



CAMBODIA

## Off the Streets

Arbitrary Detention and Other Abuses  
against Sex Workers in Cambodia

HUMAN  
RIGHTS  
WATCH



## **Off the Streets**

### **Arbitrary Detention and Other Abuses against Sex Workers in Cambodia**

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## Off the Streets

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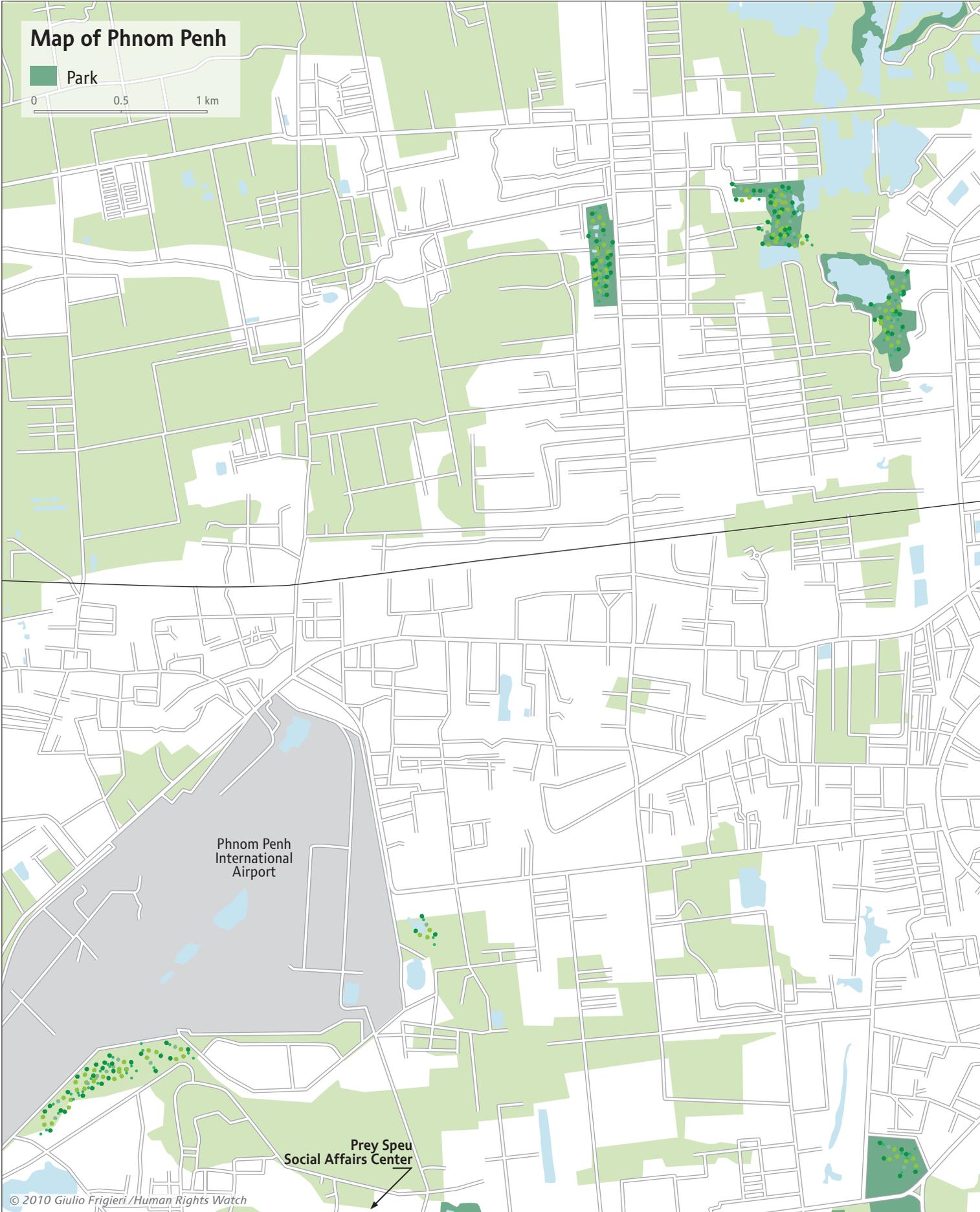
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# Maps



# Map of Phnom Penh





## I. Summary

*After questioning us, the police pushed me into a room where there was a folding bed—it is for detaining criminal suspects. I was raped by five police officers on the first night and by six other police officers on the second night. They beat me while raping me because I protested.*

—Female sex worker describing her treatment after being arrested with other sex workers near Independence Monument park in Phnom Penh

*Three police officers beat me up seriously... One of the police officers pointed his gun at my head and pulled the trigger, but the bullet did not fire. They kicked my neck, my waist and hit me on my head and body with a broom stick. It lasted about half an hour.*

—Transgender woman sex worker at a Phnom Penh police station

*Two days after my arrival, I was caught when I tried to escape. Five guards beat me up. When I used my arms to shield my face and head from their blows, they beat my arms. The guard threatened to slit our throats if we tried to escape a second time, and said our bodies would be cremated there.*

—Female sex worker detained at the Prey Speu Social Affairs center, near Phnom Penh.

In Cambodia, those tasked with upholding the law are often those who inflict some of the worst abuse. Sex workers in particular know this to be true. Women and girls involved in sex work face beatings, rape, sexual harassment, extortion, arbitrary arrest and detention, forced labor, and other cruel and degrading treatment at the hands of police, public park security guards, government officials, and those working in the centers and offices run by the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY).

Sex workers told Human Rights Watch that police officers beat them with their fists, sticks, wooden handles, and batons that administer electric shocks. Police officers also threatened sex workers with guns. In several instances, police officers raped sex workers while they were in police detention. Some sex workers described being detained in Social Affairs centers under horrific conditions, with restricted freedom of movement, experiencing or witnessing beatings or rapes, and inadequate food and medical care.

Violence and most other abuses perpetrated by police appeared to be worse in Phnom Penh than in Battambang, Banteay Meanchey, and Siem Reap, the other provinces where Human Rights Watch conducted research. Police officers in stations in the districts of Daun Penh and Chamkar Mon in Phnom Penh were particularly abusive. These stations have the most interaction with sex workers because they are located close to the public parks frequented by many sex workers.

Police extortion and demands for bribes were common in all provinces where Human Rights Watch conducted research. Police officers sometimes forced sex workers to pay a sum of money, or in the worst cases, forced sex workers to have sex with them in exchange for being released. Sex workers told Human Rights Watch that police took their money and other valuables. Every sex worker that we spoke to, including children involved in such work, had paid bribes to the police at some point.

In Phnom Penh, police are not the only security force abusing sex workers. Sex workers also reported to Human Rights Watch incidents of violence involving municipal security guards at public parks. In November 2009, Nika described a recent beating by security guards—who are employees of the Phnom Penh Municipality—at the park near the Old Market in Phnom Penh. She said:

First one guard came and kicked me... then three other guards came. Two guards held my arms while the other two beat me. They slapped me in the face. They seemed a bit drunk. They beat me with bamboo sticks and their radio on my head and all over. They ripped my clothes. The police came by, but they didn't do anything, the guards continued to beat me for almost half an hour. Many people saw but everyone was too scared to intervene. The head of the security told the other guard if they see me there again, they should beat me to death.

Some of the incidents of violence, illegal arrest and detention perpetrated against sex workers are opportunistic. Working on the streets and in parks, sex workers are easy prey for police and park guards who know they will never be held accountable for the abuses they commit. Other abuses commonly occur in periodic crackdowns and raids by police and district authorities, at times targeting sex workers specifically, and other times targeting sex workers amongst other groups of marginalized people visible on the streets.

Sex workers face numerous dangers in the course of their daily work such as violence, rape, robbery, sexual harassment, and other abuses committed by clients, other individuals and

state actors. This report only looks at the specific situation of abuses by police, municipal park guards and employees at government-run Social Affairs centers.

The authorities do not generally make distinctions between adults who are trafficked and those who voluntarily engage in sex work. They send all sex workers, including victims of trafficking and children, to the Municipal Office of the MOSAVY, who then refer them to nongovernmental organizations (NGOs) or government Social Affairs centers (administered by the MOSAVY). Only the specialized anti-trafficking police distinguish victims of trafficking and children from voluntary sex workers, and send trafficked women and children to specific anti-trafficking shelters. However, according to sex workers, even members of the anti-trafficking specialist unit in Phnom Penh have been involved in trying to extort money from sex workers. Most of the street sweeps are conducted by commune, district or municipal regular public order police.

### **Abuses at Social Affairs Centers**

The police or municipal MOSAVY officials often send sex workers and others caught up in raids to government Social Affairs centers or to shelters run by NGOs. In 2008, local human rights groups and the United Nations Office of the High Commissioner on Human Rights (OHCHR) documented abuses and conditions in two government Social Affairs centers, Koh Kor (or Koh Rumdoul) and Prey Speu, including suspicious deaths, rape, torture, beatings, and illegal restrictions on freedom of movement.

The centers are effectively squalid jails. In June 2008, the government released all the detainees from the Koh Kor facility, located on an island that was a former Khmer Rouge detention facility. Currently, that center is inactive, and not receiving any detainees, although one or two center staff persons remain living there.

Sex workers, beggars, drug users, street children, and homeless people held at Prey Speu have reported how staff members at Prey Speu have beaten, raped and mistreated detainees, including children. Sex workers detained in Prey Speu as recently as June 2010 were locked in their rooms, and only able to leave their rooms to bathe twice a day in dirty pond water or, accompanied by a guard, to go to the toilet. The center has inadequate facilities, poorly trained staff, and no rehabilitation program.

Bopha has been arrested several times. She described to Human Rights Watch one incident in 2008 where district police arrested her. When she refused to give them money, they threw her in a truck belonging to MOSAVY and sent her to Prey Speu. She said:

My nine days in the Prey Speu center were worse than living in hell. Upon arrival, the guard hit me twice on my buttocks with a wooden stick ... the food was awful... the drinking water came from a pond... a basket in the room served as a toilet... One night the guard came to have sex with two beautiful women next to me in the room. These women were released the next day... I am HIV positive but I had missed my ARVs [anti-retrovirals] for those days.

As a result of persistent advocacy by sex worker and human rights groups about abusive conditions in the Prey Speu center, in July 2009 MOSAVY announced that it would no longer send sex workers there.<sup>1</sup> Instead, sex workers picked up by the police were to be sent to NGOs offering support services.

However, Human Rights Watch has learned that at least 20 sex workers have been detained at Prey Speu since July 2009. While this does reflect a reduction in the number of sex workers detained there since 2008, given the difficulties in accessing the center this number should be considered an absolute minimum. And while sex workers have been sent to NGOs as a result of pressure by sex worker groups, others including the homeless have continued to be sent to Prey Speu. Sex workers detained at Prey Speu in June 2010 told Human Rights Watch that Social Affairs center staff warned them that they would be detained up to three months in Prey Speu should they be arrested and sent to the Social Affairs office a second time.

Human Rights Watch is concerned that Prey Speu remains open. Given the lack of political commitment by the Cambodian government to address the serious abuses against residents of these facilities, Human Rights Watch believes that both centers at Koh Kor and Prey Speu should be permanently closed.

The NGOs running shelters that accept sex workers referred by MOSAVY have varying standards and operational procedures, but conditions are well above those in the government Social Affairs centers. Most do not detain adults, but offer services and choices on a consensual basis.

However, in 2009, some sex workers told Human Rights Watch that two NGO shelters had arbitrarily detained them for periods of several days to several weeks. Two HIV-positive sex workers also reported that one of the NGOs had denied their request to have antiretroviral

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<sup>1</sup> Yun Samean and Bethany Lindsay, "Rights Group Accuses Gov't of Punishing Phnom Penh's Poor," *Cambodia Daily*, July 27, 2009.

(ARV) medicine. The NGOs in question denied that anyone was held against their will, while also arguing that they needed sufficient time to counsel the women and girls in order to convince them to stay. NGOs, of course, have no legal right to hold any person against their will, and even holding someone for a period of hours or days constitutes unlawful deprivation of liberty. The NGOs in question have since informed Human Rights Watch that they have changed their policy and no longer detain any individuals, even for brief periods. No new cases of NGO detention have been reported to Human Rights Watch in 2010.

## **Periodic Sweeps and Crackdowns**

While crackdowns against sex workers by police and other authorities garnered significant media attention in 2008 and 2009, such crackdowns have gone on for many years. Numerous justifications have been given for these periodic sweeps.

One reason given by local authorities is in order to “clean the streets” and maintain social order. Sex workers as well as homeless people, street children, beggars, and people who use drugs on the streets of Phnom Penh, are rounded up and detained in operations authorized by the governor and vice-governor of Phnom Penh.

Municipal authorities have also publicly stated that sex workers are arrested and detained in order to prevent the spread of HIV. For example, a few days ahead of the annual Cambodian “Water Festival” on October 29, 2009, Sok Penhvuth, the deputy governor of Daun Penh district, justified the arrest of 17 sex workers sent to the Office of Municipal Affairs by saying, “We don’t want to see the boat racers bring diseases such as HIV/AIDS back to their wives. We want to protect the men in case they get caught up in the festivities and forget about health and safety.” Street sweeps and raids on entertainment venues tend to increase around high-profile regional or international events in Phnom Penh and important public holidays such as the Khmer New Year (mid-April) and Water Festival (late October early November).

Another reason is the sporadic interest of the authorities in combating prostitution and vice, often driven by donor interests and the conflation of trafficking with sex work.

## **Conflating Trafficking with Sex Work**

Human trafficking of women and girls into sex work is a problem in Cambodia, fuelled by corruption and a lack of political will to prosecute traffickers. Despite government and nongovernmental efforts to raise awareness and protect victims of trafficking, women and girls still continue to be trafficked within Cambodia.

Counter-trafficking efforts have had both positive and negative consequences. Some government initiatives have focused on trafficking and sex work together, and sought to eliminate sex work as a means of combating trafficking. In 2007, the Ministry of Interior led a campaign against trafficking and sex work in which it called on police to crack down on entertainment venues where women and children were selling sex. Police and other officials in Phnom Penh conducted large scale sweeps of sex workers from the streets and parks of Phnom Penh. The police also closed down many brothels across the country.

In February 2008, Cambodia passed the Law on Suppression of Human Trafficking and Sexual Exploitation, with urging from foreign donors, especially the US. The then-Bush administration of the United States had pushed Cambodia to adopt a comprehensive anti-trafficking law, through the US State Department's annual assessment of trafficking in Cambodia.

The anti-trafficking law has had some positive aspects in seeking to criminalize specific acts in line with international standards, including forced sex work and other forms of forced labor. However, aspects of the law criminalizing sex work have had a more negative effect, facilitating police harassment, violence and extortion of bribes from sex workers, trafficked persons and children in sex work. Criminal provisions on "soliciting" by adult sex workers, and an over-broad definition of "procurement" to cover activities "assisting or protecting the prostitution of others" as well as acts "hindering the act of prevention, assistance or re-education" of sex workers risk criminalizing the legitimate exercise of fundamental rights, such as advocacy on the parts of sex workers or outreach activities.

These additional offenses on the books provided added justification for more intense sweeps throughout 2008 and 2009. However, despite a focus on anti-trafficking efforts, in none of the cases of arrest investigated by Human Rights Watch was any attempt made by police to distinguish between women and girls who were voluntarily engaged in sex work and those who were victims of trafficking. Sex workers were simply detained by police, sent to the municipal MOSAVY office and eventually transferred either to NGOs or Prey Speu.

Before the 2008 law was passed, police who arrested sex workers could not charge them with soliciting as it was not an offense. Cambodia's earlier anti-trafficking law, the 1996 Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Beings, criminalized third-party involvement in prostitution such as pimping and "opening a place for committing debauchery or obscene acts."

Since the 2008 law came into effect, police officers regularly threaten to invoke the “soliciting” provision as a means of extorting money from sex workers, telling them that if they fail to pay they can go to jail or be forcibly sent to a government shelter because their work is illegal. In practice, there is little evidence that the law is actually enforced as intended, or that prosecutions are pursued. Instead, the law seems to be used mainly as a convenient excuse by police to rationalize further illegal actions against sex workers.

In 2008, HIV/AIDS activists, health workers and sex worker groups have all raised concerns about increased abuses by authorities, and their difficulty in accessing sex workers—many of whom were driven underground because they feared arrest.

To address the concerns of sex workers and activists about abuses, including those resulting from the new law, in November 2008 the government’s High-level Inter-agency Anti-Trafficking Task Force issued “Guidelines on Implementation of the Law on Trafficking and Sexual Exploitation.” According to these guidelines, the rights of victims of trafficking and sex workers are to be respected. The guidelines state that sex workers are to be regarded as “victims of procurement for prostitution. Prostitution is not a crime; thus individual prostitutes are not punished as offenders under the new legislation.”

While these efforts are positive in providing some direction on how the law should be implemented, the guidelines skirt the issue of the soliciting provision and as always, implementation remains a problem. Explanatory notes on the 2008 law are also in the process of development.

The US is one of Cambodia’s largest bilateral donors and a major supporter of anti-trafficking efforts. Under the previous Bush administration, the US bears some responsibility for supporting and pushing for enforcement of laws criminalizing sex work without adequately considering the local context—one in which police have long committed abuses against sex workers with impunity.

Cambodia is plagued by not only by widespread abuses committed by officials, but impunity for perpetrators. To date, not a single police officer, security guard, government official or employee at MOSAVY shelters has been held accountable for crimes committed against sex workers. Widespread abuses of power and impunity lead victims, including sex workers who have been abused by the police or other authorities, to be either too afraid or to have too little faith in the criminal justice system to file criminal complaints. This impunity is common in Cambodia, yet it has to be broken for the rule of law to ever take hold.

Against this background, Cambodia should also review its laws and policies regarding trafficking and sex work. Rather than protecting victims of crimes such as trafficking and forced prostitution, these laws and policies are often taken advantage of by abusive officials.

## **Key Recommendations**

Human Rights Watch recommends to the Cambodian government:

- Stop the arbitrary arrest and detention of sex workers—including women, men, children, and transgender—victims of trafficking, and others including people who use drugs, homeless people, beggars, street children and mentally ill people.
- Establish a special commission to conduct independent, thorough investigations into all acts of violence and extortion by law enforcement officials, park officials, and staff or volunteers in Social Affairs centers. The commission should be established promptly, have the power to subpoena witnesses and produce a public report. It should be empowered to make recommendations for criminal investigations to ensure perpetrators are brought to justice for their crimes.
- Permanently close Prey Speu and Koh Kor and other Social Affairs centers where people are detained in violation of international and national law.
- Until the pervasive problem of police abuse of sex workers is tackled, suspend the provision on “soliciting” in the Law on Suppression of Human Trafficking and Sexual Exploitation. The provision gives police more leverage to extort money and commit violent acts against sex workers and has facilitated abuses.
- Consult with sex worker groups in order to jointly develop programs and services that can empower sex workers and accurately reflect their needs. Areas include legal assistance, health care, child care, and vocational training if identified by sex workers as relevant.

## II. Methodology

This report is based on research conducted in Cambodia between July 2009 and April 2010. Detailed interviews were conducted in Khmer language with sex workers in Phnom Penh, and in the provinces of Battambang, Banteay Meanchey, and Siem Reap. We met with 94 sex workers, aged between 16 and 45 years, in the streets, parks, brothels, and rented rooms where they live, and in the offices of NGOs working with sex workers. This includes seven male-to-female transgender sex workers. The rest of the interviewees were female. No attempt was made to interview male sex workers because preliminary interviews with sex workers and human rights groups indicated that male sex workers were not picked up in the sweeps and raids that were the focus of this report.

At least five interviewees were children.<sup>2</sup> Three told Human Rights Watch they were 18, but proved to be 16 or 17 when their documents were seen. Because we were unable to verify the documents of all sex workers whom we interviewed, it is possible that other interviewees were also children, but represented themselves as being older due to fear of being sent to a children's home. At least six of the adults interviewed were children when they entered sex work; at least one interviewee was as young as 13. Sex work is one of the worst forms of child labor, and therefore prohibited for minors.

Of the 94 sex workers we met, we conducted detailed individual interviews with 51 and held more informal conversations and group discussions with 43 sex workers.

In Phnom Penh, we conducted detailed individual interviews with 38 sex workers, including four transgender women. We held group discussions with two groups of sex workers and bar hostesses referred to an NGO shelter from the Office of Municipal Social Affairs,<sup>3</sup> as well as members of sex worker associations, and other NGOs supporting the rights of sex workers.

In the provinces of Battambang, Banteay Meanchey, and Siem Reap, Human Rights Watch conducted 13 detailed individual interviews and held conversations with dozens of sex workers in the parks and in the streets.

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<sup>2</sup>In this report, the words "girl" and "child" are used to refer to anyone under the age of 18. The Convention on the Rights of the Child states: "For the purposes of the present Convention, a child means every human below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, acceded to by Cambodia October 15, 1992.

<sup>3</sup>The women were working as hostesses in a bar an arrested during a raid of the bar by the anti-trafficking police. They were sent to the Office of Phnom Penh Municipal Social Affairs and the next day to an NGO shelter.

Human Rights Watch also interviewed representatives from the United Nations, donors and NGOs working on sex work, trafficking and human rights, including those running shelters.

The names and identifying details of those with whom we met have been withheld to protect their safety. We use pseudonyms throughout for all sex workers mentioned in the report. All those interviewed were informed of the purpose of the interview, its voluntary nature, and the ways in which the information would be used. All interviewees provided oral consent to be interviewed. All were told that they could decline to answer questions or could end the interview at any time.

Other sources we consulted included Cambodian government documents, laws, and policies, NGO reports, news articles from Cambodian and international media, and interview transcripts from Cambodian human rights organizations.

This research focused specifically on abuses committed by police, public park security guards and staff associated with the centers and offices of the Ministry of Social Affairs. It is beyond the scope of this report to consider trafficking, violence, and other abuses that sex workers face at the hands of clients or others; nor did we specifically research the government's compliance with its responsibility to protect children from prostitution and to identify, remove, and provide appropriate assistance to children involved in sex work.

Human Rights Watch sought the perspective of the Cambodian government in a letter sent to the Ministry of the Interior and the Ministry of Social Affairs, Veterans, and Youth Rehabilitation on April 19, requesting information and to solicit a response to the violations we had documented. This letter is attached in the Appendix. At this writing, Human Rights Watch had received no response.

### III. Sex Work in Cambodia

#### Numbers and Origins

Exchanging sex for money has gone on for decades in Cambodia. In the repressive Khmer Rouge period from 1975-1979, the Khmer Rouge practically eliminated sex work. At that time, the Khmer Rouge was attempting by force to create an agrarian society—killing elites, intellectuals, and anyone suspected of free market activities. Some 1.5 million Cambodians were murdered. Any acts deemed immoral (*khos sel'thor*) including prostitution, premarital sex, sex between same sex couples, and adultery were punishable by death.

During the People's Republic of Kampuchea period (1979-1989), when Cambodia was occupied by Vietnamese troops, sex work was strictly controlled. The authorities routinely arrested and detained sex workers, sending them to the former Khmer Rouge detention facility on Koh Kor island in Koh Kor village, Kandal province. Since 1981, the facility has been administered by the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY). As recently as 2008, the ministry was using the facility to detain sex workers (see subheading “Abuses at Government Social Affairs Centers” under section IV).

With the arrival of tens of thousands of peacekeeping personnel in 1992 as part of the United Nations Transitional Authority in Cambodia (UNTAC), sex work became more visible, with red light districts opening in different parts of Phnom Penh and the provinces, and demand for sexual services from both local and foreign men. The clients of sex workers in Cambodia are primarily Cambodian men.

Sex workers working in brothels are generally referred to as “direct” sex workers in Cambodia. A brothel is usually a small house employing 1-20 sex workers. It is often run by a manager, also known as a madam (if female). Some sex workers are employed directly by the manager while others simply rent a room in a brothel to conduct sex work. Many brothels have a sign saying “massage and/or coining.”<sup>4</sup>

“Indirect” sex workers work in massage parlors (which offer both regular and sexual massage services), karaoke bars, bars, restaurants, and nightclubs. These venues usually employ women who may be taken off the premises by customers for a fee. Sex usually takes

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<sup>4</sup>Coining is an alternative medicine treatment common in Southeast Asia like massage, which consists of rubbing heated oil on the skin, most commonly the chest, back, or shoulders, and then vigorously rubbing a coin over the area.

place somewhere else, often in a hotel. In rural areas, karaoke bars are often façades for brothels and they may have rooms at the back of the business, functioning similarly to a brothel. Sex workers also work in the street or public parks, either independently or sometimes for a manager. Hostesses, masseuses, or beer promoters<sup>5</sup> may also engage in sex work from time to time.<sup>6</sup>

There are no exact figures on the number of sex workers in Cambodia. Making such estimates is difficult, especially since many aspects of sex work are illegal. Some figures have gained credence through continued use though the methodology by which they were obtained has never been clarified.<sup>7</sup> An academic study by Thomas Steinfatt funded by USAID in 2003—one of the few studies using statistical estimations based on actual counts—concluded there are about 20,829 direct and indirect female sex workers in Cambodia, with 5,250 in Phnom Penh.<sup>8</sup> Of this number, the majority are over 18 years of age.<sup>9</sup> A 2006 report by the Ministry of Health says there are 6,000 direct female sex workers and 26,000 indirect female sex workers.<sup>10</sup> Many sex workers are ethnic Vietnamese.<sup>11</sup> In addition, there are male-to-female transgender sex workers and male sex workers, but exact figures are not available.

While some women enter sex work voluntarily, others are trafficked or coerced. Steinfatt estimates that of a sample of 20,829 female sex workers, 2,488 women and children are trafficked for sex work in Cambodia, or approximately 12 percent. This is similar to a 2006 study conducted by White, Sidedine, and Mealea amongst 250 brothel based sex workers

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<sup>5</sup>In Cambodia, beer promoters, commonly known as “beer promotion girls” are employed by beer companies to serve beer in karaoke venues, restaurants and bars.

<sup>6</sup>UNESCO (Bangkok), Jan W.de Lind van Wijgaarden, “The organization of sex work in contemporary Cambodia: Implications for HIV prevention and care,” 2002, [http://74.125.153.132/search?q=cache:zj-w6\\_ZDdVsJ:www2.unescobkk.org/hivaid/fulltextdb/aspUploadFiles/Sex%2520work%2520paper%2520organization%2520and%2520AIDS.doc+different+types+of+sex+work+%22Cambodia%22&cd=3&hl=en&ct=clnk](http://74.125.153.132/search?q=cache:zj-w6_ZDdVsJ:www2.unescobkk.org/hivaid/fulltextdb/aspUploadFiles/Sex%2520work%2520paper%2520organization%2520and%2520AIDS.doc+different+types+of+sex+work+%22Cambodia%22&cd=3&hl=en&ct=clnk) (accessed April 11, 2010). Sex work in Cambodia organizes in different ways: brothel based sex workers, Karaoke-based sex workers, street walkers, Freelance – ‘opportunistic’ sex workers, direct, and indirect sex workers.

<sup>7</sup>Steinfatt, T. “Measuring the number of Trafficked Women and Children in Cambodia: A Direct Observation Field Study,” sponsored by USAID, Phnom Penh, October 6, 2003, p.2. <http://slate.msn.com/Features/pdf/Trfciiif.pdf> (accessed April 11, 2010). This study refers to the frequently quoted figure of 80,000 – 100,000 sex workers in Cambodia in various NGO reports as questionable because of a lack of information about how this number was calculated.

<sup>8</sup>Ibid., p.25.

<sup>9</sup>Ibid., the study notes that of a sample of 5,317 sex workers, 198 were below the age of 18 or 3.4 percent.

<sup>10</sup>Ministry of Health, Cambodian National Center for HIV/AIDS, Dermatology and Sexually Transmitted Diseases, Report of a Consensus Workshop, “HIV Estimates and Projections for Cambodia 2006 -2012,” June 25-29, 2007, [http://data.unaids.org/pub/Report/2008/Cambodia\\_hiv\\_estimation\\_report\\_2006\\_en.pdf](http://data.unaids.org/pub/Report/2008/Cambodia_hiv_estimation_report_2006_en.pdf) (accessed April 11, 2010).

<sup>11</sup>Steinfatt, “Measuring the number of Trafficked Women and Children in Cambodia: A Direct Observation Field Study,” October 6, 2003.

(all female), which found that 14 percent were trafficked, whereas 86 percent chose sex work on their own.<sup>12</sup>

People engage in sex work for a variety of reasons that are not unique to Cambodia. One primary reason is economic. Cambodia is one of the poorest countries in South East Asia, ranking 87 among 135 countries on the UN's Human Poverty Index, well below Burma at 77.<sup>13</sup> In Cambodia, 40 percent of the population earns less than \$1.25 a day.<sup>14</sup> The net enrollment ratio for girls in secondary school is 28 out of every 100 girls of secondary school age. In the current economic climate, women face even more limited employment opportunities and sex work may seem an attractive economic option.

According to a 2004 Asia Development Bank report, "gender inequalities are endemic in Cambodia's labor markets. Traditional attitudes towards girls' education and 'appropriate' occupations for women and men have shaped existing inequalities and continue to perpetuate disparities in employment."<sup>15</sup> The report confirms that most employed women in Cambodia work in the garment or informal sector.<sup>16</sup> While a textile and garment factory worker will earn between \$45 to \$80<sup>17</sup> per month, a sex worker can earn a monthly income ranging from \$90 to \$160.<sup>18</sup> Among those interviewed by Human Rights Watch, many entered sex work as a result of economic pressures (often arising from health problems of family members or landlessness) and a lack of other opportunities for education and employment.

A number of women who were initially trafficked into sex work escaped that exploitative situation, and then continue to engage in sex work voluntarily. Some of these women are now active members of the sex workers rights movement in Cambodia. Stigma and discrimination against sex workers in Cambodian society, combined with a lack of viable

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<sup>12</sup>Joanna White, Lim Sidedine, and Ke Kantha Mealea, *The Situation of Female Sex Workers and Entertainment Workers in Cambodia: Findings of a Quantitative Study*, (Phnom Penh: Center for Advanced Study), 2006.

<sup>13</sup>UNDP, "Human Development Report 2009: Cambodia," 2009, [http://hdrstats.undp.org/en/countries/country\\_fact\\_sheets/cty\\_fs\\_KHM.html](http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_KHM.html) (accessed June 16, 2010).

<sup>14</sup>UNDP, "Human Development Report 2009," [http://hdr.undp.org/en/media/HDR\\_2009\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf), (accessed July 7, 2010).

<sup>15</sup>UNIFEM, the World Bank, ADB, UNDP and DFID/UK, in cooperation with the Cambodian Ministry of Women's and Veterans' Affairs, "A Fair Share for Women: Cambodia Gender Assessment," April 2004, p.6., <http://www.adb.org/Documents/Reports/Country-Gender-Assessments/cga-cam.pdf> (accessed April 11, 2010).

<sup>16</sup>Ibid.

<sup>17</sup>Cambodia Institute of Development Study, "Living Wage Survey for Cambodia's Garment Industry," February 2009, [http://www.fes.or.id/fes/download/Survey\\_Result\\_Cambodia.pdf](http://www.fes.or.id/fes/download/Survey_Result_Cambodia.pdf) (accessed April 11, 2010).

<sup>18</sup>Cambodian Alliance for Combating HIV AIDS, results of action research entitled "Policies Environment regarding Universal Access and the right to work of entertainment workers/sex workers," released in July 2009; p. 9.

economic alternatives, means sex workers and victims of trafficking often feel they have few options but to continue this work. As Makara, age 22, told Human Rights Watch:

I was sold to a brothel in Phnom Penh for \$500 in 2001 [when she was age 14]. When I left the brothel I did not see myself fit for any other alternative job. My family is so poor that I could not depend on them, so I became a prostitute since then. The money I earn from sex work is to feed myself, my child and my husband who is a junk scavenger.<sup>19</sup>

None of the transgender women interviewed by Human Rights Watch had been trafficked. But all of them described a combination of poverty and discrimination on the basis of their gender identity and gender expression as a reason for entering sex work. As Srey Keo told Human Rights Watch:

I left home due to discrimination against me by my parents because of my transgender nature. I became a sex worker after I left home and followed my friends to earn my living through sex.<sup>20</sup>

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<sup>19</sup>Human Rights Watch interview with Makara, 22, Phnom Penh, August 6, 2009.

<sup>20</sup>Human Rights Watch interview with Srey Keo, Phnom Penh, November 6, 2009.

### **Civil Society Involvement with Sex Workers**

In Cambodia, a large number of nongovernmental organizations work on issues affecting women and children. Some of these organizations focus on assisting victims of trafficking and other forms of violence against women, some focus on specifically children or women's rights, and a few focus specifically on supporting the rights of sex workers. NGOs providing shelter services to victims of violence play a vital role in providing much-needed services, particularly in a country like Cambodia, where government services are inadequate or virtually non-existent. NGO-run shelters have made a positive contribution by helping victims of abuses overcome trauma and learn new skills, and by assisting police and courts to prosecute traffickers and abusers.

However, there are questions over whether NGOs always respect the human rights of those they are seeking to protect. For instance, some NGO shelters have had long-standing policies (until recently) which forced trafficking victims and sex workers to stay in shelters against their will.

In addition to NGOs that focus on trafficking and protecting women from violence, since 1998 several membership organizations have been set up by and for sex workers, initially with support from other NGOs. These organizations play a vital role in representing the interests of sex workers, providing advice and support to their members, HIV outreach, and advocating on behalf of sex workers with the government, other NGOs, and multilateral institutions. The largest, Women's Network for Unity, was formed in 2000 and has at least 5,000 members in 13 provinces in Cambodia. Others include the Cambodian Prostitutes Union and the Network Men Women Development Cambodia (CNMWD) which focuses on transgender sex workers.

### **Sex Work under Current Cambodian Law**

Article 46 of the 1993 Cambodian Constitution states, "The commerce of human beings, exploitation by prostitution and obscenity which affects the reputation of women shall be prohibited." Currently, many acts connected to sex work are illegal in Cambodia under a law passed in 2008 covering trafficking and sex work. For instance, soliciting and any acts by third parties assisting in the prostitution of others are crimes.

Until recently, Cambodia's legal framework was based largely on the law drafted by the United Nations Transitional Authority in Cambodia (UNTAC).<sup>21</sup> The 1992 UNTAC law criminalized third party involvement in child prostitution, but had no provision criminalizing any aspect of adult sex work.<sup>22</sup>

The UNTAC law was supplemented by additional laws in 1996 and 2008 that criminalized additional aspects of sex work. The Law on the Suppression of Kidnapping, Trafficking and Exploitation of Human Beings adopted in 1996 in addition to criminalizing trafficking of women and children for prostitution, also criminalized third party involvement in prostitution, such as pimping and debauchery—establishing “a place to commit debauchery or obscene acts.”<sup>23</sup> These two offenses in the 1996 law provided a legal basis for police to raid brothels or other entertainment establishments where sex work was likely taking place. Debauchery is not defined in the law and the offense is not revised in the 2008 law. In October 2008, the UNTAC law was replaced by the new Penal Code.<sup>24</sup>

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<sup>21</sup>UNTAC was established in Cambodia in 1992 to ensure implementation of the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991. Amongst other issues, UNTAC's mandate included responsibility for human rights and the maintenance of law and order.

<sup>22</sup>Article 42 (3) UNTAC law states Any person who procures, entices or leads away, for purposes of prostitution, or sexually exploits a minor, even with the consent of that minor, shall be liable to a term of imprisonment of two to six years.

<sup>23</sup>Kingdom of Cambodia, Royal Decree No. 0296/01, The Law on the Suppression of Kidnapping, Trafficking and Exploitation of Human Beings, Adopted by the National Assembly on January 16, 1996; Law on the Suppression of the Kidnapping and Trafficking of Human Persons and Exploitation of Human Persons 1996, art. 4. A pimp is anyone who supports or protects the prostitution of others with knowledge before the assistance or support of the prostitution; who regularly shares in the proceeds derived from prostitution; who solicits clients for him/her or them for the purpose of prostitution; in whatever form; or trains or coaxes, by whatever means, a male or female to engage in prostitution or acts as a middleman, in whatever form, establishing contacts between male/female prostitutes and the brothel-keeper or the provider of profit for the prostitution of other persons; or allows a male or females to live at his/her house or any other place for the purpose of engaging him/her in prostitution for his/her profit; Law on the Suppression of the Kidnapping and Trafficking of Human Persons and Exploitation of Human Persons 1996, article 7, states, “Any person who opens a place for committing debauchery or obscene acts shall be punished by imprisonment from one (1) to five (5) years and by a fine of five million (5,000,000) riel to thirty million (30,000,000) riel. In the case of repeated offenses, the above punishment terms shall be doubled.” Article 8 states “Any person who commits acts of debauchery involving a minor below 15 years old, even if there is consent from the concerned minor, or even if the person has bought such minor from someone else or from a pimp, shall be punished by ten (10) to twenty (20) years in prison. In case of repeat offenses, the maximum punishment term shall be applied. And the court may, in addition to the above principal punishment, apply a sub-punishment by restriction of civil rights and by the non-authorization of residence.”

<sup>25</sup>Law on Suppression of Human Trafficking and Sexual Exploitation, *The Kingdom of Cambodia*, No. 140 c.l., February 15, 2008, art. 50. states that the Law on Suppression of the Kidnapping and Trafficking of Human Persons and Exploitation of Human Persons, which was promulgated by Royal Kram No:cs/rkm/0296/01 shall be repealed by this law. This law shall prevail if a provision of any other law is in contradiction with the provisions of this law. (“Law on Suppression of Human Trafficking and Sexual Exploitation 2008”).

In February 2008, the Cambodian government adopted the Law on Suppression of Human Trafficking and Sexual Exploitation, which had the effect of repealing the 1996 law.<sup>25</sup> On sex work, it criminalized third party involvement in sex work, child prostitution, and soliciting.

According to its drafters, this law aimed to bring Cambodia in line with several treaties, namely the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which was ratified by Cambodia in May 2002, and also the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons (hereafter Palermo Protocol), which Cambodia ratified in 2006.

In the foreword to the 2008 law, the minister of justice stated that the new law was needed since the 1996 law “had a lot of gaps” and was not effectively enforced.<sup>26</sup> The Ministry of Justice in collaboration with the Japanese Institute for Legal Development and with financial support from UNICEF Cambodia, re-drafted the new Law on Suppression of Human Trafficking and Sexual Exploitation.<sup>27</sup>

The 2008 law adopts the Palermo Protocol’s definition of trafficking, giving law enforcement officials additional grounds to arrest and convict traffickers. The 2008 law breaks down the individual elements of the act of trafficking in the Palermo Protocol, making each wrongful element a crime such as unlawful removal,<sup>28</sup> unlawful removal of a minor,<sup>29</sup> unlawful removal “with purpose,”<sup>30</sup> the act of buying, selling or exchanging a human being,<sup>31</sup> transportation

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<sup>25</sup>Law on Suppression of Human Trafficking and Sexual Exploitation, *The Kingdom of Cambodia*, No. 140 c.l., February 15, 2008, art. 50. states that the Law on Suppression of the Kidnapping and Trafficking of Human Persons and Exploitation of Human Persons, which was promulgated by Royal Kram No:cs/rkm/0296/01 shall be repealed by this law. This law shall prevail if a provision of any other law is in contradiction with the provisions of this law. (“Law on Suppression of Human Trafficking and Sexual Exploitation 2008”).

<sup>26</sup> Law on Suppression of Human Trafficking and Sexual Exploitation 2008, foreword by His Excellency Ang Vongvathana, Minister of Justice, Phnom Penh, February 27, 2008.

<sup>28</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 8 defines unlawful removal as 1) to remove a person from his/her current place of residence to a place under the actor’s or third person’s control by means of force, threat, deception, abuse of power, or enticement, or 2) without legal authorities or any other justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, caretaker or guardian.

<sup>28</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 8 defines unlawful removal as 1) to remove a person from his/her current place of residence to a place under the actor’s or third person’s control by means of force, threat, deception, abuse of power, or enticement, or 2) without legal authorities or any other justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, caretaker or guardian.

<sup>29</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 9 defines unlawful removal of a minor as removing, “a minor or a person under general custody or curatorship or legal custody.”

<sup>30</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 10 defines unlawful removal with purpose as doing so for the purpose of profit making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any type of exploitation. The terms “any form of exploitation” includes the exploitation of the “prostitution

with purpose,<sup>32</sup> cross-border transportation,<sup>33</sup> abduction, detention or confinement.<sup>34</sup> It is therefore up to police, prosecutors and judges to determine the most appropriate offenses with which to charge traffickers.<sup>35</sup>

The 2008 law also covers offences relating to prostitution and child prostitution.<sup>36</sup> Prostitution is defined as having sexual intercourse with an unspecified person or other sexual conduct of all kinds in exchange for anything of value.<sup>37</sup> Child prostitution is defined as the offence of having sexual intercourse or other sexual conduct of all kinds between a minor—under 18 years of age—and another person in exchange for anything of value.<sup>38</sup> The provisions on sex work and child prostitution expand the scope of the criminal acts covered under the 1996 law. Under the 1996 law, pimping and debauchery were criminal offenses, with stricter penalties for debauchery involving a child under the age of 15. New offenses in the 2008 law include obscenity, pornography, purchasing child sex, providing premises for prostitution, and procuring prostitution.<sup>39</sup>

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of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs.”

<sup>31</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 13 defines the act of selling, buying or exchanging a human being as unlawfully delivering the control over a person to another, or to unlawfully receive the control over a person from another, in exchange for anything of value including any services and human beings.

<sup>32</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 17 defines transportation with purpose as transporting another person knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption, or any form of exploitation.

<sup>33</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 18 defines cross-border transportation as a person who transports (brings) another person to outside of the Kingdom of Cambodia knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported.

<sup>34</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 21 defines abduction (arrest), detention or confinement, as a person, who without legal authority, arrests, detains or confines another person.

<sup>35</sup>Article 3 of the Palermo Protocol defines trafficking in persons as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.” Consent to the intended exploitation is irrelevant where any of the means such as deception, coercion etc. are used. When it comes to children, however, it is irrelevant whether there was any form of coercion or deception used, and simply the recruitment or movement of a child into a situation of exploitation is enough to constitute trafficking.

<sup>36</sup>Chapter IV of the Act, Articles 23 – 37 set out the various offences proscribed under this heading.

<sup>37</sup>Article 23.

<sup>38</sup>Penal Code, art. 23.

<sup>39</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, see arts. 23-41.

The 2008 law does not criminalize clients of adult sex workers. However, it does call for the punishment of anyone who engages in child prostitution, including clients, but not the child.<sup>40</sup>

The 2008 law criminalizes adult sex workers who solicit in public. Under article 24, a person who willingly and publicly solicits another for the purpose of prostituting himself or herself shall be punished with imprisonment for 1 to 6 days and a fine of 3,000 to 10,000 riel (about \$0.75 to \$2.50). The law exempts children under the age of 18 from being charged with soliciting.

The 2008 law also criminalizes procurement for prostitution, which is generally considered to be facilitating or providing a person for sexual services. Article 25 defines the act of procuring as follows: drawing a financial profit from the prostitution of others; assisting or protecting the prostitution of others; recruiting, inducing or training a person with a view to practice prostitution; or exercising pressure upon a person to become a prostitute.

Article 25 defines procurement in such a broad way so that it includes not only receiving financial profit from prostitution but also any activity “assisting or protecting the prostitution of others.”<sup>41</sup> What this means is that anyone deemed to be assisting prostitution, such as a *moto* taxi driver or a sex workers’ outreach worker distributing condoms could be liable for prosecution. The broad scope of this provision risks criminalizing the legitimate exercise of fundamental rights, such as advocacy on the part of sex workers.

In addition, article 25 (3) defines procurement as including any act that might be construed as “hindering the act of prevention, assistance or reeducation undertaken either by a public agency or by a competent private organization for the benefit of persons engaging in prostitution or being in danger of prostitution.”<sup>42</sup> The overly-broad scope of the offence of procurement means that peer educators, or family and friends of sex workers who try to intervene in police raids are potentially liable for punishment. Human Rights Watch heard

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<sup>40</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 23.

<sup>41</sup>Law on Suppression of Human Trafficking and Sexual Exploitation 2008, art. 25 states “the act of procuring prostitution shall mean 1) drawing a financial profit from the prostitution of others, 2) assisting or protecting the prostitution of others, 3) recruiting, including or training a person with a view to practice prostitution, 4) exercising pressure upon a person to become a prostitute. The following acts shall be deemed equivalent to the act of procuring prostitution: 1) serving as an intermediary between one person who engages in prostitution and a person who exploits or remunerates the prostitution of others; 2) facilitating or covering up resources knowing that such resources were obtained from a procurement; 3) hindering the act of prevention, assistance or re-education undertaken either by a public agency or by a competent private organization for the benefit of persons engaging in prostitution or being in danger of prostitution.”

<sup>42</sup>Penal Code, art. 25 (3). According to article 25, this offence is deemed the equivalent to the act of procurement of prostitution and shall be punished, pursuant to article 26, by imprisonment for 2 to 5 years.

reports from some NGOs that police are using this provision as an excuse to threaten and obstruct efforts by outreach workers.<sup>43</sup> This provision is so vague in its potential application that it violates the principles of legal certainty and foreseeability, which require that criminal laws be sufficiently narrowly and precisely drawn to target specific behavior. This is what required by article 15 of the International Covenant on Civil and Political Rights, which requires that all crimes be adequately detailed in law.<sup>44</sup>

Throughout 2008 HIV/AIDS activists, health workers, and sex worker groups voiced concerns about increased abuses by authorities, and their difficulty in accessing sex workers—many of whom were driven underground because they feared arrest. Raids and brothel closures meant many sex workers moved from working in brothels to working on the streets or in entertainment venues such as bars, karaoke, or massage parlors. This makes it more difficult for outreach workers to contact sex workers.

In Phnom Penh, Family Health International, an international NGO focused on public health and development that works in Cambodia reported that their ability to conduct outreach amongst brothel-based sex workers dropped from 96 percent in October-December 2007, to 84 percent from January-March 2008, and amongst “freelance” sex workers from 90 percent to 80 percent.<sup>45</sup> They also noted a small increase in the number of “freelance” sex workers over the same period.<sup>46</sup> Some sex workers told Human Rights Watch that they stopped carrying condoms “as anyone found with them were subjected to be arrested.”<sup>47</sup>

## **Guidelines and Explanatory Notes to Interpret 2008 Law**

In an effort to alleviate some of the concerns raised by civil society groups about increased abuses against sex workers by various authorities, in November 2008, the Inter-ministerial Task Force to Fight Human Trafficking, Smuggling, Exploitation and Sexual Exploitation of Women and Children issued the “Guidelines on the Implementation of the Law on Suppression of Human Trafficking and Sexual Exploitation.” While the guidelines are potentially a useful tool in operationalizing the law for authorities at all levels, they have no

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<sup>43</sup>Human Rights Watch interview with LICADHO, July 21, 2009; CPU on July 23 2009; CNMWD on July 25 2009, Phnom Penh.

<sup>44</sup>ICCPR, art.15 and see Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed., (Kehl am Rhein: Engel, 2005), p.361.

<sup>45</sup>Family Health International, “Trafficking law and its effect to ESWs,” Entertainment Service Worker and Client Program, April 22, 2008.

<sup>46</sup>The report by FHI does not define “freelance,” but in this context it is likely to mean those who do not work in brothels.

<sup>47</sup>Sou Sotheavy, director of Network Men Women Development Cambodia, Phnom Penh, July 25, 2009.

legal force. And as of April 2010, it seemed that many government officials, police, and even some NGOs were not aware of the existence of the guidelines.

The guidelines clearly state that the rights of victims of trafficking and sex workers are to be respected. Sex workers are regarded as “victims of procurement for prostitution. Prostitution is not a crime; thus individual prostitutes are not punished as offenders under the new legislation.”

The guidelines state that raids are only to be carried out after preliminary investigations have been conducted and evidence collected, and that search and seizure of evidence should be conducted in adherence with the guidelines. Any property seized belonging to victims of trafficking or sex workers must be returned to them.

The guidelines also stipulate that actions by the authorities should only be undertaken in the following instances: “where there is a complaint from people in the neighborhood about prostitution activities, a complaint from a victim that has been forced into prostitution, if there is child prostitution and if prostitution leads to public disorder and insecurity.”<sup>48</sup>

The guidelines also cover treatment of trafficked victims and sex workers, stating that they should be interviewed without delay or detention. Children are to be sent to the MOSAVY office while adults are only to be sent to that office if they consent, otherwise “they are free to return to their homes.”

Going beyond the guidelines, the Ministry of Justice, with support from UNICEF, is currently drafting explanatory notes on each article of the law in order to aid interpretation and implementation. For instance, the explanatory notes provide details on what is and is not considered soliciting under Article 24 of the law, and more guidance regarding procurement under Article 25 (3). However, given that the explanatory notes are not legally enforceable, they are unlikely to provide sufficient protection regarding these provisions in the law.

## **A Long History of Crackdowns against Sex Workers**

Police arrests, harassment, and abuses against sex workers in Cambodia have taken place for decades. In many instances these crackdowns are undertaken by local authorities, but they have also been ordered by the highest levels of the Cambodian government. Such

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<sup>48</sup>Guidelines on the Implementation of the Law on Suppression on Human Trafficking and Sexual Exploitation, Unofficial translation by UNIAP.

crackdowns have been routinely criticized by local and international human rights and HIV/AIDS organizations.<sup>49</sup>

According to media sources, in 1994, a year after the UN-backed general elections, police arrested an unknown number of sex workers and fined hundreds of brothel owners in a crackdown against sex work in Phnom Penh. The brothel owners were never prosecuted or permanently closed down. The Phnom Penh anti-prostitution unit of the police explained that they had been instructed to arrest all sex workers, “educate” them, and release them within 48 hours. The chief of the unit told the media, “I think it has not been a 100 percent success, but at least our police stopped prostitutes sitting or roving on [red light district] Toul Kork streets, damaging the capital's beauty and culture. And some prostitutes realized that to be a prostitute is not good.”<sup>50</sup>

In November 1997, police launched another crackdown on brothels, rounding up more than 500 sex workers by January 1998. Sex workers and NGOs supporting women and children reported police brutality against sex workers during the crackdown.<sup>51</sup>

On several occasions directives to close down red-light districts have been issued by the prime minister himself. In late 2001, for example, Hun Sen personally issued a decree ordering the closure of brothels following a spate of late-night shootings in the capital. The US State Department noted in its 2002 report on human rights practices in Cambodia: “In December [2001] the Government began a general crackdown on prostitution, which has made prostitutes even more vulnerable to intimidation, violence, theft, rape, and disease.”<sup>52</sup>

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<sup>49</sup>Reports of other crackdowns on sex workers since 1994 include: Indochina Digest, August 9, 1995; Thomas Hammarberg, “Report to UN General Assembly,” September 17, 1998; Chris Seper, “Police Sweeps Help Clean Up Child Prostitution,” *Christian Science Monitor*, January 8, 1998; Debra Boyce, “Together, Sex Workers Speak With Louder Voice,” *Inter Press Service*, June 17, 1999; Cambodian Prostitutes Union and Cambodian Women’s Development Association, “Survey on Police Human Rights Violation of Sex Workers in Toul Kork,” August/September 2002; Kathy Marks, “Cambodian police close dozens of child-sex brothels,” *The Independent*, January 25, 2003; “Police shut massage parlour in latest crackdown,” June 26, 2005, <http://www.asiafinest.com/forum/index.php?showtopic=36323> (accessed June 2, 2010).

<sup>49</sup>US State Department, Bureau of Democracy, Human Rights and Labor, “Cambodia Country Report on Human Rights Practices 2001,” March 4, 2002.

<sup>50</sup>Mang Channo, “Moves afoot to legalise prostitution,” *Phnom Penh Post*, January 27, 1995.

<sup>51</sup>Chris Seper, “Police Sweeps Help Clean Up Child Prostitution: Cambodia allows sex trade, but now takes aim at those forcing girls into the practice,” *Christian Science Monitor*, January 8, 1998.

<sup>52</sup>US State Department, Bureau of Democracy, Human Rights and Labor, “Cambodia Country Report on Human Rights Practices 2001,” March 4, 2002.

A more recent wave of brothel closures occurred in late 2007, after the Ministry of Interior launched a campaign against trafficking, smuggling, exploitation and sex work in July.<sup>53</sup> The plan empowered judicial and anti-trafficking police at the municipal and provincial levels to take various measures against entertainment venues to prevent trafficking and sex work. As part of the campaign, police in Battambang and Banteay Meanchey closed down notorious brothel areas in both provinces in late 2007 and early 2008. In Banteay Meanchey the crackdown kicked off on January 17, 2008, when more than five truck loads of policemen descended on red light districts. They arrested sex workers and brothel owners and ordered the closure of all brothels in Sereysophorn and in Monkulborei districts. The sex workers were detained for up to two days for questioning and then allowed to go back to their home villages or to NGO-run shelters, after first being warned they would be arrested if they returned to the red light districts.<sup>54</sup>

Abuses against sex workers drew media attention in early 2008, after passage of a new law against trafficking and sexual exploitation spurred protests by sex worker advocacy groups. Conflation of trafficking and sex work, and an eagerness to please US officials and funders led to a wave of arrests and brothel raids, with Maj. Gen. Bith Kimhong, director of the Ministry of Interior's anti-trafficking department stating in December 2008:

The raids on brothels and street walkers proved a commitment by the government to end sex trafficking ...The new law is one of several moves by the Cambodian government over the past year to show that it is cracking down on sexual exploitation.<sup>55</sup>

Kimhong dismissed reports that the law's passage had led to any abuses because he said he had not received any complaints from victims.<sup>56</sup> However, even the US government recognized that the raids did not have the effect of identifying and assisting victims of trafficking.<sup>57</sup>

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<sup>53</sup>"Campaigning Plan to Combat Human Trafficking, Smuggling, Exploitation, and Women and Children Sexual Exploitation," Ministry of Interior, Royal Government of Cambodia, No. 012 Ph.K, signed in Phnom Penh, July 17, 2007.

<sup>54</sup>Human Rights Watch interviews with seven freelance sex workers and karaoke girls in Battambang provincial town, July 30, 2009; Human Rights Watch interviews with staff from Adhoc and Cambodian Women Association for Peace and Development, Battambang, July 29, 2009.

<sup>55</sup>"Cambodia faces problems enforced new sex trafficking law," Agence France-Presse, December 25, 2008.

<sup>56</sup>ibid.

<sup>57</sup>The United States Department of State, *Trafficking in Persons Report 2009 - Cambodia*, June 16, 2009, notes that with regard to Cambodia:

Because the new law covers a wide range of offenses, not all government officials have appeared to distinguish

In 2009, police and local authorities continued the arrests of sex workers working on the streets and in public parks during sporadic nighttime sweeps and round-ups. In Phnom Penh, these sweeps occur especially in the streets and parks around Wat Phnom, Old Market (*Phsa Chas*) in Daun Penh district, Independence Monument (or *Vimean Ekareach*), in Chamkar Mon district, Toul Kork district, 7 Makara district, and Russey Keo district.

Sweep and roundups are cyclical events intensifying at the time of major events in the city, such as public holidays, diplomatic visits, or high-profile international events. Sex workers are rounded up, held for a few days at the municipal Social Affairs office and then often released after such events pass. Sex workers may be caught up in broader street sweeps affecting the homeless, street children, beggars and people who use drugs as well.

Some of the arrests occur with no legal basis whatsoever. Several sex workers told Human Rights Watch how police arrested them simply in order to rob or extort money from them, rape them or to get them to clean the toilet or the office in the police station.

Street sweeps of Phnom Penh parks and streets are carried out on grounds of maintaining public order and security, on the orders of the district chief, the municipal or provincial governor, or the Ministry of Interior.<sup>58</sup> These sweeps are conducted by district police officers, rather than by anti-trafficking police.

A letter from the Ministry of Interior to the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) in September 2008 stated that sweeps are carried out in the name of public order:

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between the law's articles on trafficking offenses and non-trafficking crimes such as prostitution, pornography, and child sex abuse. As a result, law enforcement has focused on prostitution-related crimes, and many police, courts, and other government officials appear to believe that enforcing all prostitution articles of the law contributes to efforts to combat trafficking.

Following the passage of the law, Cambodian police conducted numerous raids on brothels, and detained a large number of women in prostitution, while failing to arrest, investigate or charge any large number of persons for human trafficking offenses. Moreover, the detained females in prostitution may have included some trafficking victims, though police made few attempts to identify, assist, or protect them.

<http://www.unhcr.org/refworld/docid/4a4214c82d.html>, (accessed June 16, 2010).

<sup>58</sup>The chief or governor leads a so-called "special taskforce" (*K'nak Banh'chea ka Ek'pheap*) dealing with public order and security in their territory.

Sex workers create public disorder and damage the dignity and morality of the Cambodian society. Some sex workers trickily attract pedestrians and take their property. Under the direction of Phnom Penh Governor Kep Chuk Tema and to comply with the principal of Phnom Penh Municipality Special Taskforce, therefore Daun Penh district authorities found and collected sex workers, homeless people, beggars and drug users who always sleep in the gardens, roads and yards, affecting social security and public order...It is a role and task of Daun Penh district office to maintain public order by collecting sex workers, homeless people, beggars and drug users.<sup>59</sup>

This view was confirmed in a government comment in August 2009 to an OHCHR report:

Phnom Penh Municipal Police have begun to round up prostitutes, beggars, street children, glue sniffers/drug addicts, disabled persons, and other vagrants with the purpose ... to beautify the city so as to attract national and international tourists to visit and enjoy Phnom Penh, and to keep public order, which is part of economic development through the promotion of tourism; and the street vagrants are also human resources for the agricultural sector, and they should be encouraged and pushed to return home to their provinces or municipalities to do their farming.<sup>60</sup>

Mann Chhoeun, former deputy governor of Phnom Penh Municipality, told journalists during a July 2009 crackdown that homeless people and sex workers tarnish Phnom Penh's image.<sup>61</sup> Another official, Daun Penh district deputy governor, Sok Penhvuth, told the *Phnom Penh Post* that every district in the capital had received orders to round up street people at that time, with sweeps taking place about twice a week. "Daun Penh district is the tourist, political and economic heart of the city," he said. "In order to keep the city clean...we have to take action until there are no more street people."<sup>62</sup>

In May 2009, police detained sex workers, people who use drugs and others in Daun Penh district in a "street clearing campaign" ahead of the ASEAN-European Union Ministerial

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<sup>59</sup>Letter, no. 1219 sor.chor.nor, September 25, 2008 to LICADHO. regarding the results of the government investigation into reported abuses committed at MOSAVY rehabilitation centers.

<sup>60</sup>Office of the High Commissioner for Human Rights, Cambodia Country Office With comments by the Royal Government of Cambodia, "Annual Report 2008-9," Report January 2008-June 2009, para 29, page 44.

<sup>61</sup>Yun Samean and Bethany Lindsay, "Rights Group Accuses Gov't of Punishing Phnom Penh's Poor," *Cambodia Daily*, July 27, 2009.

<sup>62</sup>Vong Sokheng and Sebastian Strangio, "Detentions decried as 'appalling'," *Phnom Penh Post*, July 27, 2009.

Meeting in Phnom Penh. Sok Sambath, Daun Penh district governor cited a need to install “complete social order” ahead of the ASEAN-European Union Ministerial Meeting in Phnom Penh, saying that the authorities will continue clearing the streets of sex workers and suspected drug users, “We must respond to the [municipal] desire to bring about social order,” he said of the operation. “We will continue to sweep the drug users and sex workers that line the streets and the river bank at night.”<sup>63</sup>

For months in 2009, driven by local government orders, authorities intensified sweeps at the public park and streets near Wat Phnom in central Daun Penh district. For instance, according to a Daun Penh district official, on November 23, 2009 mixed forces<sup>64</sup> from Daun Penh district carried out a sweep under the direct orders of the Phnom Penh Municipal governor and Daun Penh district governor.<sup>65</sup> The official told the press, “The goal is to stop the anarchic situation created by sex workers soliciting clients, which harms Cambodia’s national traditions and creates social and public disorder.”<sup>66</sup>

Municipal authorities have also publicly stated that sex workers in particular are singled out for arrest and detention in order to prevent the spread of HIV. For instance, according to media reports, police arrested 17 sex workers in the lead up to the November 2009 water festival in Phnom Penh (which involves thousands of people travelling from rural areas to Phnom Penh to watch and participate in boat races). Rationalizing the sweeps, Sok Penhvuth, deputy governor of Daun Penh district told journalists, “We don’t want to see the boat racers bring diseases such as HIV/AIDS back to their wives. We want to protect the men in case they get caught up in the festivities and forget about health and safety.”<sup>67</sup>

On March 4, 2010, Prime Minister Hun Sen once again called for police to step up their activities against trafficking and gambling, saying “I would like that the year 2010 is the year to take measures to fight against human trafficking and all forms of illegal gambling.”<sup>68</sup> He also directly addressed allegations of misconduct by senior officials in their efforts against

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<sup>63</sup>Chhorn Chansy and Simon Marks, “Authorities Continue Sweep for Undesirables,” *Cambodia Daily*, May 23-24, 2009.

<sup>64</sup>Involving district police, district officials, commune chiefs and police officers and under the leadership of the district governor.

<sup>65</sup>Rasmey, “Daun Penh district authority arrested 19 female sex workers in the round up around Wat Phnom,” *Kampuchea Thmey Daily*, November 25, 2009.

<sup>66</sup>Ibid.

<sup>67</sup>Mom Kunthear, “City police arrest 17 suspected prostitutes,” *Phnom Penh Post*, October 30, 2009.

<sup>68</sup>Vong Sokheng and Khouth Sophak Chakrya, “Hun Sen tells officials not to meddle with vice crackdown,” *The Phnom Penh Post*, March 5, 2010, <http://www.phnompenhpost.com/index.php/2010030533129/National-news/hun-sen-tells-officials-not-to-meddle-with-vice-crackdown.html> (accessed April 11, 2010).

trafficking and gambling stating, “I am regretful of the misconduct of some leaders who have interfered with the court and law enforcement officials... The culture of impunity is not acceptable.” However he failed to address abuses by rank and file police. As a result of Hun Sen’s call, police arrested and detained many sex workers, sending them to the municipal Social Affairs office and then to various NGOs.

## IV. Abuses against Sex Workers

Sex workers working in the parks and on the streets of Phnom Penh report they face a wide range of abuses at the hands of the authorities. These include arbitrary detention, violation of due process rights, beatings, physical violence, rape, sexual harassment, forced labor, extortion, confiscation of their belongings, and other ill-treatment. Perpetrators are police officers, municipal park guards, district security guards, and staff and guards at Social Affairs offices and centers. In the provincial towns of Battambang and Sisophon in Banteay Meanchey, and Siem Reap, Human Rights Watch found widespread police extortion but fewer incidents of police violence and arbitrary detention than in Phnom Penh. Abuses in Phnom Penh are longstanding, as is the pattern of impunity which allows them to continue. A 2002 study by the Cambodian Prostitutes Union found that 72 percent of a sample of 50 sex workers surveyed in the Toul Kork and Russey Keo areas of Phnom Penh had faced some human rights violations by police, and all had witnessed such violations.<sup>69</sup>

During sweeps, some police officers rob or extort money from sex workers, beat and sexually assault them. In government centers where sex workers are arbitrarily detained, guards have raped and beaten them.

Those involved in sex work voluntarily, victims of trafficking, and children in sex work all face police abuses. None of those interviewed by Human Rights Watch said that police asked them any questions to determine whether they might be victims of trafficking, or whether they are underage. Sex work is classified as one of the worst forms of child labor, and no one under 18 should be permitted to be engaged in such work. Under international law, governments have a duty to identify victims of trafficking and children involved in the worst forms of child labor and refer them to appropriate services.<sup>70</sup>

Police in Cambodia operate at commune, district, and municipal or provincial levels. The specialized Department Against Human Trafficking and Juvenile Protection operates at the municipal level. This department regularly conducts investigations into trafficking and raids on establishments like brothels and massage parlors. However, the police charged with conducting street sweeps against sex workers, homeless people, drug-users and street

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<sup>69</sup>Cambodian Prostitutes Union and Cambodian Women's Development Association, *Survey on Police Human Rights Violations of Sex workers in Toul Kouk*, Phnom Penh, 2002, p.3-4.

<sup>70</sup>Article 7 of ILO convention 182 on the Worst Forms of Child Labor.

children are usually public order police operating at the municipal, district, and commune levels.

## Street Harassment and Abuses

The main problem for me is police harassment. Police officers have been chasing and arresting the sex workers at the park almost every single night... The most brutal police officers from Wat Phnom commune police. They are widely known among the sex worker as most violent and brutal. Sometimes, the police officers shoot from a sling shot to disperse us when they find several of us gathering at one spot. I am very scared about police beating me up, so I stay alert all the time at the park. I run hard to escape from the police when they come.

— Makara, interviewed in August 2009 in Phnom Penh.

Sex workers play a “cat and mouse” game with police, security guards, and public park security guards in order to avoid arrest, beatings, and extortion. Kolab, a 29-year-old street-based sex worker in Toul Kork district said:

The police say that we are like chickens running here and there when they chase us from the street. When I see the police from Toul Kork coming, I walk to the other side of the road, which is covered by a different police district. Then when I see the police from Russey Keo district coming, I run to the Toul Kork side of the street. This way, I escape arrest. The police from Toul Kork come to arrest us, while the police from Russey Keo come to beat us up.<sup>71</sup>

Officers from Wat Phnom commune police use crude slingshots firing rocks to chase sex workers away from the park. Minea explained, “The small rock from the slingshot hit me on my shoulder five months ago while I was at the park near the Old Market. After several days the bruises disappeared after I applied balm oil on them.”<sup>72</sup> Chantou, describing an incident in July 2009 said, “A ball from a slingshot of the police hit my arm two weeks ago. It was painful.”<sup>73</sup>

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<sup>71</sup>Human Rights Watch interview with Kolab, Phnom Penh, August 6, 2009.

<sup>72</sup>Human Rights Watch interview with Minea, Phnom Penh, August 7, 2009.

<sup>73</sup>Human Rights Watch interview with Chanthou, Phnom Penh, August 7, 2009.

Police sometimes force sex workers to perform sexual or degrading acts with their clients as a “show.” In April 2008, Dara, Any, and Srey Na witnessed four armed police officers force another sex worker and her client to perform sexual intercourse at gun point at the park near the Old Market. Following the incident, the police freed them.<sup>74</sup>

Some sex workers say that security guards in public parks, who work under the authority of the Phnom Penh Municipality are more violent than police officers.<sup>75</sup> Nika, age 28, said she was talking on the phone at 11:30 p.m. in October 2009 when several uniformed park security guards beat her because she was too slow to follow their orders to move to the dark area of the park. She said:

First one guard came and kicked me and said “Why?” Then three other guards came. Two guards held my arms while the other two beat me. They slapped me in the face. They seemed a bit drunk. They beat me with bamboo sticks and their radio on my head and all over. They ripped my clothes. The police came by, but they didn’t do anything, the guards continued to beat me for almost half an hour. Many people saw but everyone was too scared to intervene. The head of the security told the other guard if they see me there again, they should beat me to death.<sup>76</sup>

Both police and park guards commonly threaten and intimidate sex workers. They threaten them with further violence if they dare to come back to the park or the street again, or if they are caught engaging in sex work. Transgender women also face threats on account of their gender identity and gender expression. A male-to-female transgender sex worker said:

Sometimes the police say, “A-khtoe [a disparaging word for a transgender person] you fuck up the ass. You have HIV/AIDS and you infect other people. You deserve to be shot.”<sup>77</sup>

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<sup>74</sup>Human Rights Watch interview with Any, Srey Na, and Dara, Phnom Penh, July 26, 2009.

<sup>75</sup>Human Rights Watch interview with Nika, Srey Na, Dara, and Dyna, Phnom Penh, November 6, 2009.

<sup>76</sup>Human Rights Watch interview with Nika, Phnom Penh, November 6, 2009.

<sup>77</sup>Human Rights Watch interview with Neary, Phnom Penh, August 8, 2009.

## Abuses during Arrest and in Police Custody

The prosecution, arrest, or detention of any person shall not be done except in accordance with the law.

— Article 38, Constitution of the Kingdom of Cambodia, September 21, 1993.

Cambodia's Criminal Procedure Law provides that a person may be arrested without a warrant during or immediately after the commission of a crime.<sup>78</sup> However, though solicitation is illegal as described above, it is not illegal to be a sex worker in Cambodia, and one's status as a sex worker is not a ground for arrest. Nonetheless sex workers face the risk of unlawful or arbitrary arrest every day. Few, if any sex workers that are arrested are ever charged with any prostitution-related offense.

A person who is remanded in custody shall be immediately informed of the reasons for such a decision.<sup>79</sup> Under Cambodia law, the maximum duration of any police custody is 48 hours.<sup>80</sup> Criminal suspects are only entitled to meet with a lawyer or another person 24 hours after they have been taken into police custody.<sup>81</sup>

Under Cambodia's new Penal Code, someone who illegally arrests or detains someone may be subject to imprisonment of up to 10 years if the detention lasts more than a month; 3 to 5 years if the detention lasts less than one month; and 1 to 3 years if the detention lasts less than 48 hours.<sup>82</sup> If the unlawful detention involves the use of torture or cruelty, the punishment increases to 15-30 years.<sup>83</sup>

The arrests of sex workers are often illegal and arbitrary. Sex workers interviewed by Human Rights Watch said that they are rarely told why they are being detained and whether they have been charged with any offence. Sex workers are often scared to ask questions. Kanha, was amongst a group of five sex workers Human Rights Watch met immediately after the Municipal Social Affairs Office released them in August 2009. She said:

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<sup>78</sup>Code of Criminal Procedure, 2007, art. 87.

<sup>79</sup>Code of Criminal Procedure, 2007, art. 97.

<sup>80</sup>Code of Criminal Procedure, art. 96. Judicial police officers may also remand in custody individuals who may provide them with relevant facts if the following provisions are fulfilled: an individual who may provide information refuses to do so, and a written authorization to keep the person in custody has been obtained from a prosecutor.

<sup>81</sup>Code of Criminal Procedure, 2007, art. 98.

<sup>82</sup>Penal Code, art. 253.

<sup>83</sup>Penal Code, art. 254.

We are afraid and worried when police arrest us, so we do not dare to ask the police officer any question why we got arrested. We know that if we ask more or speak too much we got beaten up or got slapped more. At the park, the police told us that if we are prostitutes we get arrested.<sup>84</sup>

Another sex worker, Nita, 18-years-old, arrested from the park by Tonle Basak commune police around July 2009, told Human Rights Watch: “When I arrived at the police station, I verbally protested to the police officer, asking why I am arrested and taken here. The policeman, without telling me a reason, slapped me five times.”<sup>85</sup>

Police sometimes inform sex workers during arrest that prostitution itself is illegal, even though soliciting is the only crime sex workers may have committed that could be used to justify their arrest. But police rarely if ever charge sex workers for solicitation.<sup>86</sup>

None of the sex workers we spoke with who had been detained or arrested was aware of any formal charges having been lodged against them. Each of them had been detained an average of two times.

While some sex workers are held at the police station and released without facing any paperwork or charges, in other cases, sex workers told Human Rights Watch that police had recorded their personal details and ordered them to put their thumbprint on statements written by the police. Sex workers said police recorded their personal details (name, age, date of birth, where they are from, parents’ name) and photographed them. It is possible police may have written down something else about the reason for the arrest before asking sex workers to thumbprint it, but they said were never told what was written there exactly.

Many sex workers do not know what they are signing, and say they are not told why they are being detained or what offence they have supposedly committed. They have no access to legal counsel nor to anyone else who might represent their interests, and no opportunity to challenge their arrest and detention.

Violence, sometimes severe, usually accompanies arrests. Sex workers told Human Rights Watch how police detained them using excessive force by beating and kicking them,

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<sup>84</sup>Human Rights Watch interview with Kanha, Phnom Penh, August 13, 2009.

<sup>85</sup>Human Rights Watch interview with Nita, Phnom Penh, September 14, 2009.

<sup>86</sup>Human Rights Watch requested information on the number of people charged with soliciting in a letter to the deputy prime minister and minister of interior sent on April 19, 2010 (see Appendix), however the minister failed to respond.

slapping them in the face, hitting them with sticks, guns, or radios, or dragging them by their arms or their hair onto motorbikes. Uniformed district security guards and public park guards also beat sex workers before handing them over to police or letting them go.<sup>87</sup>

Leakhena, age 35, arrested in August 2009 in Wat Phnom park, described her arrest by a police officer. She recalled:

Around midnight, a policeman drove his motorbike into the park to chase the sex workers away. He caught me, grabbed me by my hair, and dragged me onto his motorbike. He accused me of trying to escape arrest and took me to Wat Phnom police station.<sup>88</sup>

Police beat sex workers with their fists or sticks, shock them with electric shock batons, and kick and slap those who resist arrest. Harsher treatment is inflicted on those caught while trying to escape from the police, including using their guns to intimidate sex workers. Malis described an incident in May 2009 when police in Daun Penh district used electric shock batons against other sex workers:

I saw two police officers on a motorbike trying to shock sex workers about three months ago. I also saw police officers using electric batons against sex workers during Khmer New Year this year [April 2009].<sup>89</sup>

One sex worker interviewed by Human Rights Watch said her arm has not been fully functional since the police shocked her with an electric baton during her arrest more than five years ago in Toul Kork district.<sup>90</sup>

Those who are HIV positive may be subject to particularly vehement humiliation and violence. For instance, Neary, a male-to-female transgender sex worker arrested in April 2009 from the park near the Old Market said, “When I told the police that I am living with AIDS and I need to take ARVs, the police beat me more and accused me of going around infecting other people.”<sup>91</sup>

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<sup>87</sup>Human Rights Watch interview with Srey Keo, Phnom Penh, November 6, 2009.

<sup>88</sup>Human Rights Watch interview with Leakhena, Phnom Penh, August 6, 2009.

<sup>89</sup>Human Rights Watch interview with Malis, Phnom Penh, August 7, 2009.

<sup>90</sup>Human Rights Watch interview with Srey Da, Phnom Penh, August 24, 2009.

<sup>91</sup>Human Rights Watch interview with Sopheavy, Phnom Penh, August 8, 2009.

Children, especially 16- or 17-year-old sex workers, are also amongst those picked up in the sweeps, and who also face abuse. However, instead of assisting children picked up to transit out of prostitution, police generally mete out the same sort of abusive treatment as they do toward adults.

Nita, age 17, told Human Rights Watch about her arrest by Tonle Basak commune police in July 2009:

At the park, uniformed police officers from Tonle Basak commune forced me and two friends into their car. When we arrived at the police station, I protested to police there about the arrest. A police officer slapped me five times. When the policeman ordered me and the others to go upstairs I was a bit slow, so he hit me on the head with his radio.<sup>92</sup>

Police beat, kick, or slap detainees, especially those who do not follow police orders or are slow to respond to questions. Sex workers said the police at the Wat Phnom commune in Daun Penh district are commonly violent. Neary, a male-to-female transgender sex worker arrested in April 2009 described being tortured by these police:

Three police officers beat me up seriously at Wat Phnom commune police station after I was taken from the park. One of the police officers pointed his gun at my head and pulled the trigger, but the bullet did not fire. They kicked my neck, my waist, and hit my head and my body with a broom stick. It lasted about half an hour. I begged them not to beat me. The police officers were cruel and they did not tell me any reason why they did this to me.<sup>93</sup>

Cambodia's Penal Code prohibits torture as an offence punishable by seven to twenty years' imprisonment, with lengthier terms for aggravated circumstances or if the torture was committed by a public official.<sup>94</sup>

Sex workers interviewed by Human Rights Watch reported that police raped them and some witnessed police raping other sex workers. One sex worker told how she was gang raped by police in detention in September 2007:

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<sup>92</sup>Human Rights Watch interview with Nita, Phnom Penh, September 14, 2009.

<sup>93</sup>Human Rights Watch interview with Neary, Phnom Penh, November 6, 2009.

<sup>94</sup>Penal Code, arts. 210, 212, and 213. The Code has already been adopted but only part 1 is in force. The remainder of the articles will enter into force one year after its adoption.

Five plain-clothed police took me from the Independence Monument Park with my two friends to the police station near Doeum Kor Market (Phnom Penh Municipal Police Commissariat’s Central Office Against Crime). At the police station, four police officers questioned us. Then they pushed me into a room where there was a folding bed—it is for detaining criminal suspects. I was raped by five police officers on the first night and by six other police officers on the second night. They beat me while raping me because I protested.<sup>95</sup>

Police sometimes rape sex workers in exchange for their release, particularly if they do not have any money and are considered attractive. Chantha, who was arrested in July 2009 from the park near Independence Monument, said that the police demanded sex with her in exchange for her release or she would be sent to a NGO shelter. She refused the demand, and when the police officer went to ask other officers to buy condoms, she managed to escape.<sup>96</sup>

Other studies provide further evidence that police violence is widespread. A 2006 USAID-funded study carried out by foreign academics together with local sex worker organizations reported that approximately half of 1000 female and male-to-female transgender sex workers surveyed in Phnom Penh reported being beaten by police. One-third reported being gang raped by police.<sup>97</sup> The study notes, “Police represent the sex worker’s greatest threat, not only because many harass, beat, rape, and steal from them, but also because they do not protect them from attacks perpetrated by others.”<sup>98</sup> A 2002 study by the Cambodian Prostitutes Union found that human rights violations by police included beatings, rape, arbitrary arrest and detention, being forced to clean toilets, give massages and give money to the police.<sup>99</sup>

“Lous” in Khmer means paying a bribe. Sex workers described how police demanded a *lous* in return for releasing them from police custody. If they do not pay the bribe, police will send them to the custody of MOSAVY or one of the NGOs. Every sex worker interviewed by Human Rights Watch, including the children, had to pay a *lous* to the police on at least one occasion,

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<sup>95</sup>Human Rights Watch interview with Linda, Phnom Penh, September 14, 2009.

<sup>96</sup>Human Rights Watch interview with Chantha, Phnom Penh, August 7, 2009.

<sup>97</sup>Jenkins, Carol, CPU, WNU, and Sainsbury, C., “Violence and Exposure to HIV Among Sex Workers in Phnom Penh, Cambodia,” prepared for USAID, March 2006, <http://www.hivpolicy.org/Library/HPP001702.pdf>, (accessed July 7, 2010), p.5.

<sup>98</sup>Jenkins, p.17.

<sup>99</sup>Cambodian Prostitutes Union and Cambodian Women’s Development Association, *Survey on Police Human Rights Violations of Sex workers in Toul Kouk*, Phnom Penh, 2002, p.3-4.

the majority more than once. Sex workers either pay it directly, or friends, relatives or their employer comes to the police station and pays it to secure their release. The price ranges from US\$10 to \$200.<sup>100</sup> Other detainees, such as people who use drugs, also face this treatment by police.<sup>101</sup> A transgender woman described an incident in late 2007 where police from the Daun Penh district police station arrested her:

I told them I didn't have \$50 but they didn't believe me. They put me in a cell. It was hot, dark, and hard to breathe. I had no water. I had to stay there for five days. In the daytime they'd make me clean the office and the toilet but then put me back in that cell. Finally I agreed to pay them \$50.<sup>102</sup>

Twenty-year-old Tola described her first arrest in July 2009:

At the [Daun Penh district] police station, police asked us if I have a “me-ka” [manager]. Police allowed me and other sex workers to call our *me-kas* to come pay the *lous* in exchange for our release. Fifteen out of twenty [sex workers] were released after their managers came to pay the police. The rest of us were kept at the police station for three days before being sent to the Social Affairs office and then an NGO shelter.

The next month, police arrested Tola again and this time police detained her at the police station for one night before sending her to the Social Affairs Office and then an NGO shelter because she had no money to pay the police. She said:

The head of the police station asked us if we found someone to pay the *lous* for our release. He said that if we pay him \$50 each, we will be freed. We told him that we don't have any money. Because we didn't have any money, the police contacted the Social Affairs officer to come to get us.<sup>103</sup>

Four other sex workers corroborated Tola's story when interviewed at the office of an NGO.

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<sup>100</sup>Every sex worker interviewed told Human Rights Watch of paying bribes within this price range.

<sup>101</sup>Human Rights Watch, *Skin on the Cable: The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia*, January 25, 2010, <http://www.hrw.org/en/reports/2010/01/25/skin-cable-o>.

<sup>102</sup>Human Rights Watch interview with Srey Mom, Phnom Penh, November 6, 2009.

<sup>103</sup>Human Rights Watch interview with Tola, Phnom Penh, August 13, 2009.

Sex workers in Siem Reap also said they paid bribes to police for release. In August 2009 a 22-year-old sex worker spent two days in police custody after the police raided the bar where she worked in Siem Reap town. “My parents paid a police officer \$50 when I was in the custody of the provincial police,” she said.<sup>104</sup>

In another August 2009 raid on a foreign-owned bar, hostesses alleged that the Phnom Penh Anti-Human Trafficking Police stole money and tried to collect bribes. The hostesses claimed the entire bar staff was detained and sent to the municipal Social Affairs office, even though none of them were sex workers, nor were they “dancing naked,” as alleged by the police. One hostess, Serey, said:

Around 8:00 pm, two plain clothes police officers came drinking at the bar. The hostesses were in sexy dresses but no one was naked, and some of us were dancing to Khmer songs. Around 9 p.m., a large group of mixed authorities arrived, including the commune chiefs from Sangkat Phsa Kandal and Sangkat Phsa Chas, district officials from three or four districts and police officers. They came inside the bar, took our photograph, and told us to stay still and not to move. They said we were dancing naked and called us prostitutes. Some police officers opened the cash drawer and searched our wallets and attempted to take the money, but stopped after their commander told them to stop. Some of us lost some money.

According to Serey, all of the women including the cashier, cleaner, cook, bartender, waitresses, hostesses, and security guard were sent directly to the municipal office of Social Affairs. She explained:

As many of us kept arguing with the police about the fact that we are not prostitutes, the police officer said that if we are good people we should not have been in the police car. When we were in the car, the police said that if we wanted to be free, we need to pay them \$200 each and get a relative to come secure our release.

Police arresting sex workers often steal personal belongings, such as money, mobile phones, and jewelry. The vast majority of sex workers interviewed by Human Rights Watch had cash or items stolen. Because stealing by police is so common, sex workers try to hide their money. But police, often male, do invasive cavity searches to search them thoroughly,

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<sup>104</sup>Human Rights Watch interview with Srey Mey, Siem Reap province, August 21, 2009.

including their underwear. Police give various reasons for taking sex workers' personal property, such as saying the belongings will be returned once they leave police custody,<sup>105</sup> or that the money they steal is to pay for the petrol in their motorbikes which they use to chase and arrest sex workers every day.<sup>106</sup> In no case documented by Human Rights Watch, did sex workers report that police returned money or goods to their lawful owner.

A common degrading treatment by police is forcing sex workers to clean the toilet at police stations in Phnom Penh, especially at Wat Phnom and Tonle Basak stations.<sup>107</sup> For example, a male-to-female transgender sex worker picked up in October 2008 twice said Wat Phnom police forced her to clean the toilet.<sup>108</sup> Sometimes, police officers force sex workers to choose between being sent to a Social Affairs center (where they know they will be detained), giving the officer a massage, or cleaning the toilet. For instance, Nimol, arrested in late 2007 with ten other sex workers by Tonle Basak commune police said:

Three other sex workers and I had no money to pay the police. Seven other sex workers paid the police and left the station. We begged the police to free us. The police asked me to clean the toilet and the others to massage them. Then the police freed us.<sup>109</sup>

Police ask sex workers to massage them or dance for them. Sometimes they ask them to have sex with them (as mentioned above under rape). Chanthou, arrested in late 2007 said:

A police officer at Wat Phnom commune police station put me in a room after I cleaned the office and the toilet. The policeman played music and ordered me to dance. He watched me dance, at the same time beating me with a stick on my shoulder and my head.<sup>110</sup>

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<sup>105</sup>Human Rights Watch interview with Linda, Phnom Penh, September 14, 2009.

<sup>106</sup>Human Rights Watch interview with Makara, Phnom Penh, August 6, 2009.

<sup>107</sup>See for instance Human Rights Watch interview with Kanha, Phnom Penh, August 13, 2009; and Human Rights Watch interview with Dara, Phnom Penh, November 6, 2009.

<sup>108</sup>Human Rights Watch interview with Srey Mom, Phnom Penh, November 6, 2009.

<sup>109</sup>Human Rights Watch interview with Nimol, Phnom Penh, August 14, 2009. Nimol said this was a genuine massage not a sexual massage.

<sup>110</sup>Human Rights Watch interview with Chanthou, Phnom Penh, August 7, 2009.

Sex workers also describe how police parade them in front of film crews and cameras without their consent. Srey Keo, a male-to-female transgender sex worker picked up in August 2009 and held at Wat Phnom police station said:

Police kept me locked in the toilet from 11 p.m. to 6 a.m. and when I got out, they exposed me to TV cameras and journalists. There were about 25 of us [transgender and non-transgender sex workers] there. We were then all sent to the Social Affairs office.<sup>111</sup>

Dara and Any, arrested in July 2009, said:

As we walked out of the door of [Wat Phnom commune] police station [in Daun Penh district], several journalists were waiting and took our photograph. Our photo appeared in the press a day or so later. We felt so ashamed.<sup>112</sup>

### **Detention, Bribes, and Harassment at the Municipal Social Affairs Office**

In the provinces, police generally release sex workers straight into the custody of NGOs. Sometimes, staff from MOSAVY interview sex workers at the police station but no sex worker interviewed by Human Rights Watch had been placed in the custody of MOSAVY.

In Phnom Penh, however, degrading treatment of sex workers continues after police transfer them to the custody of the Municipal Social Affairs office in Phnom Penh. In January 2010, the Municipal Social Affairs' Department's deputy director of social health said that it had registered 469 sex workers in 2009, up from 415 in 2008.<sup>113</sup>

Many sex workers detained in Phnom Penh told Human Rights Watch how they are kept in a smelly and dirty room at the Municipal Social Affairs Office, located on Street 163 near Mohamontrei Pagoda. They are held together with other detainees including beggars, homeless people, street children, and people who use drugs. While the office is not an official detention facility, women, children, and transgender women are detained in the same room for periods ranging from several hours to two days before being released or

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<sup>111</sup>Human Rights Watch interview with Srey Keo, Phnom Penh, November 6, 2009. Human Rights Watch has collected various local press articles which publish the photographs of sex workers together with the articles on their arrests. For instance: *Koh Santepheap Daily*, dated July 21, 2009 and *Rasmei Kampuche Daily Newspaper*, July 22, 2009.

<sup>112</sup>Human Rights Watch interview with Dara and Any, Phnom Penh, July 26, 2009.

<sup>113</sup>Mom Kunthear and Tep Nimol, "Sex worker arrests on the rise," *Phnom Penh Post*, January 22, 2010.

transferred to an NGO, or to the Prey Speu Social Affairs center on the outskirts of Phnom Penh.<sup>114</sup>

In Phnom Penh, the municipal Social Affairs office generally will not release sex workers delivered to them by police unless an NGO offering support services is willing to take custody of them (regardless of age), by signing a form for their release at the municipal office.<sup>115</sup> As far as adult sex workers are concerned, this practice of requiring NGOs to sign for sex workers has no legal basis. Since the sex workers detained at the office have, most probably, not been charged with any offense, the adults should be free to leave the municipal Social Affairs office whenever they wish, and should not be required to be signed over to the custody of NGOs. The standards are somewhat different for children, whose release could be either into the care of a guardian or a suitable organization that protects children.

Since May 2010, the staff at the Phnom Penh Municipal Social Affairs Office has asked sex workers to sign an agreement before they are released into the custody of NGOs. Most sex workers agree to sign the agreement because they are scared and want to get out of the custody of the authorities. A copy of one of these agreements obtained by Human Rights Watch states:

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

If I commit such acts in the future, I take full responsibility before the law and the Phnom Penh Ministry of Social Affairs, Veterans, and Youth Rehabilitation.”<sup>116</sup>

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<sup>114</sup>Prior to July 2008, detainees at Social Affairs were also sent to the Koh Kor Social Affairs center but this center is not actively receiving any persons at present.

<sup>115</sup>These NGOs include Cambodian Women’s Crisis Center, Women’s Network for Unity, Acting for Women in Distressing Situations (AFESIP), the Cambodian Center for the Protection of Children’s Rights (CCPCR), World Hope International, Healthcare Center for Children (HCC) and Hagar. According to our interviews, transgender sex workers picked up in sweeps are directed to their own network, and rarely end up in NGO shelters.

<sup>116</sup>A full copy of the agreement in Khmer is on file with Human Rights Watch.

It is doubtful that this agreement is accorded any weight under Cambodian law, and it would fail any test under international law. The fact that sex workers have no meaningful alternative but to sign the agreement further undermines any weight it may have. Rather, as a pre-requisite to release from unlawful detention, it simply constitutes another form of unlawful interference with the right to liberty and security.

Sex workers are again subject to violent abuse at the Municipal Social Affairs Office. Several of those who have been detained there tell of one employee, a male amputee, who is particularly abusive, beating detainees and sexually harassing them. Srey Pha, detained overnight in the office in late 2007, said:

An amputee man and two other men came into the room where we were held at night to search people for money. I saw staff taking many people's money from them...I didn't have any money. The amputee man beat some people. They made some men take off their clothes... The women were also searched by those male officers...I heard from several friends that the amputee man took women outside [the office] to have sex and then allowed them to go free.<sup>117</sup>

Botum, arrested in June 2008, said:

In June 2008, Chamkar Mon police arrested me and my friends and I was taken to the Social Affairs Office near Mohamontrei Pagoda, where I was kept overnight. A staff member who is missing an arm came to the room at night to tell us not to make noise and to remove any [personal] items we had. The amputee man ordered his staff to search everyone for money. He hit me with his belt two times after he searched me and found some drugs. During the search, I saw him order a male detainee to take his clothes off in front of everyone.

Another sex worker who has been detained several times at the Social Affairs Office in Phnom Penh described an incident in July 2009:

The amputee man came into the room and told us we would be sent to an NGO, there was no other choice. He then looked for any beautiful women—he

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<sup>117</sup>Human Rights Watch interview with Srey Pha, Phnom Penh, August 14, 2009.

told one if she wanted to leave, she should come out and massage him. She went with him and didn't come back.<sup>118</sup>

Others, including homeless people arrested in street sweeps, have also reported to local human rights workers how a male amputee working there used violence against detainees.<sup>119</sup> Sex workers also told Human Rights Watch that officials at the Social Affairs office ask them for money in exchange for their release or in order to transfer them to a nearby NGO-run shelter which is "easier to leave from."<sup>120</sup> Thida, a 29-year-old sex worker, described her detention at the Social Affairs Office in mid-2009:

A female staff member asked us if we had money or someone to come pay the *lous*. I got my former landlord to come pay her \$20. She freed me from the office without sending me to any NGO run shelter.<sup>121</sup>

### **Abuses at Government Social Affairs Centers<sup>122</sup>**

Following detention at police stations and the municipal Social Affairs office in Phnom Penh, sex workers are either transferred to the custody of NGOs or to the Phnom Penh Municipal Social Affairs Center—commonly called Prey Speu.<sup>123</sup> In recent years, when public pressure alleging abuses in government centers has mounted, the government has responded by releasing sex workers detained in centers such as Prey Speu or transferring them to NGOs.<sup>124</sup> For a period of time, from July 2009 until about May 2010, few sex workers were detained at Prey Speu and most went to NGOs.<sup>125</sup>

The government's position has been that people stay at Prey Speu on a voluntarily basis, quoting an August 2008 directive by the minister of social affairs forbidding involuntary

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<sup>118</sup>Human Rights Watch interview with Dara, Phnom Penh, November 6, 2009.

<sup>119</sup>Human Rights Watch interview with Licadho, Phnom Penh, November 2, 2009.

<sup>120</sup>Human Rights Watch interview with Thida, Phnom Penh, August 24, 2009.

<sup>121</sup>Human Rights Watch interview with Thida, Phnom Penh, August 24, 2009.

<sup>122</sup>In other provinces, there are additional government Social Affairs centers, however, none of those interviewed by Human Rights Watch were sent to these centers. Instead, police sent sex workers to NGO-run shelters.

<sup>123</sup>Prey Speu is located near Prey Speu village, Chaom Chao commune, Dangkor district of Phnom Penh.

<sup>124</sup>For instance, as a result of the concerns raised by local human rights groups and OHCHR, in late June 2008, MOSAVY released detainees at Koh Kor and Prey Speu.

<sup>125</sup>When LICADHO and OHCHR visited in October 2009 in order to secure the release of around 40 detainees, at least one sex worker was among them. Interview with LICADHO, Phnom Penh, November 3, 2009.

detention at their Social Affairs centers.<sup>126</sup> However, Human Rights Watch has received information that between July 2009 and June 2010 at least 20 sex workers were detained against their will at Prey Speu for periods of time ranging from a few days to a month.<sup>127</sup> Eight of these sex workers were held there in May and June 2010. Although this is a significant decrease in the number of sex workers detained there since 2008, the decrease is largely due to ongoing advocacy efforts by sex worker groups and the fact that there are several NGOs willing to receive sex workers from MOSAVY. Others groups vulnerable to arbitrary detention but that have less advocacy support, such as the homeless, continue to be held at Prey Speu. Sex workers detained at Prey Speu in June 2010 told Human Rights Watch that Social Affairs center staff warned them that they could be detained for up to three months in Prey Speu if they were arrested again and sent to the municipal Social Affairs office a second time.<sup>128</sup> This threat, combined with the fact that at least eight people were involuntarily detained in May and June 2010, undermine the plausibility of government claims that confinement in Prey Speu is purely voluntary.

The fact that individuals are involuntarily detained at Social Affairs centers without due process renders the detentions arbitrary and illegal under international law. Those held in the centers, whether sex workers or others, go through no legal process before being sent to the centers. There is no clear legal basis on which they are transferred and then detained at the centers. At no stage during their detention do detainees have access to legal representation. There is no judicial review of their detention nor is there an opportunity for detainees to appeal their detention. Illegal detention or unlawful deprivation of liberty is a crime in Cambodia, whether committed by state or non-state actors.<sup>129</sup>

Up until July 2008, another government Social Affairs Center, Koh Kor (also known as Koh Rumdoul), was also used to detain sex workers, homeless people, beggars, and people who use drugs. Koh Kor, located on an island in Saang district of Kandal province, is currently inactive, though one or two staff remain living there so it has not completely closed.

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<sup>126</sup>Ministry of Social Affairs, Veterans, and Youth Rehabilitation/ National Committee for Resolving Vagabond's Problems, "Instruction on policies for resolving vagabond's problems," Phnom Penh, August 8, 2008, para 6(2). See Ministry of Interior letter to Dr. Kek Galabru, the President, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), no. 1219 sor.chor.nor, September 25, 2008.

<sup>127</sup>Human Rights Watch was provided information and access to credible records by a reliable source. The identity of the source is confidential.

<sup>128</sup>Human Rights Watch interview with Srey Tha, Srey Tho, and Srey Thea, Phnom Penh, June, 2010 [exact date withheld].

<sup>129</sup>Penal Code, art. 254.

Persistent allegations of abuses at Prey Speu and Koh Kor centers make it crucial that they both be closed permanently. Human rights organizations have documented and reported serious abuses in both centers.<sup>130</sup> LICADHO's 2009 submission to the UN Human Rights Council's Universal Periodic Review process describes the human rights abuses committed at these two centers:

Conditions at both [Prey Speu and Koh Kor] centers were abysmal—even worse than exist in Cambodian prisons—and included gross overcrowding and lack of adequate food, clean drinking water, and medical care. In June 2008, LICADHO gained access to the Koh Kor center, despite efforts to prevent this by staff there, and photographed hungry men, women, and children detained in padlocked rooms.

At Prey Speu center, detainees were routinely subjected to sadistic violence. Guards raped female prisoners and severely beat detainees who tried to escape or complained about conditions, according to former detainees interviewed by LICADHO. At least three detainees, possibly more, were beaten to death by guards at Prey Speu during 2006-2008, and five others reportedly committed suicide, according to LICADHO investigations.<sup>131</sup>

Human Rights Watch's interviews with sex workers detained in Prey Speu and Koh Kor confirm the abuses and inhumane conditions documented by LICADHO and other human rights organizations. Human Rights Watch's January 2010 report, "Skin on the Cable," also documented rapes of female detainees (sex workers and non-sex workers) inside Prey Speu.<sup>132</sup> Sex workers told Human Rights Watch how they experienced and witnessed rape, beatings and sexual harassment in Prey Speu and Koh Kor. Srey Pha, age 27, described her experience at Prey Speu in June 2008:

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<sup>130</sup>See LICADHO letter dated June 18, 2008 to HE Sar Kheng, deputy prime minister, chairman of High Level Working Group Against Trafficking in Persons and to HE You Ay, secretary of state of the Ministry of Women's Affairs and Chairwoman of National Taskforce Against Trafficking in Persons and LICADHO letter dated October 28, 2008, to HE Sar Kheng, deputy prime minister, chairman of High Level Working Group Against Trafficking in Persons and to HE Ith Som Heng, minister of social affairs, veterans, and youth rehabilitation on "Abuses at Prey Sepu and Koh Kor Social Affairs Centers."

<sup>131</sup>LICADHO letter dated June 18, 2008, to HE Sar Kheng, deputy prime minister, chairman of High Level Working Group Against Trafficking in Persons and to HE You Ay, secretary of state of the ministry of women's affairs and chairwoman of National Taskforce Against Trafficking in Persons. LICADHO letter dated October 28, 2008, to HE Sar Kheng, deputy prime minister, chairman of High Level Working Group Against Trafficking in Persons and to HE Ith Som Heng, minister of social affairs, veterans and youth rehabilitation on "Abuses at Prey Sepu and Koh Kor Social Affairs Centers."

<sup>132</sup>Human Rights Watch, *Skin on the Cable*, pp.42-43.

I spent two days in Prey Speu detention. It was like hell. I was among 30 people in one locked room of men, women, and children. No toilet in the room, but two buckets served as toilet for all of us to share. There were blood stains all over the walls. I could not sleep at night as I was so scared and worried. I received little food to eat in two meals per day—rice with *Prahok* (fermented fish paste) and some tamarind. No plate or spoon, I had to eat from a plastic bag. At night, the guard seriously beat up a man who tried to escape.

Detainees at Koh Kor had similar experiences. Botum, age 26, described her detention at Koh Kor in June 2008:

It was difficult in Koh Kor because I received very little food to eat...I was put in the same room with around 40 people who were old, young, women, men, beggars, mentally-ill people. The toilet was in the room. We were told that we would be in Koh Kor from one year to three years. When I heard this, I cried every day and felt that I want to die.<sup>133</sup>

Sex workers described how guards beat and kicked them and others who did not follow their orders, and how those who tried to escape would be beaten with particular severity. One sex worker said she was kicked by the guard when he opened the door.<sup>134</sup> Chantou, detained in June 2008 in Prey Speu center for one month told Human Rights Watch:

A guard ordered me to go collect water. I didn't feel well, so I refused his order. He beat me two times on my waist with a wooden handle ... Another time, a guard hit me severely on my shoulder with a big wooden handle after they caught my husband<sup>135</sup> and me trying to escape. My right hand became weak after the beating.<sup>136</sup>

Guards were known to threaten to kill people to prevent them from escaping, and one woman miscarried as a result of beatings. Malis, a 28-year-old detained in Prey Speu in November 2007 said:

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<sup>133</sup>Human Rights Watch interview with Botum, Phnom Penh, August 14, 2009.

<sup>134</sup>Human Rights Watch interview with Srey Ta, Phnom Penh, August 14, 2009.

<sup>135</sup>Both husband and wife were arrested during a street sweep (they were sleeping on the street) and sent to Prey Speu.

<sup>136</sup>Human Rights Watch interview with Chanthou, Phnom Penh, August 7, 2009.

I was kicked three times by a guard who is the son of the key keeper at the center after I refused his order to clear the grass. I told him that I can't do the work as I had morning sickness from my pregnancy. I was three months pregnant. Since then I had pain in my abdomen and I miscarried when I returned home after a week's detention in Prey Speu.<sup>137</sup>

Detainees told Human Rights Watch that guards raped women in the presence of other detainees in Prey Speu center. One sex worker detained there in early 2008 said that three guards came inside the room at night to rape two women sleeping near her. The two women left the next day.<sup>138</sup> At both centers, guards would ask women to have sex with them in exchange for their release. A 28-year-old sex worker detained in November 2007 in Prey Speu center said:

The guard approached me and asked me to have sex with him and other four guards. He pointed to the four guards and said that if I agreed to have sex with all of them they will free me from the center. I told them I was sick, so they did not force me.<sup>139</sup>

Children have been among those detained in Prey Speu and Koh Kor.<sup>140</sup> As mentioned above, children should never be detained solely based on their involvement in sex work, and should instead be offered appropriate child protection and assistance to transition out of such work, such as to the custody of a respected NGO that offers child-friendly services in line with international standards.

Human Rights Watch believes that from time to time people are still effectively detained at Prey Speu against their will and unable to leave. During an October 2009 visit to Prey Speu by LICADHO and OHCHR, officials from MOSAVY refused to release detainees unless a relative or an NGO representative vouched for their release from the center. If there was no relative or NGO to take custody of them, then they remained in the center for an unspecified

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<sup>137</sup>Human Rights Watch interview with Malis, Phnom Penh, August 7, 2009.

<sup>138</sup>Human Rights Watch interview with Bopha, Phnom Penh, August 6, 2009. Guards raping and then releasing attractive women is also documented in: Human Rights Watch, *Skin on the Cable*, pp. 43.

<sup>139</sup>Human Rights Watch interview with Malis, Phnom Penh, August 7, 2009.

<sup>140</sup>LICADHO letter dated June 18, 2008 to HE Sar Kheng, deputy prime minister, chairman of High Level Working Group Against Trafficking in Persons and to HE You Ay, Secretary of State of the Ministry of Women's Affairs and Chairwoman of National Taskforce Against Trafficking in Persons.

period.<sup>141</sup> Similarly, three sex workers detained in Prey Speu in June 2010 were only released upon organizations vouching for them and requesting MOSAVY for their release.<sup>142</sup>

Srey Thea, 22-years-old, was detained in Prey Speu in June 2010. She said officials at the municipal MOSAVY office gave her the choice of being sent to an NGO or to Prey Speu but there was no choice to go home. Srey Thea elected to go to Prey Speu and according to her description, those detained involuntarily at Prey Speu were housed separately from others who volunteer to stay at the center:

At Prey Speu, we were put in a room together with many women. It was crowded and we have to sleep all over the room, almost having no space to move. We had no spare clothes and the center did not provide us with any, so we were wearing the same clothes for those days. The room was not locked, but there were guards in front of the room all the time. If we wanted to use the toilet, we had to ask the guard's permission. The guard followed us to the toilet so we didn't escape. The center provides three meals per day... Food is inadequate...People in my room complained about being hungry as there is not enough food to eat. I saw at least one time a young guard beat the hand of an old woman while she was eating.

Women in my room were allowed to leave the room twice per day at 9 a.m. and 2 p.m. to take a bath. As I and others in the room did not consent to stay at the center we had to take a bath at the pond. The water at the pond seemed not clean and it gave me a rash. But those who volunteer to stay in the center are allowed to take a bath from running water and are kept in a separate building.<sup>143</sup>

LICADHO has reported that people are threatened with violence if they attempt to leave Prey Speu, and that while they are nominally offered a “choice” to remain voluntarily upon their arrival at the center, it is not a meaningful choice. Once they arrive, they have no real ability to leave since guards are constantly monitoring their movements.

Human Rights Watch attempted to visit Prey Speu on November 5, 2009, however the gates were locked and guards denied access. The guard told Human Rights Watch that prior

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<sup>141</sup>Human Rights Watch interview with LICADHO, Phnom Penh, November 3, 2009.

<sup>142</sup>Human Rights Watch interview with Srey Tha, Srey Tho, and Srey Thea, Phnom Penh, June 2010 [exact date withheld].

<sup>143</sup>Human Rights Watch interview with Srey Thea, Phnom Penh, June 2010 [exact date withheld].

permission from the Municipal Social Affairs office is required to visit the center. Human Rights Watch requested permission to visit the center in a letter to MOSAVY dated April 19, 2010. However, the government failed to respond.

## NGO Shelters and Arbitrary Detention

After processing at the Municipal Social Affairs office, sex workers that are not sent to Prey Speu are sent to NGOs that provide services to sex workers such as counseling, and vocational training. In some cases shelter is offered, though it is not always clear that it is done on a consensual basis. In July and August 2009, sex workers reported to Human Rights Watch that two NGO-run shelters had kept adult sex workers against their will for periods of time ranging from several hours to a few days.<sup>144</sup> One shelter had forced the women to stay in locked rooms.<sup>145</sup> The other has a high wall around the compound, and although the gate is not always locked, shelter staff told the sex workers to stay and they complied, despite wanting to leave.<sup>146</sup>

In addition, sex workers told Human Rights Watch that one of the NGOs did not make arrangements to enable HIV positive sex workers who were detained in its center access antiretroviral (ARV) medicine. At least two sex workers who were on ARV medicine, but who did not have their drugs with them at the time of the arrest by the authorities, were sent to the center in July 2009. They each missed three days worth of medicine as they were unable to access any ARVs at the centre. One of them said they had requested a family member to bring the ARV medicine but the staff did not allow them to contact the family member. Shelter staff released them only after several organizations intervened with the NGO.<sup>147</sup>

A 2007 agreement between some NGOs that provide housing or services to victims of trafficking, and some government entities attempted to address this issue by outlining basic standards of shelters and rights of clients, including an obligation to secure victim consent

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<sup>144</sup>Human Rights Watch interviews with A Ny, July 26, 2007; Dara, July 26, 2009; Kolab, August 6, 2009; Mala, August 7, 2009; Tola, August 13, 2009; and Thida, August 24, 2009.

<sup>145</sup>Human Rights Watch interviews with A Ny, July 26, 2007; Dara, July 26, 2009; Kolab, August 6, 2009; Tola, August 13, 2009.

<sup>146</sup>Human Rights Watch interviews with Kolab, August 6, 2009; Mala, August 7, 2009; and Thida, August 24, 2009.

<sup>147</sup>Human Rights Watch interview with Any and Dara, Phnom Penh July 26, 2009. See also Licadho media statement "Punishing the poor: more arrest of street people," July 26, 2009, <http://www.licadho-cambodia.org/pressrelease.php?perm=212&pagenb=0&filter=2009>, (accessed July 4, 2010). The NGO in question denied that such an incident had occurred.

to remain in a shelter and to allow victims to leave.<sup>148</sup> However, not all organizations signed the agreement and in any case, it is not legally binding.

When interviewed by Human Rights Watch in November 2009, the staff of the two NGOs acknowledged that in the past, staff had sometimes pressured sex workers to stay at the center for a few days in order to counsel them and keep them safe, while encouraging them to take advantage of skills training and other programs offered by the centers. While this may be well-intentioned, if in practice the women wish to leave, but are not free to do so, it amounts to unlawful deprivation of liberty.

While the two NGOs may have effectively prohibited sex workers from leaving their centers on certain occasions in the past, the NGOs stated that their current policy is not to detain anyone and people are free to leave at any time. Human rights groups and sex worker groups confirmed that the practices had changed over time.

One of the organizations caters to abused children, but will accept adult sex workers sent to them by MOSAVY, because “they have nowhere to go.”<sup>149</sup> Licadho has reported that when 12 adult sex workers were detained at the center in July 2009, the staff kept them in a locked room only allowing them out for mealtimes in order to prevent them from running away.<sup>150</sup> In addition to issues raised about practices that amount to unlawful deprivation of liberty, sending adult sex workers to an NGO run shelter for abused children presents problems in any case because both groups have distinct needs for different kinds of support.

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<sup>148</sup>Government of Cambodia Ministry of Justice, Ministry of Social Affairs, Veterans, and Youth Rehabilitation, and Ministry of Health, Agreement on Guidelines for Practices and Cooperation Between the Relevant Government Institutions and Victim Support Agencies in Cases of Human Trafficking, February 6, 2007, [http://www.humantrafficking.org/uploads/updates/Guidelines\\_for\\_Victims\\_Support\\_Agencies.pdf](http://www.humantrafficking.org/uploads/updates/Guidelines_for_Victims_Support_Agencies.pdf), (accessed June 16, 2010).

<sup>149</sup>Human Rights Watch interview with Any and Dara, Phnom Penh July 26, 2009. See also Licadho media statement “Punishing the poor: more arrest of street people,” July 26, 2009, <http://www.licadho-cambodia.org/pressrelease.php?perm=212&pagenb=0&filter=2009>, (accessed July 4, 2010).

<sup>150</sup>Human Rights Watch interview with Any and Dara, Phnom Penh July 26, 2009. See also Licadho media statement “Punishing the poor: more arrest of street people,” July 26, 2009, <http://www.licadho-cambodia.org/pressrelease.php?perm=212&pagenb=0&filter=2009>, (accessed July 4, 2010).

## V. International Law

Cambodia is party to the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR),<sup>151</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>152</sup> the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture),<sup>153</sup> the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>154</sup>

As such Cambodia has an obligation under international law to protect the rights of sex workers and prevent violations against them, including taking steps to eliminate human trafficking, and all appropriate measures to prevent sexual exploitation of children. Of most relevance to sex workers are the rights not to be arbitrarily arrested or detained, nor to be subject to torture, cruel, inhuman and degrading treatment, as well as the rights to due process and to health.

Article 9 of the ICCPR guarantees that:

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

Upon arrest everyone “shall be informed, at the time of their arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

Any person detained on grounds that are not in accordance with the law is detained arbitrarily and therefore unlawfully. Detention can also amount to arbitrary detention, even if it is authorized by law, if it includes “elements of inappropriateness, injustice, lack of

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<sup>151</sup>International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

<sup>152</sup>International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976.

<sup>153</sup>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987.

<sup>154</sup>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, entered into force September 3, 1981.

predictability and due process of law.”<sup>155</sup> The UN Human Rights Committee has determined that legally authorized detention must be reasonable, necessary and proportionate taking into account the specific circumstances of a case.<sup>156</sup>

In a study of international legal standards on detaining victims of trafficking, Gallagher and Pearson provide some guidance on specific circumstances in which detention in shelters is likely to be arbitrary and unlawful. This is in cases where “domestic law does not provide for such detention or if the detention is imposed contrary to law; detention is provided for or imposed in a discriminatory manner; detention is imposed for a prolonged, unspecified or indefinite period; detention is unjust, unpredictable, or disproportionate; or detention is not subject to judicial or administrative review that confirms its legality and continued necessity under the circumstances, with the possibility for release where no grounds for its continuation exist.”<sup>157</sup>

International law requires states to ensure that necessary procedural guarantees are in place to identify and respond to situations of unlawful or arbitrary deprivation of liberty. Detainees must have a right to challenge their detention in a court.<sup>158</sup>

In all situations where people are deprived of their liberty, the ICCPR states that they should still be treated “with humanity and with respect for the inherent dignity of the human person.”<sup>159</sup> The ICCPR also prohibits torture or cruel, inhuman or degrading treatment or punishment.<sup>160</sup> Rape and sexual assault in detention is considered torture.<sup>161</sup>

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<sup>155</sup>See, Communication No. 458/1991, *A. W. Mukong v. Cameroon* (Views adopted on 21 July 1994), in U.N. doc. GAOR, A/49/40 (vol. II), p. 181, para. 9.8.

<sup>156</sup>*Van Alphen v. The Netherlands*, Communication No. 305/1988, adopted 15 Aug. 1990, U.N. GAOR, Hum. Rts. Comm., 39th Sess., ¶ 5.8, U.N. Doc. CCPR/C/39/D/305/1988 (1990); *A v. Australia*, Communication No. 560/1993, adopted 30 Apr. 1997, U.N. GAOR, Hum. Rts. Comm., 59th Sess., ¶ 9.2, U.N. Doc. CCPR/C/59/D/560/1993 (1997).

<sup>157</sup>Gallagher, A. and Pearson, E. “The High Cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking,” *Human Rights Quarterly*, February 2010, p. 95.

<sup>158</sup>Under Article 9 of the ICCPR, “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” Additionally, “[a]nyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

<sup>159</sup>ICCPR, art. 10.

<sup>160</sup>ICCPR, art. 7.

<sup>161</sup>The UN special rapporteur on torture has stated that “[r]ape and other forms of sexual assault in detention are a particularly despicable violation of the inherent dignity and right to physical integrity of every human being; and accordingly constitute an act of torture.” United Nations Special Rapporteur on Torture, Summary Record of the 21st meeting, U.N. ESCOR, Comm’n Hum. Rts., 48th Sess., ¶ 35, U.N. Doc. E/CN.4/1992/SR.21 (1992). International tribunals and other bodies have established that rape is covered by international prohibitions on torture or cruel, inhuman or degrading treatment. See, for example, *Aydin v. Turkey*, Eur. Ct. of H.R., Judgment of 25 September 1997, paras. 62-88; *Prosecutor v. Furundija*, ICTY, Case No. IT-95-17/1-T, Judgment of 10 December 1998, paras. 163-86.

Under the ICCPR, states must provide “adequate medical care during detention.”<sup>162</sup> The UN’s Standard Minimum Rules for the Treatment of Prisoners further clarify that detainees are entitled to see a medical officer for their physical and mental health needs.<sup>163</sup> This should include access to medicines necessary for their survival, such as ARVs.

The need to detain children separately from adults is recognized in the CRC, and the specific circumstances of children is addressed in the *UN Rules for the Protection of Juveniles Deprived of their Liberty*.<sup>164</sup>

The actions of police and other government officials routinely violate these basic rights which Cambodia is legally bound to uphold. For instance, arresting adult sex workers in brothels or on the streets only to transfer them to shelters from which they cannot freely leave, yet for which there is no lawful basis to detain them, violates their right to liberty and security.<sup>165</sup>

International treaties on slavery, slavery-like practices, and human trafficking also call upon countries to define specific acts involving forced sex work as crimes and take appropriate steps to address these situations, including protecting the rights of victims of these crimes.<sup>166</sup> Cambodia has ratified the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children,<sup>167</sup> and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices.<sup>168</sup> International law does not prescribe any particular legal framework for the regulation of sex work.

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<sup>162</sup>Pinto v. Trinidad and Tobago (Communication No. 232/1987) Report of the Human Rights Committee, vol. 2, U.N. Doc A/45/40, p. 69.

<sup>163</sup>United Nations Standard Minimum Rules for the Treatment of Prisoners, (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, para 26.

<sup>164</sup>CRC, art. 37.

<sup>165</sup>ICCPR, art. 12 (1) states that, “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.”

<sup>166</sup>E.g. Trafficking Protocol, Convention of Abolition of Slavery, Convention on Abolition of Slavery-like Practices.

<sup>167</sup>Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55U.N. GAOR Supp. (No.49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered December 25, 2003, ratified by Cambodia on July 2, 2007.

<sup>168</sup>UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted September 7, 1956, 226 U.N.T.S. 3, entered into force April 30, 1957, adopted by the United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. The Conference was convened pursuant to resolution 608 (XXI) of April 30, 1956 of the Economic and Social Council of the United Nations, and met at the European Office of the United Nations in Geneva from August 13 to September 4, 1956. Treaty Series, vol. 226, p. 3.

However, it is always incumbent upon states, whatever legal framework is adopted, to respect the fundamental rights of individuals engaged in sex work, whether voluntarily or not.

International law is clear with regards the prohibition on the involvement of children—that is all those under 18—in sex work. Cambodia has ratified the CRC and its Optional Protocol on the sale of children, child prostitution, and child pornography, and ILO Convention Number 182 on the Worst Forms of Child Labor. Under these treaties, states are obliged to protect children from economic exploitation, sexual exploitation, and any work that is likely to be hazardous or harmful to a child’s health or physical, mental, or social development.<sup>169</sup> The “use, procuring, or offering” of a child for prostitution is considered a “worst form of child labor,” for which states shall design and implement action programs to eliminate as a priority.<sup>170</sup> States are also required to criminalize “offering, obtaining, procuring or providing a child” for use “in sexual activities for remuneration or any other form of consideration.”<sup>171</sup>

Importantly, states must “take all feasible measures” to ensure that all children who have been involved in sexual activities for remuneration or any other form of consideration receive “all appropriate assistance...including their full social reintegration and their full physical and psychological recovery.”<sup>172</sup> Such assistance should include the “necessary and appropriate direct assistance for the removal of children” from such work and ensuring “access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labor.”<sup>173</sup> In Cambodia, given police indifference to the age or status of those sex workers they detain documented in this report, children who have become involved in sex work do not enjoy the special protection to which they are entitled.<sup>174</sup>

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<sup>169</sup>CRC arts. 32(1) and 34.

<sup>170</sup>ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), ratified by Cambodia March 14, 2006, arts. 3(b) and 6(1).

<sup>171</sup>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, (Optional Protocol CRC SC), adopted May 25, 2000, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol.III (2000), entered into force January 18, 2002, ratified by Cambodia May 30, 2002, arts. 2(b) and 3(1)(b).

<sup>172</sup>Ibid, art. 9(3).

<sup>173</sup>ILO Convention 182, arts. 7(2)(b) and (c).

<sup>174</sup>Likewise regarding both adults and children, under Article 6 of the Palermo Protocol, States should endeavor to provide victims of trafficking with housing, medical care, legal assistance, education/training and employment opportunities, access to information about their rights and interpreters as necessary. The OHCHR’s Recommended Principles and Guidelines on Human Rights and Human Trafficking call on states, in cooperation with nongovernmental organizations, to ensure that safe and adequate shelter, which is not detention, is made available to victims of trafficking, OHCHR, The Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1, Guideline 6(1).

## VI. Impunity and Inaction Perpetuate Abuses

The failure to investigate and prosecute these abuses allows police and other state officials to prey on sex workers without fear of punishment. NGOs, international organizations, and others have repeatedly brought these failings to the attention of the Cambodian government. One outcome was the issuance of guidelines to the 2008 law intended to prevent the worst abuses. However, continuing government inaction has left the guidelines to languish with little positive effect. Foreign assistance intended to help combat abuses has not yielded progress.

### Failure to Investigate and Prosecute Abuses

Under Cambodian and international law, Cambodian authorities are obligated to prevent abusive behavior by police and other officials, and to investigate, prosecute, and provide effective remedies when violations occur.<sup>175</sup>

The abuses documented in this report are not new. Local human rights and sex worker groups have raised these issues before. But there continues to be impunity for abuses committed against sex workers, the homeless, street children, and people who use drugs. Past reports of abuse in Prey Speu and of police violence against sex workers have failed to lead to credible investigations into allegations of abuse.

Despite unlawful arrest, detention, and violence, none of the sex workers interviewed by Human Rights Watch had ever filed formal complaints about their treatment with judicial, police, or other government authorities. Some of these sex workers did report their cases to local sex worker and human rights groups who documented cases and have tried to collectively and publicly denounce the violence. But competent authorities have often failed to investigate these cases. Many others were fearful about reprisals; others simply had no faith in a system marked by corruption, discrimination, and impunity. As one sex worker, Srey Na, put it:

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<sup>175</sup>Cambodia has recognized and abides by the principles of international conventions as set in article 31 of the Cambodian Constitution. Article 38 of Cambodia's constitution prohibits coercion, physical ill-treatment, or any other mistreatment that imposes additional punishment on a detainee or prisoner. Under article 39, the constitution guarantees the right of Cambodian citizens to denounce, make complaints, or file claims against any breach of law by state and social organs or by members of such organs committed during the course of their duties.

They [police] can frame any charge against us and we have no power to challenge their treatment. We suffer a lot and are hurt by police.<sup>176</sup>

Nika, who was beaten up by park guards in October 2009, wanted to file a complaint and even had photographs of the incident. She decided against it after being advised that police would require statements by other witnesses. She said:

It is hard to get anyone to be my witnesses because everyone is afraid and concerned about their own security. Many motorcycle taxi drivers and plenty of sex workers witnessed the attack, but they are afraid to help me. They are at the park everyday to earn their living, so they will never do anything against those with authority over the park. They will not come forward to be my witnesses.<sup>177</sup>

NGOs offering shelter to victims of sexual violence also acknowledge that police abuse is a problem, but they have little power to combat it.<sup>178</sup> An NGO that did not want to be named said they did not raise complaints with police when some women and girls coming to their shelter were raped by police, saying:

We need to cooperate with the authorities for a continued working relationship and so that at least some traffickers will be arrested. In any case, police deny that they extort money or steal when everyone knows they do it.<sup>179</sup>

Police officials routinely deny that police beat or otherwise mistreat sex workers during arrests and crackdowns. For example in December 2009, Phnom Penh Municipal Police Chief Touch Naruth told the press that police have neither beaten nor arrested sex workers, while continuing to assert that prostitution is contrary to Cambodian culture.<sup>180</sup>

In June 2008, Lt. Gen. Khieu Sopheak, the Interior Ministry's spokesman dismissed claims that police committed violence against sex workers and said none were mistreated in

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<sup>176</sup>Human Rights Watch interview with Srey Na, Phnom Penh, November 6, 2009.

<sup>177</sup>Human Rights Watch interview with Nika, Phnom Penh, November 6, 2009.

<sup>178</sup>Human Rights Watch interview with CCPCR and AFESIP representative, Phnom Penh, November 5, 2009.

<sup>179</sup>Interview [name withheld], Phnom Penh, November 2009.

<sup>180</sup>Kuch Naren, "300 Sex Workers To Call for End to Police Abuse," Cambodia Daily, Wednesday December 16, 2009.

crackdowns. He defended cracking down on sex workers, by calling sex work unacceptable in Cambodia.<sup>181</sup>

Police have refused to formally accept and register complaints about abuses and the Ministry of Interior and MOSAVY have conducted merely superficial investigations denying the abuses took place.<sup>182</sup>

In June 2008, LICADHO raised concern about abuses at Prey Speu and Koh Kor in a letter to Sar Kheng, the deputy prime minister and chairman of High Level Working Group Against Trafficking in Persons and to You Ay, secretary of state of the Ministry of Women's Affairs and Following this pattern of denial, the response from the Ministry of Interior and MOSAVY to local human rights groups raising concerns about abuses at the Social Affairs centers shows no willingness to seriously investigate these abuses. The Ministry of Interior responded to LICADHO's allegations by letter, denying that anyone was unlawfully detained at Prey Speu: "Prey Social Affairs Center is an open center and people stay in the center on a voluntarily basis. It particularly saves those who live in the street by giving them food, medical care and training them to be able to earn a living in their communities."<sup>183</sup> The letter also stated, "The center does not have security guards but the manager has chosen those who wanted to stay in the center for long time in order to be guardians of the center."<sup>184</sup> The letter failed to address at all the allegations of abuse committed by staff and guards at the center, whether they are employed or working there on a voluntary basis.

OHCHR conducted its own investigations into abuses in the Social Affairs centers but the complete results of these investigations (submitted to the government in early 2009) have never been made public. Since 2009 OHCHR has conducted regular unannounced visits to Preu Speu. An OHCHR official explained that its approach has been to first prioritize direct, confidential advocacy with the government, and while implementation was problematic, that the MOSAVY August 2008 directive requesting authorities not to detain people in Social Affairs centers was a step in the right direction.<sup>185</sup>

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<sup>181</sup>Sopheng Cheang, AP, *Cambodian Prostitutes Protest Police Crackdown*, June 4, 2008, [http://www.usatoday.com/news/world/2008-06-04-622462536\\_x.htm](http://www.usatoday.com/news/world/2008-06-04-622462536_x.htm), (accessed July 6, 2010).

<sup>182</sup>Letter from H.E. Khieu Sopheak, general secretary, the Ministry of Interior (number 1219 Sar. Cho. Nor), to Mrs. Pung Chhiv Guek, president of LICADHO, September 25, 2008, "Statement of the Ministry of Social Affairs, Veterans and Youth Rehabilitation," Ministry of Social Affairs, Veterans, and Youth Rehabilitation, November 4, 2008.

<sup>183</sup>Ministry of Interior letter to Dr. Kek Galabru, the President, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), no. 1219 sor.chor.nor, September 25, 2008.

<sup>184</sup>Ministry of Interior letter to Dr. Kek Galabru, the President, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), no. 1219 sor.chor.nor, September 25, 2008.

<sup>185</sup>Email communication received from OHCHR, July 6, 2010.

## US Pressure to Address Trafficking Makes a Bad Situation Worse

The US is one of Cambodia's largest bilateral donors, and a major donor supporting anti-trafficking efforts in Cambodia. Under the Bush administration, the US government maintained that in order to combat trafficking, countries should take steps against prostitution. National Security Presidential Directive 22 stated that, "Our policy is based on an abolitionist approach to trafficking.... In this regard, the United States government opposes prostitution and any related activities including pimping, pandering, and/or maintaining brothels as contributing to the phenomenon of trafficking in persons."<sup>186</sup>

Since 2003, US legislation dealing with HIV/AIDS and human trafficking has required recipients of international anti-AIDS funding to have a policy "opposing prostitution and sex trafficking" as a condition of receiving funding.<sup>187</sup> The legislation bars the use of funds, to "promote, support, or advocate the legalization or practice of prostitution."<sup>188</sup> This provision was retained when the law was reauthorized in 2008 and remains in force. In May 2010, the US government issued implementing regulations that largely mirror those imposed by the Bush Administration.<sup>189</sup>

This anti-prostitution stance combined with the impact of the annual US State Department's Trafficking in Persons report seemed to show US support for the Cambodian government's efforts to criminalize voluntary sex work. Since 2001, the Trafficking in Persons report has ranked countries according to their efforts to address human trafficking. If a country is ranked as Tier 3 (lowest ranking) this may result in withholding of non-humanitarian and non-trade related assistance.<sup>190</sup> Many countries, including Cambodia, take seriously the

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<sup>186</sup>"Combating Trafficking in Persons," National Security Presidential Directive/NSPD-22, (The White House, Washington), December 16, 2002, <http://www.combat-trafficking.army.mil/documents/policy/NSPD-22.pdf>, (accessed June 16, 2010).

<sup>187</sup>The legislation is the United States Leadership Against Global HIV/AIDS, Tuberculosis, and Malaria Act of 2003, P.L. 108-25, (S. 250, H.R. 1298), commonly known as PEPFAR. The Trafficking Victims Protection Act was also amended in 2003 to include the limitations on spending (Trafficking Victims Protection Reauthorization Act of 2003).

<sup>188</sup>In its Bilateral Assistance Provisions, this law includes limits on spending of funds appropriated under the Act: "LIMITATION.—“(g)”(e) No funds made available to carry out this Act, or any amendment made by this Act, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.(f) LIMITATION.—No funds made available to carry out this Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking.”

<sup>189</sup>45 CFR PART 89, <http://edocket.access.gpo.gov/2010/pdf/2010-8378.pdf>, (accessed July 7, 2010). The regulation requires that as a condition of receiving funding, recipients must agree that they are "opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for men, women and children.”

<sup>190</sup>Over time, the reports have improved in content and coverage and now generally cover trafficking in all forms. However, the use of tiers in the TIP report for certain countries has been widely criticized for its political implications, with countries that are enemies of the US often listed in Tier 3, while those with good relations listed in Tier 1. The complete tier rankings are

annual TIP rankings, their effect on a country's reputation, and the threat of sanctions that may come from a Tier 3 rating.

In 2008, the TIP report moved Cambodia up to Tier 2 from the Tier 2 Watch List in recognition of the passage of Cambodia's 2008 law. Various organizations including Human Rights Watch drew the State Department's attention to the fact that this improvement was awarded despite the abuses faced by sex workers. In 2009, the TIP report again downgraded Cambodia to the Tier 2 Watchlist, in part because of the harmful impact of police crackdowns and the inordinate government focus on enforcing the prostitution-related provisions of the 2008 law, rather than those related to trafficking.<sup>191</sup>

Through the auspices of USAID, the US government agreed to provide Cambodia with \$7.3 million to combat human trafficking between August 2006 and September 2011. According to the MOU between USAID and the Cambodian government, the aim of the assistance is to help Cambodia protect victims of trafficking, increase prosecutions of human traffickers, coordinate targeted prevention and awareness-raising activities and assist with the reintegration of trafficking victims into Cambodian society.<sup>192</sup>

It is noteworthy that the July 2007 "Campaigning Plan to Combat Human Trafficking, Smuggling, Exploitation, and Sexual Exploitation of Women and Children," enacted by the Ministry of Interior states as one of its three goals, "to implement the 2006 MOU [Memorandum of Understanding] between the Cambodian government and USAID on implementing an anti-trafficking program."<sup>193</sup> The plan authorizes suppression of venues for carrying out sex work and was a major causal factor for brothel raids and street sweeps in late 2007.<sup>194</sup>

While there is no language concerning criminalizing sex work as a means to combat trafficking in the MOU, US policy on sex work under the Bush administration was quite clear.

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Tier 1 (best), Tier 2, Tier 2 Watch List, Tier 3 (worst). See Chuang, J., "The United States As Global Sheriff: Using Unilateral Sanctions To Combat Human Trafficking," *Michigan Journal of International Law* Vol. 27, 437 at p. 486-487.

<sup>191</sup>United States Department of State, *Trafficking in Persons Report 2009 - Cambodia*, June 16, 2009, <http://www.unhcr.org/refworld/docid/4a4214c82d.html>, (accessed June 16, 2010).

<sup>192</sup>Office of the Inspector General, "Audit of USAID/Cambodia's Counter Trafficking in Persons Project, Audit Report No. 9-000-10-002-P, December 10, 2009, <http://www.usaid.gov/oig/public/fy10rpts/9-000-10-002-p.pdf>, (accessed July 7, 2010), p.4.

<sup>193</sup>"Campaigning Plan to Combat Human Trafficking, Smuggling, Exploitation, and Women and Children Sexual Exploitation," Ministry of Interior, Royal Government of Cambodia, No. 012 Ph.K, signed in Phnom Penh, July 17, 2007.

<sup>194</sup>See Cambodian Alliance for Combating HIV/AIDS (CACHA), <http://www.actionaid.org/cambodia/index.aspx?PageID=3176>, (accessed July 8, 2010); Licadho, <http://www.licadho-cambodia.org/articles/20080702/79/index.html>, (accessed July 8, 2010).

In supporting these efforts in Cambodia, the US failed to consider the context of a police force long known for its problems with corruption and for committing abuses against sex workers with impunity, when it pushed for the 2008 law.<sup>195</sup>

Technical assistance USAID currently provides to Cambodia for trafficking attempts to address abuses by police. The USAID's audit report notes that funding is being used:

To increase the capacity of law enforcement to protect the human rights of trafficked and exploited persons.... The project has been instrumental in developing training for law enforcement officials on the Law on Suppression of Human Trafficking and Sexual Exploitation, adopted by the Royal Government of Cambodia in February 2008. Official explanatory notes explaining the new law have been drafted and are due for release in 2009. To further enhance the project's capacity-building efforts, a training module on conducting raids and rescues without violating the rights of victims was developed and implemented for both police officers and social service providers."<sup>196</sup>

However, despite these well-intentioned efforts at training, abuses continue. According to sex workers interviewed by Human Rights Watch, even the police in specialized anti-trafficking units that have received human rights training have been implicated in trying to bribe sex workers. The donor community has made longstanding efforts to train the Cambodian police force on human rights.<sup>197</sup> Policing and police reform was one of the seven elements of UNTAC's mandate in Cambodia (1992-1993).<sup>198</sup> But the reality is that unless and

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<sup>195</sup>Jenkins, Carol, CPU, WNU, and Sainsbury, C., "Violence and Exposure to HIV Among Sex Workers in Phnom Penh, Cambodia," prepared for USAID, March 2006, <http://www.hivpolicy.org/Library/HPP001702.pdf>, (accessed July 7, 2010).

<sup>196</sup>USAID, "Audit of USAID/Cambodia's Counter Trafficking in Persons Project," Audit Report No. 9-000-10-002, December 10, 2009, <http://www.usaid.gov/oig/public/fy10rpts/9-000-10-002-p.pdf> (accessed April 11, 2010).

<sup>197</sup>The Office of the High Commissioner for Human Rights in Cambodia's mandate since 1993 has been training institutions responsible for the administration of justice. The office developed a human rights trainings manual and conducted trainings between 1995 and 2002, when responsibility was handed to the Ministries of Defense and the Interior and to NGOs. See Secretary General, "Advisory Services And Technical Cooperation In The Field Of Human Rights: Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights," UN Doc E/CN.4/2003/113 9 January 2003. These trainings were extensive, however; in the second half of 2001 alone, the OHCHR reported that its trainers had trained 2,155 police in 14 provinces. See the OHCHR Cambodia Annual Report for 2001, [http://cambodia.ohchr.org/WebDOCs/DocReports/3-SG-RA-reports/A\\_HRC\\_CMB27122001E.pdf](http://cambodia.ohchr.org/WebDOCs/DocReports/3-SG-RA-reports/A_HRC_CMB27122001E.pdf), (accessed July 7, 2010). Projects funded by the US, Danish, and Australian governments have all provided extensive police training on human rights in Cambodia.

<sup>198</sup>According to UN Security Council Resolution 745 (1992), <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/011/04/IMG/NR001104.pdf?OpenElement>, (accessed July 7, 2010). The mission included 3,600 UN civilian police to train and supervise Cambodian police, including on democratic policing, human rights and crime prevention. By the end of its mandate, UNTAC had trained 9,000 police. See Wilton Park, "International Post-

until police officers are prosecuted for offenses, and there is a strong message that abuses against sex workers will not be tolerated, human rights training will be of limited effect.

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Conflict Policing Operations: Enhancing Co-Ordination and Effectiveness,” Report of the Conference, 26 – 30 January 2004, <http://www.wiltonpark.org.uk/documents/conferences/WPSo4-3/pdfs/WPSo4-3.pdf>, (accessed July 6, 2010).

## VII. Recommendations

### To the Government of Cambodia:

- Establish a special commission to conduct independent and thorough investigations into all acts of violence and extortion by law enforcement officials, park officials, and staff or volunteers in Social Affairs centers. The commission should be composed of competent and respected representatives of government including the Ministry of Interior, Ministry of Social Affairs, Veterans, and Youth Rehabilitation, and Social Affairs, UN agencies, nongovernmental organizations including human rights groups and sex worker groups. It should be established promptly, have the power to call witnesses and produce a public report. It should be empowered to make recommendations for criminal investigations to ensure perpetrators are brought to justice for their crimes.

### To the Ministry of Interior:

- Respect the rights of sex workers, in particular the rights to bodily integrity, liberty and security, due process, and non-discrimination and to be protected from all forms of torture, inhuman and degrading treatment and punishment including all forms of sexual violence.
- Stop the arbitrary arrest and detention of sex workers—including women, men, children, and transgender sex workers—victims of trafficking, and others including drugs users, homeless people, beggars, street children, and mentally ill people.
- Investigate and prosecute the perpetrators of human rights abuses against sex workers, including by police and government officials.
- Publicly acknowledge and condemn abuses by police and Social Affairs center staff against sex workers.
- Immediately disseminate widely and instruct all law enforcement officers, in particular the local police at the commune, district and municipal and provincial levels, and local officials at the commune, district, municipal, and provincial levels, to adhere to the 2008 guidelines on the implementation of the Law on Suppression of Human Trafficking and Sexual Exploitation.
- In consultation with community groups, sex worker groups, human rights groups, anti-trafficking groups, health groups, and UN agencies conduct a review of the 2008 law on trafficking and sexual exploitation and the impacts of its provisions on sex work before implementing those provisions dealing with sex work.

- Remind non-police personnel such as park security guards and district security guards that they do not enjoy powers of arrest and advise them that if they are responsible for any unlawful deprivation of liberty that they will be prosecuted under the law.
- Increase the number of female law enforcement officers trained in handling situations involving gender-based violence and, ensure that female officers are tasked with handling female and transgender sex work cases. At a minimum, increase female police officers at the police stations in Toul Kork, Chamkamon, and Daun Penh where many abuses are reported. Train these officers to interview sex workers to determine if they are victims of trafficking or physical abuse and to abide by human rights standards in dealing with adults and children in sex work. Also train them on sexual orientation and gender identity and expression, including transgender identity.
- Instruct law enforcement officials that they can only detain adult sex workers if they have committed an actual offence under the law and they intend to promptly charge and prosecute them for such an offence. If adult sex workers are transferred to NGOs, this should be on a strictly voluntary basis and to NGOs that provide appropriate services and housing.
- Instruct law enforcement officials to transfer children and victims of trafficking to appropriate NGOs that will protect them in line with international standards.
- Instruct law enforcement officials that children engaged in sex work should never be treated as offenders and should not be detained solely on that basis.
- In the case of adults or children, where there are indications that the individual may have been trafficked, refer the person immediately to a NGO that provides assistance to victims of trafficking and whose services are in line with international standards.
- Formulate and enforce a policy for nongovernmental organizations that assist sex workers requiring that all services, including transport and shelter, be provided on a voluntary, consensual basis. Take action against organizations that in practice coerce individuals to remain in shelters against their will.

### **To the Ministry of Social Affairs, Veterans, and Youth Rehabilitation:**

- Permanently close Prey Speu and Koh Kor and all other Social Affairs centers, where people have been detained in violation of international and national law.
- Suspend staff against whom credible allegations of abuse have been made, whilst the allegations are investigated.
- Publicly acknowledge and condemn abuses by police and Social Affairs center staff against sex workers and call for their investigation.

- Consult with sex worker groups in order to jointly develop programs and services that can empower sex workers and accurately reflect their needs. Areas include legal assistance, health care, child care, or vocational training if identified by sex workers as relevant.

### **To the Phnom Penh Municipality:**

- Stop the arbitrary arrest and detention of sex workers—including women, men, children, and transgender sex workers—victims of trafficking, and others including drugs users, homeless people, beggars, street children, and mentally ill people.
- Publicly acknowledge and condemn abuses by police and Social Affairs center staff against sex workers and call for their investigation.
- Widely disseminate and instruct all local officials at the commune, district, municipal, and provincial level, to enforce the Guidelines on the Implementation of the Law on Suppression of Human Trafficking and Sexual Exploitation.

### **To the National Assembly of Cambodia:**

- Publicly acknowledge and condemn abuses by police and Social Affairs center staff against sex workers and call for their investigation.
- Establish an independent body to receive complaints of torture, cruel, inhumane and degrading treatment, and other abuses committed by law enforcement officers and staff at Social Affairs centers.
- Until the pervasive problem of police abuse of sex workers is tackled, suspend article 24 on “soliciting” in the Law on Suppression of Human Trafficking and Sexual Exploitation. The provision gives police more leverage to extort money and commit violent acts against sex workers and has facilitated abuses.
- Repeal the overly-vague article 25(3) of the Law on Suppression of Human Trafficking and Sexual Exploitation, which makes acts deemed to be “hindering acts of prevention, assistance or re-education” of sex workers equivalent to procurement of prostitution.

### **To United Nations Agencies and Concerned Donor Governments Including the US, EU, Japan, and Australia:**

- Request the permanent closure of Koh Kor and Prey Speu and other Social Affairs centers, where people have been detained in violation of international and national law.

- Request the government of Cambodia to promptly and independently investigate all allegations of abuses against sex workers by police and Social Affairs center staff.
- Review all funding, programming, and activities directed to assisting Cambodia's Ministry of Social Affairs to ensure no funding is supporting policies or programs that violate international human rights law, such as the prohibitions on arbitrary arrest, detention, torture and inhuman or degrading treatment of sex workers.
- Review all funding, programming, and activities designed to assist Cambodia's police and Ministry of Social Affairs until there is a full independent investigation into allegations of abuses and prosecutions of those found responsible, and the centers of Prey Speu and Koh Kor are permanently closed.
- Actively encourage the Cambodian government to adopt and put into practice services and programs for sex workers on a voluntary basis with the participation of sex workers groups.
- Support local human rights groups and sex workers groups that are assisting sex workers on a voluntary, participatory basis.
- Only support civil society groups running shelters that meet international standards.
- UNOHCHR should conduct independent, impartial investigations into acts of violence and extortion by security forces and park officials and make their findings public.

### **To the US Government:**

- In addition to advocating for the recommendations above, recognize the vulnerable status of sex workers and ensure that they are not further penalized as a result of US policies.
- Recognize the impact of the annual Trafficking in Persons report on other countries, and acknowledge and address the harm that can be done through misguided anti-trafficking campaigns, by documenting the impact on victims of trafficking, sex workers and other marginalized groups, such as undocumented migrants.

### **To NGOs Assisting Victims of Trafficking and Sex Workers:**

- Comply fully with international human rights standards on the treatment of victims of trafficking and sexual exploitation. In particular ensure all policies on admission and release from shelters are based on full respect for the rights to liberty and security, freedom of movement, autonomy and privacy, non-discrimination and the prohibition on inhuman and degrading treatment. Commit to this policy in writing.

## HUMAN RIGHTS WATCH

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## Appendix: Letters Sent to the Government of Cambodia

### Letter to Ministry of Interior: Sent April 19, 2010

April 19, 2010

H.E. Sar Kheng

Deputy Prime Minister and Minister of Interior

Chair of the Task Force Against Trafficking in Persons, Human Smuggling,  
Human Exploitation and Sexual Exploitation of Women and Children  
No. 275 Norodom Blvd.  
Phnom Penh, Cambodia

*Via facsimile: +(855) 23-721-905*

*Via E-Mail: info@interior.gov.kh, moi@interior.gov.kh*

### Re: Treatment of sex workers

Dear Deputy Prime Minister Sar Kheng,

Human Rights Watch is an international nongovernmental organization that monitors violations of human rights by states and non-state actors in more than 80 countries around the world.

Human Rights Watch is preparing a report regarding the treatment of women and children in sex work in Cambodia. Our report explores street sweeps, violence and other ill-treatment, and arbitrary arrest and detention of sex workers.

We are writing to ensure that our report properly reflects the views, policies, and practices of the Cambodia government regarding the treatment of women and children in sex work and government efforts to counter trafficking and sexual exploitation.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you or your staff will respond to the

www.hrw.org

attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by May 17, 2010.

Please do not hesitate to include any other materials, statistics, and reports about government actions regarding treatment of women and children in sex work, efforts to prosecute trafficking and sexual exploitation under the 2008 law, and efforts to train police or punish police and government officials for malfeasance.

We would also like to request official permission to visit the government Social Affairs center at Prey Speu. We look forward to strengthening our dialogue with the Cambodia government.

Thank you for your time in addressing these urgent matters.

Sincerely,



Brad Adams  
Executive Director  
Asia Division

CC:

H.E. Ith Sam Heng  
Minister of Social Affairs, Labor, Veterans, and Youth Rehabilitation  
No 788B, Monivong Blvd.,  
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Email: [phnompenh@phnompenh.gov.kh](mailto:phnompenh@phnompenh.gov.kh)

## Questions:

1. Human Rights Watch understands that sex workers, people who use illegal drugs, homeless people, beggars, street children and mentally ill are frequently arrested in Phnom Penh.

Please provide us with the following information for 2007, 2008, 2009, and 2010 – to date:

- In Phnom Penh, the number of arrests made each year for each of the following categories: sex workers, people who use drugs, homeless people, beggars, street children and mentally ill people, total children, total adults. If you cannot provide such data, please explain why not.
- The laws or policies that authorize the police and other authorities to carry out these arrests.

2. How many alleged sex workers have been arrested, charged, and convicted each year since 2008 for soliciting under Article 24 of the 2008 Law on Trafficking and Sexual Exploitation?

3. How many people have been charged, prosecuted, and convicted of various offenses under the 2008 law on suppression on human trafficking and sexual exploitation? Please provide information on the specific charges (which articles of the law) and the range of sentences.

4. Please describe the process from when a sex worker is arrested to their eventual release or subsequent referral to a government Social Affairs center or an NGO. What are the differences in procedure between adults and children? Is there any attempt to determine if a sex worker may be a victim of trafficking? What are the different steps taken for victims of trafficking?

5. What is the legal basis for detaining sex workers in police custody and/or the municipal Social Affairs office or centers? Please specify the provision(s) under Cambodian law and what legal authority authorizes this detention.

6. Who has the authority to release a detained sex worker from a police station, or from a government Social Affairs office or center, and what are the considerations in deciding to transfer a sex worker from the Social Affairs office to an NGO? Does it differ for adults and children?

7. How many complaints of assault, ill-treatment, arbitrary arrest and detention, extortion, and other abuse against sex workers have been lodged since 2007? How have these complaints been dealt with? What punishments or sanctions have actually been taken against those found responsible? Please provide details.

8. Human Rights Watch understands that the government is drafting explanatory notes on the implementation of the law on suppression of human trafficking and sexual exploitation with support from UNICEF. What is the status of these explanatory notes, and when will they be approved? What will be the government strategy to implement the guidelines?

9. Please describe what training has been conducted for law enforcement officials on trafficking, child prostitution, and protecting human rights? In particular, what training has been conducted on implementing the 2008 law on suppression of human trafficking and sexual exploitation? How many trainings have been conducted, and who are the beneficiaries? Are police at all levels—provincial/municipal, district/khan, and communal—targets of such training? What are the indicators to measure the effectiveness of such trainings?

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## Letter to Ministry of Social Affairs, Veterans, and Youth Rehabilitation: Sent April 19, 2010

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April 19, 2010

H.E. Ith Sam Heng  
Minister of Social Affairs, Labor, Veterans and Youth Rehabilitation  
No 788B, Monivong Blvd.  
Phnom Penh  
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*Via facsimile: +855-2372-6086*

*Via email: [mosalvy@cambodia.gov.kh](mailto:mosalvy@cambodia.gov.kh)*

### Re: Treatment of sex workers

Dear Minister Ith Sam Heng,

Human Rights Watch is an international nongovernmental organization that monitors violations of human rights by states and non-state actors in more than 80 countries around the world.

Human Rights Watch is preparing a report regarding the treatment of women and children in sex work in Cambodia. Our report explores street sweeps, violence and other ill-treatment, and arbitrary arrest and detention of sex workers.

We are writing to ensure that our report properly reflects the views, policies, and practices of the Cambodia government regarding the treatment of women and children in sex work and government efforts to counter trafficking and sexual exploitation.

Human Rights Watch is committed to producing material that is well-informed and objective. We hope you or your staff will respond to the attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our

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forthcoming report, we would appreciate a written response by May 17, 2010.

Please do not hesitate to include any other materials, statistics, and government actions regarding treatment of women and children in sex work.

We would also like to request official permission to visit the government Social Affairs center at Prey Speu. We look forward to strengthening our dialogue with the Cambodia government. We look forward to strengthening our dialogue with the Cambodia government.

Thank you for your time in addressing these urgent matters.

Sincerely,



Brad Adams  
Executive Director  
Asia Division

CC:

H.E. Sar Kheng  
Deputy Prime Minister and Minister of Interior  
Chair of the Task Force Against Trafficking in Persons, Human Smuggling, Human Exploitation and Sexual Exploitation of Women and Children  
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Email: [phnompenh@phnompenh.gov.kh](mailto:phnompenh@phnompenh.gov.kh)

## Questions:

1. Human Rights Watch understands that sex workers, people who use illegal drugs, homeless people, beggars, street children and mentally ill are frequently arrested in Phnom Penh.

Please provide us with the following information from 2007 to the present:

- In Phnom Penh, the number of sex workers referred to the municipal Social Affairs office, sent to government Social Affairs centers, referred to NGOs and those released each year. Please specify the total number of children in each data set. If you cannot provide such data, please explain why not.
  - The law or policy that authorizes the police and other authorities to carry out these arrests.
2. Please describe the process from when a sex worker is arrested to their eventual release or subsequent referral to a government Social Affairs center or an NGO. What are the differences in procedure between adults and children? Is there any attempt to determine if a sex worker may be a victim of trafficking? What are the different steps taken for a victim of trafficking?
3. What is the legal basis for detaining sex workers in municipal Social Affairs office or centers? Please specify the provision(s) under Cambodian law and what legal authority authorizes this detention.
4. Who has the authority to release a detained sex worker from a government Social Affairs office or center, and what are the considerations in deciding to transfer a sex worker from the municipal Social Affairs office to an NGO? Is this different for adults and children? Is this different for victims of trafficking?
5. What are the reasons for releasing adult sex workers into the custody of NGOs?
6. How many complaints of assault, ill-treatment, arbitrary detention of sex workers are you aware of in the municipal Social Affairs office and government Social Affairs centers? How have these complaints been dealt with? What punishments or sanctions have actually been taken against those found responsible? Please provide details of all cases in which action has been taken.

7. What training have officials at the municipal Social Affairs office and government Social Affairs centers had? How many trainings have been conducted, and who are the beneficiaries? What are the indicators to evaluate the effectiveness of such trainings?

8. Government officials have made many public statements saying that interventions are required to “re-educate” sex workers and provide them with vocational training to change their job. What government programs exist regarding “re-education” and vocational training and where are these centers located? How many centers are equipped to provide the program? Do the programs work in consultation with local sex worker groups and are they provided on a voluntary basis?

## **VIII. Acknowledgements**

This report was edited by Elaine Pearson, deputy director of the Asia division of Human Rights Watch; Phil Robertson, deputy director of the Asia division; and Sara Colm, senior researcher in the Asia division. Aisling Reidy, senior legal advisor and Joseph Saunders, deputy director in the Program office, completed legal and programmatic review respectively. Editing was also done by Cassandra Cavanaugh, consultant to the Program office at Human Rights Watch.

Specialist review was done by Bede Sheppard, researcher in the children's rights division; Nisha Varia, senior researcher in the women's rights division; Marianne Mollman, advocacy director in the women's rights division; Liesl Gertholtz, director of the women's rights division; and Dipika Nath, researcher in the LGBT program.

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Production assistance was provided by Pema Abrahams, associate in the Asia division of Human Rights Watch; Grace Choi, publications director; Fitzroy Hepkins, production manager; and Anna Lopriore, photo editor; and Giulio Frigieri for creating the maps.

## Off the Streets

### Arbitrary Detention and Other Abuses against Sex Workers in Cambodia

In Cambodia, those tasked with upholding the law often inflict some of the worst abuses. Sex workers in particular know this to be true. Women and girls involved in sex work face beatings, rape, sexual harassment, extortion, arbitrary arrest and detention, and other abuses from officials charged with enforcing the law. The perpetrators include police, public park security guards, and officials working in centers and offices run by the Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY).

*“Off the Streets,”* documents the abuses based on interviews with more than 50 sex workers and group discussions with dozens more. Sex workers told Human Rights Watch that police officers beat them with their fists, sticks, wooden handles, and batons that administer electric shocks. Police officers also threatened sex workers with guns. In several instances, police officers raped sex workers while they were in police detention. Some sex workers described being detained in government centers under horrific conditions, with restricted freedom of movement, experiencing or witnessing beatings or rapes, and with inadequate food and medical care. Crimes by officials against sex workers are almost never prosecuted.

The report also analyzes the impact of a 2008 Cambodian law on trafficking and sexual exploitation. While the new law has some useful provisions on trafficking, it criminalizes “solicitation” by sex workers in ways that open the door to continuing police abuse against such individuals.

Human Rights Watch urges the Cambodian government to end impunity by holding the perpetrators of these abuses accountable, and to shut down Social Affairs centers where many of the abuses take place. Donors and UN agencies should use their influence when engaging with the Cambodian government to ensure that this happens.

*Cambodian sex workers stage a protest against a police crackdown on prostitution. Sex workers report that police physically and sexually abuse them in custody.*

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