

INTERNATIONAL JUSTICE MISSION

# Labor Trafficking in Cambodia

A Review of the  
Public Justice  
System's Response





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It is our hope that this assessment will inform the efforts of the Cambodian public justice system and its many partners as they work together to expand protection to all of Cambodia's citizens.

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## ACRONYMS AND ABBREVIATIONS

AHTJPD	Anti-Human Trafficking and Juvenile Protection Department
AHTJPP	Anti-Human Trafficking and Juvenile Protection Police
AHTJP (PM)	Anti-Human Trafficking and Juvenile Protection (Military Police)
CNP	Commissariat General of Cambodian National Police
DOSVY	Department of Social Affairs, Veterans and Youth Rehabilitation
IGO	Intergovernmental Organization
IJM	International Justice Mission
PAC	Police Academy of Cambodia
PJS	Public Justice System
MOI	Ministry of Interior
MFAIC	Ministry of Foreign Affairs and International Cooperation
MOLVT	Ministry of Labor and Vocational Training
MOSVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
NCCT	National Committee for Counter Trafficking
NGO	Nongovernmental Organization
TIP	Trafficking in Persons
TIPSE	Law on Suppression of Human Trafficking and Sexual Exploitation, 2008

## DEFINITIONS

**Human Trafficking:** the United Nations' (UN) *Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children* defines human trafficking as:

*“The recruitment, transportation, transfer, harbouring or receipt of persons, and 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 of a position of vulnerability or of 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 labour or services, slavery of practices similar to slavery, servitude or the removal of organs.”<sup>1</sup>*

*In Cambodia:* pursuant to the Law on Suppression of Human Trafficking and Sexual Exploitation 2008 (“TIPSE”), human trafficking consists of three things:

- An **action**, such as removing, recruiting, transporting, harbouring, buying or selling a person;<sup>2</sup>
- Using a **means**, such as force, threat, deception, abuse of power, or enticement;<sup>3</sup>
- For a **purpose**, such as profit-making, forced marriage, or exploitation (including sexual exploitation, forced labour, slavery, debt bondage, involuntary servitude, or child labour).<sup>4</sup>

Where trafficking involves minors (a person under the age of 18), the second element of the offense is not required.

**Labor Trafficking:** a type of human trafficking where the “purpose” or exploitation relates to a person’s labor.<sup>5</sup>

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<sup>1</sup> United Nations. (2000). *The Palermo Protocol (the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime)* Article 3.

<sup>2</sup> *Law on suppression of human trafficking and sexual exploitation (“TIPSE”).* (2008). Phnom Penh: Krasuari Yuttidharm. Articles 8, 11, 12, 13.

<sup>3</sup> *Law on suppression of human trafficking and sexual exploitation (“TIPSE”).* (2008). Phnom Penh: Krasuari Yuttidharm. Article 8.

<sup>4</sup> *Law on suppression of human trafficking and sexual exploitation (“TIPSE”).* (2008). Phnom Penh: Krasuari Yuttidharm. Article 10.

<sup>5</sup> Björk, J., & Gulzar, A. (2010). *10 things you need to know about labor trafficking in the Greater Mekong Sub-region.* World Vision International.

Examples listed in Article 10 of TIPSE include: forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, and child labor. These terms are further defined in the Explanatory Note to TIPSE released by the Ministry of Justice:<sup>6</sup>

**Forced labor or services:** see below.

**Slavery or practices similar to slavery:** *“means the status or condition of a person over whom control is exercised to the extent that the person is treated like property.”*

**Debt bondage:** *“means a system by which a person is kept in bondage or under the control of another person by making it impossible for the victim to pay off his or her real, imposed or imagined debts.”*

**Involuntary servitude:** *“means the labor conditions and/or the obligation to work or to render services, from which the person in question cannot escape and which he or she cannot change.”*

**Child labor:** *“means any labor performed by a minor (a person under 18 years) and which is prohibited by law. The Labor Law allows minors to work in certain circumstances (see Articles 172 to 181 of the Labor Law), and such work is legal and therefore not covered by this term.”*

**Forced labor:** the International Labour Organization (ILO) defines forced labor as:

*“All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>7</sup>*

“Menace of any penalty” can mean:<sup>8</sup>

- Physical or sexual violence
- Restriction of movement of the worker
- Debt bondage/bonded labor
- Withholding wages or refusing to pay the worker at all
- Retention of passports and identity documents
- Threat of denunciation to the authorities

The Explanatory Notes to TIPSE refers to the above definition of forced labor.<sup>6</sup>

**Public Justice System:** the system that administers justice, conformed by several elements (normative instruments, agents, procedures) whose interaction will be used to: apply a correct legal decision, guaranteeing the rights of due process, both for the alleged

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<sup>6</sup> Ministry of Justice for the Kingdom of Cambodia, *Explanatory Notes for the Law on Suppression of Human Trafficking and Sexual Exploitation*, p 34.

<sup>7</sup> ILO CO29 Forced Labour Conventions 1930 (No.29) – ratified by Cambodia 24 Feb 1969.

<sup>8</sup> Ilo, A. (2005). Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. *International Labor Organization, Geneva*.

perpetrator and for the victims; and to ensure victims are identified and rehabilitated through social services in a manner that affords each victim dignity and reduces their vulnerability to re-victimization.



## EXECUTIVE SUMMARY

Over the past two decades, significant improvements have been made in the Cambodian public justice system's response to trafficking in persons. Research has shown that Cambodian government agencies, supported by inter-governmental and non-governmental organizations, have grown in capacity and sophistication in addressing trafficking issues.

Notably, substantial progress in the government's response to trafficking has been achieved through the formation in 2009 of the National Committee for Counter Trafficking (NCCT), which has brought together stakeholders across government agencies, as well as NGO and IGO partners, to more effectively coordinate efforts and develop a National Plan of Action to address trafficking in persons. Additionally, the formation of a specialized anti-trafficking police unit within the CNP, the Anti-Human Trafficking and Juvenile Protection Police, and the mentoring and training of that Unit, has significantly increased law enforcement's ability to identify and respond to cases and combat the crime.

Until recently, the bulk of the effort and attention was directed at the commercial sexual exploitation of children. This focused attention has yielded excellent results: there has been a significant reduction in the prevalence of this crime in Cambodia (see below). There have, however, been fewer initiatives focused on the criminal justice response to labor trafficking. Data indicates that labor trafficking within the Southeast Asia region remains a pervasive, prevalent and far-reaching problem. Accordingly, specific attention is needed to ensure that improvements in the public justice system's ability to address sex trafficking are sustained, grown and *expanded* to enable the PJS to combat *all forms* of trafficking in persons.

This report highlights relevant government agencies' noteworthy recent accomplishments and improvements, remaining gaps and challenges, and recommendations for the Cambodian PJS and its partners in combatting trafficking in persons. In brief summary, the report calls for enhanced, expanded and institutionalized training, specific guidelines to be issued where laws or best practices are unclear, the implementation of international instruments and innovations for cross-border collaboration, and continuing to improve collaboration between government and non-government agencies within Cambodia.

Finally, a word on the reach of this report: it is a review of the *public justice system's* response. Accordingly, it is limited to the identification, rescue and support of victims of trafficking and the arrest and prosecution of perpetrators. Prevention, education and awareness efforts, while hugely important in combatting labor trafficking, are outside the scope of this report.

# 1 INTRODUCTION

## 1.1 Overview of IJM

International Justice Mission (IJM) is a global organization that protects the poor from violence. IJM partners with local authorities to rescue victims of violence, bring criminals to justice, restore survivors, and strengthen justice systems. IJM justice professionals work in their communities in 17 field offices in Asia, Africa, and Latin America to secure tangible and sustainable protection through national laws enforced by local criminal justice systems.

Since 2003, International Justice Mission has worked alongside the Cambodian government to combat the commercial sexual exploitation of children (CSEC). IJM focused on the three geographic areas in Cambodia with the largest commercial sex markets for children: Phnom Penh, Siem Reap and Sihanoukville.

During that time, IJM experts came alongside the Anti-Human Trafficking & Juvenile Protection Police, DOSVY social workers and court officials to provide technical support and mentorship on individual sex trafficking cases. The IJM Cambodia team ran hundreds of cases through the public justice system pipeline – providing investigations support, rescuing over 500 survivors, ensuring the conviction of over 200 criminals, representing trafficking survivors in their civil court cases and ensuring survivors receive high-quality aftercare from our staff and our aftercare partners throughout Cambodia

IJM also implemented strategic System Reform projects to increase the public justice system's operational capacity and effectiveness to enforce anti-trafficking law. This included: training over 500 anti-trafficking police, training MOSVY and DOSVY officials from nearly all provinces on victim crisis care, providing mentorship to DOSVY officials in Phnom Penh, Sihanoukville, and Siem Reap, advocating for and providing technical expertise on law and policy development, equipping/advising NGOs on aftercare development and supporting children through the justice system process and conducting prevalence and justice system response research.

In the early 2000s, estimates of the prevalence of minors exploited in the commercial sex industry in Cambodia ranged from 15%-30%. Today, thanks to international attention and investment, along with a strong commitment by the Cambodian government and collaboration with many dedicated non-government organizations including IJM, the prevalence of minors in the commercial sex trade in Phnom Penh, Siem Reap and

Sihanoukville has dropped to 2.2% with minors 15 years and younger making up just 0.1% of the sex industry.<sup>9</sup>

IJM Cambodia is now leveraging its successful anti-trafficking model and strong relationships with government officials and partner NGOs to combat labor trafficking. In early 2016, IJM launched a new two-year project to combat cross-border and domestic labor trafficking, as part of USAID's Cambodia Countering Trafficking-in-Persons program implemented by Winrock International.

IJM now collaborates with the government for the rescue and rehabilitation of victims, prosecution of offenders, and strengthening of public justice officials, ensuring that justice is accessible to victims of labor trafficking.

## 1.2 Labor Trafficking in Cambodia

Cambodia is a source, transit and destination country for men, women and children subjected to labor trafficking.<sup>10</sup> Significant international, NGO and government attention has been directed toward the issue of commercial sexual exploitation over the past two decades in Cambodia, however, less attention has been directed toward the issue of labor trafficking until recent years. Due to this and the clandestine nature of the crime, very little reliable data regarding the issue is available. Recent studies estimate that as many as 256,800 Cambodians live in conditions of modern slavery, many of whom have been identified in the fishing and seafood industries, manufacturing sector and in forced marriages.<sup>11</sup>

While the prevalence of sex trafficking has significantly reduced over the past decade,<sup>10</sup> labor trafficking remains a growing and significant concern. In 2015, it was estimated that the vast majority (over 75%) of Cambodians living in modern slavery conditions were victims of labor trafficking.<sup>11</sup> Hundreds of thousands of Cambodian laborers migrate domestically and internationally each year to pursue high-risk jobs in poorly regulated markets, which increases their vulnerability to forced labor. A 2013 UNIAP study reports at least 20% of the 10,000 deportees who return to Cambodia from Thailand each month are trafficking victims (24,000 returning victims per year).<sup>12</sup>

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<sup>9</sup> Haarr, R., Dr. (2015). *External Evaluation of International Justice Mission's Program to Combat Sex Trafficking of Children in Cambodia, 2004 - 2014* (Rep.). Retrieved from [http://www.ijm.org/sites/default/files/resources/2015 Evaluation of IJM CSE Program in Cambodia - Final Report.pdf](http://www.ijm.org/sites/default/files/resources/2015%20Evaluation%20of%20IJM%20CSE%20Program%20in%20Cambodia%20-%20Final%20Report.pdf)

<sup>10</sup> U.S. Department of State. (2016). *2016 Trafficking in Persons Report*. Retrieved from <http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258738.htm>

<sup>11</sup> The Minderoo Foundation Pty Ltd. (2016). Cambodia country study- Global Slavery Index 2016. Retrieved from <http://www.globalslaveryindex.org/country/cambodia/>

<sup>12</sup> Surtees, R. (2013). *After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region*. Bangkok: UNIAP/NEXUS Institute

Reports from the International Labor Organization estimate that approximately 9% of workers on Thai fishing boats are Cambodians, and in recent years, hundreds of Cambodian victims of labor trafficking have been identified on Thai, Malay and Indonesian fishing vessels.<sup>13</sup> Cambodian victims of labor trafficking have been identified in Malaysia, China, Indonesia, Singapore, Saudi Arabia and other destination countries in bride trafficking, forced begging, forced labor in factories, agriculture, construction and domestic servitude.<sup>10</sup>

An IJM analysis of major English language newspapers in Cambodia indicates that of all articles related to labor trafficking in 2016, 28% discussed trafficking in the Thai fishing industry; 24% trafficking for domestic servitude; and 5% discussed labor trafficking within Cambodia.

### 1.3 Legal Framework

The Cambodian TIPSE law includes each of the necessary elements of human trafficking, pursuant to international law. In addition to defining key terms and setting out criminal offenses and penalties, the law provides for civil remedies (including a preference for victims to receive any confiscated property to go towards their compensation – Article 47), and the protection of victims’ identity (Article 49). The Act does not provide for a comprehensive victim protection or rehabilitation mechanism.

Chapter Two of TIPSE (Articles 8-20) includes the key provisions for addressing labor trafficking; it includes Articles that define key terms and Articles setting out the elements and penalties of trafficking offenses.

When applying Articles 8-20, it is helpful to begin with whether or not there has been exploitation in a given case. Exploitation – and even more fundamentally, loss of freedom – is at the heart of the crime of human trafficking. Once exploitation is established, the inquiry can move to whether the “actions” and the “means,” the preliminary elements of the crime, are present.

This approach highlights the primary importance of the “exploitation offenses” in TIPSE, as these are the offenses which contain all three components of human trafficking: act, means *and* purpose: Articles 10, 12, 15, 17, and 19. Article 10 (“Unlawful Removal with a Purpose”), being the first of these, explains what “exploitation” means for the purpose of

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<sup>13</sup> Day, K. (2015). *(Re)integration of Cambodian Trafficked Men: Trends in Trafficking and Available Aftercare Services*. Hagar International. Retrieved from <https://hagarinternational.org/international/files/Reintegration-of-Cambodian-trafficked-men-2015.pdf>

the Act (see above, Definitions). Police and prosecutors should, in every trafficking case, be seeking evidence to establish the elements of a least one of these primary offenses.

Other offenses, such as Articles 9, 14 and 20, include just ‘act’ and ‘means’ and so could be described as ‘minor’, ‘preliminary’ or ‘precursor’ offenses to the main “exploitation offenses.” These Articles remain relevant due to the large number of cases in which only the act and means occur in Cambodia: in such cases Cambodian officials face various obstacles in obtaining physical evidence and witnesses from overseas to support victim testimony of exploitation. By criminalizing the first two elements (“act” and “means”) in isolation from the third (“purpose”), it is more likely recruiters and transporters will be convicted and deterred. Given the relatively small penalties in these sections, however, it remains critically important that PJS actors prioritize building strong cases that establish “purpose” – i.e., exploitation – in collaboration with law enforcement agencies of other countries and civil society.

TIPSE also provides serious penalties for unlawful actions and means that result in a person being taken out of Cambodia (Articles 11, 16, and 18). While not including “exploitation” within their elements, they attract the same 7-15 year imprisonment term as the “exploitation offenses” noted above. These provisions seem tailored to Cambodia’s position within the Greater Mekong Sub-region as a source location for trafficked laborers, identifying Cambodian migrant workers as particularly vulnerable and therefore requiring the additional protections of these offense provisions.

The Ministry of Justice’s Explanatory Note is a persuasive tool for interpreting and applying the TIPSE law, in particular the sections explaining various forms of exploitation (pp 33-34).

## **1.4 Report Purpose and Scope**

This synthesis report reviews the performance of Cambodia’s public justice system (PJS) in cases of labor trafficking. The main goal of this report is to contribute to the efforts of the PJS and its partners in improving the response of the system to cases labor trafficking.

This report looks at the current functioning of the PJS as it relates to cases of labor trafficking, identifying strengths and recent improvements, gaps in response that could be further improved upon and areas where more data or research is needed in order to inform future initiatives for the PJS and its partners. Because the focus of this report is on the response of the public justice system – which includes the identification of cases, rescue and rehabilitation support for victims and prosecution of perpetrators – it does not address government or NGO projects aimed at awareness or prevention or at labor issues in a more general context.

## 2 METHODOLOGY

This report presents a synthesis of data from qualitative, in-depth interviews with stakeholders, a review of casework data from IJM's Labor Trafficking Project, and a desk review of relevant literature including reports, program evaluations, assessments and empirical studies. It presents findings, conclusions and recommendations that are supported by a comparison of data across different sources.

### 2.1 Interviews with Stakeholders

Informal interviews with IJM staff members informed the development of the Interview Guide. The guide was piloted with several external stakeholders and then finalized into the tool used for the majority of stakeholder interviews. In total, 27 stakeholders were consulted from 11 non-governmental and inter-governmental organizations through in-person, semi-structured interviews. The stakeholders interviewed included groups working with aftercare, prosecutions, prevention, protection, labor rights and labor migration issues. The interviews were conducted on site in Cambodia from August 3 - 27, 2016 and took place in English, with Khmer translation support provided as needed. Before the interview, all external (i.e. non-IJM staff) participants were fully apprised of the purpose of the assessment, the voluntary nature of their participation and the level of data attribution to their organization via a consent form. Participants were asked to sign the interview consent form and indicate their desired level of data attribution (direct quote, list agency's participation only, or no data attribution). A list of stakeholders who consented to data attribution can be found in Annex A.

### 2.2 Desk Review

A desk review was conducted of studies and reports relating to trafficking in persons in Cambodia and the public justice system's response to trafficking in persons and other issues. A list of studies and reports reviewed for this report can be found at Annex B.

### 2.3 Casework Data

Data from IJM's labor trafficking casework project was collected from February through October, 2016 and reviewed for consideration in this assessment between August and October, 2016.

## 2.4 Limitations and Challenges

This report has compared and combined information from a number of sources on the performance of the public justice system as it responds to trafficking in persons crimes, with a particular focus on labor trafficking. The findings and recommendations highlighted in the report do not capture all existing data; rather, the findings summarize trends and common themes identified across data sources and highlight most critical areas of need for expanded PJS focus.

### 2.4.1 Stakeholder Representation

The agencies participating in the stakeholder interview portion of data collection represented NGOs and IGOs who partner with the Cambodian public justice system in addressing labor trafficking. This report is by nature limited in scope, and the authors acknowledge that a truly comprehensive assessment would be of great value, which adds to the insights included here the perspective of government officials within the Cambodian public justice system.

### 2.4.2 Limited Data on Labor Trafficking Prevalence and Casework

Understanding the current nature and scale of labor trafficking in Cambodia is critical to an effective response. Despite anecdotal evidence and rough estimates on the extent of the crime, there is very little reliable data based on scientific prevalence measurements on labor trafficking. More research is needed in order to determine the full extent and nature of the issue, focused both on trafficking of Cambodian workers domestically within country and internationally.

IJM launched its labor trafficking casework project in February, 2016. The casework data reviewed for this assessment has been based on nine months of labor trafficking casework. While this casework has provided valuable insights into the current functioning of the public justice system, it is a relatively short time frame, and many of the cases opened by the IJM Cambodia team have not yet reached trial stage. The benefit of additional time to monitor labor trafficking cases as they are processed by the public justice system would provide richer data for analysis, and the IJM Cambodia team will continue to analyze data gained during casework to support the public justice system as it develops additional strategies to address the issue. This makes the contributions of NGO and INGO stakeholders, many of whom have been engaged with this issue for much longer than IJM, all the more valued and important to this report.

## 3 FINDINGS

This section covers the essential components of a comprehensive Public Justice System response to the crime of labor trafficking (victim identification, investigation, prosecution, aftercare, inter-agency coordination, and cross-border collaboration), and highlights other issues that must be addressed (victim compensation and internal trafficking within Cambodia’s borders). The findings for each section outline what the data suggests about the current public justice system response in these areas and sets out recommendations within each area.

It will become quickly apparent to the reader that both the literature and the stakeholder interview data confirms that there has been significant progress made in the last decade by the Cambodian public justice system in its fight against trafficking in persons, particularly with regard to sex trafficking of minors within Cambodia. Collaborative government and non-government efforts and strong commitment to combatting this crime have led to the growth in capacity and sophistication of the public justice system response, to great effect and impact.

The findings also show that the gains made in the last decade must be leveraged to combat all forms of trafficking in persons. The significant progress of the last decade should be amplified and expanded to combat labor trafficking and other forms of human trafficking, because there is still much progress to be made, and many obstacles to be overcome, before these pervasive crimes disappear from Cambodia.

### 3.1 Identifying Victims

Victim identification – during or after the victim’s exploitation – is the critical gateway through which all victims pass in order to gain access to services and support, and to secure justice in their case. As the gatekeepers, public justice officials are responsible to ensure the prompt and accurate identification of victims of trafficking.

In early 2016, the National Committee for Counter Trafficking in Persons’ (NCCT) released *The Guidelines on Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision* (“the Victim Identification Guidelines”). The Victim Identification Guidelines are a culmination of many years’ work by multiple government and non-government agencies. Developed by a committee established by the NCCT, led by MOSVY with participation from other relevant ministries, and technical support from Winrock International under the USAID’s CTIP II Project, UN-ACT, UNODC and numerous other agencies, and the Guidelines were finalized in 2015 by NCCT’s Technical Working Group, led by H.E. Chou Bun Eng, Permanent Vice Chair of



NCCT. The Guidelines were developed to address major challenges in the identification of victims of trafficking and will enable greater provision of services to survivors.

The Victim Identification Guidelines represent a significant improvement in identification and service provision for victims of human trafficking in Cambodia. At the release event for the guidelines, U.S. Ambassador to Cambodia, William A. Heidt stated that *“the new guidelines will foster a common understanding of which migrants are victims of trafficking, will help the government and its partners understand the size of labor trafficking channels, and enable the government to refer victims of trafficking to the appropriate social services.”*<sup>14</sup>

**Recommendations:** As government and non-government practitioners begin to use the Guidelines, it will be important for the NCCT to incorporate feedback and work to refine and adapt the Guidelines accordingly. Likewise, training currently underway should continue to be provided to officials likely to be “first responders” in trafficking cases (such as local police, DOSVY officials, border officials, customs officers, NGO staff, etc.), to ensure that first responders are able to use the Guidelines to promptly and accurately identify victims, and then refer victims to AHTJPP officers for full forensic interviews, as well as to social services and other departments, as appropriate.

*Related agencies:* NCCT, AHTJPD, AHTJPP, AHTJP (PM), MOSVY, MOI, MOJ, civil society.

### 3.2 Criminal Investigations

Once a victim is identified, the work begins to gather evidence to support a prosecution of the traffickers. Led by the Anti-Human Trafficking and Juvenile Protection Police (AHTJPP), labor trafficking investigations can be complex and invariably require close coordination with prosecutors and judges, immigration and social affairs officials, law enforcement officers from other countries and NGOs.

The assessment found that law enforcement officers are more technically adept, knowledgeable, experienced, dependable, proactive and effective in investigating trafficking, as compared to the early 2000s. Almost all stakeholders recognize greater professionalism and dedication of the AHTJPP and noted that the police are proactive in pursuing cases. Respondents noted that most police officials have a firm understanding of the TIPSE law and the skills and will to combat the crime.

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<sup>14</sup> Cambodia Countering Trafficking-in-Persons (CTIP). (2016, February 25). Launch of National Standards to Identify Victims of Human Trafficking. Retrieved from <https://ctipcambodia.wordpress.com/launch-of-national-standard-to-identify-victims-of-human-trafficking/>

## Training

Since TIP crimes are complex and require specialized training to investigate, training was cited as one of the most effective means of strengthening the law enforcement response to trafficking. The Cambodian National Police have partnered with recognized TIP experts from around the world to train AHTJPP officers and officers from other agencies within the CNP over the past two decades. Groups that have provided TIP training to Cambodian law enforcement include (but are not limited to): AAPTIP, IJM, World Vision, IOM, ARTIP, SISHA, UNODC, US Embassy Office of Immigration and Customs Enforcement (ICE), LEAP, Winrock International, UNIAP, APLE, CWCC, CCPCR, AIM, Cambodia ACT, Somaly Mam, Terre des Hommes, CDP and LAC.

These trainings have enhanced the sophistication and expertise of the officers who participated in the courses, however, as experienced officers transfer or retire and new officers join the police force, continued training is needed in order to maintain the knowledge and skills of the police force as a whole. Institutionalization of TIP training curricula and the development of a cadre of expert trainers within the CNP is essential in order to maintain the level of specialization and professionalism of the AHTJPP.

**Priority Recommendation:** Institutionalize TIP curriculum nationwide for all law enforcement recruits through the Police Academy of Cambodia (PAC).

*Related agencies:* MOI, CNP, PAC, AHTJPD

At the time of this report, the PAC is in the process of partnering with IJM and the International Organization for Migration (IOM) to develop and institutionalize a national-level TIP curriculum for all recruits as well as a specialized, more in depth course for Anti-Human Trafficking and Juvenile Protection Police.

**Recommendation:** Specialized TIP training should also be provided to existing AHTJPP and AHTJP (PM) officers who may not have gone through training courses in the past two to three years as well as border police and other units who are likely to encounter victims of trafficking. Priority for specialized TIP trainings should be given to AHTJPP officers in key labor trafficking source provinces, officers who are likely to conduct interviews with TIP victims and investigate TIP cases, newer recruits and female officers. For PJS partners providing trainings to law enforcement, it is recommended that instruction be delivered in Khmer so that it is accessible to all officers.

*Related agencies:* AHTJPD, AHTJP (PM), PAC

## Law Enforcement Interactions with Victims and Witnesses

Victim and witness cooperation are critical elements of successful investigation and prosecution of TIP cases. Obtaining high quality and accurate victim statements early in the investigation strengthens the prosecution case and is more likely to ensure successful convictions of perpetrators. With investigations largely reliant on victim testimony in order to identify perpetrators and move cases forward, it is critical that victims (many of whom suffer psychological effects of the trauma they have endured) are treated with sensitivity by the various public justice system officials they interact with throughout the criminal investigation process.

Stakeholders noted that victims are often afraid to share openly with law enforcement due to misperceptions that they are under investigation themselves or will be prosecuted or fined for illegal migration. Conversely, stakeholders find that victims feel most comfortable providing statements when police employ victim-friendly procedures such as conducting forensic interviews in plain clothes and in private settings, clearly explaining the criminal investigation process with victims and refraining from harsh speech or blaming of victims. Casework data showed that AHTJPP officers have used victim-friendly forensic interviewing practices well in some recent labor trafficking cases.

**Recommendation:** The AHTJPD should develop guidelines that describe the process for conducting victim interviews, which include victim-friendly practices along with sound forensic interview technique, and ensure those guidelines are included in all trainings.

*Related agencies:* AHTJPD, AHTJP (PM)

In addition to being afraid of arrest, victims are often skeptical of the criminal justice system and are not motivated to participate. In some instances, victims worry that the police will target friends or relatives in or near their village who introduced them to brokers or recruiters, and thus limit the information they provide. In many cases, victims see the primary purpose of a court case as obtaining civil compensation, but do not trust that the outcome at trial will be timely or provide fair recompense for their losses. This makes them likely to accept small but immediate out-of-court (or “extra-judicial”) settlements from perpetrators in exchange for dropping the complaint (see below under “Prosecuting Offenders”).

It is important for all those coming into contact with the criminal justice system to understand the societal value of increased accountability for traffickers, in protecting others from their offending and contributing to criminal deterrence. At the same time, the PJS must recognize the great disadvantage victims of trafficking have suffered and

provide rapid and effective rehabilitative support as a way of both providing for victims' needs and building trust in the system of law and justice.

**Recommendation:** Police and NGOs should work proactively to reassure victims and encourage them to participate in trial. Courts should work to ensure trial judgments for victim compensation are enforced speedily and effectively and victims are paid by offenders and/or from the proceeds of their crime. Also, see below under "Victim Compensation."

*Related agencies:* AHTJPP, AHTJP (PM), AHTJPD, MOI, MOJ (prosecutors, judges, court administrators), NCCT, Bar Association of Cambodia, civil society

### Proactive Investigation of Cases

Stakeholders frequently expressed the need for increased operational funding for the investigation of labor trafficking cases by law enforcement. Due to the nature of the crime and the transient and migratory behaviors of many victims, investigations often require travel to source and transit provinces as well as destination countries to conduct interviews, meet with government agencies and gather intelligence. Accordingly, budget for travel and investigative activities needs to be accessible by investigating law enforcement units. All stakeholders reported that law enforcement experience delays and difficulties in accessing their operational budgets to conduct investigations and frequently request support from partnering agencies for some of the costs associated with investigating labor trafficking cases.

**Priority Recommendation:** To increase law enforcement's ability to sustainably and proactively address trafficking crimes, increase operational funding and improve mechanisms for more expedient access to budget to cover travel and costs associated with investigating cases.

*Related agencies:* MOI, AHTJPD

### Undercover Investigative Authority (UIA)

Stakeholders reported that law enforcement's investigations into trafficking crimes are often significantly hampered by lack of clear guidance on 'Undercover Investigative Authority' (UIA) – the legal authority to conduct undercover investigations in trafficking cases.

Currently, the law is unclear as to the legality of using undercover investigative techniques in human trafficking operations. Undercover investigations involve law enforcement

officers *interacting* with a person, group or location that is the focus of a *legally authorized* investigation for the purpose of gathering information and/or evidence of criminal activity, while not being identified as a police officer. Police will first try to gather as much intelligence and evidence as possible through *surveillance*. When surveillance proves insufficient for gathering the necessary evidence, then these undercover techniques become essential to the investigation.

Undercover investigations, including the use of audio and video technology, are extremely effective for targeting crimes that are complex, hidden, and often involving criminal networks and organizations, such as human trafficking.

A primary concern about giving police undercover authority is the concern that police will abuse their authority if given too much power or freedom – they may entrap innocent people, commit human rights abuses while undercover, or misuse their power. However, law enforcement officers in the vast majority of countries are nonetheless granted undercover authority, as are Cambodian officers of the Anti-Corruption and Narcotics units, because it is a necessary tool police need to effectively combat crimes. Where undercover investigations are authorized, clear guidelines and limitations on police power are established, and authority is given only to specialized units.

UIA can be used appropriately and ethically by police because they are accountable to the judiciary - cases must be approved of and arrest warrants issued by the court. If the police show inappropriate conduct, entrapment, or a lack of evidence in their investigation, the court can dismiss the case. Cambodia already has these controls and accountability procedures in place for the AHTJPP to ensure they conduct investigations appropriately.

**Recommendation:** The MOJ should issue a written Guideline clarifying the current legal framework and permitting and prescribing the use of UIA in trafficking cases, in consultation with the MOI and NCCT. Guidance should be provided to law enforcement and courts on the use of UIA as quickly as possible.

*Related agencies:* MOJ, MOI, NCCT, AHTJPD, CNP

### **3.3 Prosecuting Offenders**

The prosecution of offenders through the consistent application of due process and the full and fair consideration of evidence is one of the foundational pillars of an effective public justice system response to any crime. When effective and frequent criminal

accountability occurs in environments prone to trafficking, significant reductions in crime rates are possible.<sup>15</sup>

Overseeing one of the main pillars of the public justice system, the Ministry of Justice plays a crucial role in the response to trafficking in persons. The 2008 passage of the Law on Suppression of Human Trafficking and Sexual Exploitation was a breakthrough accomplishment for the Ministry of Justice. In the first semester of 2016 alone, 67 traffickers were convicted in Cambodian courts.<sup>16</sup> Through developing strong partnerships with international and local organizations, the MOJ has made meaningful progress in improving the experience of victims of trafficking as they go through the public justice system.

There is a strong legal framework in place to deal with trafficking crimes (see legal framework section). Stakeholders reported that with a strong legal framework in place on trafficking, MOJ should focus on ensuring that implementation of those laws is now strengthened. One stakeholder, when discussing the strength of the legal framework on trafficking, noted that *“what is needed is court officials’ commitment to not just create laws and a system at a national level, but to improve functioning and to be appropriate in implementation.”*

## Collaboration between Police, Prosecutors and Investigating Judges

Casework and stakeholder interview data indicated that TIP cases often stall due to difficulties for police, prosecutors and investigating judges in effectively collaborating. Increased engagement and communication between law enforcement and prosecutors would ensure that any additional evidence that is needed by prosecutors to support or move cases forward is able to be gathered by law enforcement within the necessary timeframes.

Stakeholder feedback and casework experience suggests that a lack of clear processes and guidelines for prosecutors and investigating judges on how best to collaborate with law enforcement in gathering evidence and following up on cases seriously hampers the quality of cases when presented at trial.

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<sup>15</sup> Shaw, D., & Frugé, T. (2016). *Child Sex Trafficking in Metro Manila: Using time-space sampling to measure prevalence of child sex trafficking in Metro Manila, the Philippines*. International Justice Mission. Retrieved from <http://ijm.org/studies>; Shaw, D., & Frugé, T. (2016). *Child Sex Trafficking in Angeles City: Using time-space sampling to measure prevalence of child sex trafficking in Angeles City and Mabalacat in the Philippines*. International Justice Mission. Retrieved from <http://ijm.org/studies>

<sup>16</sup> His Excellency Ang Vong Wathana, Minister, MOJ *Report on cases relating to combatting human trafficking and sexual exploitation for the 1st semester of 2016*, submitted to Samdech Kralahom Sar Kheng, Deputy Prime Minister, Minister of MOI and President of NCCT on June 29, 2016.

In particular, stronger collaboration is needed between prosecutors and police after an arrest has been made to ensure that prosecutors have all of the information necessary to file appropriate charges. Additionally, stronger collaboration with police from investigating judges and prosecutors as they move cases to trial would ensure that cases are supported with all available evidence and that prosecutions of traffickers would be more successful. Prosecutors and investigating judges should be encouraged to take a proactive approach to their cases by seeking further evidence to strengthen and fill gaps in the case.

**Priority Recommendation:** MOI and MOJ leaders should draft and implement guidelines or a *prakas* for effective police-prosecutor collaboration in trafficking cases. The guidelines/*prakas* should be specific as to how criminal procedure and trafficking laws should be implemented in practice.

*Related agencies:* MOJ, MOI, AHTJPD

### Out-of-Court or Extra-Judicial Settlements

Stakeholders cited multiple cases in which perpetrators of labor trafficking crimes such as recruitment agencies provided ‘under-the-table’ pay-outs to victims to persuade them or their families to drop criminal complaints. In some instances, PJS officials or the parties’ lawyers had assisted in brokering meetings between the two parties to discuss the pay-off. While this approach may provide minimal but immediate financial support for victims or their families, it does not provide adequate compensation for victims and it is a significant impediment to the justice system. Allowing perpetrators to pay what are often token amounts to impoverished victims outside of the legal process, rather than holding them accountable for their crimes, creates no deterrence and allows or even encourages criminals to continue to exploit vulnerable Cambodians. The pay-off amounts are typically well short of the wages owed the victims and in no way provide any recompense for the pain and suffering caused to the victims.

**Recommendation:** PJS officials and NGO staff must actively discourage out-of-court pay-offs that result in the dropping of criminal charges. Prosecutors and judges should actively inquire into the reasons a victim has withdrawn a complaint of trafficking and seek to prosecute anyone attempting to unduly influence or pressure the victim into doing so.

*Related agencies:* MOI, AHTJPD, AHTJP (PM), MOJ (prosecutors and judges), The Bar Association of Cambodia, civil society

## Capturing and tracking accurate trial data

Data on arrests, charges and convictions (and acquittals) in trafficking cases is minimal at present. This data is essential for understanding the changing dynamics of the crime over time, assessing the quality and efficacy of the criminal justice process and making appropriate resourcing decisions. Furthermore, accurate data on perpetrator accountability could showcase Cambodia's progress in addressing trafficking within the region.

Substantial infrastructural support has been provided to the MOJ in the past to assist in compiling, tracking and analyzing trial data.

**Recommendation:** The MOJ should provide regular updates on trafficking cases to the NCCT and other stakeholders, including charges, convictions and acquittals *for each province* and implement simple and user-friendly practices for tracking basic data in each courthouse.

*Related agencies:* MOJ, Supreme Council of Magistracy, NCCT, civil society

## Knowledge and Application of the TIPSE Law

Stakeholders cited that in their experience, many investigating judges and prosecutors have a firm understanding of the TIPSE law, however, due to the complexity of labor trafficking crimes, it may be difficult for court personnel to understand the specifics of how the TIPSE law can be applied to labor trafficking cases.

**Recommendation:** In order to ensure that all court personnel have a nuanced understanding of how the TIPSE law applies to labor trafficking cases and the roles and responsibilities that prosecutors and investigating judges have in ensuring successful prosecutions of traffickers, training on TIPSE law and practice should be institutionalized in the judicial academy and provided to existing court personnel.

*Related agencies:* MOJ, Royal Academy for the Judicial Profession (RAJP), Supreme Council for Magistracy, NCCT, civil society

Stakeholders also noted a lack of consistency in how labor trafficking cases are handled from court to court, including when charges were dropped, how evidence is evaluated, how judicial decisions are reached, length of sentences and how MOJ officials should collaborate with officials from other agencies to investigate and prosecute cases.

**Recommendation:** MOJ should develop guidelines for courts' handling of trafficking cases in order to create greater consistency in application of the law and in the prosecution of offenders.



*Related agencies:* MOJ, MOI, RAJP, NCCT, civil society

## Victim Friendly and Trauma-Informed Practices

Data showed that one significant impediment to successful prosecutions in trafficking cases lies in prosecutorial and judicial treatment of victims and witnesses. While some prosecutors and judges utilize victim-friendly and trauma informed procedures to protect and empower victims as they go through court proceedings, these practices have not been institutionalized consistently in all courts.

Victim and witness participation is perhaps the most crucial element in trafficking prosecutions, and when victims or witnesses do not understand court processes, feel intimidated or threatened in court proceedings or are re-traumatized during the court process, valuable testimony and evidence can be weakened or lost.

One study analyzed how victim and witness friendly procedures had been implemented, particularly with children, in Cambodia's court system and found that *“solid protocols and procedural documents governing the rights of children are firmly in place and frequently cited by high-ranking officials. However, implementation of child-friendly justice remains limited.”*<sup>17</sup>

Stakeholders reported similar challenges in implementation of victim-friendly court practices for adults as well. Several organizations have provided best practices and implementation guidance for MOI, MOJ, and MOSVY to guide their officials on the treatment of victims and witnesses, including UNICEF and Hagar Cambodia.

In particular, these practices should include:

- Victim-friendly court practices such as use of a screen or video-link for victim testimony;
- Guidelines for prosecutors and investigating judges on supportive interactions with victims to ensure victims are prepared for trial and view their interactions with the court in a positive light;
- Ensuring victim statements are thorough and cover all relevant parts of their experience, with the goal of minimizing repeated victim examinations and bringing to light the entire trafficking narrative during trial.

**Recommendation:** MOJ should implement best practices for victim and witness treatment in all First Instance courts, institutionalize training in the Judicial Academy

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<sup>17</sup> Reimer, J. K., Dr. (2015). *A System Just For Children: Voices of child victims and witnesses about their experiences in the Cambodian Criminal Justice System*. Hagar International & UNICEF. Retrieved from [http://hagarinternational.org/international/files/20150217-A-System-Just-for-Children\\_February-2015.pdf](http://hagarinternational.org/international/files/20150217-A-System-Just-for-Children_February-2015.pdf)

and provide training to all prosecutors and judges. The Bar Association of Cambodia should provide similar training to lawyers.

*Related agencies:* MOJ, The Bar Association of Cambodia, MOI.

### 3.4 Survivor Aftercare

Aftercare for survivors of trafficking is an essential component of an effective public justice system response. Trafficking survivors remain extremely vulnerable to re-victimization unless they are quickly provided a safe and sustainable living and working environment and given opportunities to address trauma and other psycho-social impacts arising from their experience.

Over the past two decades, the provision of aftercare services to trafficking survivors in Cambodia by MOSVY and DOSVY has steadily strengthened. MOSVY has developed policies and guidelines for the protection of victims of human trafficking, including *Policy and Minimum Standards for Protection of the Rights of Victims of Human Trafficking* (2009), *Minimum Standards on Residential Care for Victims of Human Trafficking and Sexual Exploitation* (2014), and *Monitoring and Evaluation Tool for Implementation of Policy and Minimum Standards for Protection of the Rights of Victims of Human Trafficking* (2016), along with a case management system. MOSVY is an active member in the NCCT and played a key role in the development of the Victim Identification Guidelines (see above).

While MOSVY now has an excellent framework of policies and are able to provide oversight to aftercare agencies, there remains the need for DOSVY officials to receive practical social-work skills training and mentorship, either through the National Institute of Social Affairs or the Royal University of Phnom Penh's social work program.

### Resources

One critical challenge that affects both MOSVY and DOSVY is a lack of operational funding. All stakeholders noted that while MOSVY and DOSVY are proactive and dedicated in their missions to provide support and services to empower victims of human trafficking along with other vulnerable populations, they are severely limited by a lack of resources to implement programs or provide direct services to victims of trafficking.

One study noted that *“DOSVY’s capacity for active involvement is limited, at least in part, by a lack of human resources. DOSVY does not have social workers at the*

*commune level. At the district level DOSVY tends to have coordination/administrative staff, not social workers.”<sup>18</sup>*

Stakeholders reported that DOSVY officers lack basic operational budgets and budgets for travel for staff to provide assistance to survivors. Victims of labor trafficking often live in remote villages, and aftercare agencies found that DOSVY was unable to travel to assist in home visits, repatriation or reintegration trips, or other trips without travel costs being covered by an NGO or NGOs. Stakeholders reported that difficulty in accessing existing department budgets also posed complications for MOSVY and DOSVY staff who, as professionals highly dedicated to their work, have used personal funds to cover project expenses when unable to access department funds and have experienced challenges in obtaining reimbursements of their personal money.

**Priority recommendation:** To increase social services’ ability to sustainably and proactively support victims of trafficking, increase both human resources and operational funding for MOSVY and DOSVY and improve mechanisms for personnel to access and manage operational budgets so projects can be implemented and assistance can be provided to victims of trafficking.

*Related agencies:* MOSVY, DOSVY

## Migrant/Deportee Assistance

MOSVY operates the Poipet Transit Center (PTC) at the Thai/Cambodia border in Poipet which has provided assistance to women and children deported from Thailand who are identified as victims of trafficking. The PTC has struggled to maintain full operations due to lack of funding, but new funding has recently been allocated for the Center.

The majority of labor trafficking victims deported from Thailand and identified in Poipet are men,<sup>19</sup> often having been exploited on construction sites or in the fishing industry in Thailand. Often, victims are not identified in Thailand and instead treated as illegal migrants. These deportees are only identified as trafficking victims once they return to Cambodia.

**Recommendation:** MOSVY should identify a sustainable source of funding to ensure long-term operational capacity for the PTC. The PTC should provide services to men as well as women and minors. The PTC should accept individuals who are identified

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<sup>18</sup> Reimer, J. K., Dr. (2015). *A System Just For Children: Voices of child victims and witnesses about their experiences in the Cambodian Criminal Justice System*. Hagar International & UNICEF. Retrieved from [http://hagarinternational.org/international/files/20150217-A-System-Just-for-Children\\_February-2015.pdf](http://hagarinternational.org/international/files/20150217-A-System-Just-for-Children_February-2015.pdf)

<sup>19</sup> Samaritan’s Purse presentation to stakeholders: *Safe Migration and Trafficking Awareness Banteay Meanchey 2013-2015 Lessons Learned*, Phnom Penh, September 1, 2016; and UNACT & UNDP’s *Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012*. Retrieved from [http://un-act.org/wp-content/uploads/2015/04/Cambodia\\_Deportation\\_Research.pdf](http://un-act.org/wp-content/uploads/2015/04/Cambodia_Deportation_Research.pdf)

either in Thailand or in Cambodia as trafficking victims. The PTC should assist individuals identified as vulnerable to or victims of trafficking with medical care, shelter, food, providing safe and affordable transportation to their homes and refer them to additional services for aftercare in their home provinces. As funding allows, MOSVY should consider establishing further Transit Centers at other border crossings, such as Koh Kong, Battambang, Svay Rieng, etc.

*Related agencies:* MOSVY, NCCT, civil society

**Recommendation:** Additionally, Transit Center staff should use the NCCT's Victim Identification Guidelines among deportees and other vulnerable returnees from Thailand to proactively screen for and identify victims of trafficking.

*Related agencies:* MOSVY, PTC staff, civil society

### The Specific Needs of Labor Trafficking Survivors

Stakeholders reported that DOSVY is proficient at responding to referrals and connecting trafficking victims with assistance, particularly for victims of sex trafficking and bride trafficking. Stakeholders noted that DOSVY could grow in responding to and referring services for victims of labor trafficking, particularly male victims. As more victims of labor trafficking are identified, DOSVY will need to replicate its improvements in provision of services for sex trafficking survivors to survivors of all forms of trafficking in persons.

The data shows that there is a lack of resources to support the needs of labor trafficking victims as they reintegrate into communities and recover from the abuse.

**Recommendation:** Guidelines from MOSVY are needed to outline best practices and minimum standards for *community-based* care for trafficking survivors, and provide for DOSVY to expand its capacity and services available to be able to better support labor trafficking victims, both for short term crisis care and for longer term aftercare services.

*Related agencies:* MOSVY, DOSVY, civil society

Labor trafficking victims often need both physical and mental health treatment as part of the recovery process. A study on the health impacts of human trafficking confirmed that *“trafficked persons are exposed to a multitude of health risks, in addition to violence, deprivation and serious occupational hazards. These dangers frequently result in acute and longer-term morbidity – and sometimes even death. Many, if not most, of those who survive a trafficking experience will require medical care for their physical and*

*psychological health needs.*<sup>20</sup> DOSVY should ensure that staff have an in-depth understanding of the issue of labor trafficking, the roles and responsibilities that DOSVY and other agencies have in addressing it and the unique needs of victims of labor trafficking.

**Recommendation:** Ensure training and technical support for DOSVY staff on labor trafficking, survivors' needs, interaction with other key stakeholders and roles and responsibilities of DOSVY staff.

*Related agencies:* MOSVY, DOSVY, NCCT, MOI, civil society

### 3.5 Inter-Agency Coordination

Stakeholder data, other research and casework experience have shown that inter-agency coordination, including data-sharing, shared strategy and direction, agreed processes and protocols for interaction and collaboration on individual cases and capacity-building efforts are essential for a holistic and consistent public justice system response to trafficking.

Cambodia made significant strides towards this end with the formation of the National Committee for Counter Trafficking (NCCT) in 2009. Chaired by Samdech Kralahom Sar Kheng, Deputy Prime Minister, Minister of Interior, and Her Excellency Chou Bun Eng, Secretary of State of the Ministry of Interior and permanent Vice Chair of NCCT, many stakeholders considered this Committee as one of the government's most significant achievements in the fight to combat trafficking in recent years. The Committee provides a powerful example of the exponential impact that can be achieved when all of the various stakeholders are brought together to bring their strengths to bear to address an issue in strategic collaboration. The Committee demonstrates great skill and leadership in engaging both government agencies and civil society organizations in effective dialogue to bring about progress.

There is still much work to be done to improve inter-agency coordination, however. In fact, one of the challenges that stakeholders reported in the response to labor trafficking is a lack of coordination and dialogue between government agencies. This is an area that NCCT is well-suited to address in its role.

Stakeholders assess the NCCT's 2014-2018 National Plan of Action to be ambitious, with the potential to make significant progress and improvements in the response to trafficking in persons. Of particular importance are the focus on decentralization of

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<sup>20</sup> IOM. (2014). *Health and human trafficking in the Greater Mekong Subregion*. Retrieved from [http://publications.iom.int/system/files/pdf/steam\\_report\\_mekong.pdf](http://publications.iom.int/system/files/pdf/steam_report_mekong.pdf)

responsibilities to provincial and commune level, as well as the focus on monitoring and evaluation built in to the plan.

**Recommendation:** NCCT should continue to use its ability to unify key agencies by bringing additional government ministries into conversations for collaboration on labor trafficking issues, including MOLVT and MFAIC (see below). Continuing to hold formal and informal meetings between the various government stakeholders will enable them to both understand each group's areas of responsibility related to trafficking and to develop close ties between counterparts in different ministries or departments.

*Related agencies:* All.

**Priority Recommendation:** NCCT should continue to lead the Cambodian PJS response by pushing forward critically-needed initiatives such as:

- Streamlining cross-border cooperation in victim identification and human trafficking investigations and trials;
- Improving cooperation in identifying and repatriating victims through Cambodian Embassies in destination countries;
- Increased accuracy and coordination of essential trafficking data from embassies, borders, police, courts and social services;
- Undercover Investigative Authority for anti-trafficking law enforcement.

*Related agencies:* NCCT, MOJ, MOI, MOSVY

## Victim privacy and the media

The NCCT leads government agencies and other stakeholders in setting and modeling best practices in address trafficking and caring for survivors. As a leader in the TIP arena in both Cambodia and throughout the region, NCCT should continue to model and develop best practice guidance for protecting victims' rights through carefully protecting the privacy of victims. Several stakeholders noted instances where victims' identities were revealed through media reports in situations where this public attention caused significant re-traumatization in the victims.

**Recommendation:** The NCCT should work with the Ministry of Information and the Association of Journalists to provide a trafficking workshop for key media houses and their staff, along with government and non-government stakeholders. The workshop would discuss the law on victim privacy (see Article 49 of TIPSE) and how best to report on trafficking cases to raise awareness of the issue, whilst upholding the rights and dignity of trafficking survivors. Courts should apply Article 49 and hold to account any media organization in breach of this law.

*Related agencies:* NCCT, Ministry of Information, Association of Journalists, AHTJPD, MOSVY, MOJ, civil society.

## Coordination with the Ministry of Labor

Though not directly involved in a criminal justice response to trafficking, the Ministry of Labor (MOLVT) has an important role in ensuring that labor trafficking crimes are prevented, identified and processed through the public justice system. This assessment found that strong connections and collaboration between the various government ministries and the MOLVT was a critical gap in the response to labor trafficking as a whole.

Cross-departmental collaboration and transparency, along with development and implementation of a formal referral mechanism between MOLVT and law enforcement are essential to an effective and coordinated government response. Developing universal minimum standards to protect the rights of workers would have a significant impact on how effectively the trafficking law is enforced: it is easier to identify and show exploitation when there are clear standards for the employment of laborers.

**Recommendation:** The MOLVT should develop a universal minimum wage and other basic employment standards for the Cambodian workforce. The Ministry could also develop a standardized employment contract that would be compulsory for recruiting agencies to use. The MOLVT must be involved in the development of strategy, collecting and sharing information and formally referring suspected cases for prosecution. Joint trainings and workshops between MOLVT and other government agencies (MOJ, MOSVY, MFAIC, AHTJPD, NCCT, etc.) would be an effective way to begin to increase inter-agency collaboration.

*Related agencies:* MOLVT, NCCT, MOJ, MOSVY, MFAIC, AHTJPD and others

## Labor Migration Data

One of the primary issues cited by stakeholders was a lack of data on Cambodian migrant workers who have migrated for labor overseas. There is presently no formal, functioning government system to track data on migrant workers, such as recruitment contract details, contact information for migrants or their next of kin, return status, etc. Stakeholders noted that this effectively has left the Cambodian government without any reliable information on the hundreds of thousands of Cambodian citizens who migrate for work each year and unable to provide protections or assistance to those citizens who are vulnerable to becoming victims of human trafficking.

**Recommendation:** It is vital that better data is gathered on migrant workers leaving the country. This could be implemented through ensuring that recruitment agencies gather and report data, but MOLVT should be responsible for ensuring that it maintains accurate information on the numbers of migrant workers leaving, their destination countries, companies, contract lengths, contact numbers etc. This would be achieved through coordination with other agencies including the MOI (General Department of Immigration).

*Related agencies:* MOLVT, MOI, recruitment agencies and others

### Coordination with the Ministry of Foreign Affairs and International Cooperation

Although also not directly involved in a criminal justice response to trafficking, the Ministry of Foreign Affairs (MFAIC), like the Ministry of Labor, plays an essential role in ensuring that the issue of labor trafficking is effectively addressed.

The work of MFAIC is essential to ensuring protection, rescue and care for Cambodian citizens affected by trafficking internationally. As the arm of the Cambodian government in destination countries, MFAIC has crucial responsibilities to ensure that the rights Cambodian citizens abroad are protected.

Stakeholders reported that due to limited human resources and operational budgets, Cambodian embassies and consulates abroad lack the manpower or resources to adequately respond to trafficking issues. Stakeholders who work with Cambodian embassies and consulates noted that many have as few as six staff members and are thus unable to adequately respond to the volume of work and requests for assistance. Unfortunately, trafficking cases can be deprioritized due to other demands, leaving Cambodian citizens who are victims of trafficking without the help of their government when it is critically needed.

With consular staff stretched beyond capacity, there have been numerous reports of trafficking victims encouraged by consular staff to leave the situations of exploitation on their own, a sometimes impossible and often dangerous act for victims.

**Recommendation:** Increase human resources and operational budgets for embassies and consulates to be able to respond to provide assistance to trafficking victims, including assisting in identification and rescue of victims as appropriate, providing repatriation assistance, and ensure coordination between government agencies on cross border prosecutions. MFAIC should consider stationing labor and police attaches in consular offices of common destination countries.



*Related agencies:* MFAIC, MOI, MOLVT, civil society

Additionally, diplomatic staff do not currently receive sufficient specialized training on human trafficking or migrant assistance issues and subsequently find it difficult to deal with the complexities of trafficking cases. While some Cambodian consulates, such as Indonesia's, are proactive in responding to TIP cases and providing assistance to victims, even travelling to remote areas to do so, other consulates have been less responsive and less aware of the severity of trafficking issues.

**Recommendation:** Institutionalize training on TIP and migrant issues to ensure that all consular staff are provided training prior to deployment. Additionally, provide trainings for existing consular staff in common destination countries (Thailand, Malaysia, Indonesia, China, Singapore, etc.) so that officials currently dealing with TIP cases are better equipped to respond.

*Related agencies:* MFAIC, NCCT

### 3.6 Cross Border Collaboration

Most instances of labor trafficking involve more than one country, where a victim is recruited in a source location and transported over one or more borders to the end destination country, where the exploitation occurs. Accordingly, effective collaboration between key government and non-government agencies in prime source and destination countries is critical to reducing the prevalence of trafficking among Cambodian migrants.

Stakeholders report that one of the biggest challenges in addressing cross border labor trafficking crimes is a lack of collaboration between Cambodian government agencies and their counterparts in other countries. Cambodian law enforcement officers face significant challenges in conducting cross border investigations, including budget constraints and lengthy approval processes. Cambodian prosecutors and courts struggle to obtain evidence from other countries to support their cases and often have to wait months or years for victims to complete the trial process in the destination country before they can commence proceedings in Cambodia.

#### Implementation of MOUs

The Cambodian government has been proactive in developing and entering into MOUs and bi- and multi-lateral agreements with other nations on cross border investigations and prosecutions. Cambodia has signed bi- or multi-lateral trafficking-related MOUs with Thailand, Vietnam, Malaysia, Burma, Laos and most recently with China. MOUs with

India and between Thai and Cambodia law enforcement agencies are currently in draft form.

Stakeholders report and casework experience confirms, however, that even when an MOU exists, it is often difficult for law enforcement officers to practically engage in collaboration with their law enforcement counterparts in other nations due to unclear procedures for the implementation of the agreements and the lack of step-by-step guidance.

**Recommendation:** In addition to developing MOUs with relevant government agencies in other nations, guidelines for the implementation of such agreements (such as Standard Operating Procedures) should be developed and rolled out through training to PJS officials responsible for conducting cross border cases.

*Related agencies:* NCCT, MOI, MOJ (especially prosecutors and investigating judges), AHTJPD

An example of this is the potential use of video-streamed or video-link evidence for pre-trial and trial. This is specifically provided for in the draft MOU on trafficking between Thai and Cambodian law enforcement agencies. It would enable Cambodian victims who remain in Thailand to participate in Thai prosecutions to give their formal evidentiary statements in the Cambodian trial process *whilst remaining in Thailand*. Accordingly, trials could proceed in Thailand and Cambodia at the same time. While the provision exists within the draft MOU, specific, step-by-step guidance is needed for both Thai and Cambodian police that streamlines and simplifies the process.

**Recommendation:** In collaboration with Thai justice officials, the MOJ and/or MOI should issue guidelines on the use of video-link evidence in trafficking investigations and trials.

*Related agencies:* MOI, MOJ, NCCT, civil society, Thai Judiciary, Thai Police.

Cambodia along with other ASEAN members signed the *2004 Treaty on Mutual Legal Assistance on Criminal Matters* (MLAT) in November 2004, and Cambodia ratified the Treaty in 2010. MLAT requires member nations to “*render to one another the widest possible measure of mutual legal assistance in criminal matters, namely investigations, prosecutions and resulting proceedings,*”<sup>21</sup> and provides for evidence sharing, search and seizure, locating witnesses and suspects, property forfeiture, etc. Implementation of MLAT, however, is lacking throughout the region. The MOJ – as the Central Authority to implement MLAT – along with the NCCT should continue to push for effective implementation of this instrument.

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<sup>21</sup> 2004 Treaty on Mutual Legal Assistance in Criminal Matters (MLAT). Article 1.1. (2004, November 29). *Center for International Law*. Retrieved from [https://cil.nus.edu.sg/rp/pdf/2004 Treaty on Mutual Legal Assistance in Criminal Matters-pdf.pdf](https://cil.nus.edu.sg/rp/pdf/2004%20Treaty%20on%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters-pdf.pdf).

## Structured Collaboration through Joint Investigation Teams

The effectiveness of country-to-country collaboration, despite numerous international agreements and structures (see above), remains dependent on individual relationships between officers and is slowed by bureaucratic hurdles. Highly focused and specific projects, operating within these international laws and existing cooperation mechanisms, would bring tangible results on the ground. Focused implementation models do exist in other regions that could potentially serve as examples to adapt.

EUROPOL's Joint Investigation Team model is one example. Joint Investigation Teams (JIT) are made possible by the various international agreements and mechanisms within the European Union framework. They are an example of focused implementation within that larger framework. JITs can include police officers, prosecutors and judges of at least two European countries. They are set up *for a specific purpose for a limited time*, in one or more countries. JITs usually target drug or human trafficking or terrorism. Members of the JIT exchange information, confiscate illegal goods, carry out criminal investigations, take people into custody and interrogate them, gather evidence and prosecute criminals. Foreign police officers who are part of a JIT are allowed to be present at house searches, interviews, etc. in all jurisdictions covered, helping to overcome language barriers in interviews, etc. Participation in a JIT gives a member the ability to share information directly between JIT members without the need for formal requests. Where the JIT needs investigative measures to be taken in one of the countries, team members may request their own competent authorities to take those measures, eliminating the need for special approvals and permissions. For example, a police officer from the Netherlands seconded to a JIT operating in Germany could ask his police colleagues in the Netherlands to execute a search warrant in the Netherlands on behalf of the JIT.<sup>22</sup> For more information about JITs, see Annex C below.

**Recommendation:** In addition to the instruments already created (e.g. MOUs, ASEAN's MLAT with the MOJ functioning as the Central Authority to implement it, and AAPTIP initiatives), the MOI, MOJ and NCCT should initiate discussions with stakeholders about the idea of establishing highly focused Joint Investigative Teams with Thailand, Malaysia and China, and, if appropriate, begin outlining the more specific legal instruments required to create such a structure.

*Related agencies:* NCCT, MOI, AHTJPD, MOJ

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<sup>22</sup> *Joint Investigation Teams Manual*. (2011). Council of the European Union. Retrieved from <https://www.europol.europa.eu/sites/default/files/st15790-re01.en11.pdf>.

### 3.7 Other Issues: Victim Compensation

Victims of trafficking suffer loss in many forms, including lost wages and physical and psychological harm. Having been identified as victims of trafficking, they are entitled to recompense for their losses. Where this does not happen, or where there is little prospect of it in the future, victims are unlikely to be motivated to fully participate in investigations and trials. Studies have shown victim cooperation to be the single most important factor in the success or failure of a prosecution.<sup>23</sup>

Further, victims return home in a state of significant disadvantage. They may have lost large amounts of money or be in debt. They may have been away for a long time and lost connections and supportive ties with their community. Without additional financial support to provide them a new beginning, many victims may choose to re-migrate in the hope of a better experience and are then at significant risk of being re-trafficked.

Unfortunately, victims of trafficking in Cambodia seldom receive adequate compensation, harming their own prospects of recovery and reducing the chance of successful prosecutions of offenders. All stakeholders highlighted the need for this to change, and for victims to be properly compensated – either by enforcing Court compensation orders post-trial or through a State-funded compensation scheme.

Experience from other jurisdictions suggests that a State-funded compensation scheme (in addition to the usual court compensation process), which allows for rehabilitation funds to be provided soon after a victim is formally identified rather than having to wait for judgment after a trial, best meets the needs of victims and the standards of natural justice.

IJM aims to publish a comprehensive review of victim compensation schemes and a proposed scheme for victims of trafficking in Cambodia in late 2016.

**Recommendation:** The NCCT should consider administering a fund for survivors of trafficking and host stakeholder meetings to brainstorm how this would be funded and run and the process for survivors to access the funds.

*Related agencies:* NCCT, MOSVY, MOI, MOJ, civil society.

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<sup>23</sup> Recommendation, ILO. (2014). 102. Recommendation on Supplementary Measures for the Effective Suppression of Forced Labor. Geneva. Retrieved from [http://www.ilo.org/ilc/ILCSessions/103/reports/committee-reports/WCMS\\_248908/lang--en/index.htm](http://www.ilo.org/ilc/ILCSessions/103/reports/committee-reports/WCMS_248908/lang--en/index.htm).

### 3.8 Other Issues: Trafficking within Cambodia's borders

The issue of trafficking within Cambodian borders and the exploitation of workers within industries within Cambodia has yet to be fully engaged with or discussed. Examples of such exploitation are rarely discussed by government or non-government stakeholders, yet there is strong anecdotal support for the prevalence of trafficking and exploitation within Cambodia in industries such as brick kilns, agriculture, manufacturing, domestic maids, entertainment and begging.<sup>24</sup> While none of these sources are definitive or purport to provide accurate prevalence estimates on labor trafficking within Cambodia, labor trafficking within the borders clearly remains a problem.

Trafficking cases within Cambodia may be identified by other offenses committed during the course of trafficking a victim (e.g. physical or sexual violence), but not recognized as a trafficking case. There were, for example, six articles published in Cambodian English language newspapers in 2016 that discussed specific cases within Cambodia that contained facts consistent with labor trafficking. In none of those cases were trafficking charges laid, with law enforcement officials instead relying on penal code offenses such as rape.

**Recommendation:** Police and prosecutors should be open to considering a case as a trafficking case even if it lacks any cross-border component. Examples of trafficking within Cambodia should be included in police and prosecutor training modules.

*Related agencies:* MOI, AHTJPD, AHTJPP, AHTJP (PM), MOJ, NCCT, civil society.

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<sup>24</sup> Nou, K., So, P., & Ros, B. (2015, February). Child Domestic Labour. *Cambodia Development Resource Institute (CDRI)*. Retrieved from [http://www.cdri.org.kh/webdata/download/otherpapers/Child Domestic Labour.pdf](http://www.cdri.org.kh/webdata/download/otherpapers/Child%20Domestic%20Labour.pdf); Cambodia - UN ACT |. (2014). Retrieved from <http://un-act.org/countries/cambodia/>; The Minderoo Foundation Pty Ltd. (2016). Cambodia country study- Global Slavery Index 2016. Retrieved from <http://www.globallslaveryindex.org/country/cambodia/>

## 4 CONCLUSION

The Cambodian government has made tremendous progress in improving the public justice system's response to trafficking in persons, especially the sexual exploitation of children, over the past two decades. As a result of these improvements, countless children have been protected from abuse. The substantial progress that has been made must now be leveraged in order to protect Cambodia's most vulnerable citizens from *all* forms of trafficking and exploitation. IJM applauds the efforts of the many dedicated men and women serving in the Cambodian government and looks forward to continued partnership with Cambodia's public justice system to prevent and respond to labor trafficking and all trafficking crimes.

## 5 RECOMMENDATIONS

The following recommendations are included and expounded upon in the discussion and analysis portions of this report. They are collated below for ease of reference:

### Victim Identification (p. 14):

#### **Recommendations:**

- NCCT to refine Victim Identification Guidelines and continue training first responders.

### Criminal Investigations (p. 15):

**Priority Recommendation:** Institutionalize TIP curriculum nationwide for all law enforcement recruits through the Police Academy of Cambodia (PAC).

*Related agencies:* MOI, CNP, PAC, AHTJPD

**Priority Recommendation:** To increase law enforcement's ability to sustainably and proactively address trafficking crimes, increase operational funding and improve mechanisms for more expedient access to budget to cover travel and costs associated with investigating cases.

*Related agencies:* MOI, AHTJPD

#### **Recommendations:**

- Specialized TIP training for front-line officials;

- AHTJPD guidelines for victim-friendly practices;
- Victims are encouraged to participate in trial and given just compensation;
- MOJ Guideline for Undercover Investigative Authority.

### Prosecuting Offenders (p. 19):

**Priority Recommendation:** MOI and MOJ leaders should draft and implement guidelines or a *prakas* for effective police-prosecutor collaboration in trafficking cases. The guidelines/*prakas* should be specific as to how criminal procedure and trafficking laws should be implemented in practice.

*Related agencies:* MOJ, MOI, AHTJPD

#### **Recommendations:**

- Extra-judicial pay-offs to victims actively discouraged;
- Accurate data on trafficking court cases collected and shared;
- Institutionalized training on TIPSE law for judges and prosecutors;
- MOJ guidelines for trafficking court cases;
- Best practices for witness and victim treatment in court developed and training delivered to prosecutors, judges and lawyers.

### Survivor Aftercare (p. 24):

**Priority recommendation:** To increase social services' ability to sustainably and proactively support victims of trafficking, increase both human resources and operational funding for MOSVY and DOSVY and improve mechanisms for personnel to access and manage operational budgets so projects can be implemented and assistance can be provided to victims of trafficking.

*Related agencies:* MOSVY, DOSVY

#### **Recommendations:**

- Poipet Transit Center to be sustainably funded and broaden service provision to all identified trafficking victims;

- PTC staff to use NCCT Victim Identification Guidelines;
- MOSVY guidelines for community-based care for trafficking survivors;
- DOSVY staff receive training and technical support to provide aftercare for labor trafficking survivors.

### Inter-Agency Coordination (p. 27):

**Priority Recommendation:** NCCT should continue to lead the Cambodian PJS's response by pushing forward critically-needed initiatives such as:

- Streamlining cross-border cooperation in victim identification and human trafficking investigations and trials;
- Improving cooperation in identifying and repatriating victims through Cambodian Embassies in destination countries;
- Increased accuracy and coordination of essential trafficking data from embassies, borders, police, courts and social services;
- Undercover Investigative Authority for anti-trafficking law enforcement.

*Related agencies:* NCCT, MOJ, MOI, MOSVY

### Recommendations:

- NCCT to continue widen and deepen collaboration between government agencies, include MOLVT and MFAIC;
- Trafficking and victim privacy workshop for media agencies;
- MOLVT to implement a universal minimum wage and standard employment contracts for recruiting agencies to use;
- MOLVT to ensure that data on migrant laborers is gathered, reported and kept current;
- Additional resources for embassies and consulates to assist victims of labor trafficking in foreign countries;
- Consular staff receive training on trafficking prior to deployment.



### Cross-Border Collaboration (p. 31):

#### **Recommendations:**

- Implementation of MOUs aided by Standard Operating Procedures or similar;
- Guidelines on the use of video-link evidence issued;
- Consideration given to adapting the “Joint Investigative Team” model for focused cross-border collaboration projects.

### Other Issues (pp. 34 and 35):

#### **Recommendations:**

- Consideration given to an NCCT-administered trafficking survivors’ fund and compensation scheme;
- Police and prosecutors open to considering cases that occur within Cambodia’s borders as trafficking cases.

## ANNEX A - CONSULTED STAKEHOLDERS

**Stakeholders from the following agencies provided consent for their participation in this report to be cited:**

Cambodian Center for the Protection of Children’s Rights (CCPCR)

Cambodian Human Rights and Development Association (ADHOC)

Center for Alliance of Labor and Human Rights (CENTRAL Cambodia)

Chab Dai

International Justice Mission (IJM)

International Organization for Migration (IOM)

Legal Support for Children and Women (LSCW)

Samaritan’s Purse

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## ANNEX C – EUROPOL’s Joint Investigative Team Model

*Provided with our gratitude by our colleagues at IJM Germany and IJM Netherlands.*

Joint Investigation Teams (JIT) are a special form of cross-border legal assistance in criminal matters. Their main aim is to combat trafficking in drugs and human beings as well as terrorism. They comprise of at least two Member States to investigate a specific purpose for a limited duration in one or more of the concerning Member States. A JIT is a form of intense collaboration between states that provides them with more competences in the states with who they are cooperating<sup>25</sup>. These competences are for example: exchanging information, confiscating illegal goods, carrying out criminal investigations, taking people into custody and interrogating them, gathering evidence and prosecuting criminals<sup>26</sup>.

Foreign police officers who are part of a JIT are allowed to be present at house searches, interviews, etc. in all jurisdictions covered, helping to overcome language barriers in interviews, etc. Participation in a JIT gives a member the ability to share information directly between JIT members without the need for formal requests. It also gives the opportunity to request investigative measures between team members directly, dispensing with the need for Letters Rogatory. This applies also to requests for coercive measures.

Where the JIT needs investigative measures to be taken in one of the Member States, members seconded to the team may request their own competent authorities to take those measures. The request should be considered under the conditions which would apply in a national investigation. The purpose of this provision is to avoid the need for Rogatory Letters, even when the investigative measure requires the exercise of a coercive power, such as the execution of a search warrant. This is one of the main benefits of a JIT. For example, a Dutch Police officer seconded to a JIT operating in Germany could ask his Police colleagues in the Netherlands to execute a search warrant, issued in accordance with Dutch law, in the Netherlands on behalf of the JIT.

### Establishment

JITs may be set up particularly when:

1. A Member State's investigations into criminal offenses require difficult and demanding investigations having links with other Member States;

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<sup>25</sup> Brady, H. (2007). *The EU and the fight against organised crime*. London: Centre for European Reform.

<sup>26</sup> Sollie, H. and Kop, N. (2012). *Joint Investigation Teams: Lessons Learned*. Boom Lemma Uitgevers, Den Haag, 5-185.

2. A number of Member States are conducting investigations into criminal offenses in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved.

JITs are an effective way of cooperation in investigations including actions carried out in the same time in a number of countries as well as when the case requires quick operation with other State's participation due to the reduction of bureaucratic burdens.

## Structure

JITs comprise of at least two Member States that share connections in a criminal offense. They consist of members (officers of the Member State in which the operation is carried out), seconded members (officers not working in their own countries) and visiting members (from Third States or from European Union organizations such as Europol). The rights conferred to members and seconded members do only apply to visiting members if the agreement specifies so.

Members and seconded members are entitled to request information concerning the investigations in the concerning member states according to the legal framework of the Member States without submitting a separated letter of request for mutual legal assistance. Thereby the process of obtaining crucial information and evidence for investigations across borders is simplified and more effective.

The team is set up in the Member State in which investigations are expected to be predominantly carried out. This implies a number of people temporarily working outside of their own Member States as it might, in many cases, be an ideal arrangement. However, there is no requirement that a member of the JIT has to work outside of his home country, even if the JIT is permanently based in another country.

A number of scenarios are possible and organisational issues of the JIT have to be decided on a case-by-case basis, taking into account factors such as costs, availability of personnel, length of enquiry, nature of the investigation, judicial authority, etc.

JITs in general and JIT agreements cannot and do not override domestic law and obligations.

## Leadership

Every JIT needs to have a team leader or leaders. The team leader of a JIT is supposed to be an officer of the member state in which the operation is carried out. Seconded members are entitled to be present at investigations in the member state but the team leader has the authority to decide otherwise if it seems adequate.

However, since the JIT is considered in some Member States as a –particular form of mutual legal assistance||, it is recommended that a representative from the judiciary should be the leader in those cases where investigating magistrates or prosecutors direct operations. In other jurisdictions and dependant on the national framework, it may be appropriate that a law enforcement officer leads the JIT.

Experiences so far suggest that Member States prefer the option of having more than one team leader rather than opting for one team leader with overall responsibility. A "flowing" leadership structure, dependent on geographic sphere of operations, is allowed provided leadership structure remains clear.

Team members carry out their tasks under the leadership of the JIT leader, taking into account the conditions set by their own authorities in the agreement on setting up the JIT. This is an issue that needs to be fully considered when drafting the JIT agreement, so that team members, particularly those seconded from another Member State, are aware what line-management structure or structures are in place.

## Advantages

The purpose is to set up cross-border criminal investigations and it is as if the collaborating countries are working under one jurisdiction<sup>1</sup>. There are many advantages to a JIT, which are:<sup>27</sup>

- JIT members are able to share information directly amongst themselves. There is thus no need for a formal request. This will reduce the amount of time it takes for information to be shared and reduces the bureaucratic burdens.
- The ability to request investigative measures or legal actions from their Member State's authorities, officers or courts directly, also for requests for coercive measures.
- Requests from JIT members are treated as if they were requests in a national case and the results are submitted to all members of the JIT. Additionally there is a possibility to participate at house searches, examinations, obtaining documents and exchange informal specialized knowledge. An advantage to this is that it for example overcomes language barriers in interviews.
- A JIT also helps to avoid doubling acts of legal procedure for example witness hearings because they can be shared among the members easily
- A JIT provides the ability for efforts to be coordinated on the spot. It also allows for an informal exchange of specialised knowledge.

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<sup>27</sup> European Council. (2011). Joint Investigation Teams Manual. Retrieved from: <http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20framework/JITs%20Manual/JITs-manual-2011-11-04-EN.pdf>



- The ability to build mutual trust between practitioners who come from different jurisdictions and work environments.
- A JIT provides the best platform to determine the optimal investigation and prosecution strategies.
- Participation in a JIT raises awareness of the management and improves delivery of International Investigation.

More information about JIT's can be found within the Joint Investigation Manual of the council of the European Union:

<https://www.europol.europa.eu/sites/default/files/st15790-re01.en11.pdf>.

## Legal Framework

The European Union legally promotes the establishment of JITs through 'The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union' (2000 MLA Convention), the 'Framework Decision on Joint Investigation Teams' (2002 Decision on the JIT) and the 'Resolution on a Model Agreement for setting up a Joint Investigation Team' (2010 Model Agreement for JIT).

The Framework Decision has been implemented in the Member States in different ways. While some countries have adopted specific laws on JITs or have inserted JIT provisions in their respective codes of criminal procedure, others have simply referred to the direct applicability of the 2000 MLA Convention in their legal order.

JITs can be set up with and between countries outside of the European Union, provided that a legal basis for the creation of such JITs exists. The legal basis can take the form of:

- An international legal instrument,
- A bilateral Agreement,
- A multilateral Agreement,
- National legislation (e.g. Article(s) of the Code of Criminal Procedure).

When considering setting up a JIT, national legislation and operational guidelines should be checked to determine whether the creation of a JIT is subject to a seriousness threshold or any other qualifying criteria.

## Case Studies:

<https://www.europol.europa.eu/content/page/joint-investigation-teams-989>