



IJM

**JUSTICE SYSTEM'S  
RESPONSE TO CROSS-  
BORDER FORCED  
LABOR AND LABOR  
TRAFFICKING** in Cambodia



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### DISCLAIMER

The findings, conclusions, and recommendations presented in this report are those of the author alone and do not necessarily reflect the opinions of the Walmart Foundation or International Justice Mission.



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## ACRONYMS

ABC	Associated Banks in Cambodia
ACRA	Association of Cambodian Recruitment Agencies
ACT	Australian Counter Trafficking
ACTIP	ASEAN Convention Against Trafficking in Persons, Especially Women and Children
AHJPD	Department of Anti-Human Trafficking and Juvenile Protection
ASEAN	Association of South-East Asian Nations
CCWC	Commune Committee for Women and Children
CMA	Cambodia Microfinance Association
CSO	Civil society organization
CTIP	Counter trafficking in persons
FGD	Focus group discussion
DOSVY	Department of Social Affairs, Veterans and Youth Rehabilitation
FL/TIP	Forced labor and trafficking in persons
ICRC	International Committee of the Red Cross
IJM	International Justice Mission
ILO	International Labor Organization
IVJ	investigative judge
MAC	Manpower Association of Cambodia
MFAIC	Ministry of Foreign Affairs and International Cooperation
MFI	Micro-finance Institution
MLAT	Treaty on Mutual Legal Assistance in Criminal Matters
MoEYS	Ministry of Education, Youth and Sport
MoH	Ministry of Health
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLVT	Ministry of Labor and Vocational Training
MoSVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
MoU	Memorandum of Understanding
MoWA	Ministry of Women's Affairs
MRC	Migrant resource center
NCCT	National Committee for Counter Trafficking
NTF	National Task Force
NGO	Non-governmental organizations
NSSF	National Social Security Fund
OSH	Occupational Safety and Health
PAC	Police Academy Centre
PTC	Poipet Transit Centre
PCCT	Provincial Committees to Counter Trafficking
PoSVY	Provincial Department of Social Affairs, Veterans and Youth Rehabilitation
RCG	Research and Communications Group
RGC	Royal Government of Cambodia
SOP	Standard Operating Procedures
TIP	Trafficking in persons
UN	United Nations
US DOS	United States Department of State



A silhouette of a woman with her hair in a bun, looking out over a field at sunset. The sky is a mix of orange, yellow, and blue. The woman is wearing a light-colored t-shirt and dark pants. The background shows a field and some trees in the distance.

# EXECUTIVE SUMMARY

# EXECUTIVE SUMMARY

This study seeks to assess the effectiveness and progress of Cambodia's justice system in responding to cases of forced labor and trafficking in persons (FL/TIP) both domestically and abroad, with particular emphasis on Cambodian migrants working in Thailand's fishing industry. In addition, the role of cross-border collaboration between Thailand and Cambodia's justice systems in responding to FL/TIP is of key interest. This study is one component of a three-part, regional research project commissioned by International Justice Mission (IJM), looking at FL/TIP justice system effectiveness across Cambodia, Thailand and Myanmar.

The findings of this study are based on desk review and 45 Key Informant Interviews with various Government officials, Judges, Prosecutors, Police, and NGO justice system actors. Interviews were conducted between January and April 2022 and located across six Cambodian provinces. Findings also draw upon a combination of in-depth interviews and focus group discussions with 21 migrant workers and FL/TIP victims about their experiences and perceptions of the justice system. This study also seeks to reflect on progress achieved since IJM conducted a similar study in 2016.

## ♂ KEY FINDINGS: Recent Efforts and Progress

Central to this study was learning from key government, court, police and NGO stakeholders what actions have been taken and to what extent particular efforts have contributed to progress in Cambodia's justice system response to FL/TIP. Key highlights include the following:

### > PREVENTION

- **Regular migration:** The Royal Government of Cambodia (RGC) has modestly improved access to migration documents for workers through making application procedures available at more locations.
- **Monitoring:** The recruitment industry and banking industry have taken preliminary measures toward non-enforceable self-regulation, by developing codes of conduct. It remains to be seen whether these efforts are merely reforms on paper, or whether they will have an impact.

## › CRIMINAL JUSTICE SYSTEM

- **Investigation:** There is modest improvement in FL/TIP awareness, understanding and capacity at the local level and among court and government officials. The Police Training Academy has developed and instituted a new training curriculum with independent input, which includes dedicated FL/TIP modules.
- **Crackdown on cyber-scams:** Authorities report that since August 2022 there have been targeted efforts to “crackdown” on facilities and venues suspected of housing organized cybercrime operations. Authorities report that hundreds of labor inspections have been conducted in this time and around two thousand people have been removed from abusive workplaces. These inspections have happened in response to significant international media attention and public pressure. Nevertheless, reports indicate that these efforts address only a small fraction of potential cases, and the industry appears to be growing, so it is imperative that such policing efforts be maintained in the future. Stakeholders interviewed suggested there has also been resistance at times to investigating online scam operators, because operators were believed to be connected to powerful interests. This is consistent with the fact that of the rescued workers, none have yet been officially classified as trafficking victims. It must also be noted that the crackdowns in August 2022 transpired after primary data collection for this study was completed.
- **Prosecution:** The court embarked on a campaign to clear frozen court cases, resulting in a faster judicial process in hearing cases. The court has also improved its internal case data collection, which nonetheless remains opaque to other justice system actors. The issuing of warrants has become faster and more effective due to the use of online communication apps.
- **Confidence in the justice system:** Government officials surveyed reported that they felt they were independent, accessible and fair in their responses to FL/TIP. Police and government officials both expressed that they were accessible to the public. Some CSOs interviewed reported that there is increasing faith among the public that the justice system might provide positive outcomes to common citizens in cases among each other but reported that there is ongoing doubt in the justice system’s ability to support regular people against privileged actors.

## › VICTIM IDENTIFICATION AND SUPPORT

- **Identification of victims using Victim Identification Guidelines:** A significant portion of officials have been using the Victim Identification Guidelines and report positive feedback. While other officials consider the Victim Identification Guidelines to be ineffective and prefer not to use them, the NCCT is currently seeking stakeholder feedback to iterate the prescribed victim identification interview forms in order to increase their use and overall consistency in identification procedures across departments.
- **Transit centers:** The Poipet transit center has expanded its offering to cover male FL/TIP victims in addition to women and children. A new transit center was opened by the NCCT and MoSVY in Kam Rieng, Battambang.



- **Referral and support services to victims:** There are plans for a new center for care located in Kandal Stoeng to be operated by MoSVY's Department of Rehabilitation. The RGC has continued to work with NGOs to provide services to victims, and open more migrant resource centers.

## › COOPERATION AND COLLABORATION

- **Domestic collaboration:** Domestic collaboration efforts on FL/TIP continue to be spearheaded by the NCCT through its six working groups. While these groups represent the most significant mechanism for collaboration in Cambodia, it is limited to the ministerial level. Meanwhile, more collaboration is needed at the operational and departmental levels, where officials have reportedly become slightly more aware of each other's roles and have improved working relationships for referral and collaboration over time.
- **Cross-border collaboration:** In 2021 and 2022 Thailand and Cambodia signed new Standard Operating Procedures (SOPs) to set out how to best collaborate in repatriation and reintegration of Cambodian trafficking victims, and law enforcement cooperation against human trafficking, respectively. These SOPs are now ready for implementation.

## ♂ KEY FINDINGS: Outstanding Issues and Gaps

This study asked key stakeholders to identify elements of Cambodia's justice system that could be improved in order to effectively respond to FL/TIP. Key points identified include the following:

## › PREVENTION

- **Regular migration:** There is little government will to work with Thailand to address design flaws in the MoU system that governs the regular migration channel for Cambodian workers. As a result, the MoU migration channel remains unattractive and unsafe to migrant workers.
- **FL/TIP awareness and training:** There are not clear goals and standards for designing, implementing and assessing the results of awareness training efforts.
- **Data sharing on FL/TIP:** Data collection and information sharing regarding FL/TIP is lacking across the system as a whole. Some localized data collection improvements have been achieved, such as case management within the court system, MoSVY is currently developing a departmental data management system in collaboration with NGOs.
- **Monitoring:** There remains little independent oversight of the recruitment and microfinance sectors, both of which are only taking steps towards unenforceable self-regulation which is unlikely to have significant impact. There are very few obligations placed upon recruitment agents to ensure the safety of migrant workers abroad or penalties for poor performance.

## › CRIMINAL JUSTICE SYSTEM

- **Investigation:** There is resistance among police to investigate workplaces that have links to powerful actors and officials. There is frequently an overemphasis by police to investigate family members and friends who are not active brokers but merely assisted a contact to find a job, rather than professional brokers and organized recruitment networks.
- **Investigation resources:** Provincial police are forced to use their own funds to finance investigation efforts in the hope of being reimbursed. There is a shortage of private interview rooms, compromising the confidentiality of victim interviews. There are not enough female police officers to ensure gender-sensitive interviewing.
- **Investigation capacity:** Police capacity to investigate at the local level and in the provinces can be inadequate for producing case evidence and establishing case facts at trial. Victim friendly and trauma informed interview methods are rarely understood and practiced. There is a need for regular updates to FL/TIP training as practices evolve, in particular around the use of digital technology and cybercrime.
- **Identifying perpetrators:** Suspected traffickers often abscond while a case is being investigated, and when they are arrested, they can only be held for 48 hours if a charge is not laid by prosecutors. Identification of perpetrators remains challenging, due to limited information about brokers.
- **Victim participation in prosecution:** Cooperating in the prosecution of cases remains unattractive to victims due to financial and time barriers. Victims often opt for informal settlements rather than endure the trial process. In addition, CSOs reported that the community perceives the court system to be inaccessible in terms of taking action against privileged actors, and this contributes to victims taking out-of-court settlements.
- **Convictions and sentencing:** Powerful people are seen to be above the law, and escape conviction. Recent court efforts to not crowd prisons have resulted in diversion programs and community detention. Coupled with the ability to pay for informal settlements and difficulty in enforcing compensation orders, there are low chances of perpetrators facing significant penalties.

## › VICTIM IDENTIFICATION AND SUPPORT

- **Identification of victims:** Overall, not enough FL/TIP cases are being identified, meaning that many victims never proceed through the justice system in the first place. Preliminary FL/TIP screening is not done enough in high-risk settings, such as in the limited amount of labor inspections and industry monitoring. Foreigners in Cambodia and migrant workers in Thailand are too often deported as undocumented migrants without being screened for FL/TIP. Meanwhile, Cambodia's prescribed Victim Identification Guidelines are not used uniformly, with other identification forms preferred by some key actors, creating barriers to effective collaboration.
- **Support for victims and witnesses in court process:** Victims and witnesses are reliant on NGOs for legal and social support through the investigation and

trial process and can lack support because government social services are often not included early enough in the case, if at all. Victim-sensitive questioning techniques are reportedly not adequate in court settings.

- **Referral and support services to victims:** While resources are understandably limited, specific resource gaps were highlighted. There is a shortage of services for male victims across the board. Transit centers lack adequate shelter and interview facilities. Victims can rarely access psychological services. There are shortages of victim shelters, especially for men.

- **Reintegration services:** Reintegration efforts often fail to provide victims with sustainable livelihood options causing them to migrate again. Victims continue to face social stigma and social dislocation on their return home. There is a research gap regarding victims' long-term needs, and a lack of monitoring of standards on service provision.

- **Remedies to victims:** The court system remains an unattractive means for victims to seek remedy, so FL/TIP victims continue to settle cases for informal payments outside of court. Court compensation orders remain very difficult to enforce in practice and require reform. A victim compensation fund or scheme is very much needed to ensure victims are provided with compensation.

- **Domestic collaboration:** Stakeholders report that they still do not adequately understand each other's roles. Collaboration guidelines are still lacking specificity and are difficult to operationalize. Court actors and police need to build working relationships to collaborate more effectively. There are numerous documents on stakeholder collaboration that are not implemented or even known by government stakeholders. Justice system actors are not improving performance over time due to a lack of informational feedback loops, as case information including decision not to prosecute is not readily shared with other stakeholders.

- **Cross-border collaboration:** While cross-border collaboration occurs at the ministerial level, there are few channels for cooperation at the operational level. Thus, it remains difficult for Cambodian police to obtain evidence and compel investigation from counterparts overseas, including Thailand. Joint investigations rarely, if ever, occur. It remains difficult for victims both to remain in country to pursue legal remedy and to pursue such remedy from abroad. Collaboration in the trial process sometimes happens informally but not via the established MLAT mechanism as it is considered laborious and ineffective. Cambodian embassy officials in Thailand are effective at supporting repatriation but are commonly non-responsive to labor and FL/TIP complaints from migrants.



Remedies and suggestions are discussed in Section 9 of this report, which are conceived according to the following themes:

1. Boosting the agency of migrants by addressing migration system design flaws that prevent migrants from protecting themselves.
2. Intensifying identification efforts by motivating justice system actors to screen more at-risk workers, identify more cases, and monitor more sites of risk.
3. Incentivize victim participation to enter and remain in the justice system by removing barriers, providing support, and providing access to remedies.
4. Institute channels for justice system actors to coordinate their efforts more effectively.



**1**

## **BACKGROUND AND METHODOLOGY**

# 1 BACKGROUND AND METHODOLOGY

## 1.1 OVERVIEW OF IJM

International Justice Mission (IJM) was founded in 1997 and is a global organization that protects people in poverty from violence. IJM partners with local authorities in 21 program offices across 14 countries (including Cambodia, Thailand and Myanmar) to combat forced labor and labor trafficking, sex trafficking, violence against women and children, and police abuse of power against vulnerable and impoverished people. IJM works to rescue and restore victims, hold perpetrators to account, and strengthen criminal justice systems in South and Southeast Asia, Eastern Europe, Africa, and Latin America. IJM has operated an office in Cambodia since 2004 and supports cross-border investigations and prosecutions, securing convictions against key players in networks responsible for trafficking of Cambodians into the fishing industry in Thailand.

## 1.2 REPORT PURPOSE AND SCOPE

In 2021, IJM engaged Research and Communications Group (RCG) to conduct a three-country mixed-methods research project to assess: (1) the progress, performance and effectiveness of Cambodia, Thailand, and Myanmar's respective justice system response to trafficking and forced labor, with particular emphasis on the Thai seafood sector; and (2) the extent of cross-border cooperation between the three countries in addressing cross-border labor trafficking.

The purpose of this report is to summarize the findings of the Cambodian component of the research project. These findings will be used to inform the deployment of resources and efforts by IJM in the short to medium-term. It will also reflect on the progress since a comparable assessment study in Cambodia was conducted by IJM in 2016.<sup>1</sup>



## 1.3 RESEARCH QUESTIONS

The study seeks to answer four research questions:

1	What is the current state of the governments' efforts, prioritization, collaboration, and political will for a criminal and administrative justice response in Cambodia/Myanmar/ Thailand to forced labor in the Thai fishing and seafood industries and other FL/TIP- affected industries?
2	What is the current state of cross-border cooperation between the relevant governments (a) Cambodia vis-a-vis Thailand, (b) Myanmar vis-a-vis Thailand and other destination countries, and (c) Thailand vis-a-vis Cambodia and Myanmar, respectively, to address cross-border FL/TIP?
3	What are stakeholders' (both government and NGO) and beneficiaries' perceptions of, and confidence in, the justice system's ability to address cases of FL/TIP, as well as cross-border cooperation? Specifically, where has progress been made, where are the gaps and challenges and what components of the case pipeline (from victim identification to prosecution to survivor services, support, rehabilitation and repatriation) are working well or have seen progress?
4	What key recommendations do the various stakeholders have for more effective justice system functionality to better address labor trafficking and cross-border cooperation?

These four research questions were developed into a data collection framework which takes into account IJM's global measurement framework and IJM's organizational theory of change, which conceive of the justice system as having a dual role in deterring perpetrators and in supporting victims. Moreover, IJM has developed measurement tools for working across its program locations, and the confidence survey in this study has drawn its questions directly from IJM's confidence survey tool, allowing cross-context comparison over time.

## 1.4 DATA COLLECTION AND METHODOLOGY

Data collection included 45 key informant interviews with key justice system actors identified in conjunction with IJM. These stakeholders included government officials, NGO officers, prosecutors, judges and police, both at the national level in Phnom Penh and at the provincial level across five Cambodian provinces: Banteay Meanchey, Prey Veng, Kampong Thom, Kampong Cham and Siem Reap. Interviews were carried out face-to-face between January and April 2022, using a semi-structured interview approach.

The research team also conducted a total of four focus group discussions. Two of these focus groups involved migrant workers in Thailand who had not been victims of FL/TIP. Two further focus group discussions were with returned migrants in Cambodia who had some experience of FL/TIP and involvement with the Thai or Cambodian justice system. Three in-depth interviews were held with FL/TIP victims who had significant experience in participating in the Cambodian justice system. A set of ethical protocols were formulated to conduct the research and were followed in the course of victim interviews.

*Table 1: Data collected for this study*

Data Source	Number of Participants
<b>Key informant interviews</b>	<b>45</b>
• Government agencies	16
• Court actors – Prosecutors and Judges	11
• CSO / NGO officers	9
• Police	7
<b>Focus Group Discussion</b>	<b>21</b>
• Cambodian workers in Thailand	15
• Returnee FL/TIP survivors	6
<b>In-depth interviews with returnee FL/TIP survivors</b>	<b>3</b>
<b>Validation workshops with stakeholders</b>	<b>60+</b>

Interviewers recorded the salient points of the interview and verbatim quotes of interest in written format. The completed interviews were transcribed in note form, and analysis of the data was carried out using qualitative thematic analysis, where the data is processed and sorted into main themes, allowing recurring patterns to be identified and a thorough analysis to be completed.<sup>2</sup> The methods of Miles and Huberman were then followed, breaking down the analysis into three steps: (1) data reduction; (2) data display; and (3) conclusion-drawing.<sup>3</sup> The team then reflected on the information and linked it back to the research questions to draw the conclusions outlined in this report.

## 1.5 LIMITATIONS

This report had a particular focus on cross-border FL/TIP cases into Thailand, particularly as this research was conducted in conjunction with similar studies on the Thai and Myanmar justice systems. As a result, data collection with other destination countries was limited and the analysis of collaboration with those countries is focused on the actions and opinions of actors within the Cambodian justice system.

Also, in 2022 there were several high-profile FL/TIP cases in relation to online scams within Cambodia. However, the study scope was not focused specifically on these cases and data collection was not focused on prominent locations where online scams occurred, so feedback on this FL/TIP topic was limited. In addition, official actions in relation to this topic transpired after primary data collection for this study concluded.

## 1.6 ETHICAL CONSIDERATIONS

The research design was reviewed by two independent ethics consultants, both with significant expertise in the field. All interviews were carried out on a voluntary basis, with informed consent provided by interviewees prior to the commencement of the interview. All participants took part in these interviews and focus group discussions (FGDs) on the understanding that their identities would be kept anonymous, and that any information given by them would not be directly attributed to them or the organization that they worked for.

For this reason, any quotes, or paraphrased quotes, given by individual participants are only attributed to the general stakeholder category in which they fall – government, non-government or international organization. Focus group discussion participants are identified by nationality.





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**FL/TIP IN THE  
CAMBODIAN  
CONTEXT**

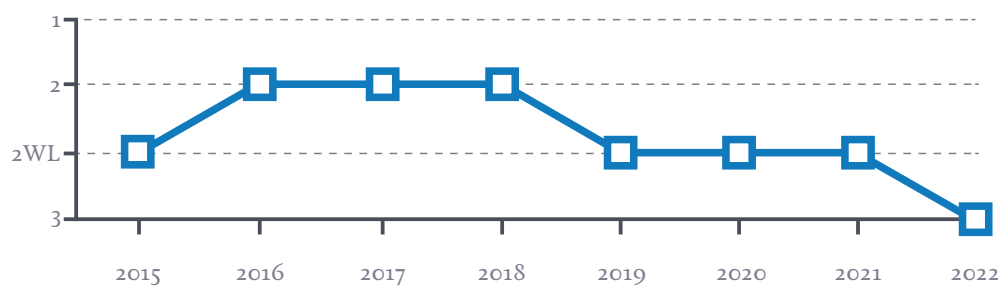


# 2 FL/TIP IN THE CAMBODIAN CONTEXT

FL/TIP continues to be experienced by Cambodians both domestically and abroad, as well as by foreigners working within Cambodia. According to the United States Department of State (US DOS) TIP report (hereafter referred to as the US TIP Report), Cambodia has taken insufficient action to counter FL/TIP occurring within its borders as well as for its nationals abroad. Cambodia has thus been ranked on the Tier 2 Watchlist for three years running, before being downgraded to Tier 3 in 2022.

Figure 1: US TIP Report ranking for Cambodia by year

### Cambodia Tier Ranking by year



## 2.1 OVERVIEW OF IJM

The following settings have been most commonly identified as sites of FL/TIP within Cambodia:

- **Brick kilns:** Over 10,000 Cambodians (including some 4,000 children) live and work in Cambodia's 486 brick kilns, where they have been found to face multi-generational, debt-based coercion.<sup>4</sup>
- **Online scams and cybercrime:** There have been several high-profile reports of foreign nationals and Cambodians deceptively promised jobs in Cambodia through online advertising. Such workers instead are forced by international crime syndicates to conduct online scams and are held captive in secured compounds. This practice has been found across the country, including in Sihanoukville.<sup>5</sup>
- **Construction:** NGOs and labor unions reported in 2020 that foreign labor brokers were fraudulently recruiting foreign migrants, including from Bangladesh, China, and Nepal to work in Chinese-run, and other, construction sites in Cambodia. Some were indebted to recruitment firms and experienced passport confiscation.<sup>6</sup>
- **Forced labor:** There are also reports of systematic forced labor in Cambodia in relation to agriculture, domestic work, forced begging and the entertainment sector.

## 2.2 CROSS-BORDER FL/TIP

Thailand is the major destination country for Cambodian migrant workers, accounting for over 90% of the total Cambodian migrants working abroad. Up to two million Cambodian migrants were estimated to regularly live and work in Thailand prior to the COVID-19 pandemic. With limited employment options domestically, many Cambodians find it easier to secure a job in neighboring Thailand than in Cambodia, where rural, agricultural livelihoods have become increasingly unviable due to demographic changes, economic development, increasing costs and climate change. Throughout 2020 and 2021, the COVID-19 pandemic further complicated this migration channel, with the border being closed and MoU recruitment placed on hold. This disruption to usual migration patterns has spurred much irregular migration between the two countries and a higher vulnerability to poverty, coercion, and lack of support from authorities.

When migrating to Thailand - both regularly and irregularly - Cambodians face a host of risks and vulnerabilities, including:

- **Poorly designed migration system under bilateral labor MoU:** A large proportion of Cambodian labor migrants choose to take irregular pathways to working abroad, rather than go through the official MoU channel. This is because the MoU process is beset by high costs, complex and time-consuming administrative requirements, inaccessibility, reliance on recruitment agencies and restrictive provisions.

- **Poorly regulated recruitment agents in Cambodia:** Private recruitment agencies often overcharge or cheat prospective migrant workers to process and arrange their migration documents and do little to guarantee their safety abroad. Labor recruitment contracts contain insufficient protections, and self-interested recruiters often place migrant workers in unsafe employment situations and offer no support and no accountability. The requirement for a large deposit to be held by the government, ostensibly as a security, further acts as a significant barrier to entry of new licensed players. Moreover, many unlicensed or sub-licensed brokers also offer recruitment services with no accountability, and can similarly leave migrants overcharged, cheated or without legal documents. Many recruitment agents deceive migrant workers and charge them with travel, passport and other costs when they arrive at the destination country, or even take their salary.
- **Over indebtedness<sup>8</sup>:** A poorly regulated microfinance industry has led to predatory lending throughout Cambodia, and over-indebtedness is a major push factor to work abroad for higher wages. Debt is also a key factor preventing workers from leaving abusive employment situations. Indebtedness arises from general poverty as many workers lack money for family responsibilities and have to borrow in order to meet them.
- **General vulnerability of migrant workers in Thailand:** The Thai migrant employment system does little to ensure the safety of both regular and irregular migrant workers. Workers have little agency and are wholly reliant on employers and brokers in administrative matters. Grievance mechanisms are inaccessible, migrant workers are not allowed the right to organize, it is not practical to legally change employers, and in many cases, workers are forced to take on debt to the employer in order to pay for administrative costs.<sup>9</sup> Thai labor officials offer little oversight over the working conditions of migrant workers.

The net result is that a significant proportion of Cambodian migrant workers have experienced FL/TIP in Thailand as well as exhibiting forced labor indicators, as a result of indebtedness to employers, confiscation of passports and identification documents, restricted movement, withheld wages, labor abuses, physical abuse and coercion. This has been exacerbated by an inability to access grievance mechanisms and remedies, difficulty in changing jobs, and a variety of other binding factors. Particular sectors of relevance include:

- **Fishing:** High levels of vulnerability have contributed to widespread labor abuse of migrant fishermen, which has been well publicized and a target of government action.
- **Construction:** Unpaid wages, sub-contracting and deception have all been raised as issues in this sector, along with other factors that bind workers to employers as a result of the migration system, such as for undocumented workers.
- **Seafood processing, hotel work, hospitality, agriculture, manufacturing:** These are other sectors in which there are many Cambodian migrant workers in Thailand, where debt incurred within the migration process can effectively bind workers to their employers.

## 2.3 OTHER FL/TIP ABROAD

Other major destination countries for Cambodian migrant workers include China, Malaysia, Japan and Korea. For Cambodians trafficked abroad, particular risk profiles include:

- **Forced marriage:** Cases of bride trafficking of Cambodian women to China in particular, traveling through unsafe overland channels as a result of a 2018 regulation which imposes fees for air travel.<sup>10</sup>
- **Palm oil plantations in Malaysia:** A small number of cases of Cambodians being trafficked to work in Malaysian palm oil plantations has been reported.
- **Domestic servitude:** A small number of cases have been reported in Malaysia and the UAE, and may also be present in other locations.





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3

LEGAL AND POLICY  
FRAMEWORK

# 3

# LEGAL AND POLICY FRAMEWORK

## 3.1 LEGAL FRAMEWORK

The legal standards for prosecuting FL/TIP are laid out in the Law on Suppression of Human Trafficking and Sexual Exploitation (2008). Although some gaps remain, notably in relation to emerging issues such as cybercrime, Cambodia's legal framework on TIP is largely sufficient to prosecute traffickers and trafficking networks. The Law on Suppression of Human Trafficking and Sexual Exploitation, (2008), is in line with international standards, and is supplemented by offences including profiting from, or facilitating trafficking crimes. It incorporates provisions for legal persons and provides for the confiscation of proceeds of trafficking offences, although it does not provide for freezing or seizure of proceeds prior to conviction.

In line with weaknesses in the UN TIP Protocol, there is no provision for non-punishment of victims for crimes committed as a consequence of being trafficked, and limited provision in the law for victim protection overall. This gap is, however, partly offset by the Policy on the Protection of the Rights of Victims of Human Trafficking (Prakas No. 852), a detailed policy document that sets out minimum standards in this area. Also, victim assistance, protection procedures and minimum standards are set out in the Guidelines on Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision (2015) (Victim Identification Guidelines). A law on mutual legal assistance that will apply to TIP cases is currently being finalized.

The Labor Law (1997) and Labor Law Amendment (2007) set out standards regulating employment. Unlike many countries in the region, Cambodia has laws in place around forced labor. Section 5 of the Cambodian Labor Law (1997) criminalizes forced or compulsory labor, and the Law also includes specific reference to domestic service, which is not always included in labor legislation. However, the penalties are low when compared to the severity of the crime, and to those for trafficking for forced labor under the TIP law. Further, hiring people to pay off debts - potentially a debt bondage arrangement - can result in a small fine.<sup>11</sup> In this way, it is possible effectively to "downgrade" a TIP case by treating it as a labor case, resulting in lower punishments for offenders, and victims being unable to access their rights as trafficked persons.<sup>12</sup>

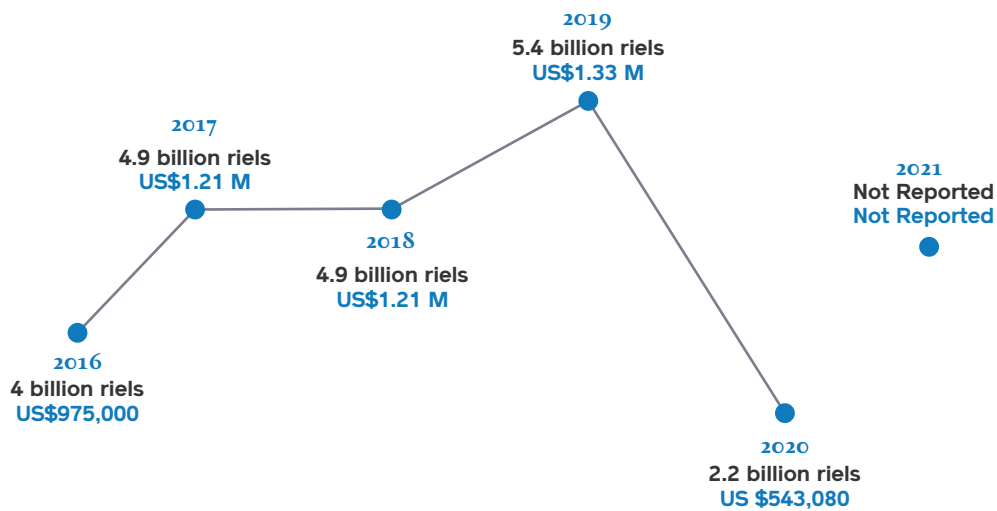
Finally, Cambodia's criminal justice system is guided by the court procedures laid out in the Criminal Procedure Code (2007).



### 3.2 FL/TIP POLICY FRAMEWORK

The NCCT and its secretariat coordinate anti-trafficking activities in accordance with the National Plan of Action on the Suppression of Human Trafficking, Smuggling, Labor, and Sexual Exploitation (2019–2023). The NCCT maintains six working groups, as well as subsidiary provincial anti-trafficking committees. NCCT produces an annual report documenting the government’s anti-trafficking efforts, including data on prosecutions and convictions. In 2021, government funding was reduced from approximately US\$1.33 million to US\$543,080 due to the economic impact of the COVID-19 pandemic.

Figure 2: NCCT budget (as reported in US TIP Report)



The MoLVT operates a separate action plan, the National Plan of Action on the Reduction of Child Labor and Elimination of the Worst Forms of Child Labor (2016–2025) aimed at reducing child labor and debt bondage. The plan focuses on service, agricultural, mining, and energy sectors and operates awareness raising activities, legal action, and collaboration with civil society.



### 3.3 LABOR MIGRATION FRAMEWORK

Sub-Decree 190 on The Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (2011) and its eight supplemental Prakas (laws), sets out the legal framework for managing the migration of Cambodian workers. It is generally considered to be a comprehensive framework with the scope to achieve fair recruitment if implemented effectively.

With over 90% of labor migration from Cambodia being to Thailand, the particular laws governing this migration channel are of key importance, which are set out in a 2003 MoU between the two countries, Memorandum of Understanding between Cambodia and Thailand on cooperation in the employment of workers (2003). Bilaterally, Cambodia has several agreements on FL/TIP with Thailand, including developing Standard Operating Procedures (SOPs) in order to operationalize policy goals. These include:

- MoU between Thailand and Cambodia for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking (2003);
- MoU between Thailand and Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking (2014);
- MoU strengthening the management of the repatriation and reintegration of human trafficking victims, with construction of a transit center in Poipet specialized in facilitating the return of human trafficking victims (2019);
- SOPs on the repatriation and reintegration of Cambodian trafficking victims, between the Kingdom of Cambodia and the government of the Kingdom of Thailand (2021); and
- SOPs on law enforcement cooperation against human trafficking, between the Kingdom of Cambodia and the government of the Kingdom of Thailand (2022).

In practice, the lives of Cambodian migrants are governed largely by Thai law, in particular The Royal Ordinance on Managing the Employment of Foreign Workers (2017). This requires all migrant workers to be registered with the government, introduces significant fines and other punishments for businesses hiring undocumented migrant workers and establishes a six-month jail term for confiscating a migrant worker's work permit. As discussed throughout this paper, many problems remain with this bureaucratic system, which leaves many workers with significant barriers to accessing protection and remedy.<sup>13</sup>

Cambodia also has bilateral MoUs with other countries where Cambodians work that set out recruitment and placement requirements. These include Malaysia, Saudi Arabia, Hong Kong, Qatar, South Korea and Kuwait. Cambodia has TIP cooperation agreements with Vietnam and is also a part of several regional agreements under ASEAN. Recently, Cambodia's Ministry of Interior and China's Ministry of Public Security signed a cooperation agreement on preventing transnational crimes establishing the China-Cambodia Law Enforcement Cooperation Office in 2019 and renewing it in 2021.





# 4 STAKEHOLDER AND PROCESS MAPPING



# 4 STAKEHOLDER AND PROCESS MAPPING

## 4.1 STAKEHOLDER PROFILE AND PRIORITIES

### › NATIONAL COMMITTEE FOR COUNTER TRAFFICKING (NCCT)

Established in 2014<sup>14</sup>, the NCCT is the national mechanism for coordinating efforts to combat human trafficking. The NCCT assists various ministries, NGOs and other stakeholders to collaborate in the development of counter trafficking in persons (CTIP) laws, policies, and plans, as well as gathering information about those efforts.

The NCCT also plays a key role in coordination between national and subnational levels, overseeing subsidiary groups at the provincial level, through Provincial Committees to Counter Trafficking (PCCT). Each PCCT has localized action plans outlining how to report cases of trafficking to police, victim protection efforts and prevention activities at provincial level.

The NCCT oversees 21 ministries and five specialized units as members. Since 2014 (Decision 094/14), the NCCT has overseen six inter-ministerial thematic working groups:

- Prevention working group, led by MoEYS;
- Victim protection working group, led by MoSVY;
- Law enforcement working group, led by General Commissariat of the National Police;
- Judicial affairs working group, led by MoJ;
- Migration working group, led by MoLVT and
- International cooperation working group, led by MoFAIC.

The NCCT's work is guided by the National Strategic Plan for Counter-Trafficking in Persons 2019-2023. Each thematic working group has developed their own work plan to align with the National Strategic Plan.

According to NCCT staff, it is currently focusing its efforts on the following:

- Creating a glossary of terms for the human trafficking sector
- Continuing to train key stakeholders to use the victim identification forms provided according to the Victim Identification Guidelines
- Refining the victim identification forms with stakeholders
- Improving collaboration among members
- Supporting prevention and suppression efforts
- Focusing on behavior change among duty bearers and frontline workers
- Mobilizing inter-agency efforts and coordinating work
- Monitoring and evaluation of the work of CTIP actors

The NCCT and various PCCTs are also engaged in training. Staff report that, in cooperation with relevant ministries and NGO partners, they conducted 156 anti-trafficking trainings for 5,720 government officials in 2021 at the national and sub-national level.

Notably, NCCT are not advocating for significant policy change in Cambodia's FL/TIP laws and framework. In their view, the current framework is sufficient, and focus must be on implementation.

## ➤ **MINISTRY OF LABOR AND VOCATIONAL TRAINING (MOLVT)**

MoLVT is the government ministry responsible for employment-related issues, such as working conditions, industrial relations, maintaining the National Social Security Fund (NSSF), vocational training and education, labor market information, workforce participation and employment.

MoLVT is responsible for overseeing labor inspection of workplaces. In theory, if they identify a FL/TIP case they will refer the case onward, but in practice this very rarely happens as inspections have not been sensitive to FL/TIP. When labor issues arise, MoLVT reportedly takes a "problem solving" approach, that is, mediating between workers and employers. MoLVT is not focused on punishing bad actors and does not often take legal action to prosecute offenders.

To date, MoLVT have only played a limited role in countering FL/TIP. As MoLVT staff report, they have limited mandate and stay within the confines of the Labor Law Code. MoLVT is currently establishing an Inter-Ministerial Working Group on trafficking (to

be established under “Decision #97”), which indicates some appetite to be more proactive in countering FL/TIP. The working group’s focus would be wholly on working with Thai counterparts to improve collaboration and would contain a diverse set of participants. While NCCT doubts there is a need to set up a separate working group outside of the current one within the NCCT, MoLVT believes that the NCCT working group is not able to cover all aspects of forced labor that need addressing. At present, MoLVT says it is focusing on increasing its FL/TIP capacity and technical knowledge to effectively lead the Working Group when it is established.

MoLVT is also focusing its efforts on FL/TIP prevention by educating workers to understand their employment contracts and the importance of having contracts to avoid labor violations and abuses. MoLVT runs public outreach training sessions on FL/TIP and safe migration, and pre-departure orientation for Cambodians migrating abroad for work.

MoLVT is very involved in managing the sending of the labor force to work abroad, and therefore important for strengthening labor migration frameworks and structures. One important new initiative in recent years is that MoLVT provides a Labor Attaché to foreign embassies as its representative in countries that are major destinations for Cambodian migrant workers. The MoLVT Labor Attaché works to assist in receiving labor complaints, but under the management of the Ministry of Foreign Affairs and International Cooperation (MFAIC).

## › MINISTRY OF JUSTICE (MOJ)

The MoJ oversees the judicial system of Cambodia, including managing judges, courts, prosecution, judicial investigation, and related administrative frameworks. The MoJ plays a coordinating role in the management of prosecution of trafficking cases and the leading role in making any changes to the judicial system, but still needs cooperation from other ministries for such changes to be approved.

MoJ also works with court actors to build FL/TIP prosecution and case management capacity through training. MoJ is currently working with NGOs such as APLE and Winrock as well as with ASEAN-Australian Counter Trafficking (ACT) on strengthening FL/TIP capacity for prosecutors and judges and Judicial Police. According to interviews, MoJ is focusing its current FL/TIP efforts as follows:

- Continuing to strengthen capacity and capacity-development of prosecutors and judges.
- Improving specialized capacity around child trafficking, with assistance from APLE.
- Collecting data on FL/TIP training, investigation and prosecution.
- Creating specialized technical groups within the court, on topics such as labor, children, and commerce. Currently, there are no specialized courts, and all court members focus on all legal issues. MoJ staff report that they are currently producing briefs and research about this endeavor.

MoJ is also working on establishing a new Labor Court for 2023. The new court is expected to decide on matters involving labor rights, working conditions and employment relationships with Cambodia. MoJ has formed a committee of 20 individuals with a broad mandate for the design of the Labor Court, comprising members from the MoJ, the Supreme Council of Magistracy, government delegates, the judiciary, and selected officials and experts.

### ➤ **MINISTRY OF WOMEN'S AFFAIRS (MOWA) – INCLUDING THE OFFICE OF PREVENTION OF TRAFFICKING IN WOMEN AND CHILDREN, DEPARTMENT OF LEGAL PROTECTION**

MoWA is mandated to upgrade the status of women throughout Cambodia. The Department of Legal Protection, encompassing the Office of Prevention of Trafficking in Women and Children, is responsible for creating laws, policies, and strategies for the punishment of trafficking of women and children. It can also seek support for the effective implementation of these laws and promote public awareness.

MoWA usually becomes involved in FL/TIP cases at the initial intervention stage, as it collaborates with NGOs for the rescue of victims, including those in destination countries. MoWA also works to support victims through the judicial process, including legal support for victims through provision of NGO lawyers.

Currently, MoWA is working with MoLVT on the “Safe and Fair” project which is supported by UNWomen and UNDP. The project seeks to support the rights of migrant women.

### ➤ **DEPARTMENT OF ANTI-HUMAN TRAFFICKING AND JUVENILE PROTECTION (AHJPD), MINISTRY OF INTERIOR (MOI)**

The AHJPD is a specialist division of the Cambodia National Police mandated to suppress and investigate occurrences of FL/TIP. It falls within the purview of the MoI. AHJPD and MoI run a hotline number for victims and witnesses of trafficking and for persons wishing to report cases of trafficking and related suspicious activities. AHJPD leads case investigation and then refers the case to the court.

AHJPD notes that the nature of FL/TIP is evolving, especially since COVID-19, which has led to more online based trafficking, hoaxes and scams. AHJPD staff are focused on improving responses to online based trafficking through training focused on new crimes and forms of TIP. They also aim to work with a wide range of stakeholders – such as industry and other ministries – to change industry practices that create vulnerability to TIP. AHJPD has reportedly increased its number of staff in recent years.

## › DEPARTMENT OF ANTI-HUMAN TRAFFICKING AND REINTEGRATION OF VICTIMS (MINISTRY OF SOCIAL AFFAIRS, VETERANS AND YOUTH REHABILITATION (MOSVY))

The Department of Anti-Human Trafficking and Reintegration of Victims at MoSVY is mandated to identify trafficking victims and assist with reintegration and repatriation of victims. MoSVY is responsible for the provision of services to trafficking victims, including counseling, health, legal, rehabilitation, job skills, life skills, employment, other support and reintegration services, as well as family tracing in the case of child victims. MoSVY will refer victims to NGOs when unable to provide services.

MoSVY has offices and social worker staff at the provincial and district levels who are assigned to support victims with reintegration and case management (Social Affairs). At the provincial level, the Provincial Department of Social Affairs, Veterans and Youth Rehabilitation (PoSVY) has clear responsibilities for addressing trafficking cases including:

- **Prevention:** disseminating information for communities and capacity strengthening for social affairs officials and local authorities to play their roles
- **Survivor support:** coordinating primary support (food, medical care, need assessment, additional services)
- **Reintegration:** coordinating survivor reintegration, case follow up and case close.

MoSVY is currently focusing its efforts on the following initiatives:

- A newly opened drop-in center for victim care located in Kam Rieng.
- Strengthening the capacity of staff in the operation of the new drop-in center.
- A new center for care in Kandal Stueng operated by MoSVY, Department of Rehabilitation.
- Developing a departmental data management system in collaboration with Ratanak International.
- Drafting practice procedures to assist NCCT members in implementing their work, setting out roles and improving collaboration.
- A pilot program in three provinces that trains social workers to offer psychological support to victims involved in court cases.
- Vocational training for male trafficking victims from the commercial fishing industry.

At the moment, MoSVY and Social Affairs staff have limited understanding and knowledge of the court proceedings and are not included throughout the court process. If there is an opportunity, the staff interviewed indicated that it would be helpful to have a social welfare official placed at the court to provide victim support.



## ➤ **MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION (MFAIC)**

MFAIC operate Cambodia's embassies abroad, which house Labor Attachés tasked with the role of receiving labor complaints and supporting migrant workers. When the trafficking victim is a Cambodian national trafficked abroad, the concerned embassy will forward the case to MoSVY, but is responsible for repatriation, hand-over, receipt, and reintegration.

## ➤ **JUDICIARY: COURT AND BAR ASSOCIATION OF CAMBODIA**

Key judicial actors in the court include judges, investigative judges, and prosecutors.<sup>15</sup> The court, under the direction of MoJ, has focused on expediting the court proceedings by removing the backlog of frozen cases. Staff have also worked to simplify court processes by enabling warrants to be issued via Telegram and other similar apps rather than through the postal service.

The court is also working to improve court infrastructure to bring court buildings across the country up to a nationwide standard. These will include having dormitories available for prosecutors and judges to stay in when hearing cases in the provinces. FL/TIP capacity-building for prosecutors and judges is ongoing.

## ➤ **JUDICIAL POLICE**

The Judicial Police rescue any potential victims who need to be rescued, identify crimes, investigate and arrest suspects, document trafficking cases and forward them to the court. The main focus of the Judicial Police currently is to continue to strengthen the capacity of the police to be able to respond to new techniques used by criminals and new trends in FL/TIP.

## ➤ **OFFICE OF ANTI-HUMAN TRAFFICKING AND SECTION ON ANTI-HUMAN TRAFFICKING, NATIONAL ROYAL GENDARMERIE**

The Office of Anti-Human Trafficking and Section on Anti-Human Trafficking of the National Royal Gendarmerie is responsible for carrying out trafficking victim identification.

## 4.2 MAPPING OF CAMBODIAN INVESTIGATIVE AND JUDICIAL PROCESSES

This section maps the processes within the Cambodian justice system as they relate to FL/TIP. These processes include victim identification and referral, case investigation and criminal justice response, labor system process mapping, and collaboration across borders.

### 4.2.1 | Victim identification and referral

Victim identification is a process leading to an individual being identified as a trafficking victim by relevant authorities and referred for assistance. Victim assistance, protection procedures and minimum standards are set out in the Guidelines on Forms and Procedures for Identification of Victims of Human Trafficking for Appropriate Service Provision (2015), referred to hereafter as the Victim Identification Guidelines. In general, the process of victim identification is comprised of three stages – preliminary identification, formal identification, and referral for assistance. These are described in further detail here:

- **Preliminary identification:** An official or someone with FL/TIP knowledge becomes aware that an individual is displaying FL/TIP risk factors based on observation, interaction and conversation. Preliminary identification may involve a screening tool. That person is then referred for assistance and further assessment if they consent.
- **Formal identification:** This is an official determination that a person is a victim of trafficking. This stage is generally required to make that person eligible for various forms of assistance and will precipitate an investigation and legal process against alleged traffickers. The designated tool for formal identification is a structured interview set out in the Victim Identification Guidelines, which can be in a “short” format or “long”/“detailed” format. Formal identification must be done by an eligible official (see Section 6.5.1).
- **Referral for assistance:** Once formally identified by relevant authorities, the trafficking victim should, if they consent, be referred for consultation or further action and support.



**Table 2: Actors responsible for preliminary victim identification**

RESPONSIBLE ACTOR(S) <sup>16</sup>	PROCEDURES FOR PRELIMINARY VICTIM IDENTIFICATION
<b>ELIGIBLE IDENTIFIER</b>	<ul style="list-style-type: none"> <li>• Conduct preliminary identification based on indicators of human trafficking</li> <li>• Complete and submit forms and procedures to Judicial Police, either the “short” or “long”/ “detailed” interview form</li> </ul>
<b>JUDICIAL POLICE</b>	<ul style="list-style-type: none"> <li>• Rescue any potential trafficking victims who need to be rescued</li> <li>• Identify crimes and procedures</li> <li>• Investigate and arrest suspects</li> <li>• Document cases and forward them to the court</li> <li>• Complete and submit forms and procedures to Social Affairs officials</li> </ul>
<b>SOCIAL AFFAIRS OFFICIALS</b>	<ul style="list-style-type: none"> <li>• Seek services for the trafficking victim</li> <li>• Provide counseling where appropriate</li> <li>• Reintegrate the trafficking victim including case management and follow-up</li> <li>• Complete and submit forms and procedures to service providing places or service providers</li> </ul>
<b>SERVICE PROVIDERS</b>	<ul style="list-style-type: none"> <li>• Provide appropriate services to the trafficking victim: health; legal; rehabilitation; job skills; life skills; employment; and other support</li> </ul>

The RGC also runs migrant transit support centers in conjunction with CSOs, such as the migrant transit center in Poipet, where center officials screen returning migrants and identify trafficking victims among adult and child migrants. After MoSVY conducts preliminary interviews of these returnees, it refers them to local NGOs for interviews to determine appropriate services - care, rehabilitation, or immediate return to their home villages. The NCCT recently launched an application-based victim identification manual and screening tool for use at the transit center to help improve victim identification procedures.

MoSVY operates according to guidelines outlining minimum standards for residential care of trafficking victims and disseminates these materials to NGO shelters.



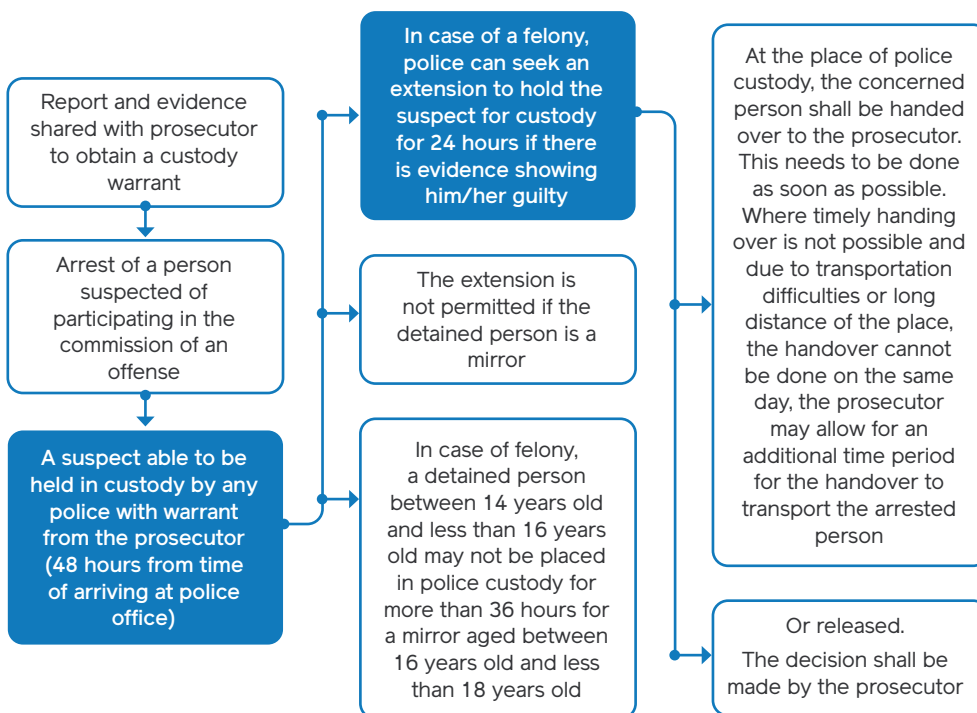
## 4.2.2 | Case investigation and criminal justice response

Initial investigations are carried out by local police. Upon identifying a potential FL/TIP case, the local police will notify the Judicial Police and the AHJPD to lead the investigation. The AHJPD, a specialist division of the Cambodia National Police, will direct the local police in collecting evidence and analyzing the case.

Internally, the AHJPD runs as a hub-and-spoke model -- there is a central specialist unit in Phnom Penh that is supplemented by sub-units in each province. The provincial units can conduct their own investigations and the Phnom Penh based central unit is able to offer advice to those provincial units. On the instruction of the Commissioner General, the central unit can take responsibility for a case being run by a provincial unit. One disadvantage to the hub and spoke arrangement is that the provincial commanders report to the provincial Commissioner of Police, and not to the director of the central specialist unit, which occasionally creates difficulty due to conflicting priorities.

When the AHJPD is satisfied that there is a case to answer, it will bring in the suspected perpetrator for questioning and collect more evidence. In practice they summon the suspect and if the suspect fails to comply with the police summons, the police then apply for a warrant of arrest from the prosecutor. The AHJPD may also refer the case to a prosecutor and apply for an arrest warrant from the outset.

Figure 3: Arrest process map



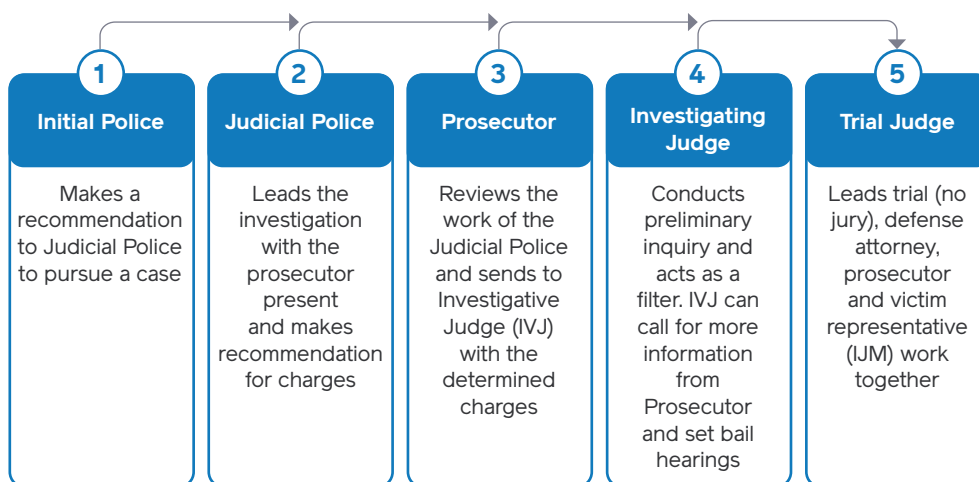


Once the prosecutor is involved in the case, they will work with the police to prepare the case for trial by collecting any outstanding data required and conduct further investigation if needed. It is the role of the prosecutor to decide if there is enough evidence to proceed to trial, and to decide which charges should be made.

Once the case is prepared it will be submitted to the court. The investigating judge will be responsible for handling the preliminary hearings for the case and issuing directives, ensuring the case is ready to proceed from both the prosecution and defense. When the case is ready for trial, it will be heard and decided by the trial judge. After issuing a decision, a case can be appealed and sent to the appeal court for review.

The process of bringing FL/TIP proceedings to court is broadly summarized as follows:

**Figure 4:** Judicial process map



### 4.2.3 | Labor system process mapping

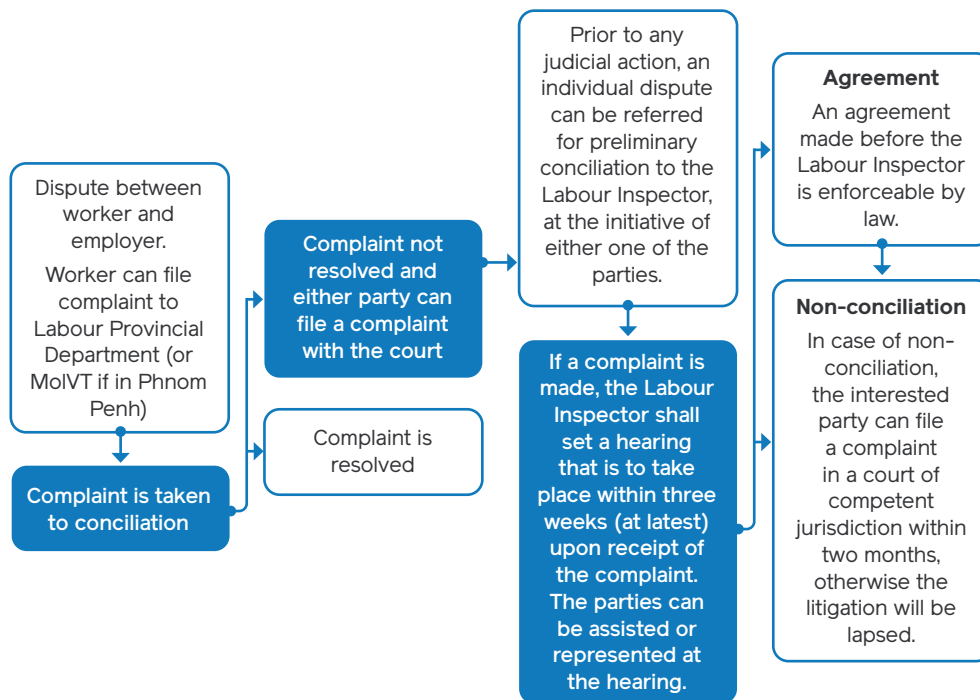
For labor complaints, the MoLVT has established offices at the provincial level to monitor recruitment agencies and address complaints from workers including potential incidents of trafficking. However, staff state that if there is a case of suspected FL/TIP, they will refer it to the AHJPD, although this rarely occurs in practice.

In reality, many possible FL/TIP cases get treated as labor disputes. Under the Cambodia Labor Law of 2007, when there is a labor dispute between an individual worker and their employer, the workers can file a complaint to the Labor Provincial Department if the case is in the province. If the case is in Phnom Penh, the case must be filed with the MoLVT. This complaint will go to conciliation, and if conciliation does not reach an acceptable result, any of the parties can file a complaint to the court.<sup>17</sup> Prior to any judicial action, an individual dispute can be referred for preliminary conciliation to the Labor Inspector of the province or municipality at the initiative of either one of the parties.

If a complaint is made, the Labor Inspector shall set a hearing that must take place within three weeks, at the latest, upon receipt of the complaint. Under Article 301, “On receipt of the complaint, the Labor Inspector shall inquire from both parties on the nature of the dispute and shall attempt to conciliate the parties on the basis of relevant laws, regulations, collective agreements, or the individual labor contract.” The parties can be assisted or represented at the hearing.

The result of the conciliation shall be contained in an official report written by the Labor Inspector, stating whether there was agreement or non-conciliation. The report shall be signed by the Labor Inspector and by the parties, who receive a certified copy. An agreement made before the Labor Inspector is enforceable by law. In case of non-conciliation, the interested party can file a complaint in a court of competent jurisdiction within two months, otherwise the litigation will be lapsed.

Figure 5: Labor system process map



#### 4.2.4 | Victim referral process

Obligations to assist FL/TIP victims is set out in the Policy on the Protection of Rights of Victims of Human Trafficking (Prakas No. 852), including Minimum Standards for Protection of the Rights of Victims of Human Trafficking (Prakas No. 857) (2009) (Protection Policy and Minimum Standards).

This victim protection policy is overseen by MoSVY and sets out the principles and procedures for victim protection and support, including:

- Requirements for case management, victim identification, crisis intervention, repatriation, referral, reception, case planning, assessment, recovery, reintegration, follow-up and case closure
- The rights of victims from the time of identification through reintegration in the community
- A model of victim protection and care in government shelters, NGO shelters and communities

The protection policy also sets out the responsibilities of RGC ministries and officials, including cooperation with neighboring countries and NGOs on victim protection. It also outlines eleven rights of the victim: (1) safety and protection; (2) individual identity; (3) privacy and confidentiality; (4) dignity; (5) information; (6) services; (7) justice; (8) normality; (9) participation; (10) decision-making; and (11) freedom of movement.

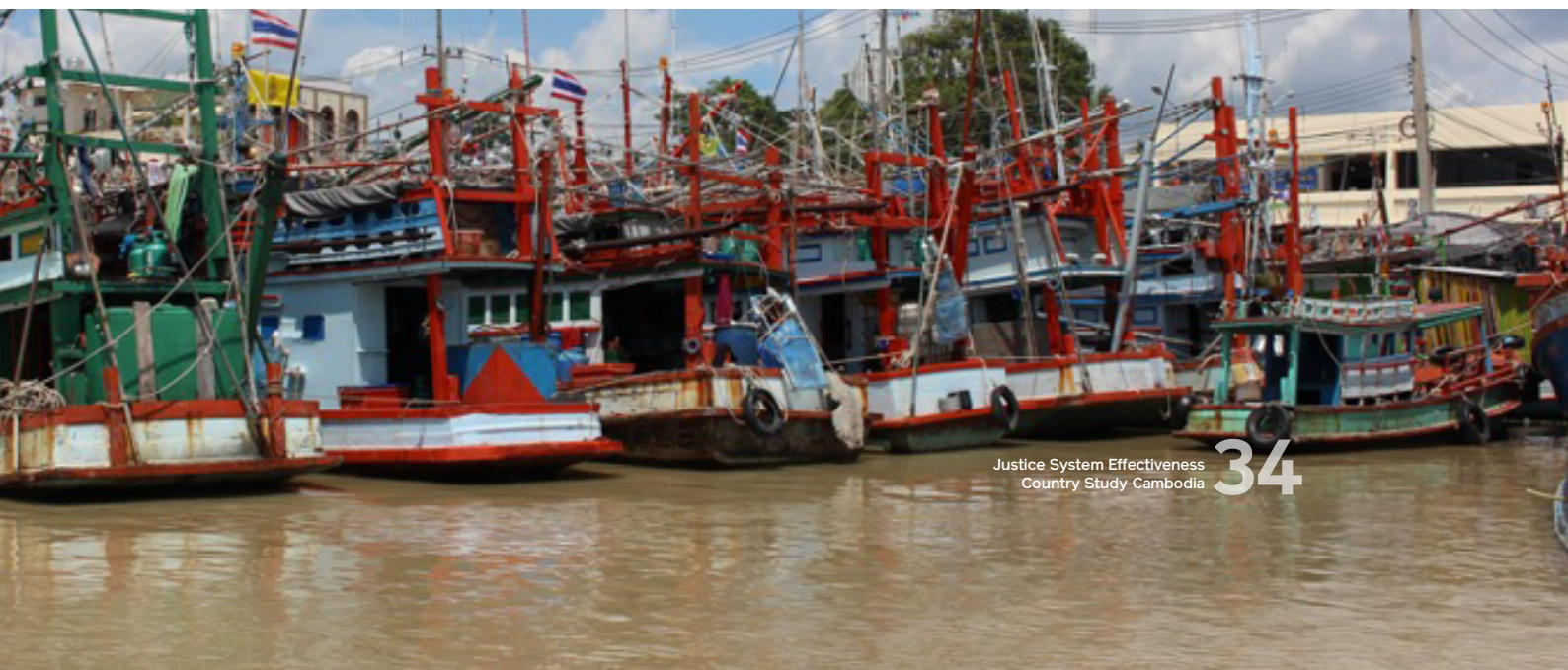
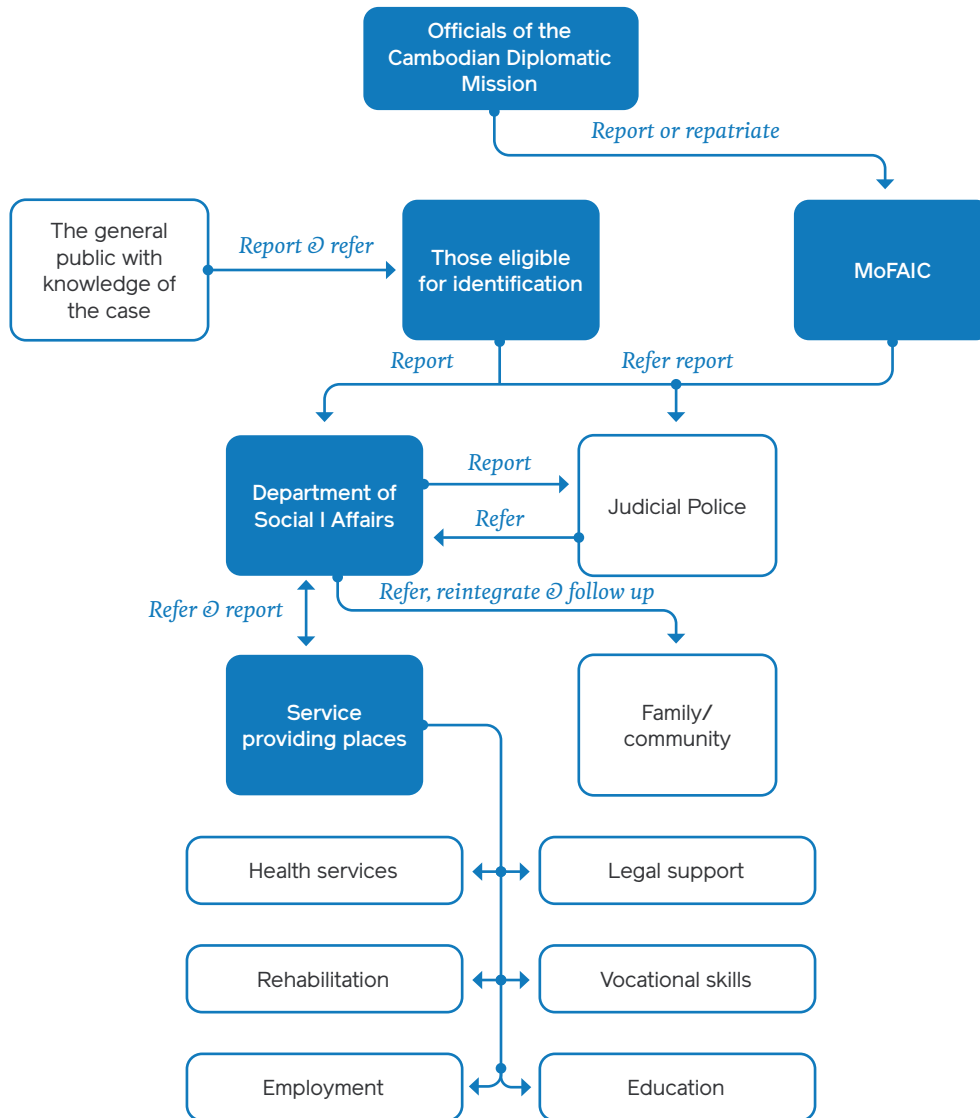
The victim protection policy also includes minimum standards for victim care that require service providers to take a victim-centered and rights-based approach across all phases of response and reintegration. These standards set out requirements under the following areas of care:

- Housing, care, and accommodation
- Medical assistance
- Psychological support and counseling
- Education, training and life skills
- Economic Empowerment opportunities
- Administrative assistance and support
- Safety and security measures
- Assistance to the victim's family members
- Case management

The victim protection policy also sets out the process for referral as follows:



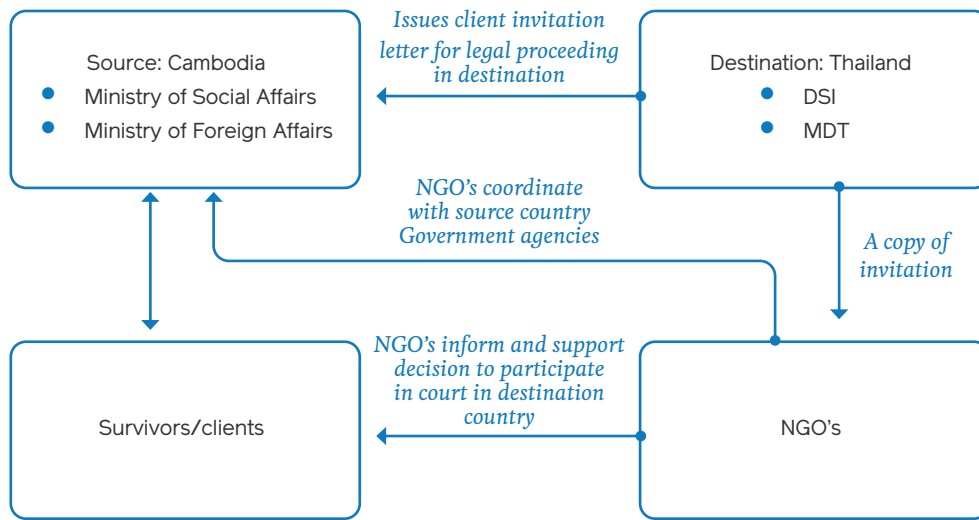
Figure 6: Victim referral process map



#### 4.2.5 | Cross border collaboration

For migrant workers who have returned from Thailand, overseas collaboration is essential to facilitate access to the Thai legal system. This process relies on support from Cambodian government departments, MoSVY and MFAIC, to liaise with counterparts in Thailand, as follows:

**Figure 7: International collaboration process map**



There is a formal process for collaboration which involves Thai officials issuing an invitation letter to Cambodian counterparts, as established in 2005 under the ASEAN Treaty on Mutual Legal Assistance on Criminal Matters (MLAT). In practice the MLAT can be slow and laborious, leading to informal collaboration between officials. Instead, NGOs often play the role of being the main communicator and coordinator between survivors and both governments.





**5 ADDRESSING  
& DETERRING  
PERPETRATORS**

# 5 ADDRESSING & DETERRING PERPETRATORS

## 5.1 MONITORING AND INSPECTION

Monitoring and inspection of key actors and work settings is responsible for maintaining a range of legal standards that reduce the likelihood of FL/TIP occurring and protecting people against vulnerability.

### 5.1.1 | Inspection of workplaces

According to key informants, inspection of workplaces is infrequent and ineffective at identifying FL/TIP. Labor inspections are narrowly focused on the application of the Labor Law code and are conducted with low awareness of FL/TIP indicators. For example, many brick kilns were inspected in the wake of reports of widespread debt bondage practices. Despite this, labor inspectors did not identify any cases of forced labor in brick kilns. MoLVT similarly report that they rarely receive reports of FL/TIP cases, however their office does not have a formal channel for receiving FL/TIP complaints.

Some stakeholders reported that when labor inspectors conduct “unannounced” inspections, the workplaces are often already made aware of the inspection ahead of time, allowing them to ensure they hide evidence of any labor violations. If labor complaints are ever identified, a “problem solving” approach is taken. This means that formal legal responses are often avoided in favor of informal mediation with employers, allowing them to avoid any meaningful legal consequence.

When factory inspections are undertaken, they are reported to be only concerned with identifying foreign workers and whether they have required legal documentation. According to the 2022 US TIP Report, MoLVT and MoI officials conducted 2,966 inspections at factories and other businesses in Cambodia in 2021. According to the report, authorities fined businesses a total of 233 million riels (US\$58,520) for labor violations.

Since August 2022 – after the completion of interviews for this study – there have been notable efforts to “crackdown” on facilities and venues suspected of housing organized online scamming and cybercrime operations. Stakeholders report that hundreds of labor inspections have been conducted in this time and around two thousand people removed from abusive workplaces as a result. These inspections have happened in

response to significant international media attention and public pressure. Nevertheless, these efforts reportedly represent a small fraction of potential cases, and the industry appears to be continuing to grow, so it is imperative that such efforts be maintained in future. Prior to these efforts, stakeholders suggested there was resistance to investigating online scam operators as they were believed to be connected to powerful interests. This is consistent with the fact that of the rescued workers, none have yet been officially classified as trafficking victims.

### 5.1.2 | Addressing challenges in the Thailand–Cambodia MoU migration channel

The MoU between Cambodia and Thailand sets out the framework for Cambodians to migrate to work in Thailand. However, the MoU migration channel is not attractive to many migrant workers because they do not believe it offers them safety, agency, accessibility or financial benefit. Migrants continue to choose irregular migration channels because they are more accessible and in many cases are perceived as safer and more affordable.

#### Issues with the MoU channel include:

- Limited locations where migrants can apply for a passport, providing a barrier to access
- High up-front costs causing significant indebtedness to MFIs and employers
- Migrants having little choice in their employment placement, which can disrupt social support networks for migrants and prevent them from working for known employers
- Exploitation by recruitment agents
- Prevalence of unlicensed recruiters and unreliable brokers in rural areas
- Thai law offering little practical access to grievance mechanisms
- Various failings of Thai authorities to uphold the rights of migrant workers
- Thai law placing restrictions on workers' ability to change employment

Further, the MoU system appears to have done little to change perceptions among many Thai employers that (1) they are doing migrant workers a favor by employing them and (2) their rights over the workers extend beyond the workplace. RCG researchers have had direct experience of employer representatives intervening while they were talking to workers outside working hours and away from the worksite.

The MoU leaves migrant workers at the mercy of recruiters and employers to control their working life and prevents workers from exercising agency at every opportunity. Yet rather than put the onus on those with power to guarantee the safety of migrant workers, such as employers, government, recruitment and agents, the



responsibility is placed on migrant workers who have little to no power to guarantee their own safety. If the RGC, and its Thai counterparts, are serious in addressing FL/TIP (forced labor in particular) for migrant workers in Thailand, the MoU system need to be revisited at a fundamental level.

Despite there being several significant issues identified as contributing to FL/TIP vulnerability of migrant workers, there is has been limited government appetite to negotiate with Thai counterparts to improve migration policy settings. Recognizing the value of joint action, Cambodia had been taking a lead role in discussions with the two other main sources of migrant labor in Thailand, Myanmar and Lao PDR, so that they may be able to collectively negotiate with Thai authorities in relation to the treatment of their migrant workers.<sup>18</sup> However, events in Myanmar have stalled these efforts and it is clear among stakeholders interviewed that there is no real appetite to take action at this time. Instead, stakeholders continue to seek marginal improvements to a system that has fundamental design flaws. One such positive change mentioned in this study has been the marginal increase in accessibility of migration documents by providing more sites for administrative processing.

### 5.1.3 | Monitoring of recruitment agents

In order for workers to undertake regular migration through the MoU channel, workers must engage recruitment agents in Cambodia to process migration documents such as passports, visas and work permits. Recruitment agencies also play an important role by providing placement, assistance and connections to work abroad prior to travel.

However, CSOs report that recruitment agents do little to protect migrant workers from harm, and often themselves contribute to their vulnerability and exploitation. Recruitment agencies rarely filter out bad employers who fail to comply with labor standards. Moreover, recruitment agents take little responsibility for ensuring the safety of migrant workers after they place them abroad, and do not regularly monitor work conditions. Nor do they provide adequate assistance when labor violations and exploitative conditions occur.

Although recruitment agents are responsible for ensuring that pre-departure training occurs, such training almost invariably focuses on worker responsibilities rather than rights. The quality is variable, and little is taught to workers to protect themselves from exploitative employers and abusive circumstances. CSOs say recruitment agents should be compelled to take such responsibility through regulation and monitoring. However, there is also a reluctance by authorities to strongly regulate and monitor recruitment agents, as several are linked to the business interests of ohkna (powerful business tycoons) and influential people.

In many cases, recruitment agents are the source of exploitation and vulnerability for workers by charging excessive fees, providing incorrect documents, or operating through unreliable, unlicensed sub-recruiters. Where workers are charged excessive fees, they are more likely to be “trapped” in their job due to debt obligations. One example of an exploitative recruitment agent is as follows:



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“A few recruitment agencies played tricks with communities by promising to train workers and place them with a good job abroad. The communities believed them and paid the agencies around \$2,000 to \$3,000 per person. But actually, the agency just provided non-systematic training and after a few months the workers had not been placed abroad and were just staying put in Phnom Penh. But it was difficult to take action because there was no concrete contract with the agency.”

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#### CSO Informant

Recruitment industry peak bodies, Association of Cambodian Recruitment Agencies (ACRA) and Manpower Association of Cambodia (MAC), have been compelled to take steps to improve industry standards in response. In January 2020, a Code of Conduct was developed for private recruitment agencies, through collaboration between ACRA, MAC, MoLVT, and the ILO project TRIANGLE in ASEAN.<sup>19</sup> The Code covers 12 principles for ethical recruitment, including reduction of migration fees, delivery of pre-departure training, provision of a dispute settlement mechanism, safeguarding freedom of movement, respect for all relevant laws and protection of workers' rights. However, the Code of Conduct is voluntary and non-binding, and little progress has been made to impose its uptake and implementation since it was introduced. This was likely hindered by low recruitment levels during COVID-19, however. ACRA and ILO are in the process of developing a mechanism to review the performance of its members to ensure legal frameworks and the code of conduct is upheld.

Both ACRA and MAC report that they are taking steps to improve industry self-regulation, including:

- ACRA working with its members and the ILO to encourage zero fees for migrant workers, also known as the “employer pays principle”
- Encouraging members to provide strong grievance mechanisms to respond to complaints of exploitation or illegality in placement of workers
- Responding to misconduct of members through (1) warnings, (2) informing MoLVT to suspend licenses and (3) termination of membership
- Conducting bi-annual member training sessions on recruitment law, policies and process, and migrant worker protections
- Working with the ILO to develop an app for migrant workers to get information and request support
- Working with MoLVT to conduct regular, random inspections of its company members to ensure no additional charges are levied on workers, and they are in compliance with contractual frameworks
- MoLVT to hold training sessions for recruitment agencies on ethical recruitment practices to protect the rights of migrant workers
- Conducting spot checks of migrant worker workplaces in destination countries, in cooperation with the Cambodian Embassy Labor Office

- Learning to respond to worker complaints by offering legal support and trying to mediate with employers in cooperation with the labor office at Embassies (rather than pursue legal remedy)

In recent times there have also been reports that the RGC is interested in capping recruitment fees, as was done in Myanmar. This stops short of the “employer pays” model but may be more realistic in the current context where recruiters not charging fees to migrants are unlikely to have a viable business model. However, interviews did not indicate any plans to this effect. While they would be very welcome changes, monitoring of recruiters is a key initiative that must go hand in hand with such efforts.

Nonetheless, industry self-regulation is not yet translating into a significant oversight function and concerns have been raised about the extent to which the recruiter associations represent the interests of all of their members as opposed to the larger agencies involved in association management. Migrant workers find it difficult to contact recruitment agents when they need support from abroad, and many are not aware of any specific industry grievance or support mechanism. Industry bodies still leave it up to individual members to respond to individual worker cases as they see fit, and there is little to compel them to provide better support. Meanwhile, industry bodies report that they have received very few complaints from migrant workers relating to exploitation at work or trafficking, nor have they received complaints about being cheated by recruitment agents. This suggests that these channels are not widely accessible or used.

Overall, monitoring of recruitment agents is infrequent and limited. MoLVT reportedly accepted complaints at their offices at the provincial level to address complaints from workers, but this was not a channel that was widely used or promoted. Despite many concerns raised about the role of recruiters in past years, no significant action has been taken against individual recruitment agencies.

#### 5.1.4 | Monitoring of microfinance sector

There is now vast academic and civil society literature about the impact of microfinance (MFI) loans on Cambodian people, showing that it is a driver of labor migration, land loss and livelihood stress.<sup>20</sup> In one study, researchers concluded that between 25% and 50% of the 2.8 million indebted households in Cambodia are over-indebted, while Cambodia displays one of the world’s highest loan-to-GDP-per-capita ratios. This means that individuals often face unsustainably high individual loan sizes relative to income.

Moreover, the link between debt and migration has been well established, with many Cambodians taking on debt in order to finance migration or undertaking migration to cope with loan repayments.<sup>21</sup> Studies have shown that, in practice, it is common for MFI loan officers to travel through rural villages, seeking to collect debts and write new loans. In many cases, a family can secure a higher loan by sending a child to work abroad. In other cases, family members are pressured to send children abroad to work to service their debt. These loan officers are incentivized monetarily to grow their loan book, so while these pressure tactics are not formally approved, they are tacitly encouraged.

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“We work with migrants. They said they migrated because they cannot earn any money to pay for their debts.”

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CSO Informant

Not only is debt a push factor, but it also increases migrant workers’ dependence on their employer and their job, leaving them with little choice should they face an exploitative work situation. Migrant workers in Thailand are forced to keep working to ensure they meet debt repayments and retain their land titles. Increased regulation of the MFI sector is therefore needed to deter behavior pushing people to undertake risky migration, that can contribute to the prevalence of FL/TIP.

Key informants indicate that the relevant industry bodies, the Cambodia Microfinance Association (CMA) and the Association of Banks in Cambodia (ABC), are seeking to improve behavior through industry self-regulation. First, they introduced a self-regulatory code of conduct for lenders in 2022.<sup>22</sup> Second, all MFI employees are now required to undertake ethical lending training in order to be licensed to work. Lastly, the industry is investing heavily in financial literacy training for borrowers. While some informants suggest these initiatives are encouraging, others are skeptical, pointing to the fact that these measures are not likely to work, have not been implemented and are not binding. Micro-lending remains a very lucrative business and debt will continue to be a key driver of risky migration without significant monitoring, oversight, and structural changes to the sector.





## 5.2 INVESTIGATION OF FL/TIP

This section covers the process of FL/TIP investigation, including existing challenges and current efforts to address these challenges.

### 5.2.1 | Responsiveness to complaints and reports

In general, study respondents described authorities as being responsive to FL/TIP reports, although somewhat reactive rather than preventative. However, in certain circumstances authorities have displayed a reluctance to respond to FL/TIP reports. Informants say that at the local level, authorities can be resistant to arresting and prosecuting powerful local actors such as prominent business owners and people of political influence, fearing repercussions. Similarly, when a preliminary investigation is aimed at a prominent person, the case will often be settled financially or through coercion.

One area where authorities have displayed a reluctance to investigate is the brick kiln sector. Detailed reports emerged of debt bondage in the sector over the past five years.<sup>23</sup> According to the 2022 USTIP report however, MoLVT continually denies the existence of child labor and debt bondage within the brick industry. Police interviewed in this study considered it the job of the labor inspectors to identify issues in the sector, and refer any FL/TIP cases to AHJPD, indicating resistance to the overlapping jurisdiction between police and the MoLVT. Police also suggested that NGOs should do more prevention work in the brick kiln industry.

Authorities are often also reactive to media reports and CSO research which precipitate high profile cases and public pressure, such as regarding cybercrime, online casinos and online scams. A series of trafficking incidents have been highlighted in the past few years where foreign nationals have been lured to Cambodia with bogus job offers and are subsequently forced to remain in a compound and conduct online scams. A high-profile investigative report on the topic appeared in Al Jazeera news in July 2022.<sup>24</sup> In August, significant resources were spent investigating suspected sites. Prior to this activity, stakeholders queried whether there had been similar reluctance by some authorities to find FL/TIP cases and identify responsible perpetrators, given powerful actors in the sector.<sup>25</sup>

### 5.2.2 | FL/TIP investigation process

Initially, investigations are carried out by local police. This usually involves conducting interviews with the victim and witnesses and collecting material evidence. Case investigation and victim identification are conducted together, so police will follow relevant victim identification guidelines during victim interviews.

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“For investigation, we have the checklist of elements to be concluded as a human trafficking case. We just follow it, then we won’t make any mistakes.”

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Provincial Police Informant



In practice, NGOs often also conduct some primary investigation by collecting information and interviewing survivors after victims self-report to NGOs. NGOs then refer the cases and relevant documents to police.

As a potential FL/TIP case becomes apparent, the case will be reported to the Judicial Police, and the AHJPD in Phnom Penh. The Judicial Police and AHJPD will lead the investigation and will direct the local police in collecting further evidence. After an initial case file is produced, the local police will send it to the Judicial Police for review and decide on the next steps.

If there appears to be a case, the Judicial Police will submit the case to the prosecutor. Prosecutors follow MoJ guidelines on investigation for prosecutors. At this stage the prosecutor, Judicial Police and local police are likely to collaborate to undertake more evidence collection and investigation. Often this will include issuing a warrant and arresting the suspects.

If a crime is ongoing and rescue is involved, it is referred to as a “suppression” mission. In these instances, police place their focus on apprehending the trafficker and protecting the victim. According to a government official, over 300 cases were suppressed in the past year.

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“For a suppression mission, it depends on the types of offense. We need to do it appropriately and based on the law. We assess and report to our line management for their advice and guidance on the next steps. If needed, we will request guidance from the prosecutor to issue a warrant for us to arrest or detain the suspects.”

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**Provincial Police Informant**

The Judicial Police have the authority to write up the official case report, but not to categorize the offences - this can only be done by the prosecutor. The Judicial Police will provide a recommendation in most cases. After the investigation, the prosecutor will consider the case file. The prosecutor will assess that the case has been adequately prepared and there is sufficient evidence and cause to proceed with the case and select the charges. They can work with the police to source more evidence as needed, before submitting the case to the judge.

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“We need to balance the level of offense that the perpetrator committed. We need to evaluate that. We also need to consider whether to open up the case to the public or not. Would opening up help to reduce the number of crimes committed? We need to consider all of these.”

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**Prosecutor**

The judge has the role of assessing the facts of the case according to the law, and whether the evidence sufficiently establishes the alleged facts of the case. The prosecutor and the court can both conduct more interviews with survivors and witnesses to find more information before conducting a trial and making a decision. However, observers note that the judiciary can be hasty in doing their investigation and they expect the case to already be prepared. This is highlighted by the following quotes and discussed further in Section 5.2.10.

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“The case file is built by the police. We only invite the victims to ask for some clarification.”

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Judge

### 5.2.3 | Challenges in investigating FL/TIP

Police and CSOs both report that a key challenge of investigation is identifying and locating the perpetrator. In many cases the perpetrator is not living in the vicinity of the victim and so the police struggle to find them.

Many FL/TIP cases involve a victim that has been abroad, and so police investigations often focus on building a case against the initial brokers located within Cambodia, rather than the main perpetrators who are located outside of the country. Even then, the brokers themselves are sometimes out of reach:

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“Police and courts have limited capacity to conduct the interview process and collect information. For instance, they cannot find brokers unless they are still within their own communities.”

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CSO Informant

Thus, a key component and challenge of the investigation is working out exactly the role that the alleged perpetrator has played in the trafficking. Police report that their investigation will usually start with family members, as many “brokers” are in fact family members or neighbors who attempt to assist a migrant with obtaining a job abroad. At the same time, organized trafficking operations may also involve trusted family and community members grooming the victim.

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“Police study the case. For instance, the scenarios can be (1) one is ready to migrate on one’s own, (2) one is persuaded to migrate, (3) one breaks the contract, (4) one asks someone to tag along in order to seek a job opportunity. All of these scenarios are agreed migration. It is not trafficking.”

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Prosecutor

In many cases, police understand FL/TIP through the lens of border security and the legal status of migration. This puts the emphasis on whether a migrant has followed the MoU channel for migration, which is not particularly indicative of FL/TIP or not. This paradigm is not suited for filtering information relevant to a FL/TIP case:

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“When we go to the field, we only see the case of illegal migration, not trafficking.”

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Provincial Police Informant

Local police also do not have a particularly nuanced understanding of FL/TIP and are not aware of forced labor indicators and the subtleties of forced labor relating to debt. Given that debt is a key coercive component in labor abuses for Cambodian migrant workers in Thailand, this limits the investigative approach taken by police. Local police have a limited sense of what forced labor in Thailand may look like in practice (a challenge shared by Thai authorities).

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“For us, forced labor is mainly working on a fishing boat. The laborer is commonly placed to work on fishing boats.”

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**Provincial Police Informant**

In recent times, brokers and traffickers have become more aware of the legal technicalities of FL/TIP. As a result, the methods for facilitating movement and making contact have evolved. Mostly this means conversing online and arranging movement, rather than accompanying someone as they migrate. Overall, this has made it more difficult for police to investigate the case while also making it easier for perpetrators to avoid legal standards

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“Currently, the criminals have developed their crime techniques and processes. They arrange for the migrants to make their own travel to the illegal crossing points and cross the border themselves to Thailand. Then there will be someone picking them up and taking them to work in a farm.”

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**Judge**

#### **5.2.4 | Victims desire to report**

A key challenge for investigations is that victims often don't want to report cases or press charges against friends and relatives. In many cases these friends and relatives facilitated placement for a job, with varying degrees of exploitation, knowledge and intent. Often a contact is simply trying to help a job seeker find a job in the simplest or best way they can offer. In other cases, organized traffickers can use these trusted contacts in order to convince a victim to travel abroad or leave the village. In these cases, the contact may have varying degrees of involvement and understanding in the exploitative situation. In some cases, an exploitative trafficker is trafficking a victim who is known to them.

In all these cases, however, there is a reluctance of victims to press charges. This is usually due to the ongoing relationship, trust and reliance between the victim and perpetrator, although in some cases it can be fear of retribution:

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“A challenge during the interview was that a victim followed their relative to Thailand. Then, during the interview, their answer indicated that their relative was a broker. They became confused and did not want to continue with the legal proceeding because their relative turned from being a victim to being a broker at a certain point.”

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**Provincial Police Informant**

Another reason for low participation is that victims are often skeptical of the justice system and are not motivated to participate, thus limiting the information they provide. They view the court process as expensive, time-consuming and of little benefit. Many interviewees said they felt the justice system was only accessible to influential people.

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“The police officials have capacity to investigate the cases. But the process at the stage of police and authorities was complicated and needed many documents from family and survivors after filing the complaint and some cases take a long time or are not processed further by police as the police boss has not approved to bring it further and the cases have not provided any benefit to them. Sometimes, the communities did not want to report to authorities and police because of that.”

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CSO Informant

This issue has been highlighted in the 2016 IJM report and, according to informants, the perception of the court process is improving:

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“The trust among the public toward judicial proceeding seems to be better. For example, people used to think that without money they can't get justice, so they don't file a complaint. However, this mindset seems to be improving currently. They will go to the police and file a complaint.”

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CSO Informant

Police also express strong frustration with cases where a victim provides false information or, in their view, makes a report to facilitate repatriation home. Police say significant time and resources have been used on cases where a reporter decides to not participate; however, the reason for non-participation is not clear.

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“Another case was that the victim said that s/he would collaborate when s/he got home in Cambodia. S/he would tell us who the perpetrators were. However, when s/he arrived in Cambodia, s/he said that s/he did not know who the perpetrators were.”

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Police Informant

### 5.2.5 | Interviewing

Interviewing victims during the investigation stage was highlighted by all stakeholders as an area for improvement, for a variety of reasons.

First, several different interview procedures are being used, which creates confusion and undermines standardized interviewing practices. The NCCT has developed two standard forms for interviewing victims, known as the “short” interview form and the “long” or “detailed” interview form. The NCCT has been training police to use these forms for the past seven or eight years. Then, there are other interview forms used by



the AHJPD, social services and prosecutors as well. While various forms ask similar questions, they are not entirely consistent.

Second, it was commonly reported that victim-sensitive interviewing is rarely practiced by police investigators. This has the effect of deterring victims from participating in the justice system, while also amplifying psychosocial impacts of trafficking. It is critical that victims are treated with sensitivity throughout the criminal investigation process. This was an issue highlighted by IJM in 2016 and it was recommended that the AHJPD should include victim-friendly practices in interviewing guidelines and training.

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“The Judicial Police do not use a victim-centered approach. They use a criminal approach instead, regardless of interviewing the victims and offenders.”

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CSO Informant

Third, respondents noted that police are not routinely involving social services during victim interviews and are not giving them the opportunity to support victims during the investigation process:

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“... there was lack of invitation to PoSVY or social workers during the interview to survivors, mainly child survivors, even though PoSVY tried to use the existing letter from the Minister of Social Affairs to National Police commissariat.”

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Government Official

Fourth, there are often not enough female police officers to conduct interviews. In fact, although the benefits of involving female officers in victim interviews are well documented, particularly for women and children, police investigators do not all feel that having female police officers is important, as long as ethical procedures are followed.

Finally, victims have to go through an onerous process of multiple interviews, which can be traumatizing and can lead to giving poorer evidence as interviews progress. Several informants recommend that one victim interview be conducted at the outset with a panel of interviewers from different agencies. The current series of interviews is not only inefficient, but also acts as a deterrent to victims to participate in the justice system.

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“Some victims have to go through 10 different interviews for their case. For example, when the case is forwarded to an NGO, the NGO will conduct an interview with the victim. Then, the Judicial Police will need to interview them too. The interview by the police is to prioritize and categorize crime rather than identify the victims. The victims can be questioned at the investigation chamber as well.”

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CSO Informant

## 5.2.6 | Investigation capacity

Stakeholders report that the capacity to investigate FL/TIP cases is weak at the local level, where police do not have specialized FL/TIP knowledge and training. However, investigation capacity increases with those in specialized roles, such as anti-human trafficking police, prosecutors and investigative judges, who know what evidence is required to run a prosecution case.

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“At a community level, we have the general police but not the trained Judicial Police. So, they have limited knowledge and skills in obtaining information from the victims whereas the trained Judicial Police have knowledge and skills in interviewing in order to obtain deeper responses.”

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Government Official

The quality of local police investigations was highlighted as a particular capacity gap, and members of the judiciary said that investigations often fall short of clearly indicating whether there is a case or not. There is also less clarity about forced labor cases in comparison to other TIP cases, which fit more neatly into a victim-perpetrator paradigm which is familiar to the police.

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“Knowledge of the police who are supposed to work on identification is limited. When they do not have the skills, they can’t write a good report or produce a report in a way to convince others that there is a case for further investigation.”

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CSO Informant

At times, capacity gaps between the local police and Judicial Police mean that they have difficulty working on cases together. Local and provincial police often must rely heavily on the AHJPD in Phnom Penh to direct their investigations for them to be effective.

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“There is a big lack of capacity (knowledge and skills) among the police. They can only carry out some simple duties and tasks. With more technical cases, they need to go to the national level for help. At the moment, they do not know how to find or trace the incident/case. Even if there are tools and equipment available for them to use, they do not know how to use them. I refer to provincial level down to local level officials who have very limited capacity.”

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Judge

A common issue is maintaining staff capacity amid staff turnover. This has remained an issue over the past five years and has not been adequately addressed. Training needs to be regular to ensure all new staff have capacity.

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“The change of officials is constantly problematic. Skilled people moved on to other areas or retired. The newcomers (new officials) lack the skills to perform or implement their work.”

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CSO Informant

Particular training needs that were commonly raised for investigative capacity building include:

- **Core investigation skills:** investigation procedure, how to begin an investigation, who to ask and collaborate with, and planning interventions
- **Evidence collection:** which evidence is needed, how to collect evidence, how to store and take care of evidence
- **Technology:** research and technological skills for Judicial Police at Provincial Police Commissariat, police at district level too, tracing of remittances and online investigation
- **FL/TIP evolution and updates:** updated training for police officers to keep up with the development of FL/TIP practices, greater understanding of use of technology and online channels for FL/TIP

### 5.2.7 | Current capacity building and training efforts

In 2021, as can be seen from the table below, the RGC reported running 256 training sessions for police on FL/TIP law and evidence collection that reached 12,814 participants. In addition, the government also reported running seven sessions that trained 286 police and authorities on victim identification and protection, and 156 sessions that trained 5,720 government officials on FL/TIP law and CTIP measures.

**Table 3:** Training provided by government on FL/TIP

Year	2016	2017	2018	2019	2020	2021
<b>No. training sessions</b>	Not reported	66	234	113	192	256
<b>No. participants</b>	7,680	1,577	6,321	3,712	7,491	12,814
<i>As reported in US TIP Report</i>						

The Police Academy Center (PAC) is responsible for providing training to all members of Cambodia’s police nationwide. PAC oversees six school zones across the country and has 12 cohorts graduate per year. On average, this amounts to approximately 200 students graduating annually. As well as a four-month vocational training program for police, PAC courses include a bachelor level degree for policing and doctorate degree for the science of policing.

Recently, PAC has reformed its curriculum after receiving support from Germany. External evaluators reportedly reviewed the PAC curriculum and scored it highly relative to other countries. The curriculum includes training on the Criminal Procedure Code, management of investigations, implementation of investigation law and various guidelines. PAC says their curriculum covers eight distinct skills that are related to FL/TIP, including FL/TIP law and “basic FL/TIP theory”.

PAC report that training efforts could be improved in the following ways:



- Provision of more material resources such as LCD projector, computers and equipment
- Provision of more human resources
- Provision of FL/TIP reading materials and resource documents
- By building knowledge and skills on online and digital trafficking
- By building training and resource documents related to anti-cybercrime and online sexual abuse

Regarding FL/TIP, PAC focuses on strengthening the capacity of the local police station, so that when there are cases occurring at commune level, the local police can take some action. PAC also tries to enhance the local police in their role to educate communities about migration and safety at the village level.

### 5.2.8 | Investigation resources

Stakeholders frequently expressed the need for increased operational funding for the investigation of FL/TIP cases. Police indicate that they lack sufficient resources to adequately undertake investigations at the required standard. This resource gap manifests in several ways, as detailed below.

#### › NUMBER OF POLICE OFFICERS

According to a police informant, a police officer in Cambodia looks after between 2000 and 3000 villagers. In Phnom Penh, an officer oversees around 5000 people. At a police post station, there are usually three to five police officers spanning different ranks, and that post can look after over 10 villages. Compared to other countries, the informants say that this ratio indicates that police are spread quite thin.

In response to this challenge, the police force has bolstered numbers by training cadres of voluntary police assistants at the village level (village volunteer guards, “*Prochea Kapear*”) and public order security guards at the district level. These guards could potentially be engaged to participate in community-based protection mechanisms for preventing and identifying FL/TIP risks.

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“There are only three police officers posted in a police post station and they are appointed to take care of 10 villages. It is a challenge. Now, we have the village volunteer guards (*Prochea Kapear*) to assist them. Some villages have about 50 *Prochea Kapear*.”

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Police Informant

#### › INVESTIGATION FUNDING

Investigation activities require spending on items such as accommodation and travel. When police and provincial prosecutors undertake investigation, they are expected to pay for these expenses out-of-pocket and then seek reimbursement. This can be a disincentive for police to undertake investigation. Lack of immediate resources can also mean that investigations are delayed and therefore compromised.

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“For any suppression or intervention, we need to spend on the activities out of our own pocket money. There is a lack of material and equipment to support our fieldwork. For example, when there is a mission for us to complete, we use our own money for the operation. We use our own motorbike or car and pay for our own meals. There is no transportation or meal allowance for us. So, we have been working from our will. We only have our heart and energy to put in and keep us motivated to do this job.”

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Provincial Police Informant

## › GEOGRAPHICAL COVERAGE

Lack of transportation funding contributes to gaps in geographical coverage of police activities. While MoJ has endeavored to provide such support in the past, it remains a challenge to conduct rural investigations.

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“The responsible coverage areas at local level given to the police is rather large and hard to manage. There is a subsidy of a motorbike (Dream Cent 2011) to the police post in 2011, one in 2012, and two more later. There are at least, in total, four motorbikes given to them now. At the commune level, in some communes the police use bicycles instead of the provided motorbikes. This is because there are no spare parts available in their area. The maintenance is problematic.”

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Government official

## › INTERVIEW ROOMS

Police in provincial areas report that they have either a shortage of interview rooms or none at all. This compromises investigation as victims and suspects are not offered confidentiality and privacy, preventing open and frank discussion. This lack of privacy can also result in information being discussed within the community and alerting perpetrators of investigation. Lack of confidentiality can also put victims in danger of reprisal or threats from perpetrators, especially women and children.

These issues were raised by IJM in 2016 and in several US TIP Reports in recent years, both calling for increased funding for anti-trafficking law enforcement units and for funding to be disbursed in advance of investigations, rather than by reimbursement, to prevent out-of-pocket costs for investigators.

### 5.2.9 | Arresting perpetrators

According to data provided in the US TIP Report, a total of 370 FL/TIP suspects were arrested in 2021, with only 38 suspects being related to sex cases. This suggests a significant portion of these are labor related cases. This number is significantly higher than reported in past years, although arrest data is not particularly reliable.

**Table 4: FL/TIP arrests**

Year	2018	2019	2020	2021
<b>Sex cases</b>	21	14	21	Not reported
<b>Non-sex cases</b>	39	21	37	Not reported
<b>Total suspects</b>	150	53	94	370
<b>Sex suspects</b>	Not reported	27	46	38
<b>Non-sex suspects</b>	Not reported	26	48	332
<i>As reported in US TIP Report</i>				

In many instances, arrests are focused on workers crossing the border. These cases are said to “suppress” a FL/TIP case, when in fact they are often merely workers crossing the border irregularly. In other cases, suppression activity is said to occur when an arrest is made while a FL/TIP situation is occurring.

Police report that, in practice, it can be difficult to collect sufficient evidence when they are only able to detain a suspect for 48 hours. In sexual abuse cases, it can take longer than 48 hours to get forensic results back from health services. Moreover, once the suspect is released it is difficult to keep track of the location of the suspect and to prevent them from leaving the local vicinity. For this reason, it may be helpful to give the police the right to detain suspects for longer in particular circumstances.

### 5.2.10 | Collecting evidence for trial

During investigation, the Judicial Police are responsible for collecting evidence to build the case file which is sent to the prosecutor. The prosecutor can then direct the Judicial Police in preparing the case, including collecting any further evidence, for trial. Sometimes, the Judicial Police will receive a request from the investigation judge to carry out further investigation.

In order to begin an investigation, police will usually start by interviewing victims’ relatives and potential witnesses. If the broker is known to the victim, it is usually because they are a relative or friend of the victim. However, in these instances, the victim often refuses to cooperate with police in identifying the broker.

If the broker is not a community member or known to the victim, it is often very difficult for police to identify them as they do not provide the victim with accurate information. These case files often get rejected by the prosecutor because there is no clear identification.

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“For Mekhjal (Broker), we don’t know their source. They used a nickname and they do not have a clear or specific address or identity. When the police forward the case to the prosecutor, how can we proceed further with the case without clear information?”

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**Provincial Police Informant**



According to prosecutors, another challenge at the case preparation stage is that cases are often poorly prepared and lack the level of evidence needed to proceed with a case or to secure a prosecution.

“Knowledge of the police who are supposed to work on identification is limited. When they do not have the skills, they can’t write a good report or produce a report in a way to convince that there is a case for further investigation.”

CSO Informant

While prosecutors and judges can review the case and conduct further investigation, in practice they rarely conduct further investigation needed on a case.

“Based on observation, there was no deep investigation or interview at the court stage from prosecutors or judges after getting documents from police...”

CSO Informant

Another evidentiary challenge reported by prosecutors is that obtaining forensic reports and expert reports can take a long time and require extra budget.

### 5.2.11 | Challenges for investigating cases abroad

Investigating FL/TIP is often challenging because it involves a connection to foreign jurisdictions. This creates a multitude of challenges for investigators.

First, the victim may be reporting a case that occurred abroad, making it logistically difficult to conduct an interview, collect evidence and perform an investigation, which falls under the jurisdiction of foreign police.

“Complaints are commonly made from the destination country. It is very challenging for us to conduct an investigation because it is out of our authority and coverage area. We need to follow the laws of that country. It is their territory.”

Provincial Police Informant

Secondly, there are jurisdictional challenges. Cambodian trafficking laws can only apply within Cambodian territory or to Cambodians abroad. For Cambodians abroad, the challenge is securing collaboration with foreign investigators.

“Our laws actually can apply for inside and outside the country when the victims and offenders are Cambodian nationals. MoJ has the central authority. Judges can issue an arresting warrant. Then MoJ would issue a warrant to the embassy requesting Thai counterpart to arrest the offenders. However, we do not do that (in practice).”

Government official

For perpetrators that are foreign nationals but have committed crimes in Cambodia, the Cambodian law may only apply to the broker in Cambodia that assisted in sending the worker abroad. This can limit investigation to the actions of brokers within Cambodia, rather than the main offender.

A third challenge is that different countries can have different legal standards. In particular, victim identification abroad can be difficult due to different legal principles:

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“... some countries do not use Palermo Protocols. So, it is very challenging for us to do our job when we have done the identification and the destination country denies our finding and claims the case is not a trafficking case.”

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**Provincial Police**

A fourth challenge is that it is easier for perpetrators to escape when an offence occurs abroad.

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“For cross-border crime, suspects and victims will just migrate if there's a problem.”

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**Police Informant**

Finally, cross border investigation generally relies on cross border collaboration between police counterparts. This can be a challenge, as discussed further in Section 7.



## 5.3 PROSECUTION OF FL/TIP CASES

### 5.3.1 | Understanding of FL/TIP cases

In general, court actors reported that they felt confident in their understanding of forced labor cases, and this expertise was demonstrated during interview. Court actors, however, highlighted three complexities that often cause challenges in prosecuting FL/TIP cases.

The first is that the illegality associated with irregular border crossing can cause justice system actors to overemphasize border security and to treat assisted irregular border crossing as equivalent to human trafficking. This approach fails to recognize that exploitation and abuse often lies with the employer and is not necessarily connected to those that assist with border crossing. One judge effectively encapsulated this complexity:

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“Illegal border crossing can be seen in different forms. Some people have relatives working in Thailand. They contact their relatives to take them there. Some have several experiences in crossing to Thailand, so they know the routes. Then, they are proposed by their neighbors to do them a favor by taking other migrants along since they know the routes. They do not understand laws. The labor force does not think that bringing other people along to look for a job overseas is an illegal act. They only kindly offer help or do them a favor. Some migrants do not even read and write. They want to earn their living.”

Judge

A second challenge is that brokers have become more aware of the FL/TIP law and learned to play a less hands-on role in transporting workers. This is making it harder to prosecute brokers under current laws. Further, technological advances have changed the way that brokers communicate and operate, making it more challenging to identify brokers and build a case that can be brought before the court.

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“With advanced technology brokers communicate through Telegram or other similar apps. They only arrange a meet up point and the migrants travel to that place themselves waiting for the pick-up. It looks like they are waiting for a taxi.... So far, it has been very challenging in searching or identifying a broker. We can only track down Motordoup drivers who bring the migrants from place to place but not the real brokers or the mastermind behind this crime arrangement.”

Judge

A third complexity is that forced labor cases often occur when debt is owed by workers to brokers or employers. This debt can effectively bind a worker to their workplace as their only viable means of repayment. Authorities are not sensitized to the issues and cases involving debt bondage are almost never pursued through investigation or brought before the court.

As noted by IJM in their 2016 study, forced labor and trafficking are complex crimes. IJM has since worked with MoJ to produce guidelines for understanding and implementing the FL/TIP law, which has been considered helpful by court actors:

“Previously, we only had anti-human trafficking law alone. It was very challenging to interpret the law. However, the government later issued the law explanation book that provides some practical examples too.”

Judge

### 5.3.2 | Deciding to prosecute cases of FL/TIP

The Judicial Police build a case file for the prosecutor, which they deliver along with recommended charges. If there is not sufficient evidence, the prosecutor can request the Judicial Police to undertake further investigation. Once there is sufficient evidence to proceed, the prosecutor prepares the case file for the court.

In assessing the evidence, prosecutors report that they follow a routine process based on the Palermo protocol and legally determined principles, and this has remained the case for some time. One prosecutor outlined the complexities that are involved in the decision to prosecute:

“There are so many elements to conclude the crime. Sometimes, people only cross the border and pay for transportation illegally by themselves. Under this picture, we cannot conclude that it is a trafficking case. It is only an act of illegal migration. That’s why sometimes it requires the prosecutor to carry out the investigation directly at the scene with law enforcement.”

Prosecutor

**Table 5:** FL/TIP prosecutions in Cambodia

Year	2016	2017	2018	2019	2020	2021
<b>Total cases reported</b>	53	207	421	199 <sup>26</sup>	348	64
<b>Of which are labor cases</b>	Not reported	Not reported	150	321	Not reported	37
<i>As reported in US TIP Report</i>						

When a case is filed with the court it is sent to an Investigative Judge (IVJ) along with the determined charges. The IVJ conducts a preliminary inquiry and sets intermediate court hearings such as bail hearings. The IVJ can call for more information or evidence from the prosecutor. Critics did note that the court prioritizes some cases for hearing over others.

When the case file is ready, the case is then submitted to the judge. The Judge will preside over the hearing of the case at trial. A defense attorney, prosecutor, and (ideally) a victim representative will be present to conduct the case.



Judges and prosecutors explained that they have autonomy in decision making on case files but have monthly meetings together to discuss cases.

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“For the trafficking cases, we have a deputy prosecutor who is in charge. Clear responsibility is given to him. He knows the story from the beginning to end for each case and the progress made on the subject at provincial level.”

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Judge

### 5.3.3 | Clearing of frozen cases

From May 2020 to June 2021, the MoJ operated a campaign to clear the backlog of court cases in municipal and provincial courts, in a bid to speed up the court process and streamline operations.<sup>27</sup> According to MoJ, the campaign led to the resolution of 96% of the total 39,500 backlogged criminal cases, with more than 37,900 criminal cases resolved at the prosecution stage, investigative stage and the trial stages. In addition, over 12,600 cases were tried, accounting for 97% of the more than 13,000 cases that were at trial phase.

Overall, government stakeholders and CSOs report that the campaign was a success and has accelerated the prosecution process.

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“Previously, there were so many frozen cases piling up. However, with the campaign to speed up legal proceeding of the court case, many cases have been trialed and completed. We have reduced and cleared a significant number of frozen cases.”

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Prosecutor

As a result of the clearing of cases, it was widely reported that cases have been proceeding much faster. Court actors pointed out that it was, in their view, essential to the integrity of the justice system that cases could be resolved in a timely manner.

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“When there are many frozen case files, we as judges receive blame, criticism, and complaint against us. They accused us of not finding justice for them.”

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Judge

However, there is a degree of criticism of the campaign, with CSOs reporting that some cases have been resolved hastily, ultimately preventing victims from pursuing outcomes. However, court officials maintain that the cases that stood a chance of outcome were ultimately expedited and heard as a result of the campaign.

### 5.3.4 | Timeline of cases

Despite cases running more quickly than in the past, some informants indicated that the courts take up to two years from case filing to completed trial. One reason offered by court actors for these timelines is the difficulty in sourcing information from victims. Court actors also cited a lack of specialist staff - such as psychologists to provide evidence - as another reason for delays.

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“We do not want to be slow. Yet, we need to gather sufficient evidence and information first before we can go to the next step and have our decision made. To gather evidence and information is time consuming.”

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Judge

Another reason offered for delay was capacity constraints. Police reported that cases could be sent back to them for further investigation just because the Court is too busy to take on the case.

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“We forward cases to the court. They accept the case. However, when they do not have time to work on it, they return the case to us. This causes a delay.”

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Police Informant

In practice, Court timelines are often too long for victims and discourages them from proceeding with the case.

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“Legal and court proceedings can take a long time to complete. Some victims do not have such patience and time to wait for the results, so they end up dropping the case.”

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Government official

Some CSOs suggest that the Court should have deadlines imposed on the various steps of the procedure, to ensure that timelines are met. However, this might compromise the trial process. Further, an emphasis on expediting cases can incentivize Court actors to focus on only simple, quick FL/TIP cases, which doesn't include the most prominent perpetrators.

### 5.3.5 | Court resources

Informants say that each judge can handle up to 500 cases per year, while a deputy prosecutor receives up to 200 cases per year. However, the number of judges, prosecutors and court officials at each of Cambodia's courts varies greatly, directly impacting the number of cases they can handle.

Court stakeholders reported an overall increase in resources over the past five years, with particular reference to support staff, travel allowances and infrastructure.

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“Previously, there was no secretariat to support our work including administration, court, and prosecution division. There was a lack of human resources. Now we have sufficient resources. We have staff who can support in providing updated information of the progress of the court cases when we are asked. This is helpful for us.”

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Prosecutor

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“Infrastructure is improving and better. The courtroom is well-organized and prepared. MoJ allocates budget for us on this matter. The government has set one common model of the court across the country. So, we have the same design. Each provincial court of first instance must be attached to a dormitory for the staff of the court and prosecution department. The buildings are acceptable.”

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Prosecutor

Despite an increase in provisions, there was mixed feedback on whether these resources were sufficient. Judges, in particular, were not as quick to concur that the resources were adequate, saying that travel allowances were insufficient and that they did not have enough law clerks to assist them.

### 5.3.6 | Issuing warrants

There are various warrants that can be issued by the court to compel victims and suspects to attend court, or to allow police to arrest a suspect. Issuing a warrant quickly and effectively is very important in enabling a successful case. Stakeholders reported that this process in the past could take too long, whether served by mail or the Judicial Police. Sometimes this delay meant that the suspect had time to leave their listed address and become un-contactable.

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“We can send warrants through communication apps now. Previously, there were a lot of problems in sending a warrant out. Now, we can simply pass it on through app to the responsible person, that’s it. It helps us tremendously.”

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Prosecutor

In response, the court has now made it possible to issue warrants via Telegram and other apps. Court actors reported this as a major improvement in terms of effectiveness, cost, convenience, and speed. This measure has also resulted in the unintended benefit of greater transparency, as the court has become more active in providing information and documents relating to judicial proceedings to stakeholders.

### 5.3.7 | Informal settlements

It is very common for witnesses to refuse to give testimony once a case has been prepared, and for prosecutions to fail as a result. There are a few reasons why this happens.

The first is that FL/TIP cases are sometimes brought against victims' friends and family members, and the victim does not want them to be punished. In many of these cases, the accused broker is seen by the victim as a close contact who has acted helpfully by assisting them to find a job. It is important to highlight that in many cases this is true, and the person has not acted unscrupulously or exploitatively and is not part of a formal broker operation.

The second reason is that many cases are settled informally through direct payments to victims. Victims are often happy to accept these sums and bypass the time-consuming litigation process, even if they are only receiving a fraction of the compensation to which they are legally entitled. In some cases, these payments come from operators such as recruitment agencies who know they can avoid legal repercussions by making "under-the-table" pay-outs to victims to persuade them or their families to drop criminal complaints.

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"In most cases we receive, the survivors withdraw their cases from the court once they are returned back home. Most of them ask us to help them to return back home and then they do not want to spend time on the legal process. This is because brokers are their relatives, or they have concerns about the time and cost of the court process. Their priority is on income generation more than justice in court."

CSO Informant

While justice system actors and CSOs can discourage out-of-court settlements or actively inquire why a victim has withdrawn a complaint, the reality is that victims will not participate in judicial proceedings if they believe it is against their best interest. To counter this issue, the court system needs to be able to offer better outcomes to victims and provide penalties to those attempting to unduly influence the victim. This issue is exacerbated by an over-reliance on witness testimony at trial, likely because only basic evidence collection techniques are being used. These issues were raised by IJM in its 2016 study, but little progress has been made.

### 5.3.8 | Treatment of victims and witnesses

Several stakeholders reported that the court fails to understand how the court process impacts victims and children. Civil society informants indicate that many prosecutors and judges do not utilize victim-friendly and trauma-informed procedures to protect and empower victims as they go through court proceedings. Despite this issue being highlighted in the past, victim-sensitive practices have not been institutionalized into court procedure and practice.

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"During trial, the judges sometimes threaten the victims and relevant stakeholders via their questions. Things are actually in their hands. They are in charge. Everything is up to them to twist and turn."

Government Official



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“While I was spending a year at the court, I had observed that the victims already got very scared when they saw the judge with their uniform on.”

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**Government Official**

The court also regularly overlooks the importance of providing victims with psychosocial support as they proceed through the judicial process. Often, cases proceed without victims being provided with support from CSOs or Social Affairs officials.

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“Having Social Affairs officials at the court is very essential, yet some people seem to overlook its value. The victims commonly do not understand or are not aware of the legal proceedings. They need support on this... Social Affairs could discuss with the prosecutors when there are cases and what needs to be done appropriately during legal proceedings. With the victims, they could provide them guidance.”

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**Government Official**

In some instances, cases proceed without any support for victims who are minors. Court officials did, however, highlight the need to take a child-friendly approach in their work.

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“We have treated minor victims using a child-friendly approach. We give the time to settle their mind and emotion. Children cases are always prioritized and proceed at the speed our capacity allows.”

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**Prosecutor**

It has previously been recommended that MoJ should implement best practices for victim and witness treatment in all first instance courts, and that victim-friendly and trauma informed training be institutionalized for all prosecutors and judges and trainees. These needs remain outstanding.

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### 5.3.9 | Participation of victims and witnesses at trial

Court actors note that it is important for victims and witnesses to attend trials and give evidence:

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“I prefer to have the victims participate in all steps of the court procedure. They need to be at the hearing and defend themselves in order to help us find the truth. If they are absent, the trial is incomplete because their answers are not sufficient. We need their testimony at the trial.”

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**Judge**

However, the court struggles to support victims to overcome time and resource constraints to enable them to attend trial. For example, many victims live far away, and are poor. They need to be escorted by Judicial Police to the court, and support cover their traveling cost, accommodation, and living expenses. In addition, victims need to take time off from their work in order to participate in the legal proceedings, costing

significant lost income. This can be too high of a barrier for many witnesses and victims, and in some cases, they are issued with a warrant, but they cannot afford to travel to the court to testify.

In many instances a witness does not want to offer evidence given the high commitment. Stakeholders pointed out that it was important that the system ensures the correct incentives for witness participation in criminal and civil proceedings.

### 5.3.10 | Capacity and professionalism of court actors

Court actors felt they had high capacity and a wide skillset in running trials and FL/TIP cases. This was demonstrated in the course of interviews with court actors as they discussed the subtleties of case situations. Specific training on FL/TIP has been common among court actors.

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“Technical skills related to human trafficking is high among our judges and prosecutors. At least one member in each province receives training on the subject. The person does not only have the knowledge but also applies that knowledge well.”

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Government Official

Capacity could be strengthened by keeping up to date with emerging FL/TIP practices, forensics, psychological impact, child abuse, money laundering, child protection, new technology and other specialized topics.

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“The judge does not evaluate psychological impact for the trial. Technically, the judge needs to have a procedure for psychological impact, however we do not have any expertise in our country. We need an expert to do this work.”

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CSO

CSOs reported that while they have, on occasion, been invited to attend trainings and workshops for court officials that were run by the government, they were not consulted deeply on the design of the workshops. They felt that the workshops lacked some efficacy and overlooked insights held by CSOs.

### 5.3.11 | Convictions

Since 2020, Cambodia has extended its data on FL/TIP case convictions to cover the whole country, not just the court in Phnom Penh. As a result, reported convictions rose to 348 people. In 2021 however, with COVID-19 significantly reducing movement, trafficking numbers were down, and convictions were significantly lower.

**Table 6: FL/TIP convictions**

FL/TIP convictions						
Year	2016	2017	2018	2019	2020	2021
No . Convictions	100*	129*	125*	140*	348*	38*
<i>*Phnom Penh data only; As reported in US TIP Report</i>						

In general, the trial is aimed at verifying the facts of the case that has been provided in the case file, and verifying the evidence to see that legal tests have been met to secure a conviction:

“During the trial, it found that everything matched with the case file and its report/evidence. So, they were found guilty and jailed.”

Judge

Despite following court procedures, stakeholders do feel that powerful people and government officials are above the law. They feel that the courts are not impartial and people lack trust in the process, although that is said to be improving.

“If there is a court case between an ordinary person against a rich powerful person, the poor is likely to lose the battle and does not obtain justice. However, if the court case involves innocent ordinary people complaining against each other, there may be some justice.”

CSO Informant

In cases involving exploitation and abuse of workers, unequal power dynamics also affect a worker’s ability to bring an action. Workers sometimes lack employment documents and other written evidence, while employers keep records to protect themselves, but these are not shared with workers. Employers sometimes even record employees’ voices agreeing to arrangements which have not been provided clearly to the worker. As a result, employers often have better evidence than workers once a case comes to trial. Employers are also much more likely to be able to afford to hire a lawyer to defend their case, making it hard for workers and prosecutors to successfully convict an employer for FL/TIP abuses.

### 5.3.12 | Sentencing

There has been a recent campaign to reduce prison populations and prevent overcrowding, with COVID-19 reported to be one motivating factor. This has led to the release of many prisoners into the community through conditional release and suspended sentences. According to one Prosecutor interviewed, about 40,000 prisoners were released as a result of this campaign. Similarly, the court has shown a preference to push offenders into diversion programs, preventing their imprisonment.

“There is a diversion procedure by law. In the case that the diversion programs are not available, we diverted them to their hometown with supervision from the police post. This will avoid crowding the prison as well and the offender can be at home.”

Government Official

While authorities and prosecutors have been more likely to push for suspended jail terms and diversion programs, it has caused some observers to question whether the deterrent effect of prosecution has been diminished. They argue that under these methods there is little guarantee of compliance with conditions and few oversight mechanisms in place.

When FL/TIP convictions do lead to jail time, long sentences are rarely imposed. Prosecutors report that it is rare that they prosecute leaders of large trafficking operations, and they are more likely to have convicted a small-time broker.

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“For this case, a reason for migration, the villagers just follow each other to search for job opportunities. It is not considered as trafficking. That’s why they only jail for three years as a good amount of punishment time for brokers. We don’t know how to get the offenders to pay the compensation though for this case.”

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Judge

If a litigant is not satisfied with the trial’s result, they are able to make an application to the appeal court to appeal their case. Respondents did not report specific feedback around the appeal court and appeal mechanism.

### 5.3.13 | Case data

During the last IJM investigation into the Cambodian public justice system in 2016, it identified that there was a need for capturing and tracking accurate trial data. Specific needs included data on arrests, charges and convictions, acquittals on both forced labor and TIP cases. Moreover, this data should be collected for each provincial court and shared among FL/TIP stakeholders.

Over the past five years court actors reported that they had improved data collection and were satisfied with data collected and shared within the court process. For their own purposes they felt that the data they needed was available to them. One specific improvement identified was the collection of data from provincial courts, now extending beyond the Phnom Penh Courts. However, provincial actors said that they would like to improve their systems further.

Looking at the data that has been provided by the NCCT and US TIP Report over the past five years reveals that collected data is inconsistent and not widely available. Provincial data is not always reported and not clearly disaggregated. Types of cases are not clearly disaggregated, nor is it clear how cases have been settled or progressed through stages of the system. The need for clearly reported data remains. In addition, clear systems for collecting, sharing and reporting data ought to be established throughout the system as a whole.





**6 SUPPORT FOR  
VICTIMS AND  
WITNESSES**

# 6 SUPPORT FOR VICTIMS AND WITNESSES

## 6.1 VICTIM IDENTIFICATION

### 6.1.1 | Prevention and awareness activity

Victim identification is the process by which an individual is identified as a victim of FL/TIP which, in turn, entitles them to support services, rights and protections. Formal identification should provide the opportunity for a victim to be referred for assistance, services and access to justice.

For a victim to be identified by the justice system, two actors must come together: (1) a victim who wants to be identified; and (2) an office holder with the authority to identify the victim and enter them into the victim referral system. Thus, the willingness of victims to enter the system is the first crucial step to achieving a justice system with effective victim identification.

As discussed in Section 5.2.4 (Victims desire to report), there are appreciable reasons why FL/TIP victims do not wish to be identified by the justice system. In addition to these reasons, victims may be unaware that services are available. Similarly, victims may not be able to self-identify themselves as being in a FL/TIP situation, as they are variously unaware of FL/TIP, their rights, and what to do when in such circumstances.

To this end, MoLVT reported providing pre-departure orientation to 20,360 Cambodians in 2020. Similarly, NCCT and AHJPD have conducted many awareness activities such as public forums, online forums, workshops, radio talk shows, and TV shows. Meanwhile MoEYS has recently begun working with NGOs to implement a school curriculum to educate students and teachers about human trafficking.

These trainings are of varying quality. Training that merely tells prospective migrant workers to undertake “safe migration” by utilizing the MoU migration channel is insufficient, as the MoU frameworks provide no guarantee of a migrants’ safety. Workers also need to learn about labor rights, common FL/TIP scenarios, how to recognize abusive situations/employers, and what to do in specific situations.

Training nonetheless sensitizes workers and communities to FL/TIP and usually provides migrants with contact details of various NGOs and government hotlines that can be consulted for assistance. It is worth noting that more recent migrants tend to



have more information about avenues of assistance, suggesting that there has been an improvement in this area.

**Table 7: Number of participants of MoLVT pre-departure training**

2018	2019	2020	2021
69,000	48,000	20,360	Not report
<i>Source: US TIP Report</i>			

### 6.1.2 | Frontline reporting channels

Identification may occur while an individual is being exploited and result in ending their trafficking exploitation. In other cases, it may occur once a person has already escaped or otherwise left a trafficking situation. Common reporting channels include:

- **NGOs:** Operate hotlines or conduct outreach activities
- **AHJPD:** Receive complaints through a Facebook page and operate a 24-hour hotline in conjunction with MoI. This hotline was widely publicized, but according to 2022 US TIP Report it received just 21 calls in 2021, and none turned out to be FL/TIP cases
- **MoWA:** Operate a hotline and online reporting channels. When MoWA receive a report, it refers cases to the Judicial Police, shares information with the National Police Commissariat who passes it on to MFAIC and the embassy
- **MoLVT:** Do not have an office to receive complaints. They report that if they receive information relating to FL/TIP in workplaces they will pass it on
- **Municipalities and provinces:** Operate their own hotlines for reporting and assistance
- **MFAIC/Embassy:** Overseas embassies house a Labor Attaché from MoLVT and a representative from AHJPD. Cambodian embassies in common destination countries operate hotlines for Cambodians working abroad to seek assistance and report cases of human trafficking. In 2021 the Cambodian Embassy in Thailand received 1,109 calls, the embassy in South Korea received 186 calls and the embassy in Japan received 540 calls
- **Local police:** Operate their own hotlines for reporting and assistance
- **Transit centers :** In particular the PTCs in Poipet and Kam Rieng

In general, these reporting channels were reported to be well known within many communities.

### 6.1.3 | Preliminary victim identification

Victim identification is considered to be “informal” if it is done by someone without the legal authority to make an official determination. In practice, this is often the case as usually a preliminary identification will be done by an NGO or service provider, following which the victim is referred for formal identification and assistance. This identification pathway is common as it is more accessible, and victims feel more comfortable reporting to NGOs than officials.

Generally, local police are the other frontline responder to FL/TIP cases, conducting the initial investigation prior to formal victim identification and case referral. In terms of the capacity of local police to conduct victim identification, stakeholders offered mixed feedback. Some, for example, suggested capacity was very low. Other stakeholders reported that capacity at the local level was improving.

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“The local police seem to have very limited knowledge in general. When we need their support with identification, they can’t even find information for us. They cannot even spell names correctly”

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Judge

Another way that identification capability has been built over recent years has been by building knowledge and awareness of FL/TIP within communities. This enables community members to identify and report any potential FL/TIP situations. Community awareness can also be formalized through initiatives to set up community-based protection mechanisms. This strategy has been reported by stakeholders as being effective as it empowers communities to facilitate victim identification. For example, in one village, cadres of police assistants have been set up with various roles, one of which is to identify FL/TIP in the community.

#### 6.1.4 | Formal victim identification

Those eligible to carry out formal trafficking victim identification are as follows:

- local authorities at the commune, district, town province/municipality level
- Judicial Police
- social affairs officials
- officials in charge of women and children
- staff of civil society organizations working on victim protection
- anti-trafficking officials of the Royal Gendarmerie
- diplomatic missions
- victim support agencies abroad

For formal investigation, police and other stakeholders will enlist the help of Judicial Police, who provide direction for case investigation and victim identification. Judicial police will work with local police and consult NGOs and Social Affairs officials to assist with formal identification. If the case is abroad, the Cambodian embassy will also be contacted. These key actors report that they are confident in their ability to handle victim identification and confident in their counterparts. Discussion between them assists in having a common approach.

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“The regular meetings of PCCT were helpful to discuss case identification among members. Police, PoSVY, court actors and other relevant actors attended trainings and workshops together for victim identification and case identification.”

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Government Official



According to some interviewees, the main challenge to successful identification is the lack of information on the ground, stemming from the limited capacity of local police.

**Table 8:** *Victims identified, US TIP Report*

Victims identified, US TIP Report						
Year	2016	2017	2018	2019	2020	2021
<b>Total identified</b>	326	179	235	142	417	364
<b>Non-sex</b>				66	322	
<b>Sex-trafficking</b>				76	95	

### 6.1.5 | Use of the Victim Identification Guidelines

In early 2016, the NCCT released Victim Identification Guidelines. The Victim Identification Guidelines were developed by NCCT and MoSVY with participation from other ministries and with technical support from NGO’s, in order to standardize the identification of victims of trafficking and to ensure provision of services to survivors.

Within the Victim Identification Guidelines, there are two victim identification forms provided: a short form (Annex 2) or a detailed (Annex 3) interview form (often referred to as “detailed” or “long form”). Criteria for the identification of a trafficking victim are set out in the Victim Identification Guidelines through a series of harm indicators across physical, sexual, mental, and financial dimensions. Specific scenarios are also provided to assist with identification. However, little detail is provided on how to use the indicators as a basis for identification.

Stakeholders gave mixed feedback on the Victim Identification Guidelines, indicating that they are being used in practice but there is a need for feedback and iteration to ensure it is an effective tool going forward. Such updating is currently being undertaken by NCCT with feedback from stakeholders.

One complication arises because NGOs, ministries, and Judicial Police do not use the same identification guidelines and don’t feel it applies to all circumstances. Police confirm that they do not use the form because it is, in their view, not fit for purpose, while some local and provincial actors feel the Victim Identification Guidelines only apply to national actors.

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“There is a disagreement on how to determine a crime. The police have their own procedure and criteria to identify and categorize a case. They do not use the identification form produced by NCCT. They create their own identification form. They said if they follow the NCCT’s form, they can’t identify any crime. For the judicial sector, they have their own procedure and criteria as well. They use theirs to categorize the crime. Existing legal documents of each relevant ministry are not aligned and consistent.”

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CSO Informant

Overall, while stakeholders reported a common understanding in identifying FL/TIP cases, they felt that inconsistencies in identification forms and procedures between stakeholders continued to be a barrier to smooth collaboration and work processes.

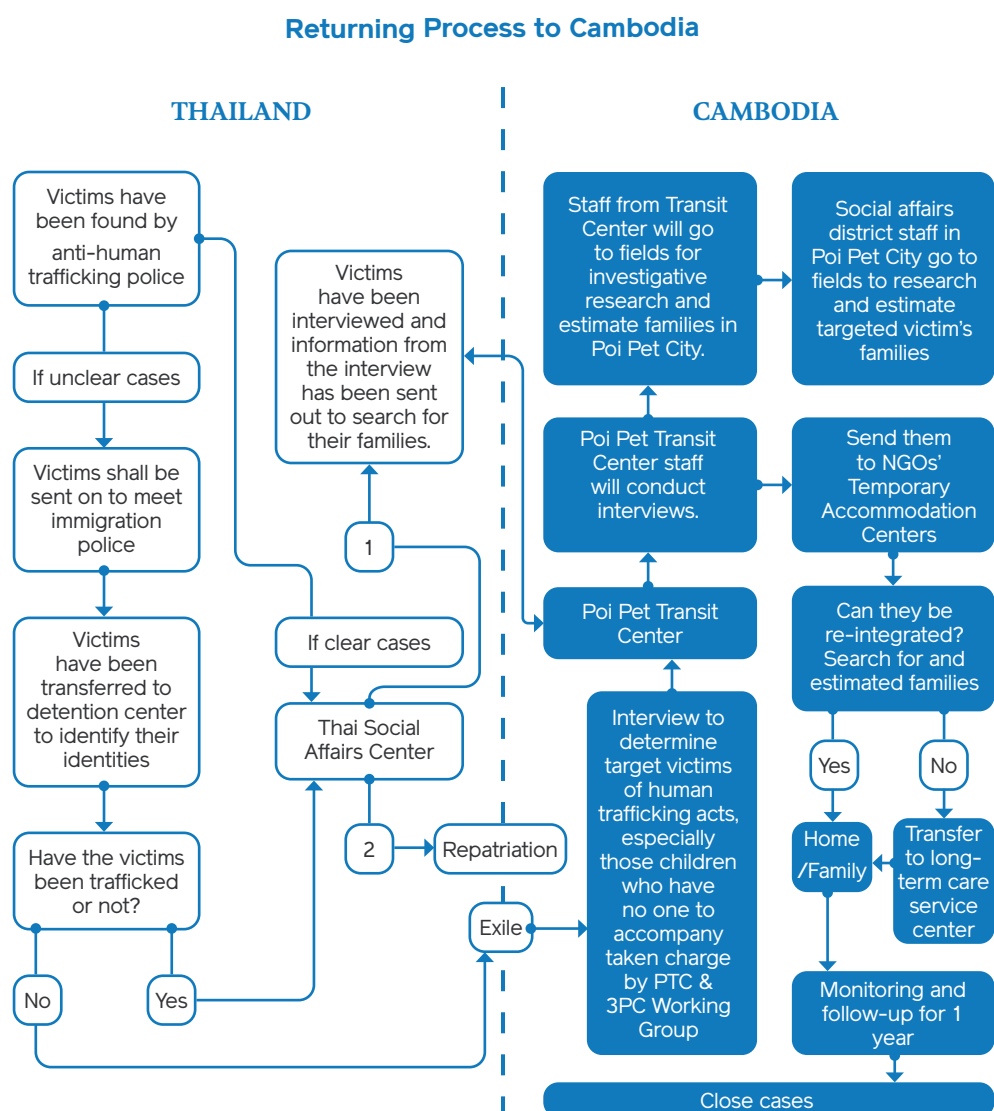
### 6.1.6 | Transit centers and migrant deportation from Thailand

Transit centers, also referred to as “drop-in centers”, are located along the Thai-Cambodia border for the reception and screening of immediately returned (irregular) migrants that have been deported from Thailand. They are designed for victim identification, needs assessment, assistance with returning home, emergency response, and providing frontline services. MoSVY’s Department of Anti-Human Trafficking and Victim Reintegration is the key government actor in providing support to the victims whether they wish to stay in centers or return home immediately, which most prefer to do.

The process of repatriation is covered under the MoU between Cambodia and Thailand. When it is followed the Thai counterpart will provide advance notification to the transit center and inform them of incoming deportees. This allows the transit center time for family tracing, to collect evidence, and identify support services for them, which is done in collaboration with NGOs. The transit center will also collaborate with the AHJPD to investigate and collect more evidence if needed.

In practice, stakeholders say Thailand can be indiscriminate in deporting migrants. Deportees have generally been treated as irregular migrants by Thai authorities without sufficient screening and investigation. In many cases, deportees are identified as victims only once they are returned to Cambodia. This practice of Thai officials rounding up migrants without adequate screening and dropping them at the border, most commonly the Poipet border, only to be dealt with by Cambodian authorities was intensified during COVID-19, when trucks of deportees would be brought to the Poipet Transit Center in the evening and staff had to work into the night to interview each person.

Figure 8: Translated version of victim repatriation and referral process poster displayed at PTC



## › POIPET TRANSIT CENTER (PTC)

The primary role of the Poipet Transit Center (PTC) at the Thai/Cambodia border is to process Cambodian migrants as they are deported from Thailand. When returnees come to the PTC, they are screened by staff as potential victims of FL/TIP through interview. The PTC use the short form to carry out the interview and triangulate the information with repatriation data that has been provided by Thai counterparts. PTC stakeholders report that, despite their best efforts, PTC staff have limited interview skills and could be assisted with capacity building in this area. A particular need is skills for the interviewing of children.

The PTC has both a rescue office and case management office, with the latter used to open a case when there is identification of a suspected victim. The PTC can also identify and refer victims to support services, as well as conduct outreach activities in its immediate vicinity. The PTC was previously designed to support only women and children deported from Thailand who are identified as victims of trafficking. However, with many fishermen being identified as victims in the past years, men are processed through the center as well.

Stakeholders report that the PTC is under-resourced. It does not have sufficient budget to carry out case management which involves outreach to deportees' home areas. The PTC is also lacking an adequate interview room, and its nine officers simultaneously carry out individual interviews in the waiting hall. During the pandemic, there were so many migrants that interviews had to be conducted outside. While best efforts to maintain confidentiality were undertaken, it was obviously a challenge. The PTC also has one room it uses as a temporary shelter for victims and those in need. This room is not designed to purpose and is insufficient in size to meet needs.

Most of the services at the PTC are provided by NGOs who run offices there. NGOs such as Samaritan's Purse and Damnok Teok operate small offices at the PTC to assist deportees with basic medical care, clothes, food and funds to allow the deportees to travel home.

### ➤ KAM RIENG TRANSIT CENTER (KTC)

The KTC in Battambang is located near the Cambodia-Thailand border in Kam Rieng and was launched by the NCCT in December 2021.<sup>28</sup> The KTC focuses on victim identification, referral, reintegration and first response service provision to those exploited abroad. The center is run with assistance from the CSO, A21, which is tasked with developing resources tailored to victim identification, child interviewing and child screening. A21 has been leading efforts to establish a child forensic interview room and to train government personnel on trauma-informed child-sensitive approaches. Because the center is new, stakeholders say there needs to be training to strengthen the capacity of staff in all aspects of operating the KTC.

Overall, it has been encouraging that this new center has been opened due to the efforts of the NCCT. In 2016, IJM recommended that new centers should be opened to add to the PTC in Poipet. Expanding this network will increase the likelihood of FL/TIP identification and provision of services to victims.

#### 6.1.7 | Data on victim identification

Victim identification data is unreliable, not least due to double counting between various service providers. This makes it hard to monitor progress and the needs in the community with respect to FL/TIP. Currently this issue is being addressed by the Department of Anti-Human Trafficking and Victim Reintegration in relation to its own records but needs to be expanded to all stakeholders.



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“This year, MoSVY have collaborated with Ratanak International to develop a data management system. It is only for my department though. We try to minimize the risk of duplication on the record. For example, I recorded Case A and the relevant province recorded the same case in their recording system. So, when we put the data together, this particular case is likely to be counted twice.”

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Government Official



## 6.2 VICTIM PROTECTION AND SUPPORT

### 6.2.1 | First response support and referral

First response for FL/TIP cases involves preliminary victim identification and provision of emergency services. This includes ensuring the person is safe and well, through the provision of emergency food, shelter and counseling, before the victim is interviewed formally by a qualified official.

*Table 9: Number of FL/TIP Victim Referrals in Cambodia, US TIP Report*

Number of FL/TIP victims referred for support within Cambodia, US TIP Report						
Year	2016	2017	2018	2019	2020	2021
To PoSVY	62	Unrep	222	262	371	404
To NGO		243	222	290	220	
Forced labor			109		54	

Once a victim is formally identified, there are specific referral pathways set out in Cambodia's Victim Identification Guidelines in order to provide support to the victim. In order to make a referral, a referral form is completed as set out in the Victim Identification Guidelines, and this is sent along with identification forms to MoSVY officials to either provide services or find relevant NGOs and service providers who can assist in their place. MoSVY is designated with providing temporary services to victims, as well as counseling, recovery and reintegration services, family tracing and assessment of child victims. Usually, it is NGOs who are in turn tasked to arrange shelters, health care, legal assistance, rehabilitation, vocational skills training, sheltering, employment, education, counseling and food. These services cover a wide range of victims' needs, spanning the time of identification through to community reintegration. (The Victim Identification Guidelines also set out specific roles for stakeholders such as the Judicial Police, Social Affairs officials, and service providers, as set out in Section 3.) If the identification occurs abroad, MFAIC and the Cambodian embassy will assist with arranging victim protection, support, and repatriation, as well as arranging for temporary stay visas. In practice, PoSVY will be tasked with coordinating ongoing support for victims at the community level, including case management and family tracing. While there are a lot of NGOs providing care services, it can be difficult to find service providers in certain locations or to certain types of victims.

In general, feedback given was that Social Affairs officials have a good understanding of FL/TIP and strong commitment to assisting victims. In the past officials were used only to working with women and children in relation to TIP, however in the past five years they have become familiar with supporting males as a result of several cases involving fishermen. While MoSVY staff understood these male cases better, there still remain few services available for trafficked men.



Under this model it was also noted that there is a heavy reliance on NGOs, who provide the lion's share of services to victims. Also, it was noted that although the Victim Protection Policy<sup>29</sup>, overseen by MoSVY, sets out the principles and procedures for victim protection and support, there is no mechanism for monitoring and ensuring that the services are provided and done so at a sufficient standard.

Stakeholders also mentioned that local actors often do not know about local service providers and referral services because they are not tasked with this role. This can make it difficult to provide services to FL/TIP victims while it is occurring, so local authorities should also learn of available support service options.

### 6.2.2 | Repatriation

For victims identified abroad, embassies are notified, and it is their role to assist with repatriation. This is usually conducted promptly with funds for flights provided by NGOs. Similarly, within Cambodia, MoI will facilitate foreign nationals in Cambodia with repatriation to their home country, although it is noted that many foreigners are repatriated without having undergone sufficient FL/TIP screening by Cambodian authorities.

One other challenge is that workers are usually repatriated quickly and do not remain in the country long enough to assist with criminal investigation of FL/TIP cases. Migrants usually don't have the funds to remain abroad without working, as would be required to facilitate the investigation. No specific measures are put in place to allow those repatriated to easily remain involved in investigations. Moreover, if FL/TIP victims prefer to remain in the country abroad, there are no services to assist them to regularize their migration status and find employment.

**Table 10:** Number of people repatriated by MFAIC, US TIP Reports

Number of people repatriated by MFAIC, US TIP Reports					
2016	2017	2018	2019	2020	2021
815	986	8,489	32,235	10,574	10,406

### 6.2.3 | Support services and resource gaps

#### › SHELTER

It is commonly acknowledged by stakeholders that there is a lack of shelters for protection, emergency care and aftercare services. The government does not focus on providing accommodation and leaves this entirely to NGOs. While several NGOs operate shelters, resources and shelter placements are limited. Many NGOs have specific criteria for who can be accommodated, and generally service only women and children. As a result, men go without access to shelters.

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“There is lack of support and temporary accommodation for male victims. Currently, we use a center in Caritas located in Kandal province for a short stay only for male victims.”

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Government Official

During COVID-19, many migrants returned to Cambodia across the border from Thailand. These migrants were required to undertake quarantine in designated government-run facilities. It was reported that these facilities had insufficient capacity, and this led to many returned migrants not being screened for FL/TIP or care needs. Moreover, the quarantine facilities were reported in the media to be unsafe for women, as many experienced assaults while in quarantine. For many migrants, the outcome of this was ongoing mental health issues.

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“During COVID-19 pandemic, all quarantine centers were full. It was extremely challenging for us. Some of the returned migrants had mental health issues as well. We did not have an appropriate place for them.”

Government Official

## › COUNSELING

As well as providing shelters, NGOs also take the lead in providing psychosocial support, counseling and mental healthcare. Specific gaps highlighted were a lack of psychological counseling and support at cross-border areas, meaning that counseling could often not be provided at first-response stage for deportees. Also, psychological support geared towards men was not easily available.

One good suggestion was that MoSVY needed to conduct a more thorough assessment of the psychological support needs of victims. Further research and consultation on this topic seem important.

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“I have never seen MoSVY produce reports that emphasize impacts on psychology and mental illness. For us, we collaborate for psychological support services.”

CSO Informant

## › HEALTH CARE

MoSVY staff report that they collaborate closely with the Ministry of Health to deliver health services. One issue reported is that there were often delays in sourcing healthcare.

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“They also face challenges when referring survivors to health centers or hospitals because if the in-charge doctor or nurse is not there, the case will be delayed as others could not handle it.”

CSO Informant

Similarly, it was hard for stakeholders to find a healthcare professional available and willing to provide services. To this end some respondents suggested that it would be helpful if a better directory of healthcare providers was available. Another issue raised is that it can take a long time to get health reports that were needed to be used as evidence in cases.



## › LEGAL SERVICES

Victims are reliant on NGOs for legal support. Some NGOs said they were able to provide legal support directly along with identification and other services. Yet there remains a shortfall in resources for legal aid for victims, especially in local areas such as Poipet.

Government departments reported that they often facilitate legal representation to identified victims both within Cambodia and abroad. If abroad, they had contacts with overseas lawyers for this work.

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“We provide legal support for the victims through the provision of lawyers. We use lawyers from NGOs to support the victims. The lawyer works and collaborates with the NGO that rescues and supports the victims in the destination country. Or we use the lawyer from overseas (destination country) to support the victims.”

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Government Official

One criticism raised by stakeholders in the legal sector is that more legal services are provided to defend the accused perpetrators, such as by the Bar Association, than to the victims.

## › SOCIAL SERVICES AND REHABILITATION

Overall, social support services were often said to be insufficient, largely due to resource constraints. Insufficient social services, social workers and rehabilitation services were noted, again with differences in availability of services for men and women.

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“Support services for adults, particularly men, is not available. The service provisions were many for women survivors while the men survivors had difficulty accessing it even in destination countries.”

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CSO Informant

It was also noted that social services did not adequately provide services for a full family unit. It is important not only to treat the individual, but to support them as someone who is embedded within a family structure or other social structure. There are no services provided for those in the labor force as a couple or family with small children. Existing services are either for women and children, or underage migrants. Here it seems that increased resources are needed.

## › VOCATIONAL SKILLS, TRAINING, EDUCATION AND EMPLOYMENT

A major challenge for reintegration is helping victims and returned migrants build a sustainable life in Cambodia. Most migrate in the first place due to a dearth of opportunities to generate livelihoods within Cambodia and especially in their home regions. Many have high levels of debt, and incomes within Cambodia are insufficient

to cope with this debt stress. Similarly, attempts to encourage agricultural livelihoods are unrealistic in the midst of economic, environmental and social changes in Cambodia over recent years.

For the most part, reintegration is not feasible unless a stable alternate livelihood is achieved. To this end, CSOs and the government alike are supportive in providing vocational training and education. However, unless these opportunities are directly linked to concrete employment pathways that are desirable and sustainable, victims are likely to migrate again, with the accompanying risks. In many cases these opportunities are not available.

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“In 2021, there were 26 survivors from trafficking cases that were supported. One challenge observed was the effectiveness of vocational training skills for survivors. Most survivors want vocational training. But after reintegration to the community, they could not use the skills to earn enough money to survive so they migrated again.”

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**Government Official**

Similarly, many survivors face immediate financial needs in supporting their families that force them to abandon reintegration and aftercare services. One contributing factor to this is the inaccessibility of social welfare in Cambodia, which is very difficult for returned migrants to access.

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“The returned victims of labor force trafficking mostly are poor. They are excluded from the social protection program. Some are not eligible for social protection program.”

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**CSO Informant**

This lack of financial support from the state undermines their efforts to achieve reintegration and to incentivize its citizens to return to Cambodia.

## ➤ REINTEGRATION

In addition to the reintegration barriers listed above, many victims suffer stigma, social isolation and social dislocation upon return to their homeland. Many feel the pressure to have been deemed a success during their migration journey and feel that they are expected to return home with wealth and be able to build a house or similar. Instead, FL/TIP victims can return traumatized and poorer than when they set out and, therefore, feel a great deal of social shame.

It was also noted that family tracing services are limited, which can mean that many victims do not make it home at all.

**Table 11: Number of people reintegrated, US TIP Report**

Number of people reintegrated, US TIP Report			
2018	2019	2020	2021
303, (+848 to NGOs for reintegration)	968	104	Not reported

### 6.2.4 | Migrant resource centers

One potential positive development is the slated opening of a new center for care located in Kandal Stoeng to be operated by MoSVY’s Department of Rehabilitation. MoSVY reported that they would like to open more centers like this, which can be designed to cater for returned migrant workers and to focus their victim support work.

“We have policies and standards developed and endorsed. However, we do not have a center for this work yet. If there is a center, we can build human resources and staffing to manage the center. What currently exists is very limited at the moment.”

**Government Official**

Similarly, NGOs run several MRCs with project support from ILO and other partners. The MRCs are located in Prey Veng, Kampong Cham, Kampot, and Banteay Meanchey<sup>30</sup>. A new MRC in Srey Saphon, Banteay Meanchey was launched in May 2022. It is run by ILO and CSO, Center for Alliance of Labor and Human Rights (CENTRAL). Its main function is to provide counseling, information and training to migrant workers on the topics of migration safety and migrant worker rights. Overall, these types of migrant focused centers were highlighted by stakeholders as useful hubs for workers to learn about migration and prevent FL/TIP, but also for sourcing support services upon return and reintegration.

## 6.3 REMEDIES AND COMPENSATION

### 6.3.1 | Procedure for formal compensation

When a perpetrator has been found to be guilty of FL/TIP, they will be asked by the court to accept the result and agree to pay compensation to the victims, as well as a penalty to the government. According to court officials interviewed, this compensation is to some extent made “on a voluntary basis”.

In practice, however, if the perpetrator disagrees, the trial’s result will be enforced, and the perpetrator will be ordered to pay compensation. When the court orders compensation to be paid, it will examine the assets owned by the offender, and can order that they be sold to pay compensation to the victim. Once a final trial decision has been made, the court can freeze the property of the offender.

If the perpetrator has no property and cannot afford to pay compensation, there will be a warrant to implement the “physical force punishment”. Under the “physical force punishment”, the offender can be jailed for an extra period in addition to the jail term for the crime that they committed (see further discussion under 7.3.3).

For the compensation paid to the victim, it is incumbent on the victim to file a complaint that demands the amount of compensation they want to ask to be awarded. Thus, it is very important for the victim to have legal representation at this stage, as Judges have noted during the interview.

If the offender does not pay them compensation, the victim must file a civil complaint to the prosecutor for payment. These complaints can take an extended period to achieve results because a perpetrator must finish their sentence before they are required to pay compensation.

For the penalty payment to the government, the money will be transferred to the Provincial Treasury. However, the Provincial Treasury does not always request this payment.

### 6.3.2 | Calculating compensation

In criminal cases, there are two types of compensation,<sup>31</sup> namely “civil complaints” (Bandoeng Ratpaveny), which focus on compensation for damages, and “criminal complaints” (Bandoeng Anhaa). The compensation will be calculated based on both, and thus compensation to victims will be awarded under two types of damage - damage of lost earnings, materials and property, and compensation for emotional damage, valued in monetary terms. In practice, compensation in Cambodian FL/TIP cases is usually calculated based on lost salary plus emotional damages.

Overall, informants say that when compensation is awarded in FL/TIP cases, it rarely amounts to a substantial sum. Often the court will leave it to the victim to make the case for their damages, although sometimes an expert is consulted. According to interviewees, the court lacks skills in assessing emotional and psychological damage.



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“We are not sure how the compensation works related to disability. We only know that there are two types of compensation. One is civil compensation and another one is psychological compensation.”

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Prosecutor

### 6.3.3 | Enforcing judgments on compensation

Even with a successful prosecution in which a victim is awarded compensation through a favorable judgement, it is very hard to enforce that judgment in practice. In effect, there is little to compel a perpetrator to pay compensation to the victim, with little monitoring or oversight of judicial decisions:

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“Compensation is complicated. The bailiff (Anha Sala) is not available in all the provinces. There are only prosecutors available across the country. We do not have a system to assess someone’s property or wealth. There is no registration at MoJ yet in order to enquire for compensation.”

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CSO Informant

In the majority of cases the offenders are poor and not able to pay the compensation. Thus, the victim goes without compensation and the perpetrator can be made to serve more jail time.

If the perpetrator refuses to pay compensation, the victim must bring an action to the court to compel payment which are known as a “physical force” proceedings – thereby having to go through the court process all over again. Moreover, a perpetrator that doesn’t face jail time will often leave the local area, making it difficult to find and pursue further legal action.

Another issue raised in the interviews is that compensation is often used merely to pay prosecutors and police, leaving the victim without compensation:

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“Corruption is also problematic when it comes to compensation. For example, there was 2M riel compensation<sup>37</sup>. The amount would be divided up to different portions for the police and prosecutors (under the table payment as a thank you to them) and the amount could be up to 3M riels. This means nothing left and the victim even paid 1M riels in addition to the compensation amount, so what is the point to demand for the compensation?”

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CSO Informant

In terms of FL/TIP cases to Thailand and other destinations, it is notable that recruitment agents are required to pay a large guarantee-deposit of US\$100,000, ostensibly to cover compensation. Respondents suggested that this is not accessible in practice, however, so it does not assist with claims against recruitment agents.

One suggestion is to impose timeframes for implementing or enforcing compensation.

### 6.3.4 | Priorities of victims and informal settlements

In practice, pursuing remedies through the justice system is often not practical for FL/TIP victims. Many faces a situation where they acutely need to earn a livelihood, which is prevented by engaging in the time-consuming court system. For those working abroad, it is costly and risky to remain in a foreign country to pursue a judicial proceeding. As discussed in Section 5, victims often view court proceedings as being intimidating, demanding and too lengthy. Instead, victims often prefer expedient outcomes via informal settlements with perpetrators or employers.

In most cases, victims of exploitative labor practice are prepared to accept lower settlement amounts because they represent a quick and certain outcome, allowing them to get on with their lives, find a new job or return to their home:

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“Remedies between families of survivors and brokers/perpetrators outside the court system is still popular for all cases even if they are criminal cases.”

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Government Official

One respondent also suggested that fear was a contributing factor to the settling of cases outside the formal justice system.

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“If it is about emotion and mental aspect, compensation is not a main reason that people drop their complaint. However, they drop it because they are scared.”

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Prosecutor

It is important to acknowledge that, in the context of long and uncertain court processes, out-of-court settlements may often represent the best option for victims, even if the compensation received is much lower than could potentially be achieved through the legal system. As noted in the Thailand report, this process provides very few disincentives to perpetrators of exploitative practice, however.

### 6.3.5 | Victim fund and recent progress

Challenges to obtaining compensation for victims of FL/TIP are not new. In IJM’s 2016 study, it was also reported that victims seldom receive adequate compensation. All stakeholders highlighted the need for this issue to be addressed to ensure recovery for victims and so that victims take part in prosecution cases. Unfortunately, little has been done in the years since, and court compensation orders remain hard to enforce.

To address this issue, advocates have suggested that the NCCT should administer a fund for survivors of trafficking with a clear process for survivors to access the funds. Stakeholders interviewed acknowledged that some type of scheme to ensure compensation was needed.

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“It is very hard to claim the compensation. The government should create a kind of reserve fund or victim fund which is not a compensation but a subsidy to support the victims during and after the court case. In Thailand, the Victim Fund receives money from lottery. There should also be a social aid fund at MoSVY too.”

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**CSO Informant**

Another idea suggested by a stakeholder was to further develop access to employer and recruitment agent deposits. Pointing to systems in other countries such as Singapore, an employer must put reserve capital in the bank so it can be accessed when there is case and demand for compensation. This not only supports victims' access to funds but also promotes compliance with the law.





# 7 STAKEHOLDER COLLABORATION



# 7 STAKEHOLDER COLLABORATION

## 7.1 INTER-AGENCY COORDINATION

### 7.1.1 | Overview

As detailed in Section 3, prosecution requires collaboration and referral between NGOs, police, Judicial Police, AHJPD, MoJ, MoI, NCCT, MoLVT, investigative judges, judges, prosecutors and legal representatives. Similarly, victim care can require collaboration and referral between NGOs, migrant transit centers, Social Affairs (MoSVY, DoSVY, PoSVY), MoWA, Judicial Police, and various service providers (spanning health, rehabilitation, employment, education and vocational skills).

All domestic stakeholders agree that stakeholder cooperation is vital for successful FL/TIP case responses, in terms of both prosecution and victim support. Stakeholders reported that collaboration has been improving over time and they identified several areas where interagency collaboration could be further improved. They highlighted in particular having a mutual understanding of each other's role and priorities.

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“Combating human trafficking is an inter-ministerial intervention. Even though our relationships with other relevant stakeholders are good, there is still a different level of understanding of the intervention among us. So, we need closer collaboration.”

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Government Official

### 7.1.2 | Guidelines for coordination

Stakeholders agreed that the roles and responsibilities of each stakeholder must be clearly set out and agreed upon by all parties.

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“We have been developing a clear mechanism to better collaborate among key ministries. We already have MoUs. We now need a practice procedure to assist in implementing our work and improve collaboration. It should set clear roles and responsibilities of who is doing what.”

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Government Official

Such guidelines will also ensure the sustainability of collaboration. Currently, this often relies on personal working relationships and collaborative knowledge that has been built over time. However, it was highlighted that collaboration between departments is not formalized through regular meetings and dialogues, making continued collaboration difficult after staff changes at departmental levels.

### 7.1.3 | Different understanding of FL/TIP

Stakeholders indicated that different ministries and agencies interpret the FL/TIP legal frameworks in different ways.

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“At the country level, the interpretation of the legal frameworks at different departments such as police, PoSV and, court were different for some cases because their understanding on the law and procedures are different and each agency has no authorization for feedback to each other.”

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CSO Informant

The NCCT and PCCT have good mechanisms for achieving cooperation and for working toward a collective approach to FL/TIP. However, those improvements do not always filter down to lower levels. Key ministries such as MoI and MoJ, lack a uniform approach to the FL/TIP law. Stakeholders and government officials at the operational level may have different understandings of FL/TIP, and need a forum to work through these differences together,

For example, investigation police find it difficult to understand how prosecutors will interpret cases.

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“For instance, we can conclude the case and recommend the type of crime to the prosecutor. However, the prosecutor has the authority to decline it and make their own conclusion. They change the type of the crime from what we suggested to something else.”

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Provincial Police Informant

### 7.1.4 | Data collection and information sharing

As noted by IJM in 2016, and numerous US TIP Reports, data collection regarding FL/TIP cases is very poor and is unsystematic. Moreover, the case data that exists is not widely shared.

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“There is a lack of a data system. So, we need to collect data from our colleagues at the provincial level.”

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Government Official

There needs to be clear directions about how data is collected and monitored to ensure uniform collection.

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“Sometimes, the case is not relevant as a trafficking case, however it is recorded a case of trafficking because people just want to show in their record that they work on the case based on their set target.”

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CSO Informant

Nonetheless, there has been some progress as evidenced by improvements to the TIP case data reported to the US TIP Report in recent years. Data is now being reported nationwide, not just at Phnom Penh courts. Another improvement has been better case data being maintained within the court itself.

### 7.1.5 | Coordinating investigations

It was noted in IJM’s 2016 report that FL/TIP cases often stall due to ineffective collaboration between police, prosecutors and investigating judges. In the process of this research, stakeholders did not report this as a current issue. While collaboration could, of course, be better, investigative actors reported a generally positive evaluation of collaborative efforts.

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“We collaborate with the prosecutors and judicial entity. We also work with the Social Affairs department. We collaborate with relevant provincial departments.”

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**Judicial Police Informant**

Stakeholders generally understood their roles well, and provincial police usually relied on AHJPD for guidance. One issue raised was that collecting evidence could be slow when service providers and experts are involved.

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“Obtaining forensic reports related to sexual abuse from Ministry of Health (MoH) for other cases is slow. We do not get a result from MoH on time. They probably lack the budget to process this work for us. Sometimes, their result is not usable for the trial. It is hard to rely on and make decisions based on it for the trial purpose. For sexual abuse offenses, we need evidence. Otherwise, the offender can be released after a certain period of detention.”

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**Judge**

### 7.1.6 | Coordinating investigations

Police and government officials alike reported that the connection to court actors can be challenging, and that they have only a limited understanding of court proceedings and legal procedure. Moreover, they hear little of the case once it has been sent to court.

Additionally, police say they sometimes feel they are being looked down upon by the judiciary, and this leads to a certain hesitation in working together. Recently, however, efforts by prosecutors and police to build rapport have seen improvements in collaboration.

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“Our collaboration with the prosecutors and police (AHJPD) is smoother. Previously, it was not as smooth as it is now. They behaved as though they were our superiors and had higher knowledge than us.”

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**Provincial Police Informant**

Another improvement in communication has been through the use of technology, with apps being used to discuss cases with less delay, more availability, and more responsiveness.

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“Previously, it was very challenging...If we wanted to talk to them (the prosecutor and judicial stakeholders), we needed to meet them in person. Now, with advances in technology, we can communicate through phone calls and mobile communication apps. We feel freer to communicate. We do not feel as much hesitation as there was in the past.”

Provincial Police Informant

### 7.1.7 | Coordinating victim support

Referral mechanisms for victim support were functional, although stakeholders noted that sometimes a victim could “slip through the gaps” as various service providers had different criteria for accepting referrals

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“There was a case where the victim suffered from a mental health issue. We checked with the Social Affairs Department for their support services or whether they have a center that the victim can be placed at. If there is none, we now can transfer the victim to the new center in Kandal Stoeng, Kandal Province instead. For this case, there were not services for the victim where they were. So, we transferred them to the new center.”

Prosecutor

As highlighted earlier, stakeholders reported that Social Affairs and social services were not included often enough in investigation and court processes. Social Affairs representatives, CSOs and social welfare providers are not being notified by police and court officials about case proceedings, and this means that victims’ wellbeing is not sufficiently safeguarded throughout the judicial hearing. Similarly, during investigation, victim support is not being notified, meaning that victim-sensitive interviewing is not always conducted. Social welfare actors need to be better included in these processes, and at an earlier stage of proceedings. Stakeholders sometimes think that support services are only needed for specific types of FL/TIP cases.

An ongoing issue highlighted is that there is poor follow-up after a case is reported or referred. Participants involved in the early stages of a case do not remain part of the case once it has been referred. This prevents collaboration and case capacity being built over time, and no feedback is given for stakeholders to learn from the process.

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“Cases that go to court don’t keep other parties informed and exclude them under ‘confidentiality’”

Police Informant

Overall, stakeholders said that at the community-level, collaboration was improving over time as stakeholders worked together, built relationships and strengthened communication channels.

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“One of the biggest improvements in the last five years has been improved collaboration among NGOs and authorities. It proceeds faster.”

CSO Informant



## 7.2 CROSS-BORDER COOPERATION

### 7.2.1 | Operationalizing collaboration frameworks

While there exist overarching MoUs that call for cooperation between Thailand and Cambodia, a great deal more specificity is required to implement their goals and to institute collaboration in practice. Government respondents indicate that the MoU provides an overview of referral mechanisms, but government actors and officials themselves do not have a clear idea of their specific role. They say that cooperation mechanisms need to clearly define the roles of the actors with respect to the legal process and case response, with reference to specific departments.

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“The MOU only states a referral mechanism and a general legal response for each country, but it is not specific for each department.”

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**Police Informant**

To this end, guidelines and SOPs play a crucial role in providing clear procedures for collaboration through step-by-step guidance. Very recently, the Thai and Cambodian governments have responded to this challenge by producing SOPs related to FL/TIP victim services and FL/TIP law enforcement respectively. In 2021, the Cambodian and Thai governments finalized an agreement to establish SOPs on the repatriation and reintegration of Cambodian trafficking victims. In August 2022, the Cambodian and Thai governments signed a deal to introduce SOPs on law enforcement cooperation against human trafficking, (signed between NCCT and Thailand’s Ministry of Social Development and Human Security).<sup>33</sup> IJM’s 2016 review and USTIP reports have all called for the introduction of more guidelines and SOPs for collaboration.

### 7.2.2 | Joint investigation

One area in which collaboration was identified to be lacking is in investigation. All too often, perpetrators who were abroad managed to escape consequence, despite significant case evidence being collected in Cambodia.

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“The suspect was outside of detention due to the crime happening in China. The victim was trafficked to China. We could only interview the victim. There was no other further investigation. Eventually, we could only arrest the broker but not the buyer. This means the one who received the victim at the destination country was not arrested and remains free from the crime they committed. There was a lack of collaboration for investigation.”

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**Judge**

While recent SOPs may touch on investigation to an extent, there needs to be specific attention on how countries can work together in investigating FL/TIP cases.

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“There should be a MoU for investigation crossing the countries. The existing MoU only focuses on repatriation. However, there is no MoU related to joint investigation. Also, identification should be in common.”

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CSO Informant

Some stakeholders suggest that action needs to extend beyond operationalization directives and include the setting up of dedicated joint investigation teams. At the moment, collaboration relies on the working relationships between individuals from respective countries, but these are neither stable nor sustainable. These working relationships need to be strengthened through a formalized channel that involves regular contact, co-working, discussion and meeting, for collaboration to be effective.

### 7.2.3 | Inter-ministerial collaboration

Inter-ministerial meetings on FL/TIP do not often occur beyond meetings between the NCCT and their Thai counterparts. The parties included in meetings need to be expanded and focused on specific topics of collaboration. One way this could be addressed is through inter-ministerial working groups between Cambodia and Thailand.

For example, in response to the significant prevalence of forced labor and labor abuses of migrant workers in Thailand, MoLVT has reported that it is keen to lead an inter-ministerial working group created under Decision #97. One way this channel could be effective is to facilitate meetings between Thai and Cambodian ministerial counterparts, such as justice ministries, labor ministries, social affairs ministries, and law enforcement officials.

Further to this example, it was noted in 2016 by IJM that MoLVT needs to play a more active role in ensuring that labor trafficking crimes are prevented, identified and processed through the public justice system. These sort of initiatives where MoLVT work closer with other ministries should be a forum for them to discuss how labor laws, migration laws and recruitment laws can be better designed and regulated to reduce FL/TIP vulnerability and diminish the “enabling environment” in which FL/TIP can occur.

### 7.2.4 | Victim identification in different jurisdictions

A significant challenge to collaboration can be the difference in laws across jurisdictions, particularly with respect to defining FL/TIP and to victim identification.

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“Cambodia complies with Palermo Protocols whereas some countries do not. So, it is a challenge when it comes to international collaboration. Japan does not follow Palermo Protocols. They use their own local law that indicates elements to consider as a trafficking case. Then they intervene accordingly.”

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Police Informant

The difference in law can mean that a perpetrator or victim who would encounter the justice system in Cambodia may not be identified abroad. This can also be because countries abroad do not always have incentive to identify FL/TIP cases of migrant workers or foreigners in their country. These differences in law can also stifle collaboration due to confusion and differences of opinion between the officials of respective countries.

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“We cannot force other (countries) to arrest their own national people nor amend their laws to accommodate us. We can only propose an increase in collaboration.”

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Police Informant

### 7.2.6 | Border collaboration with Thailand

Authorities in border provinces have developed many informal procedures for collaboration, including unofficial border pass systems to assist border communities with working in Thailand. Because these authorities spend time working on the ground, they are more responsive to immediate concerns and changes in migration dynamics. Therefore, they exhibit a good degree of cooperation and established working relationships. They can contact each other quickly and arrange regular meetings, as needed, to respond to cases and conduct border operations. These processes are largely informal.

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“There is no MoU for cross-border collaboration at bordering areas. Yet, we have a common report to write. For patrolling, for example, the Thai migration police would ask whether the Khmer police would like to joint-patrol the border with them by walking on our own individual sides.”

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Government Official

Collaboration among authorities in border areas tends to be focused on border security and distinguishing regular from irregular migration. In many instances, efforts to police the border and apprehend workers undertaking irregular border crossing are presented as successful counter-trafficking efforts. In practice, this is not necessarily the case, as irregular border crossing is undertaken commonly by many migrant workers and can be associated with positive migration experiences.

As discussed elsewhere, overemphasis on border security as a response to TIP can have the effect of focusing counter-trafficking efforts of inadvertent “brokers” (i.e. family members and local contacts) and obscure the importance of focusing counter-trafficking efforts on employers and organized traffickers responsible for exploitation and abuse.

### 7.2.7 | Information sharing

A commonly raised issue was that Thai counterparts do not share information easily with Cambodian stakeholders. This is hopefully an issue addressed adequately in the recently created SOPs, however significant work must be done to identify which

information should be shared, by whom, and how. Clear obligations and duties for sharing information on cases would increase capacity for all actors to collaborate and build capacity over time.

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“For following up, whatever the Thai counterpart does, we have no clue. There is not any clear mechanism in providing response back to us. When we want to follow up for an update, there is nothing for us to refer to that they need to get back to us.”

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**Prosecutor**

Further to this, data collection needs to be improved also between Cambodia and Thailand in order to capture FL/TIP vulnerability, the prevalence of issues faced by migrant workers, working conditions, access to services and for measuring improvements to their wellbeing. Existing data is not regularly shared between countries. Thai data on regular migration of Cambodians is substantial, however as great proportion of migrants are irregular, they are not recorded in this data. There is little data collection on migrant workers from the Cambodian side.

### 7.2.8 | Repatriation and victim support

The strongest area of collaboration was reported to be repatriation of victims and referral to Cambodia’s victim service providers.

Social welfare stakeholders indicated that MoSVY/DoSVY and Thai counterparts work well together to facilitate repatriation and family tracing. While Thai authorities do not always provide advance notification about migrants who will be deported (Section 6.1.7) there is better communication with the PTC on the return of trafficked persons. This ensures that PTC staff can undertake family tracing for the victim ahead of their return. PTC staff will then update Thai counterparts about whether a victim’s family has been identified or if more time will be needed prior to their arrival, necessitating a delay. Parties report good communication channels.

In respect of repatriation, embassies and NGOs were reported to be experienced and helpful in arranging for FL/TIP victims to return to Cambodia. NGOs play a leading role in this cross-border process. Networks of collaboration between NGOs - each with links to local and national authorities - are reasonably strong, which ensures that victims return to Cambodia with some support in place.

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“I have observed that during repatriation, the victims are well taken care of. Before repatriation, they (Thailand) provide information to relevant ministries such as MoI, MFAIC, MoSVY and so on. Then we look for a safe place for them and provide basic social services. Basically, there is a clear information provision to us by the destination country and returned country.”

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**Government Official**

It was also reported that repatriation efforts are improving to countries beyond Thailand.





8

STAKEHOLDER  
CONFIDENCE IN THE  
JUSTICE SYSTEM

Rakuten

# 8 STAKEHOLDER CONFIDENCE IN THE JUSTICE SYSTEM

All stakeholders who took part in the key informant interview process were also asked to fill out a stakeholder confidence questionnaire. A total of 32 stakeholders responded, made up of key informants working in NGO, police, government and court roles. This section summarizes responses to this questionnaire.

*Figure 9: Survey respondents by sector*

NGO	Police	Government	Court	Total
8	5	13	6	32

The questionnaire contained seven statements, to which participants were asked to respond using a Likert scale on agreement, that is to choose one of the following options for each question: (1) strongly disagree; (2) disagree; (3) neutral; (4) agree; or (5) strongly agree.

The statements assessed whether the stakeholder had confidence that:

1. The justice system coordinates effectively to secure justice for vulnerable people who experience forced labor and labor trafficking.
2. The justice system overall is effective in deterring forced labor and labor trafficking, and is reducing the prevalence of this force labor and labor trafficking, based on the success of its work.
3. Their organization is independent in doing its work related to justice on matters of forced labor and labor trafficking.
4. Their organization provides timely services in the pursuit of justice on matters of forced labor and labor trafficking.
5. Their organization is accessible to members of the public, and anyone who wants to engage with it on matters of forced labor and labor trafficking can reach it easily.
6. Their organization enjoys good political support from government and politicians in doing its work.



- 7. Their organization treats everyone equally and without any forms of discrimination when people interact with the institution on matters of forced labor and labor trafficking.

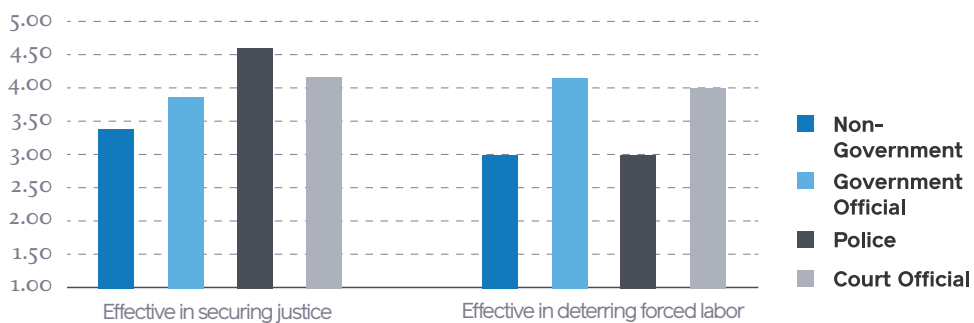
The first two questions were intended to assess the stakeholder’s confidence in the criminal justice system as a whole in terms of securing justice for victims and deterring offending. Analysis of the data, shown in the table below, highlights markedly different perceptions of confidence in the criminal justice system to secure justice for victims, and deter offending.<sup>34</sup> It should be noted that there is only a small sample size for each category of respondent, particularly for police and court officials. This limits the robustness of the findings, so must be taken as only generally suggestive.

Regarding the stakeholder’s confidence in the effectiveness of the criminal justice system securing justice for vulnerable people who experienced labor trafficking or forced labor, police were most optimistic, with an average score of 4.6, followed by court officials on 4.17, which equates to an average confidence of between “agree” (4) and “strongly agree” (5). Government officials had an average confidence score of 3.85, and NGO respondents had an average confidence score of 3.38 which equates to an average confidence between “agree” (4) and “neutral” (3).

With regard to the stakeholder’s confidence in the effectiveness of the criminal justice system in deterring forced labor and trafficking, government officials and court officials were markedly more optimistic, recording scores of 4.15 and 4.00 respectively. Meanwhile police and NGOs were only neutral in their response (both exactly 3.00). This may be because those working in the frontline and on the ground see many complex drivers of FL/TIP unrelated to the justice system response.

**Figure 10:** Stakeholder responses on effectiveness of criminal justice system – average confidence scores

**The justice system, regarding forced labor and trafficking, is:**



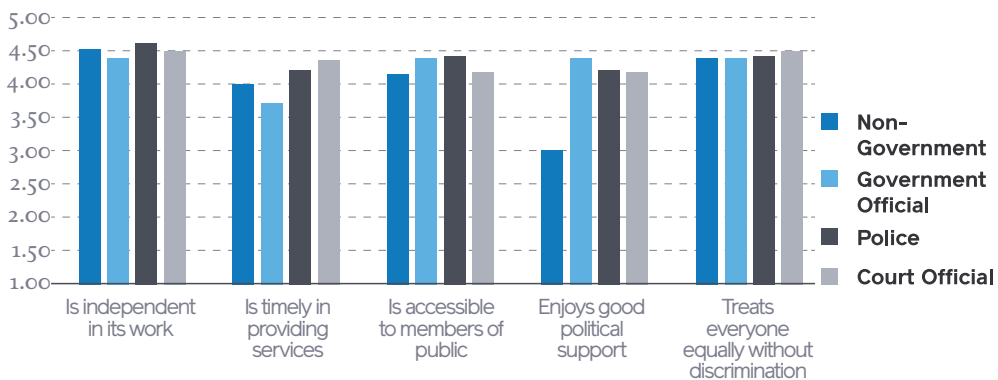
The remaining five questions assessed the confidence of respondents in their own organization's actions and performance. There are a few noteworthy points as follows:

- Government officials felt that their organization was less timely in doing their job, relative to the other actors.
- NGOs felt they were relatively less politically supported than other actors in doing their job to respond to FL/TIP.
- Government officials felt they were independent, accessible and treating everyone fairly.
- Police and government officials both agreed fairly strongly that they were accessible to members of the public.

It was also notable to see that the responses of government officials were roughly in line with those working at the police and the court. While NGO responses were somewhat more critical, there was only a marked discrepancy in relation to a few questions. NGOs, in particular, expressed a lower faith in the justice system as a whole.

**Figure 11:** Stakeholder responses on role of their organization – average confidence scores

**My organization, in pursuit of forced labor and trafficking:**







# 9

## CONCLUDING COMMENTS AND RECOMMENDATIONS

# 9 CONCLUDING COMMENTS AND RECOMMENDATION

Overall, findings from this study suggest some notable progress in relation to Cambodia's response to FL/TIP over the past six years. At the same time, there are numerous remaining areas to address. This section provides a brief introduction to the recommendations and then lists a series of recommendations arising from the report findings.

## 9.1 CONCLUDING COMMENTS

In relation to cross-border FL/TIP of Cambodians to Thailand, a key theme throughout the research, consistent with the findings of the Thailand country study, is that this largely arises out of structural vulnerabilities that leave migrant Cambodians workers without full access to rights under Thailand's law. This is because cross-border migration does not fit neatly with a perpetrator-victim model when much of the coercion is structural and, in many ways, facilitated by the legal and policy framework itself.

While the justice system is intended to play a key role in deterring perpetrators, this role is diminished in the context of an MoU system that is not fit for this purpose, and a Thai legal environment that does not envisage migrant workers as entitled to agency or autonomy. Therefore, to meaningfully address forced labor among migrant workers in Thailand, the impact of incremental changes will be limited. Systemic reform is needed to remove the fertile enabling environment which currently allows exploitation.

For other cases, such as FL/TIP to other countries, the role of the justice system remains key in deterring perpetrators. Similarly, for the raft of high-profile cases of foreigners trafficked to Cambodia in recent times, which were conducted on an industrial scale by organized teams of perpetrators. For these cases, stakeholders have identified several areas where the system can be improved in conducting inspections, investigations, and prosecutions, thereby contributing to the deterrence of such incidents.



For all FL/TIP cases, the justice system plays a key role in victim support. Authorities in Cambodia clearly demonstrate a will to perform their duties in this area, albeit with the limited resources they have been given. Authorities are therefore highly reliant on assistance from NGOs, yet their role is crucial, and victims can only benefit from greater provision of resources and an expansion in services provided by social services and NGOs.

## 9.2 RECOMMENDATIONS

Based on the findings of this study, as summarized in the executive summary, RCG presents the following recommendations to strengthen Cambodia's justice system response to FL/TIP cases. The recommendations, which are not in order of priority but categorized by topic, cover four common themes:

1

**Boosting the agency of migrants by addressing migration system design flaws that prevent migrants from protecting themselves.** This includes reducing migrants' financial and legal dependence on employers, recruiters, government authorities, and bureaucracy, and removing barriers that prevent migrant workers from leaving abusive and dangerous work situations. Overall, these interventions will reduce opportunities for migrants to be exploited throughout their migration journey and make them less vulnerable to FL/TIP.

2

**Intensifying identification efforts by motivating justice system actors to screen more at-risk workers, identify more cases, and monitor more sites of risk.** This study found that overall, too few cases of FL/TIP are being identified even before those cases enter the justice system process. This is because in many settings, no inspection, monitoring or FL/TIP screening is being done at all, and is not required to be done. To identify more FL/TIP cases, more FL/TIP screening among vulnerable populations and work settings needs to be done, using monitoring, reporting and inspection measures which integrate effective FL/TIP screening. Although capacity issues clearly remain, the team considers that with the right incentives, many of these could be addressed. Conversely, without the right incentives to act, further advancements in capacity are unlikely to have any real effect.

3

**Incentivize victim participation to enter and remain in the justice system by removing barriers, providing support, and providing access to remedies.** This study identified many barriers discouraging victims from entering the justice system and persisting through the judicial process. There are too many barriers to participation and too few benefits from a victim participant perspective. Instead, victims regularly find informal modes of remedy such as mediation, abandoning their claim and informal settlements.

**Institute channels for justice system actors to coordinate together to carry out their duties and do so effectively.** This study found that cooperation and coordination among actors is currently limited at the cross-border level. To address this, channels for collaboration must be institutionalized through regular working bodies, guidelines for practice and by strengthening networks of mutual understanding. By comparison, the establishment of the NCCT and its working groups within Cambodia have provided a forum for inter-ministerial cooperation and regular discussion on FL//TIP. This measure is effective because cooperation is institutionalized and strengthened over time, and it removes friction when participants want to approach each other. Similarly, channels for collaboration need to be established at the operational level, both within Cambodia and cross-border to Thailand.

## 9.2.1 | Prevention – reducing opportunities for traffickers

1. **Address design flaws of MoU migration channel:** The MoU system is not attractive to many migrant workers as it is expensive, difficult to access, and does not guarantee migrants safety. For the MoU channel to be effective it must suit the migration needs of its users across multiple dimensions. For the MoU to be changed it would take significant will from both the Cambodian and Thai governments, with particular emphasis on the Thai government being prepared to provide Cambodians with meaningful access to full rights in Thailand. Grievance mechanisms must be improved, and workers need more autonomy to make decisions, such as by making it easier to change employer. Respective governments should involve migrant workers and their representatives to participate in the policy development process.
2. **Regulate fees charged to migrant workers and abolish up-front payments:** The MoU often leaves workers with significant debts to employers and MFI lenders, so workers feel they have little choice but to persist with abusive labor conditions. Although there is a push in some quarters for no fees at all to be charged to migrants, it is unlikely that this is scalable, with (1) many work-arounds already noted to collect fees from migrants, including in relation to the Thailand ban on recruitment fees, and (2) criminal space created by basic supply and demand issues with more willing workers than low-skilled, and (3) the corresponding lack of a viable business model for recruiters not charging fees to migrants. As an interim step, the example of Myanmar in regulating fees has not just reduced fees to migrants, but also introduced transparency into the full costs faced by recruiters, including kickbacks. A complementary measure would be to abolish all up-front costs and charges that are charged to Cambodian migrants to secure migration documents and have payment come out of their wages through a clearly documented process.



3. **Advocate for minimum standards on destination countries:** Cambodia should, in partnership with other labor sending countries where possible, outline minimum standards that must be guaranteed for all Cambodian migrants abroad by foreign counterparts. These should cover key worker rights such as the right for workers to organize and form unions, independent grievance and remediation mechanisms that are meaningfully accessible, proactive monitoring and inspection of workplaces and the ability to freely change jobs.
4. **Increase the requirements on recruitment agencies to monitoring worker welfare and address working concerns, including through using their deposit to compensate workers:** Legal obligations should be placed on recruiters to guarantee worker safety and to take an active role in ensuring their safety abroad. Employment contracts for migrant workers should be provided with minimum standards. Recruitment fees should be reduced, standardized and regulated. MoLVT should introduce channels to report bad behavior, check reliability of existing recruiters, and provide compensation to workers. Overall, there needs to be increased monitoring of recruitment agents, and the introduction of meaningful consequences for poor performance.
5. **Improve monitoring of MFI sector:** While the MFI sector is taking steps to be self-regulating, this is not sufficient to guarantee good behavior. RGC needs to ban and monitor coercive MFI practices including ensuring that debts incurred through coercion are not legally binding. RGC should also consider reducing the cap on MFI interest to prevent spiraling debt. In addition, some stakeholders have suggested that the NBC and MFI bank representatives should be engaged to participate in C-TIP meetings.

## 9.2.2 | Investigation of TIP/FL cases within Cambodia

6. **Ensure inspection and investigation of at-risk industries:** Casinos, brick-kilns and online-scam facilities have all been highlighted as hotspots for TIP. Investigations so far have led to a few court cases and prosecutions. It is essential for public confidence in the judicial process that these workplaces are investigated, and appropriate charges laid. Authorities should have procedures to regularly identify at-risk settings which are designated for focused inspection activities.
7. **Address resource gaps:** (1) Fund FL/TIP investigations through up-front payments rather than via reimbursement as it creates limitation in police carrying out their duty. (2) Funds to FL/TIP police units are reported to be insufficient and need to be increased. (3) More female police officers need to be hired and trained on FL/TIP, which will assist with victim sensitive interviewing and approaches.
8. **Capacity building areas:** Capacity gaps of local police were often raised as a barrier to FL/TIP justice proceedings. Some topics raised for attention are as follows: (1) victim sensitive interviewing; (2) new forms of FL/TIP - including

debt-based FL/TIP; (3) skills for working with survivors and family during the justice process; (4) collecting evidence effectively; and (5) identification and recognizing common FL/TIP in the community. In addition, training sessions would benefit from the inclusion of multiple stakeholders in order to strengthen networks, information sharing and collaboration. It was mentioned that police officers must have a regular three-month refresher training, and FL/TIP could be covered within this regular refresher session.

9. **Develop guidelines on victim-sensitive approaches to investigation and other processes:** Victim sensitive principles were reportedly not upheld across the justice system, including investigation, victim interview, court attendance, and victim support. Practical guidelines and training for victim care can assist authorities undertake their roles with reference to specific scenarios that are faced by them in their everyday work.
10. **Develop specialist capacity for countering on-line FL/TIP:** This study found that FL/TIP practices are increasingly using newly emerging technology and are linked to other online activity. Investigative police indicate that more support is needed to conduct online investigations, collect on-line evidence and identify on-line networks. Specialized police capacity should be developed with expertise in both digital technology and FL/TIP.

### 9.2.3 | Prosecution of TIP cases within Cambodia

11. **Remove barriers to participation in Cambodian legal process:** Cambodian victims continue to find it difficult and unappealing to pursue legal cases in Cambodia. They are considered slow, onerous and with little prospect of receiving compensation. Victims need further support to incentivize them to pursue a claim through the justice process. This includes financial support for the victim to cover the cost of attending court, legal support, and increasing accessibility.
12. **Develop a justice system process guide for victims:** Victims participating in the investigation and trial process are reportedly not given clear explanations of what to expect from the judicial process, including the various steps and how long they can be expected to take. This results in victims feeling overwhelmed, discouraged and not taking ownership of their case (i.e., feeling it is the lawyer's case). Victims can be supported with a guide that sets out relevant information and expectations in a user-friendly and sensitive manner. Such a guide should use successful cases as a model. In addition, NGOs can engage past actors to support new cases and share experiences of success.
13. **Prevent abscondment of perpetrators:** Court actors revealed that perpetrators often went missing after they were first detained and released and could not be found to participate in the trial. The court should consider a bail or security deposit arrangement and conditional release with attendance requirements of alleged perpetrators.

## 9.2.4 | Victim Identification

14. **Review use of victim identification forms and continue to strengthen victim identification protocols:** The widespread use of the standard identification forms provided in the Victim Identification Guidelines has been a positive step, yet stakeholders report that not all departments use these guidelines. The government should (1) review the current discrepancies to identify any outstanding issues and harmonize the victim identification forms to be useful for all relevant stakeholders; and (2) strengthen efforts to fully implement the nationwide protocol for proactive victim identification among vulnerable groups and train officials in all areas of the country on its provisions.
15. **Increase use of forced labor indicators to identify debt bondage and forced labor situations, both in Cambodia and Thailand:** Cambodian migrant workers commonly take out loans from their employers to pay for migration costs creating a relationship of dependence. This can make their working relationship coercive and make workers feel they have no choice but to endure labor abuses. Domestically, MFI loans can be a significant factor in abusive labor situations. More needs to be done to identify these FL/TIP cases that are based on debt. A specific approach to identifying these circumstances should be formulated as in the Victim Identification Guidelines. So far, MoLVT labor inspections have not proved capable of identifying forced labor, while FL/TIP identification mechanisms are not specifically geared to identifying coercive debt relationships.
16. **Continue to strengthen community-based approaches to identification and reporting:** While FL/TIP victims themselves are not always the first to report or to self-identify, family members and friends are often consulted by victims who can encourage them to report. Efforts to strengthen the knowledge of community members about identifying FL/TIP and using reporting mechanisms is effective.
17. **Ensure screening of migrants and foreigners prior to deportation:** Available information suggests that many migrants deported from Thailand are unidentified victims of FL/TIP or related forms of labor exploitation. A systematic screening of such migrants would not only help to identify and support victims but also provide rich information on TIP cases that could be further investigated. Similarly in Cambodia, many foreigners are deported by Immigration officials without being adequately screened for FL/TIP. Immigration officials should not be allowed to deport any foreigners unless an FL/TIP screening has first been conducted by MoSVY officials.

18. **Develop multi-agent interviewing:** This study found that victims must endure numerous interviews through the judicial process, including at the identification and referral stages alone. This can result in interview fatigue, and victims give less evidence and poorer quality responses with each interview. It is also repetitive, tiring, insensitive and discouraging of victim participation. Instead, stakeholders suggest that multiple stakeholders should be convened to conduct joint interviews together early in the investigation, such as Police, Social Affairs officials, NGOs, consular officials and labor attaches.
19. **Non-punishment principle for victims :** Victims of trafficking may face punishment for immigration offences, use of fraudulent documents, or involvement unlawful activities related to their exploitative situation. As a result, victims are often afraid to report FL/TIP situations or seek assistance. The non-punishment principle sets out that victims should not be prosecuted or punished for unlawful acts committed as a consequence of trafficking. Implementing the non-punishment principle will ensure that victims report more FL/TIP and are not discouraged from entering the justice system. Similarly, all reporting and support services should make it clear that they provide services to migrants regardless of their migration status.

## 9.2.5 | Victim aftercare support

20. **Address resource and support gaps:** There are multiple gaps in the provision of support services for victims identified in this study, including: (1) shelters for victims, especially men; (2) mental health services; (3) legal support for cases that occur overseas; (4) successful reintegration services; (5) specialized services for male victims; (6) legal services in border areas; (7) rehabilitation services and other social services; (8) number of social workers; (9) aftercare funding for MoSVY and DoSVY. These are all places where additional resources can be placed to improve outcomes in victims.
21. **Further develop support centers:** The pending opening of a new center for care located in Kandal Stueng is a positive step. MoSVY has the capacity to operate more centers like this one which can be designed to cater for victims and returned migrant workers and to focus on victim support work. Resources should be dedicated to open more service centers based on feedback from this model.
22. **Research, monitor and evaluate support services :** Stakeholders report that it is difficult to know whether support services are having a sufficiently positive impact on victims' lives, and whether victims are receiving the support they require and at an acceptable standard. Further research (such as longitudinal studies) is needed to establish clearly the needs of victims from identification to reintegration, to ascertain a viable model of reintegration. Monitoring and evaluation of service provision is needed to measure quality and improvement in victim support, and to ensure limited resources are being allocated to the services most important to victims.



## 9.2.6 | Remedies

23. **Reform compensation mechanisms:** The justice system is currently ineffective in providing compensation to FL/TIP victims. Several reforms to compensation are required: (a) A victim compensation fund should be established, noting that there are multiple options for how it may be designed; (b) Restitution should also be linked to security deposits paid by recruitment agencies; and (c) The current mechanisms of enforcing judgement on compensation should be changed.
24. **Revise compensation calculation:** Increase compensation amounts in the civil court process to include punitive damages. This would provide victims with, and force employers to pay, more than the wages due in the first place. It would incentivize victims to seek compensation as well as deter perpetrators.

## 9.2.7 | Inter-agency collaboration

25. **Focus on joint trainings:** Collaboration takes practice. Stakeholders reported that they still had a poor understanding of the various roles played by their counterparts across the justice system, and that this is limiting mutual understanding and collaboration. Stakeholders underlined the importance of having a good working relationship. A common recommendation among interviewees was to hold joint training sessions with participants from various roles across the FL/TIP justice system, including police, local authorities, judges, and prosecutors, social affairs and service providers. It was said that to improve collaboration it is important for people in these roles to build a network and trust among one another. This initiative could include updates about forms of trafficking and mutual information sharing and additional skills for supporting victims.
26. **Involve Social Services at the earliest stage in the criminal justice process:** Social services staff were reportedly not notified of FL/TIP cases early enough in investigation proceedings and court cases, and sometimes not at all. It is essential that social services are notified in order to support victims in all cases, and at the earlier point possible.
27. **Create a data collection and sharing protocol:** In recent years there have been improvements to the way that case data has been collected and stored, particularly within the judiciary itself and in departmental initiatives. Across the judicial system as a whole, however, data collection is patchy, and is not reliable for the purposes of measuring and monitoring performance. Data collected on victim identification is not easily reconciled, with many victims counted twice between departments. Data is not readily shared and accessible between departments and case updates are not reported back to police once they are referred to court. An overall data collection protocol should be established setting out specifically which FL/TIP data needs to be recorded, by whom, and how it will be stored, used, presented and made accessible. The protocol should be designed with input from all relevant officials and departments and draw on guidance resources already conducted by CSOs on this topic.

## 9.2.8 | Cross-border collaboration

28. **Set up a joint investigation team:** Stakeholders identified that cross-border collaboration is currently limited during the investigative process. Counterparts lack the networks and working relationships to collaborate effectively, and existing mechanisms are not often used. A common suggestion was to set up a joint investigative team tasked with the role of investigating cross-border FL/TIP cases on an ongoing basis.
29. **Address barriers to participation in Thailand's legal process:** Cambodian victims find it difficult and unappealing to pursue legal cases in Thailand. On one hand, repatriated victims are keen to move on with their lives and find it difficult to remain involved in the justice process abroad, and for those abroad, it can be difficult to remain abroad without income and immigration status. In both cases, victims need further support to incentivize them to pursue a claim through the justice process. This needs to include financial support to support the victim while awaiting trial and to cover the cost of attending court, legal support, and increasing accessibility so the victim can attend trials virtually from Cambodia.
30. **Strengthen embassy support:** The Cambodian embassy in Thailand could be strengthened by having a dedicated team - including police - tasked with addressing FL/TIP issues. This team could expand their roles in assisting workers across the all stages of the FL/TIP process, especially in accessing grievance mechanisms, changing jobs, and assisting with cross-border legal processes. Current reports indicate that embassy support is reactive and limited and needs to be more proactive and motivated.
31. **Implement and refine the new SOPs with Thailand:** New SOPs relating to FL/TIP have been recently signed with Thailand. It is important these are transparently implemented and feedback from stakeholders is involved to ensure they are effective and impactful.

## Endnotes

1. IJM (2016) *Labor Trafficking in Cambodia: A Review of the Public Justice System Response* at [https://ijmstoragelive.blob.core.windows.net/ijmna/documents/studies/labor\\_trafficking\\_in\\_cambodia\\_-\\_a\\_review\\_of\\_the\\_pjss\\_response\\_ijm\\_2016.pdf](https://ijmstoragelive.blob.core.windows.net/ijmna/documents/studies/labor_trafficking_in_cambodia_-_a_review_of_the_pjss_response_ijm_2016.pdf)
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13. Freedom Fund (2018). *Thailand Hotspot Annual Report*, The Freedom Fund, accessed 13th October 2022
14. Royal Decree No. 0614/808, dated 25 June, 2014
15. The Bar Association is the peak body for lawyers, prosecutors and judges.
16. From Johnson, LLaura S., Marika McAdam, M, Rebecca Surtees, R and Thaufiek Zulfahary, T (2020) *Trafficking Victim Protection Frameworks in Cambodia, Indonesia, Lao PDR, Thailand, and Viet Nam: A Resource for Practitioners*. Trafficking Victim Protection Frameworks in Cambodia, Indonesia, Lao PDR, Thailand, and Viet Nam: A Resource for Practitioners. Washington, D.C., United States: NEXUS Institute and Winrock International, accessed 13th October 2022 at <https://respect.international/wp-content/uploads/2021/03/Trafficking-Victim-Protection-Frameworks-in-Cambodia-Indonesia-Lao-PDR-Thailand-and-Viet-Nam-A-Resource-for-Practitioners-.pdf>
17. See Article, the article 300 Of Cambodia Labor Law 1997 "An individual dispute is one that arises between the employer and one or more workers or apprentices individually, and relates to the interpretation or enforcement of the terms of a labor contract or apprenticeship contract, or the provisions of the collective agreement as well as regulations or laws in the effect." Note: Article 300 is currently being amended by the Government.
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25. It must be noted that data collection for this report did not address the locations associated with this practice and did not focus on this topic specifically.
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28. *Cambodianess* (2021) *New Migrant Center Launched in Battambang*, *Cambodianess*, 21st December 2021, accessed 15th October 2022,
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32. Approx. US\$485
33. *Khmer Times* (2022) 'Cambodia, Thailand Sign Agreement on Human Trafficking', *Khmer Times*, 22nd August 2022, accessed 15th October 2022.
34. The analysis of the data simply apportioned a sequential numerical value to each of the five options 1 = strongly disagree; 2 = disagree; 3 = neutral; 4 = agree ; 5 = strongly agree





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