each stage of this cycle. Analysis then unpacked what context-specific factors enable or sustain the vulnerabilities identified at each stage of the labour migration cycle, as well as beginning to note potential opportunities for change (see Figure 1).

³ Given this focus on the risks of trafficking for labour migrants, this paper does not deal with sex trafficking, although this is a sizeable problem for Cambodia. This is despite the fact that sex trafficking can also be understood as a form of labour exploitation, given its increasingly accepted framing as 'sex work'. Similarly, the paper does not address organ trafficking or trafficking related to surrogacy.

Figure 1 Mapping the vulnerabilities to trafficking along the labour migration cycle



Source: Jespersen et al (2022)

A review of academic and grey literature focused on issues of labour migration, trafficking and response efforts in Cambodia. This review provided an initial grounding and helped identify key themes, relevant stakeholders for interview, as well as the areas where less is known and documented. The desk review also revealed that focusing on the sector of employment was less relevant than looking at specific migration corridors. Accordingly, the desk review engaged with the vulnerabilities that have been identified in relation to the main corridors of labour migration, and in particular from Cambodia to Thailand.

The research team conducted interviews with a wide range of stakeholders focused on labour migration and human trafficking in Cambodia. These included migrant workers and victims of trafficking (16) and representatives of key government ministries and institutions (10), civil society organisations (CSOs) (12), international organisations (2) and an anti-trafficking programme (2). In total, 42 people were interviewed. The interviews provided insights into the

experiences of labour migration and trafficking from Cambodia, as well as state, civil society and international responses. Interviews with individual migrants and victims of TiP, while anecdotal, provided more up-to-date information on actual experiences of migration, exploitation and involvement with support services. Data from the literature and interviews was analysed using the PEA framework mapped against the labour migration cycle, set out above. This involved distilling themes related to the structures, formal and informal institutions and interests and incentives of different actors, and how these come together to shape vulnerabilities to exploitation, as well as protective possibilities, at the different stages of the labour migration cycle.

The research was guided by the Australian Council for International Development (ACFID) Principles and Guidelines for Ethical Research and Evaluation, and by ODI's Research Ethics Policy. As the research focused on persons of concern from vulnerable populations, notably victims of TiP, it was critical to follow ethical procedures. This included sensitivity in research design including the location of interviews and focus groups discussions (FGDs), including how participation was structured. Informed consent was based on the local context, varying between written and verbal consent. Attention was also paid to data protection and ensuring the anonymity of participants. The methodology and ethics assessments for in-country fieldwork were approved by the ODI Ethics Review Committee.

During the research process, periodic workshops were held with all country research teams undertaking studies in Cambodia, Laos, Thailand and Viet Nam to share the approach being taken and emerging findings and challenges that arose during fieldwork. In addition, a sensemaking workshop was held towards the end of the research process to enable connections and interrelationships between the country studies to be further examined and integrated into country reports. It also helped to identify cross-cutting themes that are explored in the shorter thematic briefs prepared alongside the country case studies.

2.2 Limitations

Given the small sample size, the report makes no claim to be representative of all experiences of migrant labour or of TiP victim experiences. Rather, the report draws on these experiences to provide insights and snapshots into lived experience, as well as to complement the academic and grey literature.

2.3 Trafficking or exploitation?

A key issue that arose in the interviews and continued discussions with other country research teams was whether it made sense to refer to labour exploitation or trafficking. Much has been written about the definition of trafficking and its application in practice (see, for instance, McAdam, 2020; McAdam, 2016; Chuang, 2014; Weitzer,

2014: 7-8). What seems clear from the case studies – and for the Cambodia case – is that while there are many examples of trafficking of labour migrants, the exploitation of migrants by employers and authorities at the point of destination is more common. This is not to downplay the seriousness of the exploitation that occurs, but rather to draw attention to how counter-trafficking responses might best be devised to address the realities of such exploitation. For this reason, this paper talks about ‘exploitation’, which may include trafficking in some instances, rather than trafficking in all cases. What emerges from this research, in keeping with similar findings in the literature, is that this might best be thought about as a spectrum of exploitation, on which trafficking lies at one end (Huysmans, 2006: 11). This issue is dealt with more fully in the thematic brief of counter-trafficking responses (Denney et al., 2022).

3 Political Economy Context

3.1 Political structure and history

Several hundred thousand people fled Cambodia during the wars of the 1960s, 1970s and 1980s. This contributed to what has been referred to as Cambodia's 'culture of migration' (Sampson et al., 2020).⁴

Both the wars and political developments during the second half of the twentieth century also affected Cambodia's current capacity to address vulnerabilities to trafficking and exploitation effectively. Between April 1975 and January 1979, during the so-called Democratic Kampuchea regime (better known as the Khmer Rouge), 20% of the Cambodian population died from forced labour, forced population movements, inhuman living conditions and executions. State institutions were abolished and very few well-educated people with experience of managing or working in these institutions survived or remained in the country (Group of Experts for Cambodia, 1999).

In January 1979, the Khmer Rouge was overthrown by Vietnamese military forces. The new Viet Nam-backed regime faced the task of trying to rebuild the country in a context of extreme poverty, famine, international sanctions and civil war (Hughes and Conway, 2003). In 1989, Viet Nam withdrew its troops from Cambodia and in 1991 a peace agreement was signed between the regime in Phnom Penh, led by Prime Minister Hun Sen, the Khmer Rouge, which had regrouped along the Cambodia–Thai border after being ousted, and two non-communist groups that, together with the Khmer Rouge, had fought a war against the regime in Phnom Penh (Group of Experts for Cambodia, 1999).

Following the peace agreement in 1991 and the establishment of the United Nations Transitional Authority in Cambodia (UNTAC), the United Nations (UN) oversaw the repatriation and resettlement of around 360,000 refugees and internally displaced persons (IDPs) (United Nations, n.d.). As part of its mandate, the UN organised parliamentary elections in May 1993. In September the same year, a new Constitution was adopted, which envisages a pluralist, liberal democratic state with an elected legislature with oversight over the executive and an independent judiciary. It states that Cambodia

should recognise and respect human rights as stipulated in the 1948 Universal Declaration of Human Rights (UDHR). It explicitly sets out the right to freedoms such as expression, association, and assembly. It also provides for equal rights for women and men, children's rights and the application of fair trial standards.

In practice, the degree to which the political system is grounded in free and fair elections, separation of powers and respect for international human rights standards has been much debated. It has been argued that, rather than establishing a rule-based state apparatus and an independent judiciary, Cambodia has developed a governance system built around hierarchical relationships of patronage, loyalty and impunity (Andersen et al., 2019; Hughes and Conway, 2003; Gottesman, 2002). In relation to labour-related human trafficking, this means that it is mainly those who lack contacts and financial resources that face a substantial risk of being held to account for involvement in criminal activities.

Weak accountability has been compounded in recent years by shrinking civic space (Human Rights Watch, 2020; United Nations Human Rights Office of the High Commissioner – Cambodia 2022; CIVICUS, 2022). This may result in less up-to-date knowledge about the problem of human trafficking, less accountability for those engaging in human trafficking, less scrutiny of government efforts to address the issue of human trafficking in general, and increased difficulties in monitoring whether efforts to tackle human trafficking are firmly grounded in established human rights standards.

Some international organisations, foreign governments and businesses have expressed concerns about the deteriorating human rights situation and shrinking civic space in Cambodia. In 2021, the European Union (EU) partly withdrew Cambodia's duty-free, quota-free access to the EU market, which affected the export of products such as garments and footwear. The EU cited 'serious and systematic concerns relating to human rights...' as the basis for its decision. Otherwise, the influence of western donor countries, which in the 1990s financed a large part of the Cambodian state budget, has diminished over the past 20 years and many have stopped providing development support altogether. Instead, China has dramatically increased its economic and political influence, and the Cambodian government has welcomed its hands-off approach to issues of human rights (Blake, 2019; Sutton, 2018; Chong, 2017).

3.2 Key features of economic development

Since the turn of the millennium, Cambodia has had one of the world's fastest-growing economies – albeit that economic development has been unevenly spread. Eighteen per cent of the population live below Cambodia's poverty line of USD 2.7 per day (World Bank, n.d., a). While the difference in minimum wage compared to neighbouring countries has been reduced, Cambodian salaries are still low. In 2021, the official monthly minimum wage was

USD 192 for workers in the formal economy. This was slightly lower than in Thailand, roughly two-thirds of the minimum salary in urban areas of Malaysia, and several times lower than in South Korea and Japan (Dezan Shira & Associates, 2021).

During the past decade, remittances from Cambodian workers abroad have made an important contribution to the country's economy. In 2019, World Bank staff estimated that remittances accounted for 5.6% of GDP. Since then, the COVID-19 pandemic has reduced the volume of remittances, which in 2020 represented only 4.9% of GDP (World Bank, n.d., b). Between 2010 and 2020, Cambodia's household debt as a percentage of GDP grew from 2.5% to over 29% (CEIC, n.d.). As further discussed below, there is a strong link between household over-indebtedness and migration. For many, migration is the only way to repay high-interest loans.

Cambodia's working-age population (15–64 years) increased between 1990 and 2020 from 4.8 million (53% of the population) to 10.7 million (64% of the population) (World Bank, n.d., c). In a region in which the working-age population is expected to make up a declining share of the entire population (as in Malaysia, Singapore and Thailand), in Cambodia this population is expected to increase until 2045 (Kingdom of Cambodia, 2018). However, compared to other countries in the region, the working-age population is poorly educated and low-skilled (Kingdom of Cambodia, 2018; Kov, 2022).

3.3 Formal rules and policy on trafficking

Cambodia is a party to the key international and regional instruments dealing with human trafficking. In 2005, it ratified the so-called *Palermo Protocol*⁵ to the *UN Convention against Transnational Organized Crime*, which provides the most broadly internationally accepted definition of human trafficking. The Protocol requires states to criminalise trafficking, attempted trafficking, and other intentional participation in a human-trafficking scheme. Cambodia is also a party to the two International Labour Organization (ILO) conventions focused on forced labour.

In 2004, Cambodia adopted the *ASEAN Declaration against Trafficking in Persons, particularly Women and Children*. The same year it also became a party to the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), which is a regional consultative process involving China, Cambodia, Laos, Myanmar, Thailand and Viet Nam. It has also ratified ASEAN instruments concerning the rights of immigrants⁶ and entered into memoranda of understanding (MoUs) and bilateral agreements with most countries to which Cambodians travel for work, including Thailand, Malaysia, South Korea and Japan. These MoUs typically set out provisions for

⁵ Protocol against the Smuggling of Migrants by Land, Sea and Air, a supplement to the UN Convention against Transnational Organized Crime (2000).

⁶ ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

workers' employment, repatriation and protection. In 2015, Cambodia became a party to the ASEAN Convention against Trafficking in Persons, Especially Women and Children, which aims to prevent and combat trafficking in persons, protect and assist victims and promote cooperation among ASEAN member states on these issues. Through the convention, the parties recognise that 'trafficking in persons is caused by a combination of factors, including government corruption, poverty, economic instability, inefficient legal systems, organised crimes and the demand that fosters all kinds of exploitation...'

At the domestic level, the government has since 1995 sought to both regulate and expand labour migration. Its current Policy on Labour Migration for Cambodia (2019–2023) recognises the importance of labour migration for inclusive and stable economic growth, poverty alleviation and improved livelihoods (Kingdom of Cambodia, 2018). One of its three overarching goals is to harness labour migration to maximise social and economic development. The policy also aims to strengthen the labour migration governance framework and protect and promote the rights of migrant workers.

The Cambodian Constitution (Article 46) addresses the issue of human trafficking, stating that 'The commerce of human beings...shall be prohibited'. The Law on Suppression of Human Trafficking and Sexual Exploitation (2008) prohibits trafficking for both sexual and labour purposes. It provides for penalties of up to 20 years' imprisonment. Forced labour and debt bondage is prohibited under the Labour Code of Cambodia (1997). In addition to these laws, there are several government decrees addressing trafficking-related issues, including the operations of private recruitment agencies (PRAs).⁷

There are different views regarding the appropriateness of Cambodia's anti-trafficking legislation. The law on suppression of trafficking from 2008 and its application has been used to close brothels and address the issue of child prostitution. At the same time, it has been criticised for its heavy focus on the punitive aspects of addressing human trafficking, for interpreting human trafficking too broadly, and for failing to protect the rights of both suspects and victims (Keo, 2014).

3.4 Informal rules and systems

There is a wide gulf between formal legislation and its implementation. The avenue for regular migration has often failed to provide the protection intended and in fact contributed to unsafe migration and trafficking. As shown below, the government has provided little effective oversight of the PRAs, which in relation to

⁷ Sub-Decree No. 190 (2011) on The Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (PRAs).

most countries provide the only means of regular or legal migration. At the same time, regular migration makes up a very small share of the total migration – most find informal ways of migrating.

3.5 Key actors relevant to trafficking in persons

3.5.1 Government institutions

The government established the National Committee to Counter Trafficking (NCCT) in 2014. The Committee coordinates the initiatives of governmental and non-government actors in addressing human trafficking. It promotes the implementation of relevant laws, policies and plans, and assesses the overall human trafficking situation. Between 2020 and 2021, in connection with the COVID-19 pandemic, the government reduced the NCCT's funding by nearly 60% (Chhun et al., 2022), making some call into question its commitment to addressing human trafficking.⁸

In the area of law enforcement, a special police unit, the Anti-Human Trafficking and Juvenile Protection Department of the National Police, is responsible for identifying victims and assisting in the prosecution of trafficking crimes. The National Royal Gendarmerie has its own unit for human trafficking-related issues, the Office of Anti-Human Trafficking and Section on Anti-Human Trafficking, which is also mandated to identify victims of trafficking (Johnson et al., 2020).

Government responsibility for social, medical and legal services to victims of trafficking rests with the Ministry of Social Affairs, Veterans and Youth Rehabilitation's (MOSVY) Department of Victim Protection (former Department of Anti-Human Trafficking and Reintegration of Victims). The Department works in close cooperation with NGOs who deliver many of the services offered to victims. The Department is eligible to carry out victim identification (Johnson et al., 2020).

The Ministry of Foreign Affairs and International Cooperation is responsible for repatriation of Cambodian trafficking victims abroad. It is also mandated to carry out victim identification (Johnson et al., 2020). The Ministry of Labour and Vocational Training oversees the PRAs and has, together with the Provincial Departments of Labour and Vocational Training, a central role in the process for resolving migrant workers' grievances and ensuring that these workers have access to protection, remedies and compensation from PRAs and employers in the country of work (Ministry of Labour and Vocational Training, 2018).

3.5.2 International organisations

Several international organisations are working to counter trafficking of Cambodian workers. The International Organization for Migration (IOM) provides technical assistance to several government bodies,

⁸ Research team interview with local NGO, January 2022.

including the NCCT, as well as direct assistance to the survivors of trafficking returning to Cambodia and foreign nationals in Cambodia escaping situations of exploitation and abuse, given that Cambodia is also a destination country for migration and trafficking. The ILO has, since 2011, supported Migrant Worker Resource Centres (MRCs) across Cambodia – places where potential and actual migrant workers can seek information about the migration process, lodge complaints about mistreatment and receive legal assistance. The ILO is also working on policy development with the Ministry of Labour and Vocational Training and the PRAs. The United Nations Office on Drugs and Crime (UNODC) strives to enhance the capacity of Cambodian law enforcement agencies to identify and address human trafficking and other transnational organised crime. Other UN agencies that work on trafficking-related issues include the Office of the High Commissioner on Human Rights (OHCHR), UN Women and UNICEF.

3.5.3 Civil society organisations

International and Cambodian civil society organisations (CSOs) have received considerable financial support to raise awareness about safe migration and trafficking, run shelters and assist victims of trafficking by offering psychosocial and medical services, contribute to a strengthened law enforcement process and monitor the government's efforts to address trafficking.

In the past, Cambodian human rights groups, legal aid organisations and some media outlets have been important in contributing to raising the voices of victims of trafficking, providing a level of accountability for those who engage in trafficking, and generally increasing knowledge about issues related to human trafficking. More recently, observers argue, civic space has been reduced (CIVICUS, 2022). This may in turn have affected the amount and quality of information available on issues of trafficking. It has been suggested that a repressive press environment, in combination with a limited understanding of human trafficking issues among journalists, contributes to a culture of silence which has a negative impact on efforts to combat trafficking (Chhun et al., 2022).

According to NGOs, the funding for counter-trafficking work has gradually diminished as many of the donors that previously supported such work are no longer focused on Cambodia. This has resulted in a research base that is largely outdated. Interviewees also noted sensitivities regarding work on human-trafficking issues as it is perceived to tarnish Cambodia's international reputation. There is little research on some of the more sensitive political and economic aspects of human trafficking, such as the role and conduct of the PRAs.

3.5.4 Private recruitment agencies

PRAs are private companies registered with the Ministry of Labour and Vocational Training and authorised by the Cambodian government to recruit workers for job opportunities abroad and to assist them with everything from legal job placement to repatriation to Cambodia at the end of their contracts. As discussed below, there has been no effective government supervision of these PRAs and several have contributed to labour exploitation and trafficking.

3.5.5 Informal brokers

Informal brokers are typically individuals who can assist or recruit potential migrant workers because of their knowledge and experience of the migration process and their contacts with employers abroad. Informal brokers can also be recruitment agencies that operate without the required government authorisation.

4 Migration Patterns

4.1 Scale of labour migration and human trafficking

There is no available data that provides a comprehensive and consistent picture of the scale of Cambodian labour migration. The national census of 2018 found that more than 1.2 million Cambodians work abroad. Others estimate that actual figures are much higher, reaching well over 2 million in Thailand alone (JRS n.d.; LICADHO, 2020). Cambodia is currently testing a digital border system which is expected to provide increased possibilities to determine the scope and scale of migration.

While existing data on the scale of human trafficking is unreliable, there have been some attempts to assess the size of the problem and related issues. The Global Slavery Index 2018 estimates, for instance, that 1.7% of the Cambodian population live in modern slavery, which is a higher proportion than in any other country in Southeast Asia (Underwood, 2018).⁹ In 2012, the Royal University of Phnom Penh conducted a mental health survey with 2,690 adults across nine provinces which found that 0.7% of surveyed households had one to four family members who had experienced trafficking. Of these, over 60% had been trafficked during the past year (Royal University of Phnom Penh, Department of Psychology, 2012).

Regardless of uncertainty about the numbers, there is broad consensus that Cambodia is one of the countries that are most seriously affected by human trafficking, both regionally and globally. Historically, anti-trafficking efforts in Cambodia have had a strong focus on sexual exploitation and it is primarily survivors of trafficking for sexual purposes who have been identified. As more recent attention has been given to labour trafficking, more victims of trafficking for labour exploitation have been identified (Hunt et al., 2020).

4.2 Drivers of migration

Migration from Cambodia is driven primarily by socio-economic factors. For many people facing economic hardship, migration may be the only way to address their situation. A 2016 study found that the three most common reasons that male and female migrants leave Cambodia were having 'No job', 'Low income' and 'Financial debt' (Dickson and Koenig, 2016). Several other studies have also

⁹ Global slavery defines modern slavery as 'situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, abuse of power, or deception'.

concluded that the possibility of finding a job and the higher salaries that potential migrants can obtain abroad are the main drivers of migration (cf. Derks, 2013). Although minimum salaries in Cambodia and Thailand (the primary destination for Cambodian migrants) do not differ dramatically, the actual daily earnings are usually higher in Thailand (Dickson and Koenig, 2016). It is also common, however, that promises of high salaries are not fulfilled; PRAs are accused of advertising high salaries and signing bonuses which are never paid (York, 2013). The literature and key informants referred to various other related push factors, including natural disasters, landlessness, rural indebtedness, family disputes, domestic violence, a growing mobile youth population and poorly developed structures for disseminating information about job opportunities in Cambodia (Verité, 2019; Bosc, 2018; HRW, 2018; Ros et al., 2017; Chan, 2009; Lim, 2016).¹⁰

Interviews indicate that there is often an acute economic challenge behind a decision to migrate. In situations of desperation and urgency many people living in poverty are prepared to take substantial risks.¹¹ This suggests that there are limits to the potential effectiveness of awareness-raising efforts aiming at addressing the problem of trafficking. The urgency with which many need to find a job and make an income is also a reason why many chose to migrate irregularly rather than paying and waiting for the comparatively slow regulated recruitment process.

The reasons why children migrate are similar, but they do not have the same decision-making power as adults. A study focusing on migration of children and young people found that children rarely took the final decision to migrate themselves, but that boys and young men did so to a significantly greater extent than girls and young women (World Vision Australia, 2014). A person interviewed in connection with this study noted that many girls and women who migrate to do domestic work do so 'following their parents' advice on how to be good daughters and earn an income for their families'.¹²

4.3 Destinations

Although Thailand is the main destination for Cambodian labour migrants, Cambodian women and men are also migrating to other Asian and Middle Eastern countries for work-related purposes. The nature of migration differs, and the risks of related human trafficking vary, across these countries.

Most migrants are irregular, i.e. workers who migrate without having the officially required legal documentation. A smaller share of all migrants are so-called regular migrants, who typically migrate with the assistance of a PRA in accordance with the process set out in a

¹⁰ Research team interviews with local NGOs, January 2022.

¹¹ Research team interview with a network of CSOs, January 2022.

¹² Research team interview with a local NGO, January 2022.

MoU between Cambodia and the destination country. Although regular migrants make up a small share of the total number of migrants overall, it is the dominant group of migrants in relation to some destination countries. This section provides an overview of the history, scale and nature of migration from Cambodia to Thailand, China, Malaysia and the Republic of Korea, as well as information about Cambodia as a destination country.

4.3.1 Thailand

The last 20–30 years have seen large-scale labour migration from Cambodia to Thailand (Chan, 2009). Many of these workers are short-term migrants that commute across the border on a daily basis, or stay in Thailand only for a few days, working under an agreement between Cambodia and Thailand for people living in the border areas (Yin Soeum, 2022). Many of these short-term migrants work in the agricultural sector. There are also longer-term migrants who often stay and work in Thailand for several years in sectors such as construction, industrial production, entertainment, domestic work and fishery.¹³

The number of regular migrants who go through a PRA has steadily increased since a MoU was signed between Cambodia and Thailand in the early 2000s. However, the vast majority of all migrants are still irregular, sometimes repeat irregular workers who know how to navigate the system and those who use an informal broker to assist them with the paperwork for legal entry to Thailand (Verité, 2019). Brokers are typically migrants who recruit and assist family members or fellow villagers interested in working in Thailand. Thus, brokers and those accused of trafficking are themselves often from the same disadvantaged socio-economic backgrounds as those they are assisting or trafficking (Chhun et al., 2022; Derks, 2011).

Most migrants prefer or have no choice but to use the irregular migration process as it is cheaper and faster than the formal process (Human Rights Watch, 2018; Ros et al., 2017; US State Department 2017). Those who migrate irregularly tend to come from poorer socio-economic backgrounds than those who migrate through a PRA (UNODC, 2017; Hing et al., 2011). To migrate regularly to Thailand with the help of a PRA costs many times more than an irregular migrant typically pays. One factor determining if people choose a regular or irregular migration channel is whether they have a passport (Dickson and Koenig, 2016). Obtaining a passport is a slow and expensive process; for those who migrate in response to an acute financial situation, waiting for a passport is simply not an option. One survey found that only 22% of migrant respondents returning from Thailand had a passport. It also found that having passports and other legal documents increased a worker's likelihood of migrating safely (Dickson and Koenig, 2016).

¹³ Research team interview with migrant worker, February 2022.

4.3.2 Malaysia

Malaysia was the first country with which Cambodia signed a MoU on labour migration; Cambodian workers have officially travelled to work in Malaysia since 1998. Between 1998 and the end of 2007, 10,500 Cambodian workers, mainly women, went to Malaysia through the regular process (Chan, 2009).

In 2009, Indonesia introduced a moratorium on sending workers to work to Malaysia. This resulted in a shortage of domestic workers and recruitment agencies turned their attention to other countries that could meet Malaysian demand. As a result, there was a dramatic increase in female domestic workers travelling from Cambodia to Malaysia (HRW, 2011).

Following a string of reports in 2011 of grave abuse of female Cambodian domestic workers in Malaysia, the Cambodian government enacted a ban on recruitment of women for domestic work in the country. However, many Cambodian women and girls continued to travel to Malaysia for work, using irregular channels rather than the official MoU-regulated process. The Cambodian government lifted the ban in January 2017.

In a few cases, those involved in recruiting and sending women to work in Malaysia have been held to account for trafficking-related crimes that occurred before, during and after the ban. Women have been recruited on false promises of high salaries and subjected to very harsh working conditions. There are also examples of underage recruitment (Buth, 2019; Lakic, 2017; CLEC et al., 2013; IJM, n.d.). While domestic work has traditionally been the dominant sector for Cambodian migrants to Malaysia, Cambodians also work in other sectors under conditions that may amount to trafficking. PRAs have reportedly sent Cambodians to work in factories in Malaysia without providing them with required work permits. The workers enter Malaysia legally on tourist visas, but as these visas expire they become illegal immigrants and reportedly do not dare to leave the factory premises where they work and live for fear of being arrested and deported (Freedom Collaborative, 2021).

4.3.3 Republic of Korea

The Republic of Korea is an attractive destination for many Cambodians looking for work abroad. Salary levels far higher than in Cambodia and other countries in the region, and migrant workers are awarded the same protection under the labour law as domestic workers (Sun, 2019). Nevertheless, Amnesty International has reported that '[s]ignificant numbers of migrant agricultural workers have been trafficked to the Republic of Korea for exploitation, including forced labour' (Amnesty International, 2017).

The formal, and dominant, process for recruitment of workers to the Republic of Korea is different from the process used for other

countries and does not involve PRAs. Instead, the recruitment process is managed by the Manpower Training and Overseas Sending Board, a Cambodian public agency which organises recruitment under the Republic of Korea's Employment Permit System, which requires that workers are no more than 40 years of age and that they pass a Korean language test (Sun, 2019). The vast majority of labour migrants to the Republic of Korea for work are men. The costs for a migrant to obtain a job in the Republic of Korea are higher than for Thailand and Malaysia.

4.3.4 China

The literature on human trafficking from Cambodia to China focuses on women and girls who enter forced or arranged marriages, but there are also cases in which Cambodians have been used as forced labour in Chinese garment and laundry factories (CLEC et al., 2013). While bride trafficking from Southeast Asia to China dates back to the 1980s, there has been a surge from Cambodia since 2016 and a peak following the outbreak of COVID-19 in 2020. Often girls and women who travel to China end up in abusive situations after having been deceived with promises of jobs or tricked and sold by relatives (Chhun et al., 2022).¹⁴ Many girls and women say that they have been subjected to violence, sexual abuse and forced labour within their marriages. According to NGOs, the 'brides' have become younger in recent years with an increasing proportion of children (Chhun et al., 2022).

The Cambodian government has since 2018 introduced a fee for 'foreign men flying back to their home countries with a Cambodian spouse' (Chhun et al., 2022). The mode of travel from Cambodia to China has changed since the fee was introduced. While all travel used to be by plane, alternative overland routes are now used. The number of actors making up individual trafficking networks are reportedly small – involving recruiters in Cambodia and marriage intermediaries in China – but well organised (Chhun et al., 2022). According to one informant, a person in China looking for a forced or arranged marriage may have to pay up to USD 50,000. The families of the trafficked Cambodian women and girls typically receive between USD 500 and 1,000.¹⁵

4.3.5 Cambodia as a destination country

Although this report focuses on labour trafficking from Cambodia to other countries in Asia, in particular Thailand, Cambodia is also a destination country for trafficking. Vietnamese women and girls, in particular from Viet Nam's southern provinces, have for many years been trafficked to Cambodia for commercial sexual exploitation. There are also examples of women and girls from other parts of world, including eastern Europe, being trafficked to Cambodia for the

¹⁴ Research team interview with local NGO, January 2022.

¹⁵ Research team interview with international NGO, January 2022

same purposes (HRW, 2001). For many years there have also been reports of foreign workers, often from China, having been lured to Cambodia on false promises of high-paid jobs in factories or in the construction sector (US Department of State, 2021a; HRW, 2001). In some cases, employers have confiscated the passports and other essential documentation of those who have been recruited. Casinos in Cambodia are alleged to facilitate a range of illegal activities, including human trafficking (Cartwright et al., 2021).

Recently, Cambodia has received considerable attention as a destination country for men and women from around the region, as well as from Africa and Europe, who have been forced or deceived into working under exploitative and abusive conditions for online and telephone gambling and financial scam operations that emerged and grew during the COVID-19 pandemic (Reuters, 2022; Strangio, 2022; Haider, 2021). During the past year, foreign embassies have on several occasions expressed concerns about citizens from their countries being held in 'slave-like conditions' by these operations. According to Thai police, between October 2021 and April 2022, more than 800 Thai men and women were rescued from 'scam call centres' in Cambodia. Of these, 300 are considered trafficking victims (Reuters, 2022). In April 2022, Thai police also reported that there were at least another 1,000 Thai citizens working in similar call centres. Cambodian NGOs, Thai police and others claim that those working in these centres are subjected to illegal detention and physical abuse, including beatings, whipping and electrocution (Reuters, 2022; Saksornchai, 2022; US Department of State, 2022). NGOs also allege the complicity of police officers, while some of the scam and forced labour operations are reportedly linked to well-known businesspeople and politicians (Dara et al., 2022; Saksornchai, 2022). The UN Special Rapporteur on Human Rights in Cambodia, Vitit Muntarbhorn, has referred to the situation of the victims as a 'living hell', stressing that 'Cambodia needs to activate counter-measures more strongly while welcoming international cooperation and support' (Manila Times, 2022).

5 Vulnerabilities, Exploitation and Abuse

Thailand is the primary destination country for both regular and irregular Cambodian labour migrants. This section largely focuses on vulnerabilities, exploitation and abuse in relation to the Cambodia–Thailand migration corridor.

5.1 Types of abuse

In 2013, Derks noted that Cambodian migrants often had stories to tell about Thai immigration officials ‘entering their living compounds in order to hunt down undocumented migrants, about not daring to leave their working and living premises for fear of police arrest, about police taking migrant workers far away into the *prey* (forest, bush) and demanding exorbitant fees before letting them go... (Derks, 2013).

Not much seems to have changed since 2013. Migrant workers and civil society representatives interviewed in connection with this study provide an almost identical picture of regular raids by Thai police officers, arrests and payment of bribes and arbitrary fees to Thai law enforcement officials. This type of harassment and extortion appears to be the most common form of abuse among all migrants working in the agricultural, manufacturing and construction sectors in Thailand. Other common kinds of ill-treatment meted out to workers in these and other sectors include non-payment or underpayment of salaries and other forms of labour rights violations, including excessively long working hours.¹⁶

Debt bondage is not unusual among those who rely on PRAs or other brokers to facilitate their immigration. In some cases, migrants work for months or even years before they manage to repay the money they owe employers, brokers or PRAs to cover their migration-related costs (Verité, 2019; HRW, 2018; CLEC et al., 2013).¹⁷ Debt bondage is a particular problem when there are high costs associated with getting a job, including travel and related costs of obtaining legal documentation. The ILO Private Employment Agencies Convention (No. 181) of 1997 states that ‘Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers’. Until 2011, when the Cambodian government passed a

¹⁶ Research team interviews with local and international NGOs, January 2022.

¹⁷ Research team interview with a network of CSOs, January 2022.

new sub-decree, recruitment agencies were not allowed to charge workers directly (JRS, n.d.).

Physical and sexual abuse appear to be most common in the fishery, domestic work and entertainment sectors, as well as among victims of forced or arranged marriages (IJM, 2019; HRW, 2018; Ros et al., 2017; Burnett, 2015; CLEC et al., 2013).¹⁸ Involuntary drug use has often been reported in the fishery sectors, where workers have been forced to take amphetamines in order to be able to work for excessive periods of time without sleep. There are also reports of migrant workers on fishing boats being thrown overboard and killed (HRW, 2019; Jones, 2015; McDowell et al., 2015). While most violations occur in the destination country, abuses such as sexual assault and illegal confinement are among the violations also reported during the migrants' travel from Cambodia to their places of work in Thailand. Migrants who have travelled to Thailand on the understanding that they would work in the construction sector have been locked up in containers which have been loaded onto fishing vessels and not opened until the boats are on the open sea (Jones, 2015).

A study based on interviews with 667 migrant workers returning from Thailand to Cambodia in 2014 found that male migrants were more likely than female migrants to have experienced abuse or difficult conditions relating to their work. It also showed that women more often faced mental health issues and suggested that they had less control over their migration situation (Dickson and Koenig, 2016).

Child labour is frequently reported, and many children are involved in dangerous work, often in the construction sector (World Vision Australia, 2014). Thailand's Department of Special Investigations (DSI) estimated in 2017 that 90% of all child beggars in Bangkok came from Cambodia. According to DSI, criminal gangs had in many cases 'rented' the children from their parents in Cambodia for the purpose of begging (Laohong, 2017). In 2016 it was reported that there were at least 1,000 children begging in Thailand (Tang, 2016). Other studies suggest that this significantly underestimates the true number higher (Rouse, 2017).

5.2 Risk factors

5.2.1 Irregular migration

The vast majority of those who migrate to Thailand for work do so irregularly, outside the MoU-regulated and PRA-organised formal migration process. Some irregular migrants already have a job offer when they travel to Thailand and others start looking for work on arrival. Some cross the border legally through the official border

¹⁸ Research team interview with local NGO, January 2022.

crossings with a passport or a border pass, while others evade the official border crossings and enter Thailand illegally.

According to government officials and some observers, most of the problems facing migrant workers are related to the irregular migration status (HRW, 2018; Ros et al., 2017; Derks, 2011). However, as discussed below, the regular migration process managed by the PRAs has been far from safe. Those who migrate through the PRAs often borrow money to pay for the comparatively high costs for their migration, which may put them in situations akin to debt bondage. Some migrants see the formal migration process as risky as it ties them to a particular employer and does not allow them to change employer during the contracted period.¹⁹ Moreover, many of those who migrate regularly eventually become irregular as they stay and work in Thailand beyond the expiry of their initial employment contracts. Observers note that the PRAs often fail to assist workers to return to Cambodia at the end of their contract.²⁰

5.2.2 First time travel and proximity to the border

Migrant workers themselves consider new migrants to be most vulnerable to exploitation and trafficking (HRW, 2018). Migrants who have worked in Thailand several times know how to navigate the migration process and have an established network of contacts in Thailand may be less at risk. One survey found that a bad migration experience did not necessarily make people less inclined to migrate again (World Vision Australia, 2014). This might indicate that migrants believe that they can manage the process better and avoid potential pitfalls in subsequent migration.

According to interviewees, migrants' vulnerability is also related to how close to the Cambodia–Thai border they live. Those who live in the border areas can, as mentioned earlier, obtain a border pass which gives them the right to cross into Thailand for short stays and the possibility of taking up short-term work there. They are presumably also better informed about what awaits them in Thailand and better prepared to manage the situation than those coming from other parts of Cambodia, going to Thailand without proper documentation.²¹

5.2.3 Low levels of education and literacy

Cambodia suffers from high school dropout rates, especially for boys. Many of those who leave school early migrate to Thailand to find work (Hamilton and Sunjum, 2020; Lim, 2016).²² While there is a link between school dropout and migration, it is more difficult to

¹⁹ Research team interview with local NGO, January 2022.

²⁰ Prakas 252 addresses the PRAs' responsibilities to migrant workers in destination countries and during the repatriation process. However, it does not specify who should pay the repatriation costs.

²¹ Research team interview with local NGO, January 2022.

determine the extent to which school dropout leads to migration versus that to which the opportunity to make money abroad leads to children leaving school early. One study of gendered migration pressures found that there was more pressure on boys than girls to contribute financially to the family and to migrate. The fact that boys are better paid than girls in most industries in Thailand and that parents are less worried about the safety of their sons than their daughters may, according to the study, contribute to the higher pressure on boys to migrate (Bylander, 2014).

Among children there appears to be a link between the risk of being trafficked and their level of education and literacy (Lim, 2016). It has been shown that children who can read are significantly more likely to be aware that a person can be trafficked by someone they know well, than are children and youth who can read only a little or not at all (World Vision Australia, 2014). Among adults, it appears that those with a higher level of education are more likely and better equipped to challenge exploitative labour practices and non-adherence to contractual obligations.

5.2.4 Over-indebtedness

As noted above, indebtedness is increasing among Cambodian households, with debt one of the main reasons why Cambodians migrate for work. In 2016, an IOM survey of returned Cambodian migrants found that 41% of the respondents noted financial debt as the main reason for seeking work abroad (IOM, 2019).

The number of borrowers in the microfinance sector has grown rapidly over the past decade, and is several times higher than those taking out loans from commercial banks (World Bank Group, 2019). As of 2019, more than 2.6 million Cambodians had taken out microloans and the country had the world's highest average microfinance loan amount per person, at a level considerably higher than the gross national income (GNI) per capita (Natarajan et al., 2021).

Microfinance loans were introduced in Cambodia in the early 1990s. The providers were originally not-for-profit NGOs, supported by international development cooperation funds, set up to improve local livelihoods. A subsequent shift towards for-profit institutions brought with it rising interest rates and easing of restrictions around Microfinance Institution (MFI) ownership. Foreign investors, including Chinese and South Korean commercial banks, are among those who in recent years have bought Cambodian MFIs (IOM, 2019).

Until 2017, the for-profit microfinance institutions (MFIs) could charge annual interest rates of up to 100% (UNODOC, 2017). According to the UNODOC report, some lenders used the fact that many borrowers are non-literate and may not fully comprehend the effects of the high interest rates (UNODOC, 2017). In 2017, the National Bank of Cambodia introduced a cap of 18% annual interest rate for

microfinance loans. This led the MFIs to significantly increase the non-interest-related fees that they charge on new loans (Heng et al., 2021). This probably means that the cap on interest rates has had limited effect on microfinance loans as a driver for unsafe migration, and ultimately trafficking. However, high interest rates may not be the most harmful aspect of the microfinance loans for borrowers living in poverty. Irresponsible lending practices, such as lending on deceptive terms and without due regard to repayment capacity, can be equally or more damaging (Heng et al., 2021).

Over-indebtedness through microfinance loans can contribute to unsafe migration and can create vulnerabilities to trafficking because of the widespread use of land as collateral, which creates extraordinary pressure for repayment (IOM, 2019). The practice of some MFIs of requiring proof of a family member working abroad before lending money may also contribute to this vulnerability. Furthermore, the link between microfinance and unsafe migration may also be fuelled by the practice of some PRAs of directing potential migrants to seek loans from MFIs to cover their fees for assisting in securing a job abroad (LICADHO, 2020; IOM, 2019).

5.2.5 PRA practices

In 2011, the government adopted sub-decree 190 on the *Management of Sending Cambodian Workers Abroad through Private Recruitment Agencies*, which superseded an earlier sub-decree from 1997. The sub-decree states that the recruitment agencies should provide ‘full job placement service’ abroad. In practice the PRAs provide the only formal migration process to all countries apart from the Republic of Korea.

Ministerial decisions (*Prakas*) from 2013 set out further details regarding standards for PRAs, including inspection, the recruitment process, and training of migrant workers prior to departure. Human rights groups and others have criticised the government for failing to provide effective oversight of PRA operations or to ensure compliance with legal directives (Verité, 2019; JRS, n.d.). More explicitly, they have reported that corruption undermines the legal framework and any efforts to impose more effective monitoring of the PRAs (Teehan, 2013).²³

The number of PRAs has steadily increased over the years. In 2006, there were 42 registered agencies (of which 12 had paid the required deposit and were officially licensed to operate) (Derks, 2011). By 2018 there were 93 (You and Daphne, 2018) and by the end of 2021 the number had risen to 135 (of which 119 were operational), indicating the opportunities for making sizeable profits by running one or more PRAs.

²³ Research team interviews with local NGOs, January and April 2022.

The PRAs charge job seekers between USD 600 and 800 for work in Thailand (Verité, 2019; Ros et al., 2017). The amount covers, ‘the costs of passport, overseas Cambodian worker card (OCWC), medical exam, entry visa, initial documents sent to Thailand to start the work permit application, predeparture training, and transportation from Phnom Penh/Poipet to Thailand’ (Verité, 2019). In some cases, additional costs for food and lodging in connection with pre-departure training has been added and the final costs charged considerably higher (LICADHO, 2011).

In addition to being more expensive than irregular migration, the formal recruitment process through the PRAs is lengthier. It usually takes several months between recruitment and the worker eventually being sent abroad. The formal migration process to Thailand typically includes the following steps:

- 1 A Thai company in need of workers engages a PRA, either directly or through a Thai agent.
- 2 The PRA recruits Cambodian workers through radio advertisements or through local agents working on commission at the community level.
- 3 The PRA ensures that the administrative requirements are met, including passports and work permits. It typically also provides some pre-departure training, although this has often been far from what the workers need and what is required by law (Verité, 2019).²⁴
- 4 The PRA organises the travel from Cambodia to the place of work. Typically, the workers travel by bus and enter Thailand through the Poipet international border crossing.

Over the years, recruitment agencies and their representatives have frequently been accused of involvement in various illegal practices. Accusations include recruitment on false promises regarding salaries and living conditions, charging excessively for questionable services, and sending people abroad without appropriate visas (Blomberg and Hul, 2014; Blomberg and Pheap, 2014; HRW, 2011). Cambodian women sent to Malaysia by PRAs to work as maids have reported debt bondage, forced confinement, underage recruitment and passports being withheld (Blomberg and Pheap, 2014; David, 2012).

While those in charge of the PRAs are seldom held to account, there are some exceptions. In 2014, the Taiwanese manager of the PRA Giant Ocean was sentenced to ten years’ imprisonment for human trafficking after having recruited Cambodians to work in ‘dire conditions’ on fishing boats around the world (Buth and Laignee, 2014). In its 2021 Cambodia Trafficking in Persons report, the US Department of State called for a strengthening of government efforts

²⁴ Research team interview with local and international NGOs, January 2022.

to ‘inspect private labor recruitment agencies and their sub-licensed brokers for fraudulent recruitment and other trafficking indicators’.

Human rights groups and people interviewed in connection with this study have reported that there are close links between some recruitment agencies and senior government officials in Cambodia, and that this makes law enforcement officials reluctant to investigate accusations against these agencies (Blomberg and Pheap, 2014; HRW, 2011).²⁵ Human rights workers and lawyers also claim that law enforcement officers collude with recruitment agencies and sometimes act as their official representatives (Teehan, 2013).²⁶

To facilitate coordination among PRAs and protect their interests, the Association of Cambodian Recruitment Agencies (ACRA) was established in 2007 and the Manpower Association of Cambodia (MAC) a few years later. In 2009, ACRA adopted a first code of conduct for its members. In the media, concerns have been raised about heads of ACRA representing PRAs accused of violating the rights of Cambodian workers (Blomberg and Pheap, 2014; Teehan, 2013; Boyle, 2012).

Migrant workers’ grievances relating to the PRAs can be filed at Migrant Resource Centre (MRC), a Provincial Department of Labour and Vocational Training or the Ministry of Labour and Vocational Training. The two latter bodies are also mandated to work with the disputing parties to settle conflicts. If they fail to reach an agreement, the Ministry should, according to existing guidelines, refer the dispute to the judiciary. It is also obliged to refer a case to a judicial proceeding if it concerns TiP, forced labour or other criminal matters (Ministry of Labour and Vocational Training, 2018). According to interviewees, however, cases involving PRAs are by default treated exclusively as civil cases, even when there are strong indications that crimes have been committed.²⁷

²⁵ Research team interviews with local NGOs, January 2022.

²⁶ Research team interviews with local NGOs, January 2022.

²⁷ Research team interviews with NGOs, January and April 2022.

6 Protective Possibilities

Efforts to address the issue of human trafficking and its effects can be divided into three main categories: (i) awareness raising, information sharing and education on safe migration for potential migrants; (ii) strengthening of law enforcement capacities; and (iii) support to victims of trafficking (see Bosc, 2018).

6.1 Awareness raising, information sharing and education on safe migration

Migrant workers note that sharing information about issues such as brokers and employers are among the best ways to reduce vulnerabilities (Verité, 2019; HRW, 2018). While this information sharing is usually by word of mouth between friends and acquaintances, there are also more structured efforts to assist potential migrants to seek information. As mentioned above, MRCs managed by the ILO in partnership with the government, trade unions and CSOs offer workers a place where they can seek information about labour migration and get help with obtaining legal assistance and filing complaints.

6.2 Strengthening law enforcement capacities

Cambodia's justice system is often criticised for lacking in effectiveness and independence. In the World Justice Project's Rule of Law Index for 2020, Cambodia was ranked 138 out of 139 countries, and was the lowest ranked among the 15 countries assessed in the East Asia and Pacific region. It scored particularly poorly on the issue of corruption (World Justice Project, 2021).

The challenges facing the justice system also affect its ability to bring to justice those responsible for TiP-related crimes. According to observers, the law enforcement system largely fails to act against business owners and others higher up in the trafficking chain even when abusive practices are well known (Chhun et al., 2022; US Department of State, 2021a; LICADHO, 2016). Government officials suspected of involvement in trafficking are rarely investigated and almost never prosecuted and convicted (US Department of State, 2021a). One interviewee noted that 'only very poor or low-ranking people are arrested as they do not have the money to ensure their release'.²⁸

²⁸ Research team interview with local NGO, April 2022.

People living in poverty have little confidence in the justice system. It is perceived as costly and, at best, unpredictable. Many trafficking victims also have limited information about their rights and about the fact that they have been subjected to a criminal offence, unless so informed by the authorities or an NGO.²⁹

When victims file complaints with the police, the police often facilitate out-of-court settlements rather than pursuing criminal actions against alleged perpetrators. If agreements are reached and those accused of trafficking agree to provide financial compensation, victims are unlikely to pursue complaints and provide evidence in court (Chhun et al., 2022; US Department of State, 2021a; IJM, 2016).

Another challenge is the slow pace of judicial processes. This, combined with the uncertainty of the justice process noted above, sometimes leads to victims withdrawing their claims before the processes are completed. Factors arising from this uncertainty that contribute to inhibiting victims' legal voice include, first, whether compensation will be awarded at all. Second, if compensation is awarded to trafficking victims through judicial processes, it may be considered too low (Chhun et al., 2022). Third, if the court awards compensation, there seems to be no effective way of ensuring that it is actually paid. Finally, in many cases, those ordered to pay the compensation have very limited financial means and are often sentenced to lengthy prison sentences, further reducing their capacity to pay.³⁰

Cross-border trafficking offences pose specific challenges. These relate to difficulties in identifying the individuals and companies involved, the places where the crime occurred, and generally gathering the evidence required for prosecution (Ros et al., 2017). Despite the Treaty on Mutual Legal Assistance in Criminal Matters, to which the ASEAN member states are a party, and the MoU between Cambodia and Thailand on Bilateral Cooperation for Eliminating Trafficking in Persons and Protecting Victims of Trafficking, there are very few cases in which there has been successful cross-border cooperation in criminal investigations related to human trafficking.³¹ One informant noted the sharp contrast between the inefficient cooperation in these cases and the effective cooperation that apparently takes place when it comes to arrests and deportation in cases of a political nature (HRW, 2021; Radio Free Asia, 2021).³²

According to interviews, it is mainly cross-border migrants who are rescued abroad who file criminal complaints. Migrants who have not followed the formal migration process and lack passports, work permits, or other legal documents tend to think that they have no rights and that no one can be held to account for such actions. This

²⁹ Research team interviews with local NGOs, January 2022.

³⁰ Research team interviews with local NGOs, January 2022.

³¹ Although the MoU was signed in October 2014, Cambodia did not create a working group on its implementation until December 2021.

³² Research team interview with international NGO, January 2022.

misconception is sometimes shared by the Cambodian authorities. However, informants point out that it is also rare for regular migrants to file criminal complaints about abuse or exploitation.³³

Criminal justice has focused mainly on sex trafficking, in particular the commercial sexual exploitation of children. Historically, trafficking for other purposes has not received the same attention (IJM, 2016), although there has been a shift in recent years. In 2020, the number of arrests carried out for 'sexual human trafficking' and for 'non-sexual human trafficking' was roughly the same and in 2021 most prosecutions under the anti-trafficking law involved forced labour (Tin, 2022; US Department of State, 2022).

The number of trafficking-related prosecutions should be seen in light of the very broad definition of human trafficking set out in the Cambodian *Law on Suppression of Human Trafficking and Sexual Exploitation*. The internationally recognised definition of trafficking, as set out in the Palermo Protocols, requires that the purpose of trafficking is exploitation. In relation to cross-border trafficking cases, Cambodian law (Art. 11) does not require the element of exploitation.

Both in Cambodia and internationally, observers have expressed concern that the strong focus among international agencies and governments on prosecutions and convictions has not been accompanied by an equally strong focus on ensuring that suspects receive a fair trial (Gallagher, 2016). While actors such as the US State Department regularly report on the number people prosecuted for TiP in Cambodia, the literature contains few reflections on who is convicted, what specific acts they have committed, the quality of the evidence produced, whether fair trial standards were upheld, and whether the sentences handed down are proportional to the acts committed.

Statistics gathered in 2007 and 2008 by the human rights organisation LICADHO, showed that women accounted for the vast majority of those imprisoned for the crime of TiP. Keo found in 2014 that the majority of those incarcerated for trafficking were destitute women, many of whom had been subjected to a miscarriage of justice due to a law enforcement response that was open to corruption and injustice (Keo et al., 2014). More recent data from the NCCT show, however, that it is now primarily men who are arrested for crimes related to human trafficking. In 2021, 39 of the 400 people arrested were women (NCCT, 2021).

Many international NGOs and other agencies concerned with impunity for TiP tend to see individual prosecutions or convictions relating to cases on which they work as important steps towards the development of a justice system that has the capacity, integrity and independence required to address the problem (see, for instance, IJM, 2019). However, individual convictions may not be indications of

³³ Research team interviews with local NGOs, January and April 2022.

systemic changes. De facto impunity for violations of human rights committed by people in positions of power and influence can occasionally be overcome if a case receives extensive external attention, including from NGOs, media, diplomats and others. Such convictions should not be taken to indicate progress towards addressing the larger problem of impunity. Rather, they show that the justice system is susceptible to external influences and lacks the integrity needed to fulfil its role effectively.

6.3 Support to victims

Observers have long raised concerns about the lack of a streamlined process for assisting trafficking victims or coordination among the actors involved. One study noted that Cambodia's anti-trafficking field is 'crowded with various government, non-government, and international institutions each administering its own response to the problem of trafficking and the challenge of victim assistance' (UNODC, n.d.). The government has, however, introduced a requirement that trafficking victims themselves must approach the government to receive the formal identification that gives them access protection services. This has, according to some CSOs, slowed down the process for victims to obtain assistance (US Department of State, 2022).

The first shelters for victims of trafficking in Cambodia were set up in the 1990s. Their purpose was to receive victims found when police raided establishments for sexual trafficking. A broader range of shelters has emerged over the years, which in addition to emergency shelters include long-term residential shelters, transitional homes, foster care arrangements and Independent Living Homes (Tsai et al., 2021). The government, as well as NGOs and external observers, recognise the current lack of shelter services for male victims of labour trafficking. However, some organisations have during the past decade started providing aftercare support to such victims, including psycho-social counselling and income-earning opportunities.

Most shelters are managed by national and international NGOs which rely on donor funding for their operations (US Department of State, 2021b). Over the years, numerous concerns have been raised about the quality of the services provided by some shelters (Devine, 2009; Tsai et al., 2021). In response to a broad agreement on the need for stricter government supervision, in 2014 the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MOSVY) issued guidelines on minimum standards for shelters for trafficking victims.³⁴ These state that international and national NGOs working to protect the rights of victims of trafficking need to have a MoU with MOSVY.³⁵ While there have been improvements since the guidelines were issued several challenges remain.

³⁴ Minimum Standards for Protection of the Rights of Victims of Human Trafficking.

³⁵ Article 5.

A 2016 study on access to mental health and psychosocial services in Cambodia by survivors of trafficking and exploitation found that there were few trained mental health specialists, that shelters were concentrated in urban areas and that there were limited services available for males, people with disabilities and those with the more serious mental health issues. Individuals exploited for labour had less access to services than victims of sexual exploitation. The study also found that an obstacle to access mental health and psychosocial services was their limited acceptability both among trafficking victims and the general population. A positive sign was a recent increase in qualified professionals, but these services were over-reliant on donor support (Aberdein and Zimmerman, 2015).

A more recent study based on focus group discussions (FGDs) with trafficking victims in several shelters found that '[w]hile survivors appreciated shelters' provision for their basic needs and educational support, they described a lack of empowerment, with decisions being made and simple tasks being completed on their behalf' (Tsai et al., 2021).

Many shelters face security challenges, as traffickers may try to find those who escape or are rescued from trafficking. This concern applies in particular to the many shelters providing short-term services in border areas. NGOs are also concerned about the government's failure to facilitate formal custody for child victims, which leaves NGOs vulnerable to court action.³⁶

Cambodia has labour attachés at its diplomatic missions in Thailand, China, Malaysia, Japan and the Republic of Korea. These attachés should protect the rights and serve the interests of Cambodian workers in these countries. The literature suggests – and interviewees also note – that the foreign missions can play important roles in assisting victims of trafficking and facilitating their repatriation to Cambodia. There is, however, also a broad consensus that the foreign missions are understaffed and under-resourced. They regularly request international organisations and local CSOs to pay for repatriation-related expenses, such as air tickets, and CSOs that do not pay for such expenses complain of difficulties in establishing cooperation with the missions (Chhun et al., 2022; US Department of State, 2021b). In countries where Cambodia has no diplomatic missions, Cambodian workers have received little or no support from the Ministry for Foreign Affairs.

³⁶ Research team interview with network of NGOs, January 2022.

7 Conclusions and Recommendations

7.1 Conclusions

The Cambodian government promotes labour migration, but the lack of a straightforward, speedy, affordable, and transparent formal system for regular migration makes Cambodian migrants vulnerable to exploitation both in Cambodia and in destination countries.

Migrants who have legal documents such as passports and work permits are at less risk of being subject to abuse, harassment and exploitation, but the slow and costly process of obtaining such documents contributes to unsafe migration.

Historically the PRAs, which control the regular migration process to most countries, have also contributed to unsafe migration and human trafficking. While there have ostensibly been some efforts to promote self-regulation, the directors or owners of PRAs themselves have often had dubious reputations. Although the PRAs have to be formally registered with the Ministry of Labour and Vocational Training, the ministry does not exercise effective oversight. Interviewees and media reports testify to the close connections between many PRAs and those in positions of political and official power. Thus, the ministry seldom imposes sanctions on the PRAs and it is very rare for the ministry to forward cases for criminal investigations.

While the Cambodian criminal justice system prosecutes hundreds of people annually for trafficking-related crimes, only minor offenders, without financial means and political connections, receive prison sentences. Historically, women have constituted the vast majority. Among foreign donors and some international NGOs concerned with human trafficking, there is a strong focus on the state's capacity to arrest and punish those involved in trafficking crimes. Although it is well known that the Cambodian justice system has limited capacity to provide justice, the interest in securing prison sentences is not always accompanied by a concern for fair trial standards and punishments being proportional to the crimes committed.

As Cambodia's already limited democratic space has been shrinking in recent years, it has become harder to obtain an accurate picture of the country's problems regarding human trafficking and the government's efforts to address them. For those who seek to strengthen the capacity of justice-sector institutions to deal with

trafficking-related issues, this should be of particular concern. Enhancing their capacity in a context in which there is no effective external scrutiny of their operations and actions may potentially do more harm than good.

In terms of victim support, Cambodia still lacks a comprehensive referral system. There is also a lack of government resources for victim support, including funding of shelters, mental health services and assistance to Cambodian trafficking victims abroad. To a large extent, this type of support is currently funded by foreign donors. While this assistance has traditionally been focused on women and girls who have been subjected to sexual exploitation, it is now recognised that there is also a need to ensure support for victims of labour-related trafficking, including male victims.

To sum up, labour migration is widespread and encouraged by the Cambodian government. However, Cambodia does not have: (i) a cheap and effective system for migration that protects potential migrants from human trafficking and exploitation; (ii) a justice system capable of holding to account those in positions of power who profit most from these actions; and (iii) sufficient resources allocated to ensure appropriate assistance to trafficking victims. Efforts to address labour-trafficking issues are undermined by broader issues regarding corruption, a culture of impunity and shrinking civic space.

7.2 Recommendations

Cases of labour trafficking are complex as they rarely categorically fit perceptions of human trafficking and there is little prospect of identifying a specific perpetrator since exploitation is often a result of the structural dynamics of labour migration and its multiple actors, rather than collusion and criminal intent among the component parts, from recruiter to transporter to employer. This calls for a response that is both nuanced and comprehensive. The following sections set out general recommendations beyond the issue of human trafficking and unsafe migration, followed by nine more specific recommendations. The recommendations are addressed principally to the Government of Cambodia, the primary duty bearer. There are also related recommendations to civil society actors and donor-funded counter-trafficking initiatives that can both support and monitor government reforms and activities.

7.2.1 Public policy reforms

- The Government of Cambodia should guarantee an efficient, low-cost migration process, ensuring that passports and other legal documents required for safe and regular migration can be obtained swiftly and at little or no cost.
- The Government of Cambodia should re-introduce legislation that prohibits PRAs from charging fees to potential labour migrants, which should be borne by the employers.

- The Government of Cambodia should ratify ILO Private Employment Agencies Convention (No. 181) of 1997.
- The Government of Cambodia should consider facilitating paths to regular labour migration other than those involving PRAs, including direct recruitment by employers. CSOs and donor-funded anti-trafficking initiatives should consider supporting and monitoring these alternative paths.
- The Government of Cambodia should introduce effective oversight and inspection of MFIs, including consumer protection principles, to ensure responsible lending practices and control over-indebtedness and related vulnerability to human trafficking.

7.2.2 Capacity development and resource allocation initiatives

- The Government of Cambodia should strengthen the capacity of the Ministry of Labour and Vocational Training to identify TiP cases and refer these to the criminal justice system. Donor-supported counter-trafficking initiatives should consider supporting and implementing activities aimed at enhancing the capacity of the Ministry.
- The Government should ensure that its law enforcement efforts are focused on those most responsible for trafficking-related crimes, and that these are guided by established human rights obligations and norms and that fair trial standards are upheld. International actors that facilitate or encourage the government's efforts to bring suspected traffickers to justice should also support the right to a fair trial, i.e. the right to a fair and public hearing, within a reasonable period of time, by an independent and impartial court.
- The Government of Cambodia should strengthen the oversight and inspection of PRAs and impose sanctions on any that fail to comply with existing legislation and contribute to unsafe migration and trafficking. CSOs and other counter-trafficking initiatives should consider supporting and implementing activities aiming at enhancing the capacity of the ministry.
- The Government of Cambodia should ensure that its diplomatic missions abroad have the capacity and resources to monitor labour conditions and assist and repatriate victims of trafficking.
- The Government of Cambodia, NGOs and donor-funded counter-trafficking initiatives should continue to support and strengthen the capacity of provincial MRCs, commune councils, trade unions and returned migrants to raise awareness about safe migration, the risks of trafficking and the avenues available for raising grievances.

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