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## Module 6

### Authority and Responsibility of States

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# Authority and Responsibility of States

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## Introduction

Over a decade has passed since the Paris Peace Agreement was signed; there have been dramatic changes in Cambodia's economic, political, and social landscape. War and conflict have ended, political stability has largely been achieved and economic growth is being spurred with infusions of external assistance and growing private sector investment. However, agriculture remains at the core of the Cambodian economy, accounting for around 43% of GDP and employing 73% of the population. Industry only accounts for 20% of GDP, but in the past decade the garment industry has become one of the most significant sectors. More than 250,000 women have migrated to the hub that has emerged around Phnom Penh so that by 2003 garments accounted for 94 % of the growth in industry, 96.5 % of Cambodia's official exports and 6 % of GDP<sup>1</sup>. Nevertheless, despite the new opportunities, in general, push factors were generally found to be more important than the attraction of higher wages in determining the reasons for migration<sup>2</sup>.

Three decades of civil conflict have left the country with enormous development challenges, and Cambodia remains among the poorest countries in Asia with around 35–40 percent of the population remaining below the poverty line, and

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<sup>1</sup> As a result investment poured in from 60 factories in 1996 to 190 by 1999 and garment exports to the US accelerated to \$751million during the same period. To curb this in 1999, the US imposed quota restrictions based upon labour standards under a bilateral textile agreement. The EU was even more generous and made Cambodian imports quota free by 2002 total exports amounted to \$1.35 billion.

<sup>2</sup> Ministry of Women's Affairs Stakeholder Analysis of Six Cambodian Provinces (2004)

15-20 percent living in extreme poverty. Compounding the poverty issue, 50 % of Cambodians are aged under 20, resulting in 150,000 to 175,000 people annually joining the labour market and this is expected to grow to 200,000 by 2010<sup>3</sup>. The rapid increase in the total labour force and the number of young people entering the labour force is putting enormous pressure on the government to generate productive employment opportunities at a time when conditions and opportunities in the rural areas are deteriorating. Unless sufficient jobs are provided many job seekers may be at risk of being trafficked while seeking irregular work mainly in Thailand.

### **Irregular Migration and Trafficking**

In provinces throughout the country, many Cambodians are struggling to meet their basic needs and are actively seeking alternative livelihood strategies that are denied to them through a combination of socio-economic problems e.g. poverty and landlessness that may have been caused or exacerbated by natural disasters such as perennial drought and flooding. In recent years, many rural Cambodians have not had enough rice to eat and cannot satisfy their other needs, such as being able to send all their children to school, pay for necessary health care and meet cultural obligations. Given the challenge of poverty, existing population dynamics, the limited absorption capacity of the local labour markets and an array of other significant socio-economic problems, an increasing number of people are being compelled to leave their communities in search of a livelihood.

For a significant number of rural people, migration is used to meet basic needs including the payment of debts and, despite the risks of trafficking and exploitation; most migrants have a positive experience from migrating. With the presence of established social networks and trusted brokers, risks of exploitation are found to be mostly en route or at the destination<sup>4</sup>. However, migrants leaving alone and without reliable information place themselves at risk and could find that they ended up doing different work from what they were promised. Cases have come to light of brokers deceiving migrants about the cost and repayment conditions of the migration services (notably the fees for travel), the type of employment and the working conditions. Dependants, mostly the elderly and the young, with the main income earner away from home, frequently face deteriorating socio-economic problems and increased vulnerability. A failure to earn can mean families enter into more debt, which in some cases results in parents trafficking their own children.

Whilst many social norms have changed and a significant number of Cambodian women have become the principal breadwinners through the presence of the garment industry and the evolving service sector, especially tourism, the experience of women migrants differs significantly from those of men because of

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<sup>3</sup> <http://www.worldbank.org.kh/>

<sup>4</sup> Ministry of Women's Affairs, Stakeholder Analysis of Six Cambodian Provinces (2004)

gender stereotypes and expectations resulting in higher levels of vulnerability. For example, women living closest to the border are most likely to migrate for a couple of months for short term seasonal work in the farming areas along the Thai-Cambodian border. However, a Cambodia Development Resource Institute Study (CDRI) study concluded that just over 27 % of long term migrants in Thailand are women and are most visible in the domestic help sector where they experience long working hours, lower wages, and overwork. Living in the employer's home they are more prone to gender based violence, including sexual harassment, rape, and verbal and physical abuse<sup>5</sup>.

Pressure for out-migration is reinforced by demand “pull factors” for migrant labourers in Thailand. Since most migrant labourers are undocumented and irregular, can be paid less, and are not in a position to negotiate for better pay or conditions, they are in high demand for “3D” (dirty, dangerous, difficult) jobs. Men generally migrate for longer-term work and, travel to Bangkok and other large cities to work in construction, factories and as transport workers, and could be away for from home for one to three years. The existence of a large wage differential between the two countries means that fisheries workers in Thailand receive 7 times the wage in Cambodia, construction workers up to 2.5 times more, and this information about wages and conditions moves rapidly along well established social networks linking Thai cities to Cambodian villages.

Cambodian men have been trafficked into horribly exploitative situations particularly in the fishing industry, but existing empirical studies in Cambodia provide only a partial and inaccurate picture of the extent and magnitude of the problem. However, in recent years trafficking as a result of migration has come onto the agenda, and whilst many people may migrate through generally safe social networks, migrants need to be made aware that a number of factors will place them in situations of potential danger of being trafficked e.g. departing the village without informing key authorities, travelling alone and without the support of a social network, or travelling with an unknown broker who is not known or trusted by the community. Generally, the key factor in successfully acquiring work is that migrant workers are employed only if the employers know them or their antecedents; thus these brokers act as unofficial employment agencies linking would be workers with employers who are often far away.

Cambodian children are trafficked primarily to neighbouring Thailand (and also to Viet Nam) mainly for begging, soliciting, street hawking or flower selling on the streets of Bangkok. Cambodian children are also seen in the relatively affluent tourist resorts such as Pattaya, Phuket and Hua Hin. As young as four years of age, these children often belong to organised trafficking networks and begging syndicates. Trafficking for different purposes can bring with it different strategies by traffickers; for example, children may be placed into debt bondage to beg or sell flowers, or may form part of organised begging rings where there is no debt

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<sup>5</sup> Chan S. and S. Sovannarith (1999), *Cambodian Labour Migration in Thailand: A Preliminary Assessment*, Working Paper 10, Phnom Penh: Cambodia Development Resource Institute (CDRI).

or economic hardship involved, only the pursuit of profit. The Cambodian Ministry of Social Affairs, Rehabilitation, and Veterans found that 76% of trafficked persons who had returned from Thailand came from families who owned land, and 93% owned their own house and had no debt on the land or house. Forty-seven percent of trafficked persons stated that their mother was the facilitator<sup>6</sup>.

Whilst trafficking for begging has been well researched, there is little research on Cambodians who have been trafficked to Thailand for sexual exploitation. Among ASEAN countries, Thailand has become a major hub in the process of trafficking. Cases have come to light of women and girls who were recruited for jobs that they believed to be legitimate, but were later trafficked for the purpose of sexual exploitation. Girls are lured from Myanmar, Cambodia, Lao PDR and South China for the sex market in Thailand; while Thai women are trafficked to more affluent destinations such as Australia, Germany, Japan, Malaysia, the Republic of Korea, and the Taiwan province of China. More recently, Cambodian women have been trafficked through Thailand to Malaysia.<sup>7</sup>

Evidence has also come to light of trafficking through international marriage. There is evidence of Cambodia women having married Chinese, Thai, Taiwanese, and Hong Kong Chinese men through organised networks and subsequently sold. However, this phenomenon remains un-researched, and no concrete information is known on Cambodia's domestic 'mail-order bride' business<sup>8</sup>.

In addition to sending workers mainly to Thailand, Cambodia is also a receiving country of migrant labour mostly from Viet Nam but also China. Unlike the Vietnamese, there are legal channels for Chinese migrants to work in Cambodia and these migrants can arrange a contract with a Cambodian employer prior to arrival. The evidence suggests that Chinese migrants largely come to Cambodia for economic reasons and often hold higher positions such as garment factory managers, supervisors or other skilled or semi-skilled positions. As a result, they normally receive higher wages than Cambodian workers. In the past few years, another aspect of Chinese migration has been the increasing use of Cambodia by criminal syndicates as a transit point in smuggling or trafficking Chinese nationals to other destinations, particularly to Europe and the United States.

Stretching back to the French colonial period, the Vietnamese are by far the largest economic migrant group in Cambodia. Modern day migration into Cambodia is a result of a mismatch between the demand and supply of labour as there are many categories of skills that Cambodian workers currently cannot fill. Cambodia needs more skilled labour, and many jobs - particularly in the

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<sup>6</sup> The Return and Reintegration of victims of Trafficking from Cambodia to Thailand 01 July 2004 – 30 March 2005 and Repatriation from Cambodia to Viet Nam of Vietnamese Victims of Trafficking from 15 May 1999 – 30 March 2005- Compiled by Ministry of Social Affairs, Rehabilitation, and Veterans staff based at the Anti-trafficking and Reintegration Office supported by the Coordination and Documentation Project, IOM Mission in Cambodia.

<sup>7</sup> IOM Cambodia has repatriated an increasing number of trafficking victims from Malaysia. Eight women were repatriated in June 2005.

<sup>8</sup> [http://www.ilo.org/public/english/bureau/inf/features/05/debt\\_asia.htm](http://www.ilo.org/public/english/bureau/inf/features/05/debt_asia.htm)

construction, engineering and motor repair trades - are filled by Vietnamese people. There are currently no reliable estimates of the number of Vietnamese migrants in the country.

Data from the Ministry of Economy and Finance indicated that roughly 1.1 million immigrants relocated to Cambodia between 1985 and 1998, most of whom were Vietnamese<sup>9</sup>. The Vietnamese in Cambodia can be divided into two groups (i) those who came between 1979 and 1988 (during the Vietnamese occupation), and (ii) those who came after 1988. The latter are mostly immediate family members or relatives of those who came in the first wave. Many come through brokers and having paid-off corrupt border officials. The key pull factor for the Vietnamese is believed to be the ongoing expansion of the services and the construction sectors, which have increased the demand for skilled labour and widened the wage differential. Skilled migrant workers can earn 2 or 3 times more money in Cambodia compared with Viet Nam<sup>10</sup>.

The impact of globalisation, economic liberalisation, the presence in the early 1990s of a 20,000 strong UN force, and the expansion of male-dominated sectors has stimulated a corresponding growth in the entertainment and sex industries. As a result many jobs available to Vietnamese women are in the sex industry, massage parlours and Karaoke bars. Trafficking to Cambodia from Viet Nam has largely concerned women and girls, and a 2003 study found that 95% of trafficked sex workers in Phnom Penh were Vietnamese<sup>11</sup>. The main problems facing Vietnamese sex workers in Cambodia are physical and health risks, security concerns because they are undocumented, and the fear of possibly of being sold to other brothels. Similarly, it seems that whilst the debt contract largely applies to Cambodians for labour exploitation, the debt contract for sexual exploitation has been shown to normally relate to Vietnamese sex workers who have been trafficked into Cambodia mainly by family members.<sup>12</sup> As a result, pressure from their families to remit money puts additional pressure on these women to comply with their exploitative situation.

### **Regional Initiatives to Combat Trafficking**

A welcome trend is that countries are increasingly becoming aware of the seriousness of the problem and looking beyond the traditional practice of punishing the victims only. For example, the Bangkok International Symposium on Irregular Migration recognized this problem and made the following recommendation in the Bangkok Declaration (1999):<sup>13</sup>

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<sup>9</sup> <http://www.mef.gov.kh>

<sup>10</sup> Most migrant workers are unskilled or semi-skilled such as construction workers and female domestic workers. These workers face numerous problems in protection in both sending and receiving countries compared to skilled workers and professionals who move with foreign capital and enjoy more bargaining power.

<sup>11</sup> Steinfatt, T. M. (2003) Measuring the Number of Trafficked Women and Children in Cambodia: A Direct Observation Field Study - Part 3 of a series (United States Agency for International Development)

<sup>12</sup> *Ibid*

<sup>13</sup> <http://www.thaiembdc.org/info/bdim.html>

*"The participating countries and region should be encouraged to pass legislation to criminalize smuggling of and trafficking in human beings, especially women and children, in all its forms and purposes, including as sources of cheap labour, and to cooperate as necessary in the prosecution and penalisation of all offenders, especially international organised criminal groups."*

Cambodia has ratified a number of the key UN Conventions relevant to migrants<sup>14</sup>, and has ratified 12 ILO Conventions, of which 7 are fundamental conventions. The ILO continues to actively promote the ratification and enforcement of C. 182 (Worst Forms of Child Labour). Refer to appendix one for a listing of current conventions<sup>15</sup>.

Cambodia has also taken steps to develop and implement national plans of action, establish national committees, pursue bilateral and regional cooperation through Memoranda of Understanding (MoUs), and issue ministerial declarations. At the national level, Cambodia expects to adopt a new anti-trafficking law and to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking during 2005.

Bilateral and multilateral agreements have been achieved through the Inter-Ministerial Committee on Trafficking which has brought together the Ministries of Foreign Affairs, Tourism, Justice, Social Affairs, Interior and Women's Affairs. This committee was responsible for negotiating a Memorandum of Understanding (MoU) on Trafficking in Women and Children between Cambodia and Thailand, which was signed in 2003. Currently, under the chair of the Ministry of Women's Affairs (MoWA), an MoU on Bilateral Cooperation for Eliminating the Trafficking of Women and Children signed between Cambodia and Viet Nam later in October 2005, and steps have also been taken to develop a MoU with Malaysia.

MoWA is also hosting the Cambodia National Secretariat of the UN Inter-Agency Project against Human Trafficking in the Greater Mekong Sub-Region (UNIAP), which provides a forum and system for sharing information, analysis, strategies, and action among the various actors concerned with trafficking issues in Cambodia and in the Greater Mekong Sub-region (GMS) – Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam.

Through the focal role of UNIAP, important steps have been taken in the effort to prevent and combat trafficking by the countries of the GMS and this process has involved Ministers from all of the six countries. For example, in November 2003, at a Senior Officials Meeting (SOM1) in Bangkok, representatives from all six

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<sup>14</sup> For example, international conventions on civil and political rights, economic and social rights, racial discrimination, discrimination against women and child rights.

<sup>15</sup> Since the ratification of 6 fundamental Conventions in August 1999 (C. 29 had already been ratified in 1969), a technical assistance programme has been implemented by the ILO to raise awareness of the fundamental conventions and the Cambodian Labour Law and to promote the application of these conventions among the key stakeholders.

countries agreed to start a consultation process. As a result, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) was established to strengthen and enhance the regional response to human trafficking. In Yangon, Myanmar in October 2004, during the COMMIT Second Senior Officials Meeting (SOM2), a Sub-regional Plan of Action was negotiated by the senior officials of the six Mekong governments. The real achievement of this meeting was the signing of a COMMIT MoU by the Ministers which provided the Plan of Action its focus and legitimacy.

### **Regular Migration and Government Policy**

In addition to the national, bilateral and multilateral initiatives to combat trafficking, the Government has taken steps to better manage migration and the worst forms of abuse associated with the exploitation of migrant labour through working to create more and broader legal channels for labour migration. Migrants have long been ignored as a development resource; instead they are often perceived either as an economic burden on countries of destination, or perhaps as a potential loss to more economically developed countries through “brain drain”.

Countries need to examine both sides of the balance sheet - benefits to host countries and benefits to sending countries. Benefits of migration cannot be conceived as a one-way flow favouring the sending country alone.

There is general agreement that migration in the future is likely to increase rather than decrease, and it should not be thought of as a transient or temporary phenomenon. Therefore, labour-receiving countries should attempt to formulate a suitable migration policy based on longer-term considerations of their labour market needs and basic human rights of migrant workers rather than on ad hoc decisions. Incentives and taxes may be levied on enterprises to discourage the perpetuation of low productive, non-competitive industries based on cheap unskilled foreign workers. At the same time, labour-sending countries should attempt to reduce undue dependence on overseas employment through efforts to reduce emigration pressures at home. The ILO has developed detailed guidelines for formulating migration policies for labour-sending and labour-receiving countries.

### **LEGAL & STRUCTURAL FRAMEWORK FOR REGULATION OF LABOUR SENDING COMPANIES**

As a sending country, Cambodia can adopt a range of policy strategies to ensure that Khmer workers migrate and work in conditions of freedom, equity, security and human dignity. Any policy, legislation or programme needs to take into account gender disparities and discrimination, and seeks to address vulnerabilities, violations of human rights and their consequences that may arise from the individual's decision to migrate (Bauer, 2006). In Cambodia, the rules

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and regulations governing the sending of Khmer workers for overseas work are contained in one policy document, i.e. Sub-decree 57 on Sending Khmer migrants to Work Abroad. The Sub-decree was adopted in 1995 by the then Minister of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MoSALVY; before they were separated in 2005) in collaboration with the Ministry of Interior and the Ministry of Foreign Affairs. The main objectives of the Sub-decree are:

To improve the living standard and vocational skills of Cambodians, and to generate national revenue through foreign earnings, by allowing Khmer workers to be sent to work abroad when the domestic labour market is unable to fully absorb the unemployed and under-employed persons.

Essentially, the Sub-decree is a guideline on the procedural measures between the Ministry of Labour and Vocational Training (MoLVT), termed as “providing party” and recruitment agencies termed as “receiving party”. Any company wishing to recruit and send Cambodians for overseas work has to first register with the Ministry of Commerce (MoC) and subsequently obtains a license with the MoLVT. The licensed company is therefore obligated to adhere to the terms and conditions as set forth in the Sub-decree. There are currently 34 license companies with the MoLVT. However in practice, only a handful is in active operation.<sup>10</sup>

As the only national policy on migration, Sub-decree 57 is a reflection of the current weakness and inefficacy of the labour migration system in Cambodia. Firstly, the sub-decree is an outdated piece of policy document which does not reflect the migration dynamics and realities of today, having been created more than 10 years ago. The provisions contained in the 22 articles of the sub-decree are rudimentary and lack clarity in the processes and in what the minimum standards should be. There are only five articles that refer (explicitly or implicitly) to the worker, namely Article 9 on employment contract, Article 10 on rights of annual leave, Article 14 on pre-departure training, Article 19 on missing worker, and Article 20 on violations of provisions. Even so, the provisions are so broad and subject to interpretation that they amount to little protection for the workers. For example, Article 10 states that workers are entitled to 1.5 day of leave per working month, which is below the international minimum standard of one rest day per week. Article 5 recommends that every worker shall be provided with social security contributions but it is unclear as to what they should be. Under Article 20 any person that violates the provisions shall be punished but there is no mention of what the penalty is. This section of the report focuses on some of the key policy strategies that could be undertaken to regulate the labour market, to ensure the well-being of migrant workers and provision of basic services, and to secure the payment of decent wages. Cambodia will be assessed in terms of what it has done and what other interventions are needed.

Cambodia has not yet achieved the economic heights of its own “brain drain” but the government is starting to recognise that regular migration can promote development and alleviate poverty. Political stability has facilitated investment

and allowed Cambodia to look seriously at bilateral arrangements for labour migration, and Cambodia's National Poverty Reduction Strategy asserts that "the government's policy is to encourage official labour exports to increase welfare, enhance skills, reduce unemployment and increase state revenues. The government's goal is to develop appropriate government policies and regulations and bilateral arrangements, which do not prohibitively raise the costs yet adequately protect the interests of export workers." (2002)<sup>16</sup>

To achieve this, it is essential to build social and economic linkages between Cambodia and its neighbours that are mutually beneficial. For Cambodia, flows of remittances and the return of migrants with new skills can result in a "brain gain". However, remittances alone are no panacea for the challenges facing Cambodia, and will not be a substitute for foreign aid, particularly as they are private funds.

The government is currently sending migrant workers to South Korea and Malaysia through official migration channels, and is also discussing the possibility of expanding to Thailand, Qatar, Brunei, and Saudi Arabia. A number of private recruitment agencies have been authorised by the government to manage the labour migration to these countries. As a result, irregular middlemen are replaced with licensed employment agencies, in theory removing the element of risk in the migration process.

Registered at the Ministry of Labour and Vocational Training (MoLVT), these agencies are required to provide pre-departure training during which they disseminate information on services available in the country of employment, emergency contact numbers, and the rights and responsibilities of migrant workers. They also are required to provide language and vocational skills training, cultural orientation, and to regularly monitor the workers to ensure their protection. Money is also remitted safely through these agencies ranging from around \$150 a month for a domestic servant in Malaysia, to a \$1,000 for a semi-skilled worker in South Korea.

### **Regular Migration to Thailand and Malaysia**

Since the early 1990s, Thailand has passed through a full migration cycle, moving from being a major source of labour to the Middle East and Asia, to becoming an important destination country for unskilled migrant workers from neighbouring low-income countries including Cambodia. In 1992, Thailand began a registration process to identify unauthorised migrants. However, registration is relatively expensive as it costs approximately 5,000 baht per year (in 2005) which is paid in some cases by Thai employers and deducted from salaries.

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<sup>16</sup> <http://www.cdc-crdb.gov.kh/default.htm>

<sup>10</sup> Only eight companies are actively sending workers to Malaysia and South Korea. No worker has been sent to Thailand or Japan yet.

## Managing Regional Public Goods: Labor Migration and Public Health

Re-registrations were organised in 1996, 1998, 1999, 2000, 2001 and 2004, in a largely failed attempt to place unemployed Thais in jobs held by migrants. In July 2004, an open registration by the Thai government revealed that there were 1,269,074 undocumented migrant workers and their dependants in Thailand: 72% from Myanmar, 14 % from Lao PDR, and 14% from Cambodia. The 2004 open registration showed that there are 181,579 Cambodian irregular migrants in Thailand: 68% men, and 32% women.

In May 2003, the Cambodian Government signed a MoU on Cooperation in the Employment of Workers. The MoU calls for the application of necessary measures to enact: (1) proper procedures for the employment of workers; (2) effective repatriation of workers who have completed their terms and conditions of employment; (3) due protection of workers so that there is no loss of rights; (4) prevention of and action against illegal border crossings, trafficking of illegal workers, and illegal employment of workers.

With financial and technical support from ILO/IPEC and the International Organization for Migration (IOM), a series of workshops have followed the signing of this MoU and stakeholders (representing government, migrant workers and employers) have agreed that a tripartite model of participation should be organised in order that Trade Unions (representing workers), employers and the government can share social responsibility for the plight of migrant workers. For example, employers' organisations can exert pressure on the recruitment industry and employers of foreign workers to prevent abuses. Networking among employers' and workers' organisations in sending and receiving countries is also to be encouraged.

The first step in opening legal channels for labour migration to Thailand, as mentioned above, is the registration of all irregular Cambodian migrant workers and issuance of work permits and identity cards; this process is ongoing. Upon completion of this exercise the Thai Government will set a quota for Cambodian migrant workers based on needs in various sectors and the 13 licensed recruitment agencies can then begin sending migrant workers to Thailand through legal channels for the first time. Problems facing Cambodian labour migrants in Thailand relate to the high registration fees (many migrants choose not to register), and wages and conditions can differ from those promised. Communication problems due to language barriers also remain problematic and workers can still be subject to abuse by the Thai authorities. As the opening of legal labour migration channels to Thailand is pending the completion of the registration exercise and issuance of a quota by the Thai government, at present no legal channels for labour migration to Thailand exist and many Cambodian migrant workers will continue to take the high risk of illegal labour migration to Thailand.

In 1997, the Royal Government of Cambodia provided its citizens with legal channels to seek employment in Malaysia. The Cambodian government signed a

labour export agreement with Malaysia in 1997 and gave two agencies, Cambodian Labour Supply and Human Resource Development, authorisation to recruit Cambodians and issue work permits. Since then, the number of licensed recruitment agencies for sending migrant workers to Malaysia has expanded to ten. A MoU for the Recruitment of Cambodian Workers is in the process of being drawn up that places Cambodian migrant workers under the relevant laws and regulations of Malaysia in terms of wages, allowances and other benefits and hours of work, outlines clear responsibilities for the employer, the licensed recruitment agency in Cambodia, and the migrant workers themselves. The Cambodian government is considering if this can become a labour export model for other countries including those in the Greater Sub-Mekong region.

According to the International Organisation, Coordination of Action Research on AIDS and Mobility (CARAM), Malaysia, there are approximately 10,000 Cambodians working in Malaysia. They hold jobs such as domestic servants, construction and factory workers, and sex workers. However, while the majority entered Malaysia with the required documentation, many later became irregular migrants, especially after leaving their original place of employment. Problems reportedly faced by Cambodians working in Malaysia include contract wages and conditions which differ from those promised, as well as communication problems due to language barriers. Cambodian women have been lured with offers of well-paid jobs (i.e. in restaurants or as house maids in Thailand); however once they arrived in Thailand they were sold and trafficked into the sex industry in Malaysia<sup>17</sup>.

In light of the ongoing problems with exporting labour, one proposal that has been put forward is to develop an information system for labour migration management as a key starting point in the successful implementation of the MoU and management of a more extensive labour export program. In response IOM, ILO and the MOLVT have developed a one-year pilot project that will aim at strengthening the capacity of the MOLVT in the management of labour migration issues and protection of migrant workers through the establishment of a database. The database will register process and monitor migrant workers, monitor key labour migration trends and provide an information base for policy development.

IOM also hopes to provide continued support to the MOLVT through a proposed project aimed at enhancing its capacity to manage labour migration issues and expand legal labour migration opportunities in a manner that will enhance the protection of migrant workers and optimize the development benefits for Cambodia. Based on a comprehensive review, a strategic plan will be developed to address labour migration issues and needs, develop and update legislation, policy and practices and implement measures for effective labour migration

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<sup>17</sup> <http://caramasia.gn.apc.org/>

management. Following from this, training will be provided to relevant Ministry staff to build their capacity in realizing the objectives of the strategic plan.

Within Cambodia, there is an increasing awareness of the issues and problems related to international labour migration. Advocacy and networks by migrant-focused organizations have brought the issue of labour migration to the attention of policymakers. The fourth Senior Officials Meeting of COMMIT which was held in May 2006 in Phnom Penh drove home the message that the problem of human trafficking has to be examined as part of the migration continuum. The Sub-Regional advisory Committee (SURAC) meeting organized by the International Labour Organization (ILO) saw the confluence of government officials, researchers, non-governmental organizations (NGOs), trade unions and business associations who share a keen interest in the issue of labour migration. The United Nations Fund for Women (UNIFEM) undertook an incremental but significant step in facilitating the discussion of labour migration in Cambodia by establishing the first Migration NGO Network (MNN) in December 2005. The MNN provides a platform for organizations and individuals interested in the issue of labour migration to come together and share information and resources. In the same vein but targeted at the ministry officials, the United Nations Population Fund (UNFPA) and the National Committee for Population and Development (NCPD) started a series of consultative meetings on migration in April 2006 which will culminate in the High-Level Dialogue on International Migration and Development in September 2006 in New York at the UN Headquarters.

### **The Road Ahead**

At the core of migration policy, countries should ensure that the basic human rights of all migrant workers, whatever their legal status, are protected by fundamental human rights instruments, including the UN Universal Declaration of Human Rights even if countries have not ratified the migrant-specific conventions. ILO conventions and UN Conventions provide ample guidelines for formulating migration policy consistent with worker rights and human dignity. Therefore, priority consideration should be given to supporting and ratifying ILO and UN Conventions or enacting legislation consistent with the spirit and letter of these instruments. At the same time, more effective regulation of the recruitment industry is needed to prevent malpractices and other abuses. Governments should also simplify procedures and regulations to facilitate migration.

In terms of trafficking and exploitation, these need to be understood in terms of the migration agenda of the poor. Such an agenda for action would not prevent trafficking harm but it would address many of the possibilities for exploitation associated with irregular migration. Firstly, it is important to consider the macro environment that creates the reasons for migrating in the first place i.e. basic needs issues, lack of jobs and skills, addressing the urban–rural income gap, and the demand for migrants from other countries. Policy incentives need to attract private investment away from urban centres, and promote small and medium size enterprises at the community level. Working bilateral and multilateral

agreements need to be put into place, and crucially, immigration policies need to be brought into line with the reality of migration; rigid immigration laws in receiving countries and the continued tendency on the part of labour-shortage countries to refuse admission to unskilled workers are a major cause of irregular and migration and trafficking.

Both domestically and internationally, Cambodia has made real progress in addressing the issues of irregular migration and trafficking. The government has instituted a number of mechanisms to combat trafficking, and this is demonstrated by initiatives such as: the establishment of an Anti-Human Trafficking and Juvenile Department by the Ministry of Interior; the training of police units concerning the sexual exploitation of women and children, and technical issues regarding law enforcement; the establishment of a national, 24 hour telephone hotline for reporting crimes and for information and referral; the establishment of an Inter-Ministerial Committee within the RGC that recognises a whole-of-government approach in tackling trafficking; and national information and awareness-raising campaigns by MoWA. Recognising that the fight against trafficking involves regional cooperation, the government has also taken a number of steps with Cambodia's neighbouring countries, such as signing MoUs.

The movement of people through regular and irregular channels is a fundamental reality, and a growing phenomenon that affects us all. All governments need to work together to safeguard the rights of migrants in a global economy, and the government of Cambodia is working towards achieving this.

Fourth Session  
Sub-Regional Advisory Committee (SURAC)  
Mekong Project to Combat Trafficking in Children and Women (TICW)  
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### **Recommendations**

The coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) process will pursue activities aimed at investigating and addressing exploitative migrant recruitment practices within the sub-region. Preliminary research conducted through the ILO-TICW project indicates that most recruitment of migrant children and young women into unskilled areas of work within sub-region takes place through informal recruitment channels. Formal recruitment services are not yet fully developed to recruit unskilled workers, particularly women and young people who are more vulnerable to trafficking, forced labour and other forms of labour exploitation. Since the Memorandums of Employment Cooperation between and among Thailand, Cambodia and Lao PDR are now providing opportunities for legal movement for employment, it has become evident that formal recruitment channels need to be safe, cost effective, fast,

easily accessible and clearly understood by session of SURAC to guide the Mekong Project to Combat Trafficking in Children and Women:

### **Law and Policy**

1. Share individual country experiences of recruitment practices, to assist countries who are in the process of drafting recruitment related laws
2. Commission a comparative study to document the ways in which countries recruit migrant workers and monitor conditions for their workers in destination countries
3. Develop consistency in the migrant recruitment regulations between and among the five Mekong countries
4. Government, employers' organizations and workers' organizations to provide information to prospective migrant workers and employers on the Memorandums of Understanding on Employment Cooperation so that they understand how the provisions apply to them

### ***Involvement of workers, employers and other concerned organizations***

5. Workers and employers organizations have a role to play in gathering information through their informal networks on recruitment practices and reporting to the government and the media
6. Develop training programs for employers', workers' and other organizations to identify, monitor and report on recruitment practices
7. Employers' and workers' organizations to develop specific plans of action for implementing the Memorandums of Understanding on Employment Cooperation with Thailand and other bilateral agreements where appropriate

### ***Awareness raising***

8. Information services to migrants should be holistic, providing not only information on safe migration practices but also including components on better and sustainable employment opportunities at home
9. The meeting highlighted the value of existing country specific awareness raising activities, particularly those involving government, workers', employers' and other concerned organizations. There were several proposals for immediate concrete measures on awareness raising targeting in-migrants, out-migrants and their agents
10. In addition, participants recognized the value of developing a sub-regional campaign with clear and consistent messages. The campaign requires increased cooperation among the different groups, governments, workers and employers

## Appendix One

### ILO Conventions Ratified by Cambodia

<b>Cambodia</b>		
<b>Member since 1969</b>	<b>12 Conventions ratified and in force</b>	
<a href="#"><u>C. 4</u></a>	Night Work (Women) Convention, 1919 (No. 4)	24.02.1969
<a href="#"><u>C. 6</u></a>	Night Work of Young Persons (Industry) Convention, 1919 (No. 6)	24.02.1969
<a href="#"><u>C. 13</u></a>	White Lead (Painting) Convention, 1921 (No. 13)	24.02.1969
<a href="#"><u>C. 29</u></a>	Forced Labour Convention, 1930 (No. 29)	24.02.1969
<a href="#"><u>C. 87</u></a>	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	23.08.1999
<a href="#"><u>C. 98</u></a>	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	23.08.1999
<a href="#"><u>C. 100</u></a>	Equal Remuneration Convention, 1951 (No. 100)	23.08.1999
<a href="#"><u>C. 105</u></a>	Abolition of Forced Labour Convention, 1957 (No. 105)	23.08.1999
<a href="#"><u>C. 111</u></a>	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	23.08.1999
<a href="#"><u>C. 122</u></a>	Employment Policy Convention, 1964 (No. 122)	28.09.1971
<a href="#"><u>C. 138</u></a>	Minimum Age Convention, 1973 (No. 138) <i>Minimum age specified: 14 years</i>	23.08.1999
<a href="#"><u>C. 150</u></a>	Labour Administration Convention, 1978 (No. 150)	23.08.1999