

INTERNATIONAL JUSTICE MISSION

Justice Review

A Journal on Protection and
Justice for the Poor

2014 - 2015



IJM



IJM

International Justice Mission

Justice Review 2014-2015

A Journal on Protection and Justice for the Poor

Contents

Introduction | 5

The Model: Justice System Transformation | 6

A Model for Protecting the Poor from Violence through Transformed Justice System Response

Reducing the Prevalence of Children in the Commercial Sex Trade in Metro Cebu | 12

Justice System Transformation Program Case Study: The Philippines

The Prevalence of and Justice System Response to Commercial Sexual Exploitation of Children in Three Major Cambodian Cities | 18

Prevalence and Public Justice System Performance Study Summaries: Cambodia

The Prevalence of Property Grabbing and the Justice System Response in Mukono County | 28

Prevalence and Public Justice System Performance Study Summary: Uganda

Guatemalan Criminal Justice System Performance: Indicators of Practice, Process and Resolution within Cases of Child Sexual Assault | 36

Public Justice System Performance Study Summary: Guatemala

Kenya's Independent Policing Oversight Authority Case File Review: A Government-Led Evaluation of Police Performance | 44

Monitoring and Evaluation Innovation: Kenya

The Aftercare Successful Outcomes Form: A New Tool for Assessing Restoration of Survivors of Violent Abuse | 50

Monitoring and Evaluation Innovation: Global

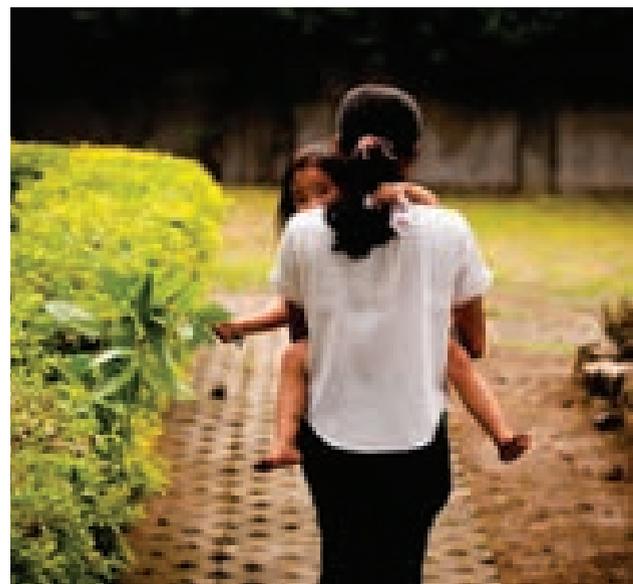
FORCED LABOR SLAVERY

POLICE ABUSE OF POWER

SEX TRAFFICKING

PROPERTY GRABBING

SEXUAL VIOLENCE



Introduction



I AM PLEASED TO INTRODUCE the IJM *Justice Review*—a compendium of developments and insights from International Justice Mission’s human rights field work in Africa, Latin America, South Asia and Southeast Asia.

In 18 offices throughout the developing world, IJM staff partner with local law enforcement to provide protection and rescue to victims of violent crime and to bring perpetrators to justice in local courts. We address cases of forced labor slavery, sex trafficking, child sexual assault, property grabbing, abusive detention and police brutality.

Each of the thousands of individual cases that IJM investigators, lawyers and social workers have addressed has illuminated broader weaknesses and gaps in local criminal justice systems—the issues that impoverished children and families face regularly when they are victimized by violence. Our work with local police, prosecutors, courts and social welfare agencies positions my colleagues to partner with local stakeholders in addressing the systemic challenges of these fragile and overburdened public institutions.

Tackling these challenging issues requires clear data and measurement. The studies included in this journal represent some of IJM’s efforts to document the prevalence of violence against the poor, the functioning of developing-world justice systems in addressing these forms of violence, and the impact of our collaboration with local justice systems to bring relief to victims and accountability to perpetrators.

The studies from Cambodia (p. 18), Guatemala (p. 36) and Uganda (p. 28) have given us a clear picture of the government response to various forms of violence (sex trafficking, sexual violence and property grabbing, respectively). The case review executed by the Kenyan Government’s Independent Policing Oversight Authority (p. 44) is the first of its kind in Africa and of great interest to IJM, which represents hundreds of innocent men and women awaiting trial in Nairobi. IJM’s Aftercare Successful Outcomes form (p. 50) is an innovation in the field: an instrument for engaging with survivors of sex trafficking, forced labor slavery, child sexual assault and violent property grabbing over the long term and rigorously measuring the sustainability of survivor recovery following participation in aftercare services.

We offer this research and analysis to human rights practitioners, scholars and policymakers in hopes of stimulating a dialogue on the challenge of securing justice and protection for the global poor. We are eager to learn from the experiences of others and invite your feedback.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gary Haugen', with a stylized flourish at the end.

GARY A. HAUGEN
President & CEO
International Justice Mission

September 2014

The Model: Justice System Transformation



The Model: Justice System Transformation

A Model for Protecting the Poor from Violence through Transformed Justice System Response

Everyday Violence

THROUGHOUT THE DEVELOPING WORLD, fear of violence is part of everyday life for the poor. In fact, in developing and middle-income countries, poor people often name violence as their “greatest fear” or “main problem.”¹ The scale of this “everyday” violence is massive. One in five women will be a victim of sexual violence.² Nearly 2 million children are exploited in the commercial sex industry.³ Nearly 30 million people are held as slaves.⁴ Though harder to see from the outside, the threat of violence is as much a part of poverty as hunger, disease or homelessness.

In the developing world, impoverished children and families are uniquely vulnerable to violence because their justice systems do not protect them from violent people; they find that “police and official justice systems side with the rich, persecute poor people and make poor people more insecure, fearful and poorer.”⁵ While their wealthier neighbors can circumvent broken and dysfunctional criminal justice systems by paying for security and safety, the poor cannot.

According to the U.N. Commission on Legal Empowerment of the Poor, *most* poor people in the world—a stunning 4 billion—live “far from the law’s protection.”⁶

In fact, not only are the poorest not protected by their police and court systems, but they often actively *avoid* these systems because they are so abusive. Under-resourced, undertrained and corrupt law enforcement does not or cannot arrest and charge criminals or gather evidence. Trials move at a glacial pace, files are lost, victims are unnecessarily and repeatedly traumatized during the

court process, and hearings are often conducted entirely in official languages the poor can’t understand. Social services are under-resourced, untrained and uncoordinated.

The dysfunction of developing-world public justice systems creates an atmosphere of impunity, in which criminals know they will not be held accountable for assaulting, raping, enslaving, trafficking or otherwise abusing the poor. When there are no consequences for violent actions, violence becomes an everyday threat for vulnerable people.

Justice System Transformation

Justice System Transformation is a model for protecting the poor from violence pioneered by International Justice Mission.

International Justice Mission protects the poor from violence by partnering with local authorities to rescue victims, bring criminals to justice, restore survivors and strengthen justice systems. Through collaboration with local governments in 18 communities throughout Africa, Latin America, South Asia and Southeast Asia, IJM has found that even the most broken public justice systems can function to protect women, children and men from slavery, sex trafficking, rape and property grabbing.

But the thousands of cases we have successfully resolved are a small fraction of the crimes against the poorest. A long-term solution to protect the poor from violence will require effective justice systems that can be

Justice System Transformation combines service to individual victims of violence with systemic improvements that measurably reduce the prevalence of a violent crime.

relied upon to serve and defend vulnerable people without the extensive external support of an organization like IJM. IJM's Justice System Transformation model takes justice to scale by working with local partners to transform the justice system response to targeted forms of violence.

The Model

Justice System Transformation has three core components:

■ Collaborative Casework

Experts come alongside local law enforcement and judicial authorities to provide tangible, hands-on support in individual cases of violent abuse from beginning to end. Collaborative Casework not only provides urgently needed relief and safety to individual victims of violent crimes, but it is the most effective way to diagnose accurately what is broken in the criminal justice system.

■ System Reform

While the primary objective for Collaborative Casework is service to individual victims of violence, the primary objective for System Reform is addressing problems within the justice system itself. System Reform projects build the practical, technical and resource capacities of police, prosecution service, courts and supporting social services to address the targeted form of violence. By improving justice system performance and (as a result) deterring the crime, these improvements benefit all people vulnerable to the targeted crime in the community, not only IJM clients.

■ Sustaining Gains

Successfully reforming a “broken” justice system means securing major shifts in the knowledge, at-

titudes, behavior and capacity of public justice system actors and institutions; the value of such shifts is limited if they are not sustained. Throughout a program, IJM seeks to build robust social demand, an important tool to sustain improvements. IJM conducts monitoring and evaluation to ensure gains are sustained.

The Model in Action

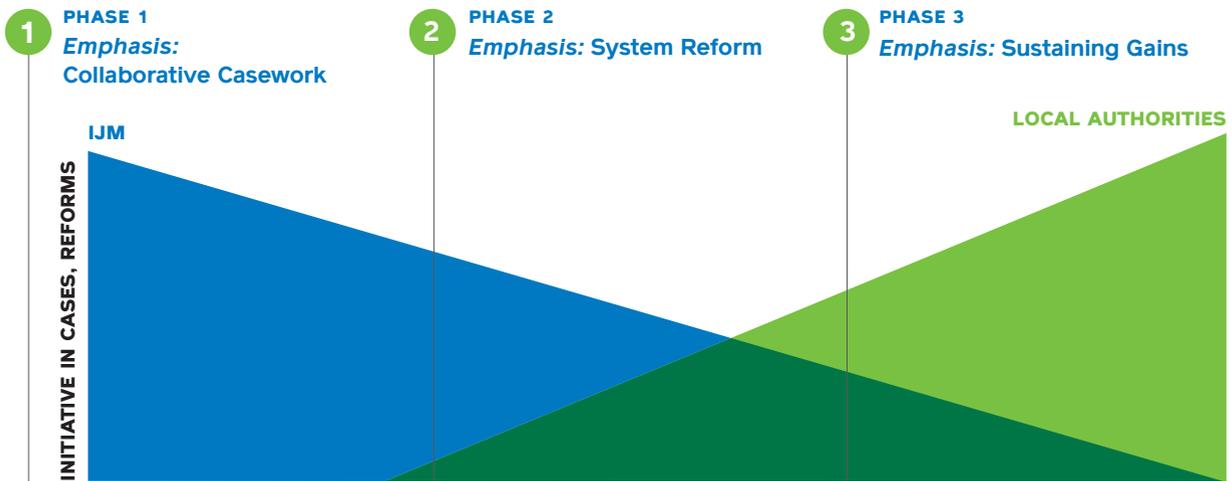
ALL IJM Justice System Transformation programs target a specific form of violence in a specific geographic area in the developing world. Though all three elements of Justice System Transformation (Collaborative Casework, System Reform and Sustaining Gains) play a role throughout the entirety of a successful Justice System Transformation program, IJM emphasizes each of the three elements in a phased, multi-year approach.

Measurable Results

IJM CENTERS the design, management and evaluation of its Justice System Transformation programs on evidence. The design of new programs is based on baseline assessments of the scale of a specific violent crime and the nature and effectiveness of the public justice system's response to it. IJM collaborates with the local government to agree on the scope and focus of the Justice System Transformation program; sets results, milestones, and targets; and collects, analyzes, and uses data to track progress and amend the program when required. IJM evaluates the impact of the program through end-line assessments of the scale of the crime and the public justice system's response, which are shared broadly, both locally and internationally.

“Running cases through the system via Collaborative Casework is like filling a bicycle tube with air and running each section of the tube underwater when you think you have a puncture. Soon enough, what once was a vague hissing noise suddenly appears as an unmistakable torrent of bubbles shooting out through a very specific hole. Likewise, repeatedly accompanying impoverished victims of crime through the criminal justice system from beginning to end allows us to see where the system is leaking, obstructed, hurtful, and broken.”

— GARY A. HAUGEN, IJM President and CEO,
(in *The Locust Effect: Why the End of Poverty Requires the End of Violence*)



| | | |
|--|--|--|
| <p>Partner with local authorities on individual cases, rescuing victims, bringing criminals to justice and restoring survivors.</p> <p>Provide hands-on mentoring and training to government partners case by case.</p> | <p>Continue Collaborative Casework.</p> <p>Partner with local and national justice system actors to develop high-impact interventions that sustainably address the most critical issues in the justice system response to the targeted form of violence.</p> | <p>Continue to monitor and evaluate justice system improvements, and continue to support local government partners to make the improvements sustainable.</p> <p>Collaborate with civil society to demonstrate public demand for sustained justice system improvements.</p> |
| <p>Throughout Phase 1, IJM will:</p> <ul style="list-style-type: none"> Partner with local authorities to rescue individual victims and bring their perpetrators to justice under the law. Identify specific areas of brokenness in the justice system. Develop relationships of trust that allow for authentic partnership. | <p>By the end of Phase 2, IJM will have:</p> <ul style="list-style-type: none"> Demonstrated that the justice system can now protect people from the targeted crime. Demonstrated that, as a result of improved justice system performance, the crime's prevalence has decreased significantly. | <p>By the end of Phase 3, IJM will:</p> <ul style="list-style-type: none"> Conclude ongoing Collaborative Casework, as the justice system now functions effectively to address the targeted crime without this outside intervention. |

¹P. Amis and C. Rakodi. (1995). Urban Poverty: Concepts, Characteristics and Policies. *Habitat International*, 19.4, 403-405.

²United Nations. (2008). Unite to End Violence Against Women: Fact Sheet. Retrieved from: <http://www.un.org/en/women/endviolence/pdf/VAW.pdf>

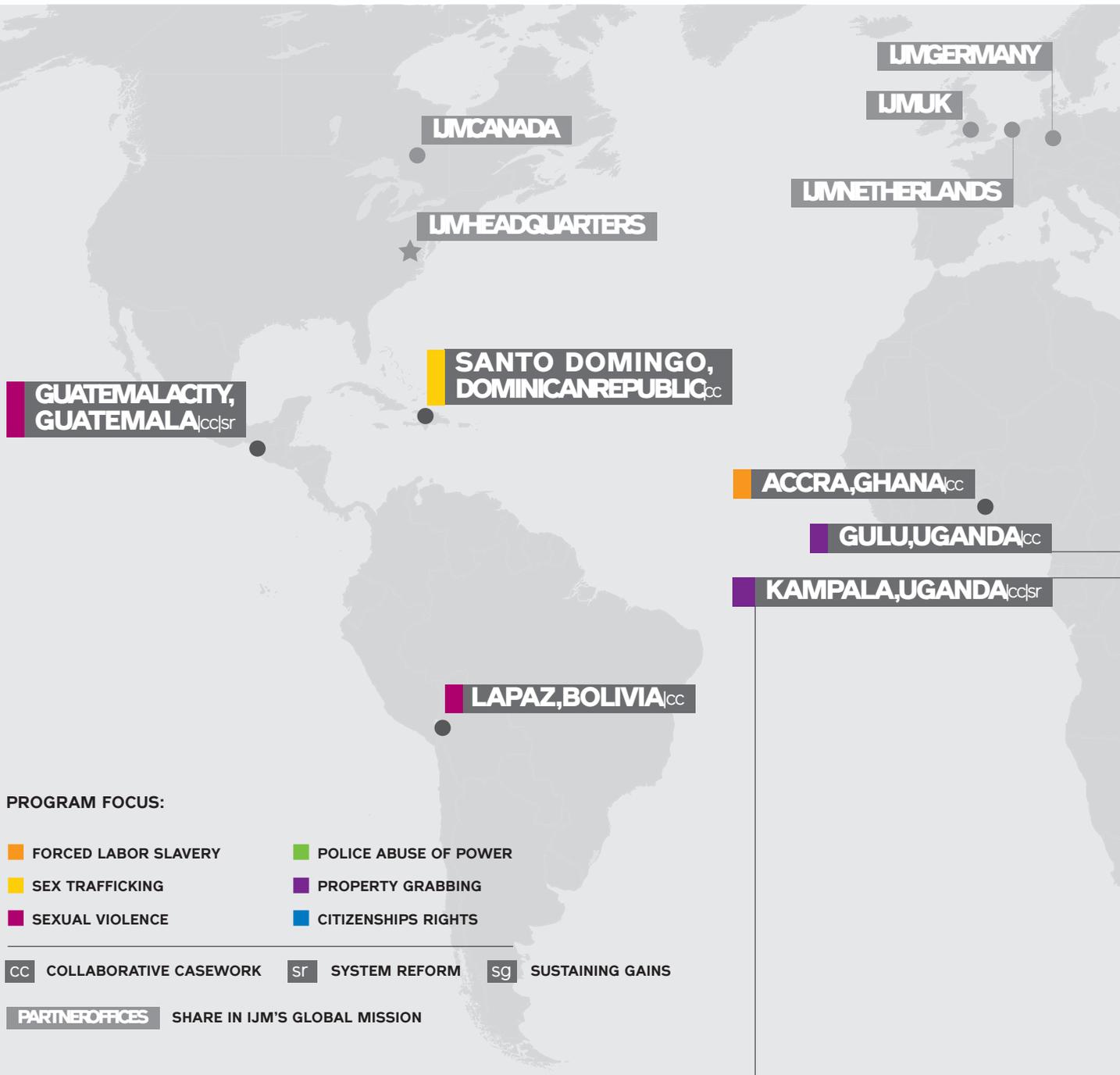
³UNICEF. (2004). Childhood under Threat. *State of the World's Children 2005*. Retrieved from: <http://www.unicef.org/sowco5/english/sowco5.pdf>

⁴Walk Free Foundation. Global Slavery Index 2013. Retrieved from: <http://www.globallslaveryindex.org/findings/?gclid=CPSAobbPg7sCFTJp7AodnS8AZw#overview>

⁵The World Bank. (2000). Anxiety, Fear and Insecurity: Crying Out for Change. (Chapter 8, 163). Retrieved from: <http://siteresources.worldbank.org/INTPOVERTY/Resources/335642-1124115102975/1555199-1124115201387/cry8.pdf>

⁶United Nations Commission on Legal Empowerment of the Poor. (2008). *Making the Law Work for Everyone*. Retrieved from: http://unrol.org/files/Making_the_Law_Work_for_Everyone.pdf

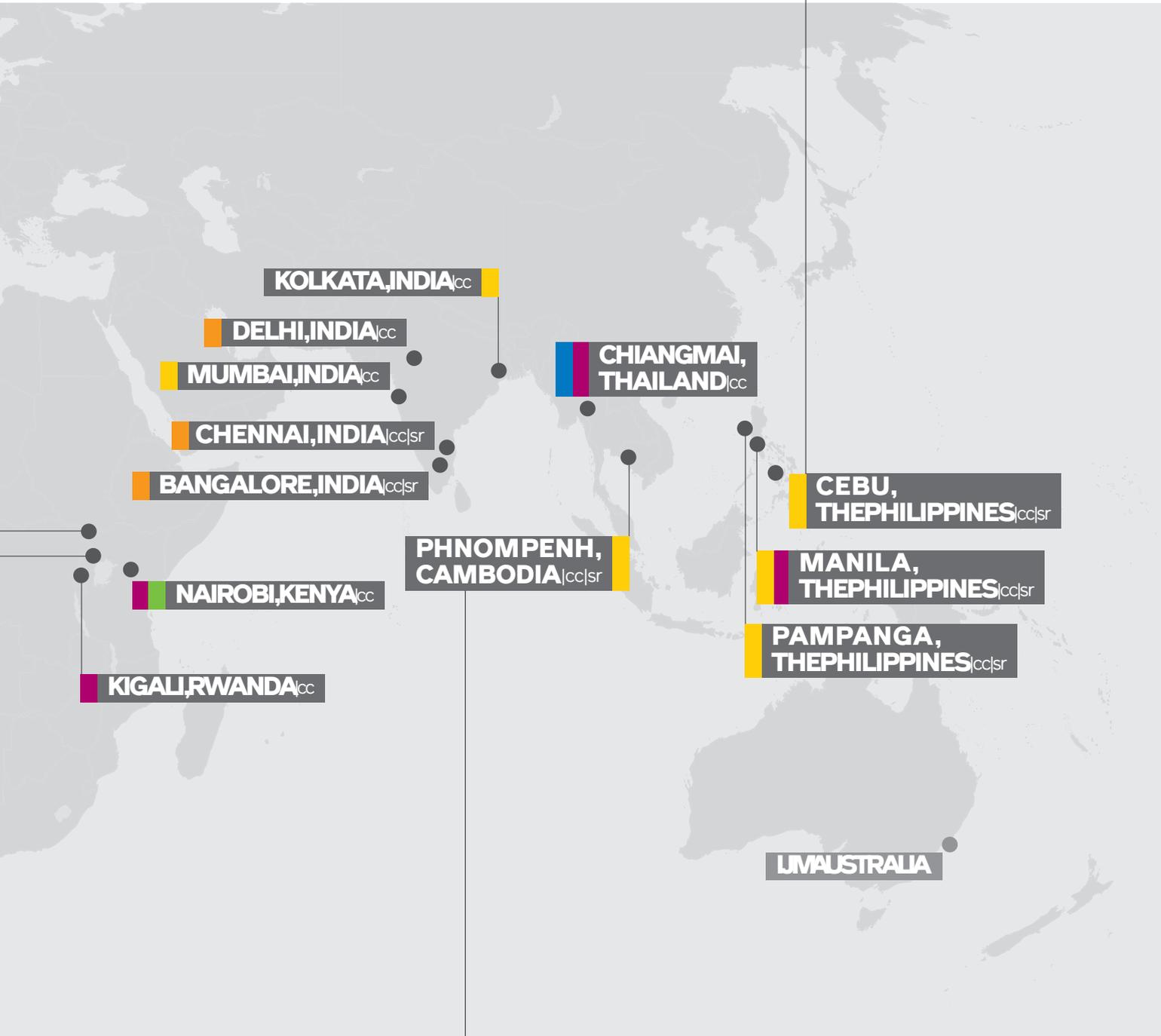
IJM's Justice System Transformation Programs



“We have gotten to the symptoms of the crime of property grabbing, but we have not addressed the root cause of the problem. (IJM’s System Reform Project) addresses the root cause.” –Ugandan Police Commissioner

“Independent evaluation has demonstrated that after four years of IJM partnership with local law enforcement in Cebu, Philippines, the availability of minors for sex decreased by a stunning 79 percent.”

—U.S. State Department Trafficking in Persons Report 2012



● “Exploitation of children in Cambodia’s commercial sex industry has reduced significantly compared to the early 2000s due to improved law enforcement.” —*The Cambodia Daily*

A photograph showing two women in a professional setting. One woman, wearing a yellow shirt, is seated and writing on a document with a pen. The other woman, wearing a red shirt, is standing and leaning over her, pointing at the document. They appear to be in a meeting or a collaborative work environment. The background is slightly blurred, showing what might be an outdoor or semi-outdoor structure.

Reducing the Prevalence of Children in the Commercial Sex Trade in Metro Cebu

**Justice System Transformation
Program Case Study: The Philippines**

Overview

WITH FUNDING FROM the Bill & Melinda Gates Foundation, International Justice Mission began a rigorous test of the Justice System Transformation Model in 2007.

Over a four-year period, IJM partnered with local authorities in Cebu, the second largest city in the Philippines, to train police and prosecutors, assist local law enforcement with anti-trafficking operations, help local organizations strengthen survivor aftercare, and secure justice for perpetrators of trafficking crimes.

Independent evaluators conducted an initial study assessing the availability of minors for commercial sexual exploitation prior to the test's start, then conducted a mid-term evaluation after two years and a follow-up study after four years. A second group of evaluators used this data to assess the program's effectiveness.

Key Finding

After four years of IJM's Justice System Transformation program in Cebu, independent evaluators found a 79% drop in the availability of minors for commercial sexual exploitation.

“The cooperation of the government and International Justice Mission exemplifies a new model of law enforcement, where government and civil society work as puissant allies not only to punish the perpetrators of trafficking but also to empower their victims.”

—Philippine Secretary of Justice Leila deLima

Reducing the Prevalence of Children in the Commercial Sex Trade in Metro Cebu

Justice System Transformation Program Case Study: The Philippines

Background

IN 2007, IJM established a new field office in Cebu, the Philippines, with the goal of proving that when anti-trafficking laws are enforced by well-trained and equipped police and courts, *all* children are better protected from traffickers.

IJM's objective in Cebu was to:

- Reduce the number of sex trafficking victims in the Metro Cebu target area and make the reduction sustainable by increasing the capacity of counter-trafficking stakeholders.
- Increase key stakeholders' understanding of the benefits and challenges of adopting a law enforcement model to combat sex trafficking.
- Sustainably deter criminals from trafficking children for sex by changing their calculation of profit and risk.

This test of the Justice System Transformation model, funded by the Bill & Melinda Gates Foundation, was called "Project Lantern," drawing on the symbolism of lanterns as a sign of hope during the Underground Railroad, and the aspiration that this project could provide a source of both hope in the fight against modern slavery and direction about the most strategic ways to combat trafficking.

Evaluation

EXTERNAL EVALUATORS conducted an initial study prior to the implementation of IJM's interventions that established a baseline measure of the availability of minor trafficking victims in the target area, a second prevalence study at the project midpoint, and a final prevalence study at the end of the project. This prevalence data created a

PROJECT STRATEGIES

| Collaborative Casework | System Reform | Sustaining Gains |
|---|---|---|
| <ul style="list-style-type: none"> • Provide information on suspected sex traffickers to local law enforcement • Support the arrest and prosecution of suspected traffickers • Ensure proper care of rescued trafficking survivors | <ul style="list-style-type: none"> • Build the capacity of local anti-trafficking authorities and stakeholders in Cebu • Advocate for improvements in law enforcement and judicial systems, policies and structures (<i>including victim-sensitive court procedures and facilities, dedicated anti-trafficking police forces</i>) | <ul style="list-style-type: none"> • Provide ongoing monitoring and support • Mobilize local civil society awareness of and capacity to intervene against trafficking |

clear picture of changes in the availability of minor victims over the duration of the project.

A separate group of external evaluators utilized this data to conduct an impact evaluation of the project, which affirmed the project's effectiveness, as well as the validity of the prevalence data. The evaluation reported, "At an overall level, Project Lantern's law enforcement-based approach to combating sex trafficking in Metro Cebu has demonstrated its merit by contributing to significantly enhanced police operations, services to rescued victims, and prosecution of criminals as well as to a public justice system that is increasingly capable and mobilized to crack down on and deter sex traffickers."

Project Achievements

LAW ENFORCEMENT IMPROVEMENT

Dramatic increase in victim rescue and criminal justice system initiative

Police in the target area rescued 259 sex trafficking victims during the project time frame (January 1, 2007 to September 30, 2010), compared to only 27 victims rescued during the three years prior. IJM provided direct legal, aftercare and/or operational support in all of these cases.

Hundreds of officers trained; Specialized anti-trafficking task force formed

IJM focused significant resources on enhancing law enforcement capacity to investigate trafficking in persons crimes and rescue victims. The primary strategy was to provide intensive, professional training to law enforcement, particularly Philippine National Police (PNP) personnel, but two significant challenges became apparent. First was the PNP policy of transferring officers between units and jurisdictions on a regular basis, and second was the lack of a dedicated group of police assigned to handle investigations of trafficking cases. In response to these challenges, and as a result of the feedback of local stakeholders, IJM advocated for the establishment of a dedicated anti-trafficking police task force, in which officers would receive additional training and would not be regularly shifted to other units.

In 2009, the Police Regional Office, Region VII (PRO-7) signed a new Memorandum of Understanding with IJM to form and train a Regional Anti-Human Trafficking Task Force (RATTF), conferred with authority to conduct surveillance and rescue operations and pursue the prosecution of human trafficking perpetrators. This RATTF has been a significant driver in Cebu's success in combating commercial sexual exploitation of minors.

PROSECUTION AND COURT SYSTEMS IMPROVEMENT

107 suspected traffickers charged

During the project time frame, IJM-assisted law enforcement investigations resulted in 107 suspects being charged in court with violations of the Philippines' Anti-Trafficking in Persons Act (RA 9208).

Victim-sensitive structural enhancements

IJM identified that the insecurity of victim witnesses during inquest proceedings¹ and trial was an obstacle to effective and successful prosecutions. Throughout the legal process, victim witnesses commonly had to wait in the same room as their accused perpetrators, where they faced harassment, pressure and intimidation. To maintain security and reduce unnecessary trauma, IJM and the Regional State Prosecutor worked with the Cebu City Prosecutor's Office to designate and renovate a secure, comfortable area for victim witnesses in all types of cases, including human trafficking cases.

Training and resourcing for judges and prosecutors

IJM created a prosecution guidebook to equip prosecutors, judges and law enforcement officials on common legal issues encountered in the prosecution of charges filed under the Philippines' anti-trafficking law (RA 9208), as well as hosted or co-hosted trainings for judges and prosecutors. IJM also developed a pool of legal interns and volunteers available to assist prosecutors and law enforcement, and potentially act as private prosecutors in the future. In partnership with the University of San Carlos Law School in Cebu City, IJM provided training in anti-trafficking legal aid for law students.

SURVIVOR AFTERCARE IMPROVEMENTS

Assistance provided to 228 survivors

During the project time frame, IJM provided direct assistance to 228 survivors who were either rescued in Metro Cebu or were originally trafficked from Metro Cebu.

Structural enhancements to aftercare facilities

IJM partnered with key aftercare facilities to provide for much-needed structural enhancements to the facilities, including the creation of a counseling room, a meditation room and other enhancements at the primary long-term placement home for recently rescued trafficking survivors.

Training and capacity building for government and NGO stakeholders

IJM provided technical training on trauma-focused therapy and other critical topics for social workers and home staff at government- and NGO-run aftercare facilities in Cebu.

Economic Self-Sufficiency and Re-integration Project

IJM trained aftercare providers in job readiness preparation for their clients, recruited businesses to open job placements and provide vocational training, and started a job readiness training program for aftercare clients through three different aftercare shelter partners. In January 2010, a US-based group incorporated a new NGO in both the US and the Philippines to take over the goals and responsibilities of the economic self-sufficiency program.

PUBLIC AND POLITICAL WILL

Local Government

IN 2008 AND 2009, Cebu City, Mandaue City, and Lapu-Lapu City all passed anti-trafficking ordinances with assistance from IJM. IJM staff provided support as each Local Government Unit has implemented anti-trafficking reforms and programs, including through trainings, awareness-raising events, support on cases and support in the creation of each city's Inter-Agency Council Against Trafficking (IACAT).

Public Advocacy

IJM AND STAKEHOLDER organizations worked together to increase public demand for enforcement of anti-trafficking laws through community trainings, church and student mobilization activities, and significant media outreach that resulted in a substantial increase in the quantity and quality of coverage on human trafficking.

Project Impact

AFTER FOUR YEARS of Collaborative Casework and System Reform activities in partnership with government agencies, local governments and other stakeholders in Cebu, independent evaluators assessed the program's results.

- The independent evaluators found that **the number of minors available for exploitation in the commercial sex industry in Metro Cebu dropped 79 percent** from their initial study before IJM began its casework four years prior.

- The evaluators also found that the project has led to an **increase in law enforcement** activity in sex trafficking cases, an **increase in commitment** to resolving sex trafficking cases among law enforcement officers trained through the project, and an **increase in services**—like shelter, counseling and career training—provided to trafficking survivors.

The number of minors available for exploitation in the commercial sex industry in Metro Cebu dropped 79 percent

Ongoing Progress

SINCE THE 2010 STUDY, IJM has continued to work alongside the Philippine government to combat sex trafficking. Though the prevalence of minors in the sex trade has dropped substantially, work continues to eradicate sex trafficking in Cebu. Between 2010 and July 2014, IJM Cebu has partnered with local authorities to rescue an additional 368 women and girls, arrest 126 suspects and secure the conviction of 28 traffickers.

Over the four years covered by the initial study (2007-2010), the substantial lack of resources in the Metro Cebu justice system meant that IJM needed to fill major budgetary, infrastructural and human resource gaps in order to move cases through the system. A key focus of the second phase of work in Cebu has centered on building sustainability; IJM's goal has been to ensure that these systems can operate effectively and independently.

Through the support and advocacy of IJM teams in Manila and the Pampanga region, reforms piloted in Cebu are being replicated throughout the country. Both cities now have dedicated anti-trafficking police forces and are beginning to implement victim-sensitive procedural changes and infrastructure improvements. The Philippine National Police (PNP) has created anti-trafficking units in Manila and Pampanga, which have been trained by IJM teams in those cities; plans are underway for the creation of a national anti-trafficking force as well. The Philippine government has also committed to replicate a successful survivor care model



pioneered in Cebu by funding and staffing a safe and comfortable processing center for trafficking victims in Manila, where survivors will be able to share their stories and receive crisis care in the immediate aftermath of a rescue operation.²

Other signs of growing sustainability include: a Cebu-based volunteer program connecting local volunteers to aftercare programs; several new non-governmental aftercare homes in Cebu; a training course provided by IJM and the Philippines Judicial Academy for judges, prosecutors and other lawyers along with an anti-trafficking desk reference manual (produced with the US Department of Justice); partnership among anti-trafficking organizations to increase the standard of trauma care provided to survivors; training provided through an IJM/PNP partnership for all PNP team leaders on managing trafficking in persons operations; a new training course on trafficking investigations planned for fall 2014 and an anti-trafficking course for all PNP recruits planned for 2015; and a vibrant inter-faith movement against trafficking that has effectively mobilized faith communities.

In 2013, the government demonstrated its ongoing commitment to prioritizing and addressing human trafficking through the passage of a new anti-trafficking law, RA 10364. Key improvements of the new law include mandates for the PNP to create anti-trafficking units throughout the country, and for agencies to work closely together in trafficking interventions; the law also funds staff positions for the government's anti-trafficking council, among several other advances.

Critically, the law also provides for lesser offenses in addition to the crimes of trafficking and qualified trafficking, including attempted trafficking. The inclusion of these lesser offenses allows judges greater discretion as well as enables prosecutors to pursue plea bargains, a critical tool in clearing the massive judicial backlog that denies justice to many trafficking victims. IJM attorneys report that these provisions have already dramatically increased their ability to secure convictions of perpetrators.

The Regional Anti-Human Trafficking Task Force (RATTF) continues to rescue trafficking victims and secure evidence against perpetrators in Metro Cebu.

¹Inquest is a part of Philippines criminal procedure following warrantless arrests wherein a prosecutor conducts a hearing to review evidence against an arrested person in order to decide whether or not to charge the arrested person.

²Construction of this facility, called *SafeSpace*, was underway as of press time.

The Prevalence of and Justice System Response to Commercial Sexual Exploitation of Children in 3 Major Cambodian Cities

Prevalence and Public Justice System Performance Study
Summary: Cambodia



Overview

IN 2012 AND 2013, IJM Cambodia worked with external partners to conduct two unprecedented studies:

- A prevalence study measuring the prevalence of children in commercial sexual exploitation in three major Cambodian cities
- A qualitative analysis that provided a clear picture of how the prevalence of commercial sexual exploitation of children and the government's response to it have changed in Cambodia over the past decade. This analysis included reviews of nearly 150 studies and interviews with more than 80 government and NGO stakeholders working on the ground in Cambodia.

Key Findings

In the early 2000s, several research studies found that between 15 and 30% of those prostituted in brothels in Cambodia were minors (under age 18). These two new studies found that the prevalence of minors was reduced to 8.16%—and the prevalence of minors ages 15 and under to 0.75%.

Children are now safer from sex trafficking in Cambodia—and the trafficking of young children into sex establishments in three major Cambodian cities has become extremely rare.

Stakeholders in Cambodia report that the public justice system response to sex trafficking has improved significantly since the early 2000s.

The Cambodian public justice system has begun to successfully and consistently enforce laws against trafficking children for sex. Though there is still room to grow, these studies demonstrate the substantial impact that reforms in the justice system can have on protecting those most vulnerable to violence.

Background

CAMBODIA'S RECENT PAST is marked by more than thirty years of conflict, including genocide by the Khmer Rouge under Pol Pot, occupation by Vietnam and civil war. In 1991, the United Nations Transitional Authority (UNTAC) was deployed to Cambodia in an attempt to stabilize the country. The Human Rights Task Force on Cambodia later suggested that the presence of UNTAC's 20,000 peacekeepers and civilian personnel in Cambodia contributed to a significant expansion of the commercial sex industry: The total number of commercial sex workers in Cambodia in 1991 was estimated at 6,000, but had risen to more than 20,000 commercial sex workers in Phnom Penh alone by 1992.¹

While the number of commercial sex workers initially dropped after the departure of UNTAC in early 1993, the absence of a functioning public justice system and increased fear of HIV/AIDS led to an increase in commercial sexual exploitation of children.² In 1999, the International Labor Organization's International Program for the Elimination of Child Labor (IPEC) reported that "more than 15 percent of prostitutes (in Cambodia) were from 9 to 15 years of age."³ In 2000, Cambodia's Ministry of Planning estimated that 30% of individuals in commercial sex were children.⁴

IJM in Cambodia

SINCE OPENING a field office in Phnom Penh in 2004, IJM's goal has been to demonstrably and sustainably reduce the prevalence of commercial sexual exploitation of children in Phnom Penh, Siem Reap and Sihanoukville by improving the performance of key elements of the Cambodian public justice system.

IJM lawyers, investigators and social workers have engaged in Collaborative Casework by investigating suspected sex trafficking cases, providing evidence to local authorities, advocat-

ing for the arrest and prosecution of suspected traffickers, and facilitating the referral of trafficking survivors to organizations that provide assistance for recovery, healing and reintegration.

IJM has also partnered with the Cambodian government on System Reform initiatives, including through

Timeline: Tracking a Decrease

- EARLY: 2000S** Cambodia is widely known as a haven for sex tourists. Minors are readily available for purchase for sex.
- 2002:** Cambodia creates the Anti-Human Trafficking and Juvenile Protection (AHTJP) unit.
- 2003:** IJM partners with local authorities on first major anti-trafficking operation in Svay Pak, Cambodia, rescuing 37 victims, including seven under age 10, and ensuring the prosecution of several traffickers and brothel owners.
- 2004:** IJM opens long-term office in Phnom Penh to combat trafficking of minors into commercial sexual exploitation
- 2008:** Cambodia implements new Law on Suppression of Human Trafficking and Sexual Exploitation.
- 2009:** IJM opens satellite office in Siem Reap to address commercial sexual exploitation of minors in this popular tourist destination.
- 2010:** Experienced IJM investigators begin to experience significant difficulty locating young minors (age 15 or younger) in commercial sex establishments.
- 2012:** Due to apparent substantial decrease in prevalence of minors, IJM phases out Siem Reap satellite office.
- 2013:** IJM completes study revealing low prevalence of minors in sex trade in Cambodia.

IJM's International Police Training Program, which has provided training to most Anti-Human Trafficking and Juvenile Protection (AHTJP) police in 12 provincial units of the Cambodian National Police (CNP) throughout Cambodia.

Evolving Market

IN THE EARLY 2000S, Cambodia was well-known as an international haven for sex tourists where pedophiles could sexually abuse children with impunity.⁵ Emblematic of the rampant violence against very young children was Svay Pak, a neighborhood 11 kilometers outside of Phnom Penh, where girls as young as five were readily available in shacks lining the streets for foreigners to purchase for sexual acts. The police were complicit in the trade, receiving bribes for not arresting brothel owners and pimps who were openly violating Cambodian law.

Over the past decade, however, both the sex trade and the government response to it have changed dramatically in Cambodia. Cambodia now has strong government officials leading the fight against trafficking, and the will and capacity of the Cambodian justice system to enforce anti-trafficking laws is markedly improved. Dedicated Cambodian National Police, especially Anti-Human Trafficking and Juvenile Protection police, are better trained and better equipped to rescue children from pimps and traffickers, and to independently investigate and appre-

hend these perpetrators. Treatment of victims and witnesses has improved, and the courts have instituted child-friendly procedures. The Cambodian anti-trafficking legal framework has been amended, providing a stronger basis to prosecute both foreign and Cambodian perpetrators of sex trafficking and related crimes. Government-approved private aftercare agencies have significantly improved their capacity to provide high quality care to victims of trafficking.

In recent years, anti-trafficking stakeholders in Cambodia, including IJM, have witnessed what appears to be a significant decrease in the prevalence of minors in the sex trade. Intelligence from IJM investigations has suggested that fewer minors, and particularly fewer minors 15 years of age and younger, are available for sexual exploitation in commercial sex establishments in Phnom Penh, Siem Reap and Sihanoukville. In contrast to a decade ago, criminal actors in the commercial sex industry are now very aware of Cambodia's trafficking and sexual exploitation laws and that police are active and taking action. The deterrence rate is high, and people are afraid of going to jail for trafficking young minors.

In 2012 and 2013, IJM conducted two extensive studies to determine whether the apparent decrease in the prevalence of children in the Cambodian sex trade was confirmed.

In recent years, anti-trafficking stakeholders in Cambodia, including IJM, have witnessed what appears to be a significant decrease in the prevalence of minors in the sex trade.

Study Summary

Commercial Sexual Exploitation of Children in Cambodia

A venue-based application of time-space sampling to measure prevalence in Phnom Penh, Siem Reap and Sihanoukville

Background

IN 2012 AND 2013, IJM and external partners conducted a study to measure the prevalence of commercial sexual exploitation of children in commercial sex establishments in Phnom Penh, Siem Reap and Sihanoukville, Cambodia. This was the first major study in Cambodia to utilize undercover methodology to measure the prevalence of children in the commercial sex trade.

This study sought to provide accurate prevalence data by systematically identifying, documenting and analyzing current cases of commercial sexual exploitation in Phnom Penh, Siem Reap and Sihanoukville, Cambodia. These three cities were selected because, as Cambodia's three largest destination cities, they have been the center of its sex trade.

This data will assist IJM, other anti-trafficking NGOs and the Cambodian Government to measure and evaluate the impact of past anti-trafficking efforts as well as to guide future initiatives.

The Study

THE STUDY'S FINDINGS are based on data collected from 232 commercial sex establishments in Phnom Penh, Siem

Accessing a "Hidden" Population

CHILDREN EXPLOITED FOR SEX are a "hidden" population—that is, due to the illegal nature of their exploitation, perpetrators have an incentive to make finding these children difficult (though not impossible, as this would make them inaccessible to customers and thereby defeat the financial motivation for the crime). Measuring a hidden population presents challenges to researchers.

This study addressed these challenges by using time-space sampling (developing representative samples of the population through measuring prevalence at specific locations—an affirmed research method for accessing hidden populations⁶) and undercover methodologies (an internationally accepted strategy when attempting to quantify information on illegal practices).

Reap and Sihanoukville, Cambodia in November 2012 using an undercover model of time-space sampling.

IJM's undercover investigative approach allowed trained data collectors to observe, quantify and verify the

This was the first major study in Cambodia to utilize undercover methodology to measure the prevalence of children in the commercial sex trade.

The prevalence of minors age 15 and under decreased substantially.

crime without alerting potential perpetrators or causing further harm to trafficking victims or negative impacts to non-victim sex workers.

Location Mapping

THE STUDY TEAM began by conducting systematic street-based mapping of suspected commercial sex establishments, which enabled them to create an exhaustive list of potential commercial sex establishments in the three target cities.

The mapping process ultimately resulted in the identification of 990 total suspected commercial sex establishments in Phnom Penh, Siem Reap and Sihanoukville. A statistically significant random sampling of targeted locations was drawn from this comprehensive location mapping for visits by data collectors.

Data Collection

A TOTAL OF 10 DATA collectors of various ethnicities⁷ participated in the study, all of whom had prior data collection and/or investigation experience. These data collectors made more than 500 visits to 232 commercial sex establishments randomly selected from the location mapping process to create a statistically valid location sample set. At each location, they employed traditional undercover investigative techniques to determine the availability of minors for commercial sexual exploitation. Data collection techniques included but were not limited to physical observation and verbal engagement with individuals in the establishments.

Key Findings

The study found a total prevalence rate of minors in commercial sexual exploitation of 8.16%.

Using undercover data collection techniques, study data collectors identified 1,911 individuals working in commercial sex establishments and available for sex in the target cities. One hundred forty-one of these were identified as minors (age 17 or younger).

The prevalence of minors identified as being age 15 or younger was 0.75%.

Study data collectors identified 16 minors age 15 or younger out of 1,911 commercial sex workers observed. Seven were identified in Phnom Penh, eight were identified in Siem Reap, and one was identified in Sihanoukville. This resulted in a weighted prevalence of young minors of 0.75% across all three target cities. Siem Reap's young minor prevalence was the highest at 1.18%, while Sihanoukville's was the lowest at 0.22%. No minors under the age of 12 were identified.

Study Conclusion

BASED ON THE AVAILABLE historic data, the results of this study suggest that the prevalence of minors in commercial sex establishments in Phnom Penh, Siem Reap and Sihanoukville, Cambodia has decreased substantially between 2000 and 2012, with the most notable decrease observed among minors age 15 or younger.

PREVALENCE RESULTS

| City | Prevalence of Minors ages 16 and 17 | Prevalence of Minors ages 15 and below | Total Prevalence of minors |
|---------------|-------------------------------------|--|----------------------------|
| Phnom Penh | 7.66% | 0.66% | 8.32% |
| Siem Reap | 8.03% | 1.18% | 9.21% |
| Sihanoukville | 3.49% | 0.22% | 3.72% |
| Total | 7.41% | 0.75% | 8.16% |

Study Summary

Commercial Sexual Exploitation of Children in Cambodia and the Public Justice System Response

A stakeholder analysis of change between 2000-2012

Background

IN 2012, IJM worked with an independent external researcher⁸ to conduct an extensive qualitative analysis of changes in the Cambodian justice system response to commercial sexual exploitation of children and the prevalence of children in the Cambodian sex trade.

This study aimed to:

1. Assess available data on the prevalence of commercial sexual exploitation of children in Cambodia in the early 2000s
2. Assess available data on the performance of the public justice system (law enforcement, public prosecution and aftercare) in Phnom Penh, Siem Reap and Sihanoukville in combating commercial sexual exploitation of children
3. Compare this historical picture to current information regarding prevalence and public justice system performance to identify improvements and assess remaining gaps

Methodology

Data was collected through:

- Qualitative, in-depth interviews with a total of 82 key stakeholders, including NGO leaders and Cambodian government officials, conducted from September to December 2012
- A desk review of 149 studies relating to commercial sexual exploitation of children, along with review of IJM case files and training records

Key Findings

The prevalence of children exploited in the sex industry has dropped substantially from the early 2000s to 2012.

This conclusion is based on the decreased influx of minor trafficking victims to aftercare centers, the observations of the majority of on-the-ground stakeholders and experts interviewed and the prevalence study performed by IJM in November 2012 (see page 22). The decrease has been observed most significantly within the group of young minors.

An improved justice system response has contributed to this decrease in trafficking.

- **Law Enforcement:** In the early 2000s, Cambodian law enforcement lacked adequate training and resources, and the political will to address the commercial sexual exploitation of children. Successful anti-trafficking operations leading to the rescue of victims and arrest of suspected traffickers were the exception rather than the norm. The available evidence and majority of stakeholder opinion indicates that the Cambodian National Police (in particular, the Anti-Human Trafficking and Juvenile Protection (AHTJP) force established in 2002) are now significantly better resourced and equipped, better trained on investigative and interview techniques and anti-trafficking law, and are substantially more responsive to sex trafficking cases reported by Cambodian citizens.

| Early 2000s | 2012 |
|--|--|
| Prevalence of Children in Cambodia's Commercial Sex Trade | |
| "Borderline minors [ages 16-17]...openly available anywhere where sex was being sold..." | "...significant drop [in prevalence] from the estimated 15.5–30%... in the early 2000s." |
| "Young minors were easily available for [exploitation]..." "...reputation as a preying field for pedophiles..." | "...decrease noted most within the group of young minors." [0.75%] |
| Law Enforcement Response to Commercial Sexual Exploitation of Children | |
| "...inadequate training on basic investigative techniques..." | "...better trained on investigative and interview techniques..." |
| "...severe lack of resources.." | "...significantly better resourced and equipped..." |
| "...mistreatment of victims..." | "...substantially more responsive to...Cambodian citizens..." |
| "...widespread corruption and abuse of powers..." | "...the trust of the Cambodian public in its police to handle trafficking cases also seems to have increased." |

Source: *Commercial Sexual Exploitation of Children in Cambodia and the Public Justice System Response A stakeholder analysis of change between 2000-2012*

Improvements throughout the past ten years have resulted in a marked increase in the number of successful anti-trafficking operations, instrumental in both leading to the rescue of victims and arrest of suspected perpetrators as well as to contributing significantly to the decrease in availability of minors for commercial sexual exploitation.

- **Judges and Prosecutors:** In the early 2000s, the judicial system was in the early stages of reform. Judges and prosecutors were poorly trained, lacked sufficient resources, and were handicapped by an inadequate understanding of the law, judicial procedures and ethics. The judicial system was institutionally weak, widely considered to be corrupt and backlogged with thousands of cases. Given these systemic infirmities, it is not surprising that victims were often unwilling to engage with the court system at all. Though significant gaps and struggles remain, stakeholders report that today judges, prosecutors and court clerks are growing more knowledgeable on the laws and court procedures.
- **Survivor Care and Resources:** In the early 2000s, the Cambodian Ministry of Social Affairs, Veteran and Youth Rehabilitation (MoSAVY) had minimal resources to provide a full range of aftercare services to trafficking or sexual exploitation victims.

NGOs provided the vast majority of services to trafficking survivors; these services were often not tailored towards trafficking victims and often focused on long-term shelter in mass-care shelters. Today, survivors of trafficking are served by a robust aftercare system in Cambodia. MoSAVY plays the role of an oversight agency, while the majority of aftercare services (including shelter care, health services or psychological services) continue to be provided by NGOs. Most interviewees reported that the capacity of MoSAVY and DoSAVY⁹ to deal with trafficking and sexual exploitation cases has grown considerably in the last ten years.

Study Conclusion

OVER THE LAST TEN YEARS the public justice system’s response to commercial sexual exploitation of children has improved significantly, contributing to a decrease of commercial sexual exploitation of children in Cambodia.

| Early 2000s | 2012 |
|---|---|
| Survivor Care and Resources | |
| “MoSAVY...had minimal resources to provide a full range of aftercare services to trafficking or sexual exploitation victims” | “Capacity of MoSAVY...to deal with trafficking and sexual exploitation cases has grown considerably” |
| “Only three NGOs were focused on providing recovery services primarily for trafficking survivors” | Increased number of organizations, which are “utilizing research to develop targeted services to meet the specific needs of victims of sex trafficking and sexual exploitation” |
| “Typically structured as long-term, ‘in-patient,’ mass-care shelters with high client to staff ratios and large dormitory style rooms.” | “Improvements across all levels of service since the early 2000s” “Services...have become holistic and far better tailored towards the needs of trafficking victims.” |
| “Lack of professional training for caregivers and underprepared reintegration into the victim’s family or community” | “Transition homes...established to enable a smoother transition from aftercare centers back into society” |

Source: *Commercial Sexual Exploitation of Children in Cambodia and the Public Justice System Response A stakeholder analysis of change between 2000-2012*

Responding to the Studies

IJM IS RESPONDING to the results of these studies through our ongoing work in Cambodia. IJM continues to investigate any possible trafficking lead, and when instances of trafficking are uncovered, IJM supports local authorities to rescue victims and ensure that perpetrators are brought to justice. Additionally, IJM is planning a follow-up study in 2015 to further confirm and analyze the findings of these two studies.

Sustaining Gains

IJM WILL WORK WITH NGO, government and community partners to sustain the gains these studies have identified. The team continues to build and support public will for responsive law enforcement—critical for these improvements to be sustained—through community mobilization and trainings, as well as through public events inviting the stakeholders and the community to learn about and discuss the results of these studies.

Addressing Exploitation of Older Minors

THE EXPLOITATION of young women ages 16-17 was revealed by the quantitative prevalence study to be a remaining issue (see p. 23). IJM continues to partner with local authorities to locate these minors, intervene on their behalf, and hold their perpetrators accountable in court.

Advocating for Appropriate Law Enforcement Authority

IN CAMBODIA, police are not allowed by the government to conduct undercover investigations. This is a significant threat to law enforcement ability to locate and rescue children trafficked into the sex trade. IJM continues to advocate for Cambodia's legislation to be changed in order to allow for this much-needed authority.

¹ Human Rights Task Force on Cambodia. (2001, August 13). Cambodia: Prostitution and Sex Trafficking: A Growing Threat to the Human Rights of Women and Children in Cambodia. Retrieved from: <http://www.hrsolidarity.net/mainfile.php/1996vol06n004/219/>

² Ibid.

³ U.S. State Department Bureau of Democracy, Human Rights, and Labor. (2001, February 23). Cambodia. *Country Reports on Human Rights Practices*. Retrieved June 5, 2013, from: <http://www.state.gov/j/drl/rls/hrrpt/2000/eap/681.htm>

⁴ Ministry of Planning, Royal Government of Cambodia (2000). Children and Employment. *Cambodia Human Development Report 2000*. Retrieved August 7, 2013, from: <http://planipolis.iiep.unesco.org/upload/Cambodia/Cambodia%20HDR%202000.pdf>

⁵ See, e.g., U.S. State Department Office of Trafficking In Persons. *Trafficking*

In Persons Report 2002.

⁶ See, e.g., Jeffrey T. Parsons, Christian Grov, and Brian C. Kelly, 2008 (measuring populations of illegal drug users in the New York City nightlife scene) and Farzana B. Muhib, et al., 2001 (measuring populations of MSMs).

⁷ Establishments catering to predominantly a single ethnic group are common in Cambodia's sex trade. Having data collection teams from varying ethnic backgrounds was important to securing access to the full range of establishment-based commercial sex venues.

⁸ Dorine Van Der Keur is an international development consultant and lawyer with experience on topics including access to justice, capacity building and NGO management, and policy development on rule of law issues. Prior to becoming an international development consultant, Van Der Keur was a lawyer at Nauta Dutilh, a prominent law firm in The Netherlands.

⁹ The Department of Social Affairs, Veterans and Youth

The Prevalence of Property Grabbing and the Justice System Response in Mukono County, Uganda



Prevalence and
Public Justice System
Performance Study
Summary: Uganda

Overview

IJM AND A RESEARCH TEAM have completed a major study of property grabbing and the justice system response to it in Mukono County, Uganda (the county where IJM's Kampala-area casework combating property grabbing from widows and orphans is focused). To date, this is the most comprehensive study of the justice system response to the crime of property grabbing from widows in Mukono, Uganda.

Key Finding

Nearly one out of every three widows (30.3%) in Mukono County reported experiencing property grabbing in her lifetime.

Property grabbing is a common—even expected—experience for these widows, and occurs in an environment of near-total impunity for perpetrators.

Study Summary

The Prevalence of Property Grabbing among Widows in Mukono County and the Justice System's Response

A mixed-methods assessment in Uganda

Background

Property Grabbing in Uganda

FOR A WOMAN or family living in poverty, a house and a small patch of land provides a source of shelter, food and income. But for many, this foundation is not safe. “Property grabbing” is the common phrase used to describe the set of crimes through which vulnerable people are driven from their rightful property through physical force, forgery, fraud, threats, intimidation, property destruction and/or collective pressures.

Among those most vulnerable to property grabbing in Uganda are widows and orphans; in the aftermath of the death of a male head of household, relatives, community members, authority figures and other opportunists plunder the home, possessions and land that belonged to the deceased or to the couple jointly. Given that land security is essential to livelihood security for most Ugandans, when widows and orphans become victims of property grabbing, they can lose everything they depend upon for protection, health and daily provision, becoming homeless, malnourished and vulnerable to further exploitation.

While the Ugandan Penal Code and other statutes do not name a specific offense “property grabbing,” the act of stealing land and the other crimes committed in the process of doing so violate the Penal Code and several other criminal statutes. Although many property grabbing perpetrators may claim that refusing women and children the right to own property is a customary practice, the Constitution and laws of Uganda override contradictory customary practices and guarantee the equality of land and inheritance rights between men and women. Ugan-

dan law further promises that anyone who violates these laws will be subject to criminal sanctions as well as other civil remedies.

IJM in Uganda

INTERNATIONAL JUSTICE MISSION HAS BEEN investigating and intervening in cases of property grabbing affecting widows in Uganda since the early 2000s. Since 2007, IJM’s Kampala office has focused its interventions exclusively on Mukono County—a rural county near Kampala with an estimated population of 335,800. (Building on its experience in Kampala, IJM opened a second Ugandan office in Gulu in October 2012 to extend its services to widows and orphans victimized by property grabbing in Northern Uganda.)

IJM has worked with local authorities to return over 800 property grabbing victims to their land in Mukono. By partnering with local government authorities on hundreds of individual cases (*see more on this Collaborative Casework model on p. 8*), IJM has witnessed common obstacles faced by property grabbing victims:

- **Untrained, Under-Resourced First Responders:** A victim of property grabbing would likely first report the crime to her Local Council Leader, the community-level representative of the Ugandan justice system. However, these elected officials lack knowledge of the law and resources to apply it, sometimes invoking traditional beliefs disadvantaging women rather than Uganda’s laws. Police also frequently fail to acknowledge property grabbing as a crime, lack sufficient training on evidence

“Among those most vulnerable to property grabbing in Uganda are widows and orphans.”

collection and documentation, and do not understand the relevant laws.

- **Confusing, Inefficient and Disorganized Court Processes:** In the unlikely event that a widow was successfully able to open a case against a property grabbing perpetrator, disorganized courts with confusing processes (which court staff often fail to explain) made it all but impossible for her to actually secure justice. Judges and court magistrates often kept hand-written notes during property-grabbing hearings (as in all types of cases), leaving room for error, misinterpretation and wasted time. The organization system for these case records was virtually nonexistent, with case files often left scattered and decaying in large storage rooms. This confusion also helped facilitate corruption, with some files “lost” on purpose. Cases met frequent delays when judges were absent or overbooked, or when case files went missing—often taking years to resolve. Each delayed hearing required a widow to return again months later, meaning additional transportation costs and another day not being able to work or support her family.
- **A Complex and Inconsistent Estate Administration Process:** When a land owner dies, Uganda’s land administration process is intended to ensure a fair and lawful transfer of the property to rightful heirs. This process—and the documentation it produces—should provide a safeguard against property grabbing, as unclear or absent documentation of property rights make it easier for opportunists to steal a widow’s property. However, the process is so complex, cumbersome, confusing and inconsistently applied that few widows initiate the process; those who do often wait years for their case to be addressed, or discontinue the process prior to its completion. Instead of protecting widows during the period surrounding their husband’s death, the estate administration process instead leaves widows particularly vulnerable to property grabbing.

For a widow chased from her home, these issues are disastrous. Historically, they have meant that the promises of Uganda’s laws have rarely been delivered to the vulnerable widows who need them. IJM’s System Reform project in Mukono is addressing these issues in the justice system. The project is designed to reduce the prevalence of property grabbing by (1) improving the criminal justice system’s performance in restraining and deterring property grabbing crimes; and (2) by reducing the vulnerability of widows and orphans through improved rights documentation.

The Study

IN 2012 AND 2013, IJM worked with external partners on an intensive study to document the prevalence of property grabbing in Mukono, its impact on widows, and the effectiveness of the Ugandan justice system’s response to property grabbing.

Counting Widows

A KEY CHALLENGE in this study was ensuring that a representative group of widows was sampled. The standard source for determining the size of a study population is census or other nationwide surveys. However, the definition of *widow* used in Uganda’s 2009/2010 National Household Survey only included women who were legally married to their deceased partner at the time of death, excluding the large percentage of women who had lost a cohabiting partner, thus underestimating the widowed population. Instead, the study team used a village-level participatory method to leverage the in-depth knowledge of the community members.

To create a comprehensive list of widows in Mukono County from which a statistically significant sample could be drawn, in each village, the study team met with the Local Council General Secretary or Vice Chairperson, who was asked to list all widows in his/her village. These lists of widows were then validated with a local women’s group from within the same village. In total, the validators added an additional 906 widow names, totalling 21% over the original list.

This list was used to create the universe from which the study population was drawn.

Methodology

IN ORDER TO CREATE a comprehensive picture of the prevalence of property grabbing and the justice system response to it in Mukono County, the study employed three different research methods:

- 1. A prevalence survey:** Enumerators conducted a county-wide household prevalence survey with a statistically valid sampling of widows in Mukono County. Women first provided a “story map,” sharing details about their lives that provided a significant window into their relationships, homes/land and lives. This narrative helped establish rapport with the enumerator, acted as a data quality assurance measure, and provided great detail about their relationships, associated property and land, and lives as a whole. They then answered a structured questionnaire.
- 2. A case file review:** The study team conducted a case file review of both criminal property grabbing cases and estate administration cases. Reviewers captured data from all available adjudicated criminal property grabbing cases from Mukono Town Council and Naggalama Police Stations (the two main police stations that serve the county and the location of the county case archives) and then followed the cases through to the Mukono Chief Magistrate’s Court (when the cases could be located). They captured data from all available closed estate administration cases with a female complainant from Jinja High Court and Mukono Chief Magistrate’s Court (the two courts that serve Mukono County) and traced them back to the Administrator General’s Office (when cases could be located). This review encompassed 187 cases closed/completed between the years 2010-2012.
- 3. Focus group discussions and key informant interviews:** The study team conducted interviews with women and men in the targeted communities as well as lawyers, police, local officials, court clerks and other key officials holding positions of authority in the government, the criminal justice and administration processes.

Key Findings

Property grabbing is a common experience for vulnerable widows in Mukono County.

NEARLY 40% of widows faced either an attempt of or actually experienced property grabbing in their lifetime. One in three widows had actually been a victim of property grabbing in her lifetime.

Property grabbing is a violent crime.

WHEN THEY narrated their personal experiences, widows commonly reported experiencing violent acts that either influenced their decisions, or directly caused them to leave the land or property. These ranged from verbal threats to physical assaults to mass destruction of their land or property. Nearly one out of five victims (18%) reported a murder attempt on her life, and 31.6% had threats made against their children by perpetrators.

This violent and coercive nature of property grabbing was also evidenced in the criminal cases pursued through the justice system. From the case file review, 52.9% (36/68) of property-grabbing-related cases filed with the police included a charge indicative of some form of criminal violence (including threatening violence, malicious damage, arson, injury to livestock, etc.). According to the Resident State Attorneys (a role similar to that of a public prosecutor) interviewed in the key informant interviews, the most common charges they see listed in property grabbing cases are assault, arson, malicious damage, aggravated robbery and murder.

Victims of property grabbing report experiencing serious challenges in the year after losing their homes.

KEY INFORMANT interviewees and focus group participants described the emotional, financial and health tolls that property grabbing takes on women in the community, including “mental anguish, suicide and prostitution to survive.” Information was also collected on the household survey from property grabbing victims, specifically detailing experiences within the year following the property grabbing event. While it is not possible to causally link these experiences directly to the property grabbing event, the data from the survey demonstrates the state of widows in the aftermath of property grabbing. Nearly two out of three (63.7%) missed meals regularly, and 44% of victims had to rely on other people for food. Nearly two out of three (64.8%) experienced a decline in health or negative change in their body. Twenty percent told interviewers they began a new cohabiting relationship. Nearly a quarter of victims (22.4%) experienced the death of a dependent within the first year after losing their land.

There was virtually no criminal justice response to this pervasive crime, leaving widows effectively defenseless.

ONLY 6.3% of widows expressed confidence that they could pursue the criminal prosecution of someone who chased them from their home through the public justice system. Widows reported that law enforcement and local officials often seemed to take the side of the more powerful party, and that many requested bribes.

When they narrated their personal experiences, widows commonly reported experiencing violent acts that either influenced their decisions, or directly caused them to leave the land or property.

Of the case files reviewed¹, 94.1 % of criminal property grabbing cases did not reach a final judgment, and not a single case resulted in a conviction of an accused property grabbing perpetrator.

Barriers to engagement in criminal prosecution of property grabbing cases included widows' and justice system officials' lack of knowledge on the law, widows' fear of the loss of social support and other repercussions that might come from pursuing justice, disproportional burden on the widows to obtain justice, and justice system officials' lack of resources and capacity.

There are three preventative factors that are statistically significant protections from property grabbing:

1. *Land rights documentation*: Only 39% of widows reported having the best forms of documentation for their homes.

2. *The existence of a will for the deceased husband*: Widows reported having a will in just one out of four marriages (27%).

3. *Marriage formalization*: It is common for couples in Uganda to live as though married without having the relationship formally documented through an official civil, traditional or religious process. Two thirds (67.5%) of widows reported that their marriage relationship had been formalized.

Four statistically significant risk factors for property grabbing were found as well: Land ownership through *kibanja*², customary/traditional marriage, presence of co-wives, existence of children from the deceased husband and another woman.

“These courts have the potential to be models of positive change. While there remains a long road in front of us, we have already started to see change in these courts—greater efficiency, greater accuracy, greater transparency, and, most of all, greater commitment to bringing justice to all people, regardless of whether they are rich or poor.”

—JESSE RUDY, IJM Field Office Director

Responding to the Study

IJM CONTINUES to provide hands-on training and mentoring to individual justice system officials through collaborating on representing individual victims of property grabbing. (See more on this Collaborative Casework model on p. 8). The issues identified in these cases and through this study are also being addressed through IJM’s System Reform program to sustainably improve the response of police and courts to property grabbing cases.

Police

“EACH TIME we trained police officers on property grabbing matters we were happy that they showed signs of improvement in knowledge, skills and attitudes,” says IJM

Uganda Director of System Reform Juliet Musoke. “But it was always frustrating to learn that in many instances, the police were unable to respond to crime and arrest perpetrators due to lack of means to reach the crime scene.”

This is changing. With IJM’s support, the Ugandan Police Force has launched 11 new Property Grabbing Prevention Desks in Mukono District, which will be manned by IJM-trained investigators. IJM has provided each police station with basic equipment, including a desk and chair, motorcycle to reach crime scenes, log books and office supplies to address the basic gaps in capacity.



Property grabbing prevention desks in Mukono County

Courts

IJM HAS SUPPORTED two courts to incorporate key improvements designed to overcome the barriers to justice routinely faced by property grabbing victims and other vulnerable people. Improvements include:

- *Organized filing systems to maximize efficiency and accuracy:* IJM staff and volunteers helped organize more than 100,000 court records in 2013. One Jinja court employee said, “Finding and retrieving files from the archives used to take days, now it takes just a few minutes.”
- *Electronic case management so cases can move more quickly through the courts:* Today, 100% of all new case files are now being entered into a digital system in both courts, so vulnerable widows can get help faster.
- *Stenographic recorders to create accurate, objective and complete records:* Replacing hand-written notes helps ensure files will be clear and understandable for all parties. The Mukono Chief Magistrate’s Court is the first court of its kind in Uganda to use this kind of electronic system.
- *Workflow improvements for administrative staff to reduce errors and opportunities for corruption:* Yorokamu Bamwine, the principal judge of Uganda’s High Court, said, “These improvements are strengthening the image of the courts and the trust of the people.”

Community members were invited to learn about the improvements and the impact on service delivery at an Open Court day. IJM continues to actively support these courts and will study improvements and progress that arises over the next several years. IJM and its partners hope to replicate successes from these two courts across the country.

Local Council Leaders

IJM HAS NOW TRAINED virtually every Local Council Leader in Mukono County, equipping them with tools (manuals, law books, the right forms) to help either resolve property grabbing cases reported to them or to assist widows in seeking justice in the criminal or civil justice system. IJM has adopted a train-the-trainers model, through which highly motivated Local Council Leaders are equipped to provide ongoing legal education to their communities and their fellow Local Council Leaders.

Public Engagement

IJM IS WORKING TO ENGAGE, educate and mobilize media, community groups, faith groups and civil society with the goal of changing the attitudes and beliefs that enable property grabbing to thrive. This public engagement is also intended to complement the deterrent effect of securing perpetrator convictions through individual cases.

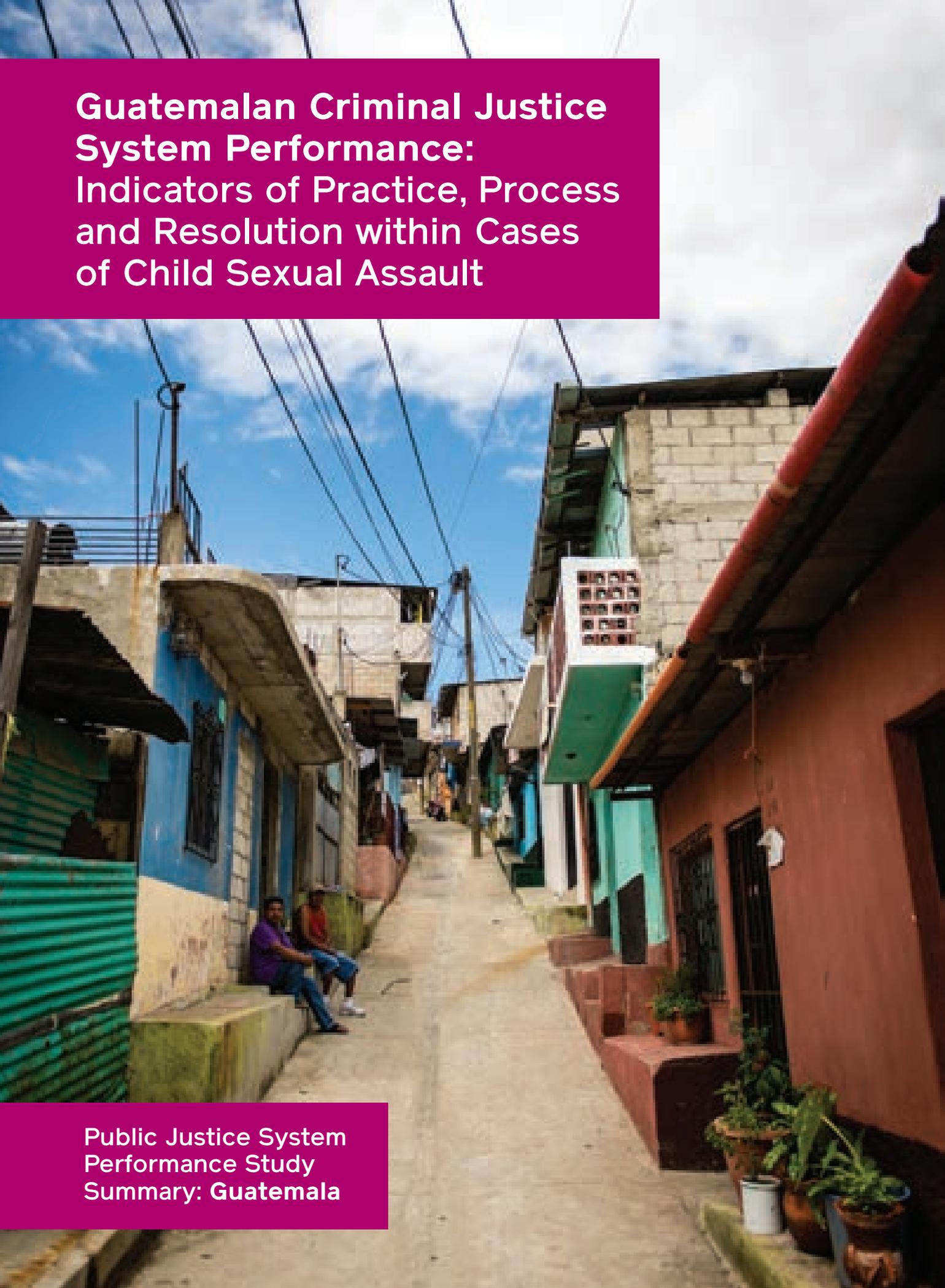
“Since I was trained, now we can talk to the public and tell them what has to be done when property grabbing happens. People now know that they can come to the police with these cases. IJM has opened our brains.”

—Ugandan Police Officer

¹ 68 criminal prosecution files were reviewed. These files represent every locatable file on property grabbing investigations opened between 2005 and 2009 and closed by the time of the study available at the two main police stations serving Mukono County.

² A large proportion of widows’ right to land is through a customary form of land tenure called *kibanja*; under this system, a titled land owner may own a large piece of land, while any number of *kibanja* holders may own occupancy rights to certain portions of that piece of land. While both titled land owners

and *kibanja* owners “own” the land, they are often referred to respectively as “landlords” and “tenants.” (Even for widows who hold *kibanja* rights, land ownership documentation still stands as a strong preventative factor—those at greatest risk hold *kibanja* rights, but lack the best forms of documentation of those rights.)



Guatemalan Criminal Justice System Performance: Indicators of Practice, Process and Resolution within Cases of Child Sexual Assault

Public Justice System
Performance Study
Summary: Guatemala

Overview

IN 2013, IJM conducted a comprehensive study analyzing the progress of all 36,166 complaints of sexual violence made to local authorities throughout Guatemala between 2008 and 2012. The study also incorporated a case file review of closed cases and stakeholder interviews with justice system officials.

Key Finding

This comprehensive review of reports of sexual violence made to Guatemalan authorities between 2008 and 2012 found that 94.1% had not reached a verdict.

Justice is out of reach for the vast majority of sexual assault victims in Guatemala.

Study Summary

Guatemalan Criminal Justice System Performance Study, 2008-2012

Indicators of Practice, Process and Resolution within Cases of Child Sexual Assault

Background

Relentless Violence

GUATEMALA IS AMONG the world's most violent countries, due in part to the legacy of a brutal civil war and unchecked criminal gangs.

During the country's civil war, Guatemala's criminal justice institutions failed Guatemalan citizens, functioning as a source of violence and insecurity rather than protection and rule of law. Since the end of the civil war in 1996, the government, with international cooperation, has invested in reforming the public justice system. Still, it has struggled to effectively address violence and to regain the trust of Guatemalan citizens. In 2011, a Human Rights Watch report called the public justice system in Guatemala "weak and corrupt," and "largely incapable of curbing violence," noting that "deficient and corrupt police, prosecutorial and judicial systems ... contribute to Guatemala's alarmingly low prosecution rate."¹

This climate of impunity and violence leaves Guatemala's most vulnerable people defenseless—especially its children. In 2012, official records report 1,299 violent deaths of minors.² According to information presented in the Human Rights Ombudsman report, sexual assault of female children represented the great majority of cases attended by the National Civil Police; in 2011, sexual assault of girl children represented 64.17% of their cases.³

The Law Against Sexual Violence, Exploitation and Trafficking of Persons⁴

IN 2009, the Congress of Guatemala passed a new law against sexual violence, trafficking and exploitation (Decree 9-2009). This legislation introduced adequate legal definitions for crimes of sexual violence and trafficking,

increased the penalties against perpetrators and created a new government office to address those crimes under the Office of the Vice President. While the introduction of the law was a substantial and positive step to address long-standing systemic issues, justice system actors' initial responses included confusion, inconsistent use of the clarified definitions and sentencing guidelines, and misapplication of the new law.

IJM in Guatemala

INTERNATIONAL JUSTICE MISSION established an office in Guatemala in 2005. From 2005 to May 2013, IJM provided support to more than 330 child victims of sexual assault and their families. In this time period, IJM, in partnership with government authorities, secured the convictions of 172 individuals for rape and other acts of sexual violence against children.

These children served and perpetrators convicted represent a small proportion of the large number of cases of child sexual assault in Guatemala; the majority of cases in the country still do not receive adequate attention. For this reason, IJM Guatemala is partnering with the local government on a System Reform project designed to ensure that all victims of child sexual assault, not just IJM clients, are treated with dignity and that cases are processed in a timely, professional and effective manner. Ultimately, the goal is to sustainably increase the performance of the justice system, resulting in a decreased prevalence of sexual assault against children.

The Study

IN 2013, IJM Guatemala conducted an intensive study to assess the effectiveness of the Guatemalan public justice system's response to child sexual assault. This study ana-

lyzed data from three sources to create a comprehensive picture of the Guatemalan criminal justice system response to child sexual assault from 2008 to 2012:

1. Analysis of the Public Ministry’s complete sexual assault case database from 2008 to 2012

The study reviewed any sexual assault complaint filed in the Public Ministry’s Information Control System—a total of 36,166 complaints, representing both adults and children. These reports included information about complaints filed, accusations, sentences, pre-trial testimonies, victims, and the status of cases at the national level, and cover every case of sexual violence reported through official channels.

2. Case File Review of child sexual assault cases that reached a verdict between 2008 and 2010, in three provinces of Guatemala

The study conducted in-depth analysis on a sample comprising 182 closed cases of child sexual assault from the provinces of Guatemala, Quetzaltenago and Alta Verapa (providences selected because they have the highest reported incidences of child sexual assault nationwide). The statistically significant set of cases analyzed represent 78% of all child sexual assault cases that reached a verdict between 2008 and 2010.

3. Interviews with criminal justice system officials who intervene in cases of child sexual assault cases, officials from social agencies and academic experts

These interviews provided insight on how cases of child sexual assault progress throughout the various parts of the criminal justice system.

Key Findings

Few reported cases of sexual violence resulted in convictions, and the vast majority of reported cases of sexual violence did not progress beyond the investigation stage.

This review of Public Ministry data reveals the climate of impunity in which perpetrators of sexual violence operate in Guatemala. Out of all 36,166 reported cases of sexual violence between 2008 and 2012, 94.1% had not reached a verdict at the study’s conclusion.

Case Progression

Stage 1: Complaint Reported

81.5% of cases reported to local authorities progressed on to a full investigation after the initial report (meaning that nearly two out of 10 cases did not progress to a full investigation at all.)

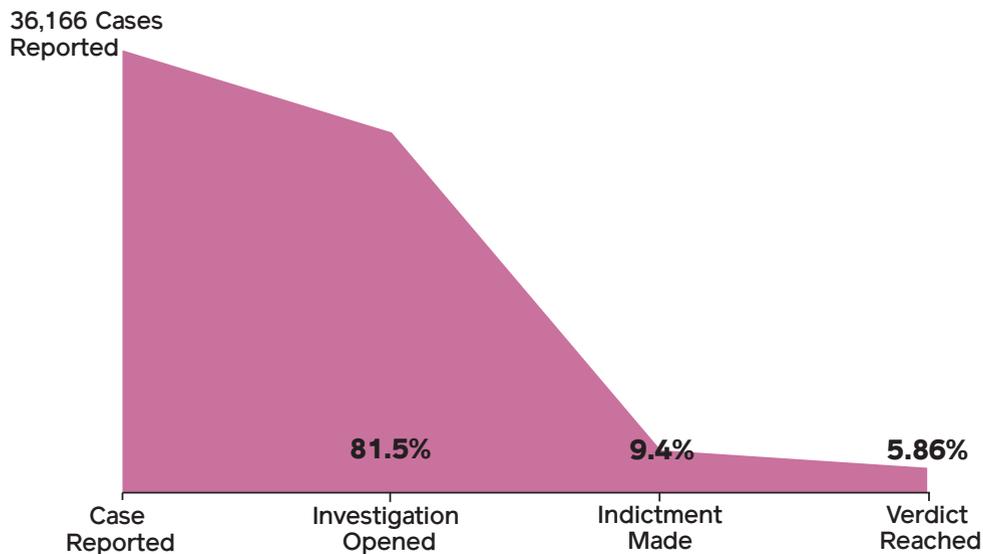
Reasons that cases did not progress included: law enforcement was unable to identify the victim or suspect, the actions that led to the filing of the complaint did not amount to a crime, or the victim or victim’s family did not collaborate further with the case (despite the fact that sexual violence is considered a crime against the state and should be investigated regardless of family cooperation).

Stage 2: Investigation

Only 28% of cases reported to local authorities successfully progressed past the investigation stage to an indictment.

By the end of 2012, 60% of the cases reported to local authorities between 2008 and 2012 still had not been successfully investigated. An additional 12% of cases did not progress beyond the investigation stage because they were transferred to another court (7%), were closed or sus-

PROGRESSION OF REPORTED SEXUAL ASSAULT CASES, 2008-2012



This review of Public Ministry data reveals the climate of impunity in which perpetrators of sexual violence operate in Guatemala.

pended because the suspect absconded or victim agreed to a mediated settlement with the suspect (3%) or because the evidence needed for prosecution was impossible to gather or the event did not qualify as a crime (2%).

Stage 3: Indictment

Only 9.4% of cases reported to local authorities made it past this stage—that is, in fewer than 1 out of 10 cases was the suspect formally charged with a crime based on the investigation.

Stage 4: Verdict

Only 5.9% of cases reported to local authorities between 2008 and 2012 had resulted in a verdict by the end of 2012. One percent of these cases still had pending appeals, through which the verdicts could be revoked or modified.

Victims of sexual violence are often children.

DURING 2008–2012, 61,082 victims registered complaints for sexual crimes, with the number of victims increasing in 2012 and the most frequently reported crimes being rape and sexual assault. (The number of victims is higher than the number of complaints filed at the public ministry in the same period (36,166) since there can be more than one victim in an individual complaint.) The age of victims is not known in a number of cases, but of those in which the age was registered, victims under 18 years of age represent 44% (20,590). Among this age group, female minors are the most common victims at 88.32%.

The study of 182 concluded cases included 203 child victims (again, some cases have multiple victims), 72% of whom were 13 years old or younger (and six of whom were age 3 or younger).

Perpetrators of sexual violence were often well-known to the victim.

THE STUDY OF 182 concluded cases included a review of the 188 perpetrators of sexual crimes against minor victims. Of these overwhelmingly male (98%) perpetrators, 89% had a close relationship with the victim, including parents, grandparents, stepparents, neighbors, teachers or employers. In 58% of cases, the perpetrator was a family member of the victim; for minor victims, whose parents must represent them in court proceedings, this repre-

sents a frequent conflict of interest.

Reporting of child sexual assault is often delayed.

IN 65% OF CASES, complaints of sexual assault were filed with authorities longer than 72 hours after the crime, leading to the loss of crucial biological and physical evidence as well as a lack of provision of emergency medical attention for child victims.

Inappropriate investigative methods are applied to sexual violence cases.

INTERVIEWS with justice system officials revealed that cases can be closed early by prosecutors or remain stuck in investigation when the victim or family members do not collaborate with the investigation, or when there are not direct witnesses to the crime. However, sexual violence is a public action crime, so cases should proceed regardless of collaboration from the family, and absence of witnesses is quite typical of sexual violence cases, where there are rarely direct eye witnesses to abuse. Successfully investigating sexual violence requires specific methods, but this study found that justice system officials (law enforcement, prosecutors and judiciary) typically attempted to apply more general investigative methodologies not appropriate for sexual violence cases.

Children were not provided with the legal protections to which they are entitled.

THE MOST IMPORTANT FACTOR in achieving a verdict in a case of child sexual assault is the child's testimony. Given the traumatic nature of providing this testimony in open court, Guatemalan law provides for children to give their testimony prior to court, or through a specialized room called a Gesell Chamber, which allows them to share their testimony away from the potentially intimidating presence of their perpetrator. (See page 42 for more information on the Gesell Chamber.) However, the review of closed cases revealed that 97% of child victims were required to testify in court (197 out of 203)—and in only 5% of cases was a screen used in court to protect the victim from the view of the perpetrator. The review of all cases from 2008–2012 presented a similar picture: Out of the 36,166 complaints of sexual crimes committed against adults and minors, in only 1.52% (550) cases did prosecutors request pre-trial testimonies.

All three components of the study demonstrated that, as a matter of course, child victims were subjected to repeated interviews with a variety of justice system actors; in an average case, a child would be interviewed six separate times (and in the majority of cases, children were interviewed at least eight times).

The under-use of legal tools and processes designed to protect victims likely contributes to the unnecessary re-traumatization of minor victims.

Evidence collected is not of sufficient quality to secure indictments or convictions.

EVEN WHEN AN investigation is concluded, the quality of information is often so lacking that prosecutors decline to file indictments (contributing to the fact that indictments were only filed in 9.4% of reported cases between 2008-2012). The indictment demonstrates the prosecutor's firm conviction—based on evidence gathered during the investigation—that the alleged perpetrator is guilty of the crime.

Furthermore, in the relatively rare instances in which an indictment is made, the quality of evidence and documentation is often very low. In the review of 182 closed cases, in 72% of cases, the legally required level of evidence and documentation for an indictment was not provided. This review found frequent deficiencies in the provision of clear evidence, proof of a thorough investigation, clear identification of the suspect and a clear ap-

plication of the relevant law. Despite the fact that a full 72% of cases did not meet the legal requirements to make an indictment, judges only requested adjustments in 10% of cases.

Significant gaps between a complaint and arrest are common.

DUE TO POOR coordination between police and prosecutors, arrest warrants were often issued more than 30 days after a complaint was made—giving accused perpetrators ample time to flee or to pressure victims and their families into dropping complaints. Even among the 182 reviewed cases that did reach a verdict, there was at least a 30-day gap between the complaint being made and the arrest warrant being issued in 68% of cases—and in one case, seven years passed between the complaint being made and the arrest warrant being issued.

Cases of sexual violence progress through the criminal justice system at an extremely slow pace.

OF THE 182 reviewed cases to reach a verdict between 2008 and 2010, 80% took between two and five years. This slow pace only increases the likelihood that victims or their families will choose not to continue with the case, evidence will be lost or mishandled, judges or prosecutors will be transferred, suspects will abscond or other obstacles to the case's conclusion will occur.

Responding to the Study

THE STUDY REVEALED systemic weakness in the way that Guatemalan law enforcement and courts address cases of sexual violence against children. While IJM continues to take on individual cases of sexual violence against children, the team is also working to advocate for systemic reforms that will have broad impacts.

IJM and UNICEF collaborated to propose recommendations to be implemented in the Guatemalan court system that will address several of the weaknesses revealed in this study. These recommendations were officially formalized as nationwide policies in 2013 through a “General Instruction” from the Guatemalan Attorney General and through a new Protocol for the Reception of Child Victim and Child Witness Testimony for judges issued by the Guatemalan Supreme Court.

Prosecutors

THE NEW GENERAL INSTRUCTION establishes nationwide standards for investigating and prosecuting crimes against children. This nationwide guidance:

- Ensures confidentiality during a trial
- Guarantees the right of a child to testify about what they endured
- Allows children to testify in a safe setting—so the child does not have to face the alleged aggressor again
- Requires prosecutors to consider the child's cultural identity and provide a translator if necessary
- Requires prosecutors work with social workers to ensure children receive proper attention
- Establishes minimum standards for investigations and obtaining evidence

At the invitation of the Guatemalan Public Ministry⁵, IJM has trained every prosecutor in its project area (over 350 prosecutors) on this new policy.

Judges

THE PROTOCOL for the Reception of Child Victim and Child Witness Testimony establishes new nationwide

“These policies for prosecutors and judges represent a dramatic shift in the way the Guatemalan judiciary will protect children. These minimum standards will make justice possible for so many children in Guatemala, especially the poor children who rely on the most basic legal services.” —PABLO VILLEDA, IJM Regional Vice President for Latin America Operations.

guidelines for judges’ interaction with child sexual assault survivors. These guidelines:

- Explain how questions should be framed in a way that is respectful and dignifying to the child
- Prohibit contact between the child victim and the alleged abuser
- Underscore the importance of only interviewing a child once to minimize the re-traumatization
- Describe appropriate methods for collecting testimony from children, highlighting the Gesell Chamber (see box at right)

At the invitation of the Supreme Court, IJM is partnering with local authorities to lead a course for all Guatemalan judges on the new Protocol; nearly 150 judges were trained in 2013.

Police

IJM IS PARTNERING with the Guatemalan government to review the standing orders for the police, with the goal of creating new guidelines for the investigation of sex crimes. Additionally, IJM will provide training to police throughout the country:

1. All new officers will receive training on basic investigation techniques.
2. Officers specializing in investigations will receive a second training module.
3. All officers in the newly established sex crimes unit will receive in-depth training on addressing these crimes.

IJM continues to advocate for the expansion of the sex crimes unit (which currently operates primarily out of Guatemala City) and for more specialized judges and additional resources for prosecutors.

Reducing Trauma: The Gesell Chamber

THE CLOSED CASE REVIEW found that 97% of children were forced to testify in open court, often a highly traumatic experience, and at odds with protections in Guatemalan law designed to avoid unnecessarily traumatizing child victims. UNICEF and IJM have collaborated to advocate for the use of the Gesell Chamber, a safe interview room in the courthouse where children can testify. In the Gesell Chamber, a one-way mirror separates the child from the courtroom; rather than be questioned in the intimidating presence of the perpetrator and the unfamiliar environment of a courtroom, the child can answer questions posed to her by a psychologist (wearing an earpiece to communicate with the judge and attorneys) in a safe and comfortable environment. This testimony is recorded, to minimize the number of times the child needs to testify.



Inside the Gesell Chamber (above), where children answer questions from a child psychologist. The judge, prosecutor and defense attorney view the questioning through the one-way mirror.

¹Human Rights Watch. (2011). World Report 2011: Guatemala. Retrieved from: <http://www.hrw.org/world-report-2011/guatemala>

²Observatory on Children and Adolescents in Guatemala. Retrieved on April 14, 2013, from: http://www.odhag.org.gt/observatorio/index.php?option=com_content&view=article&id=47&Itemid=58 Link dead

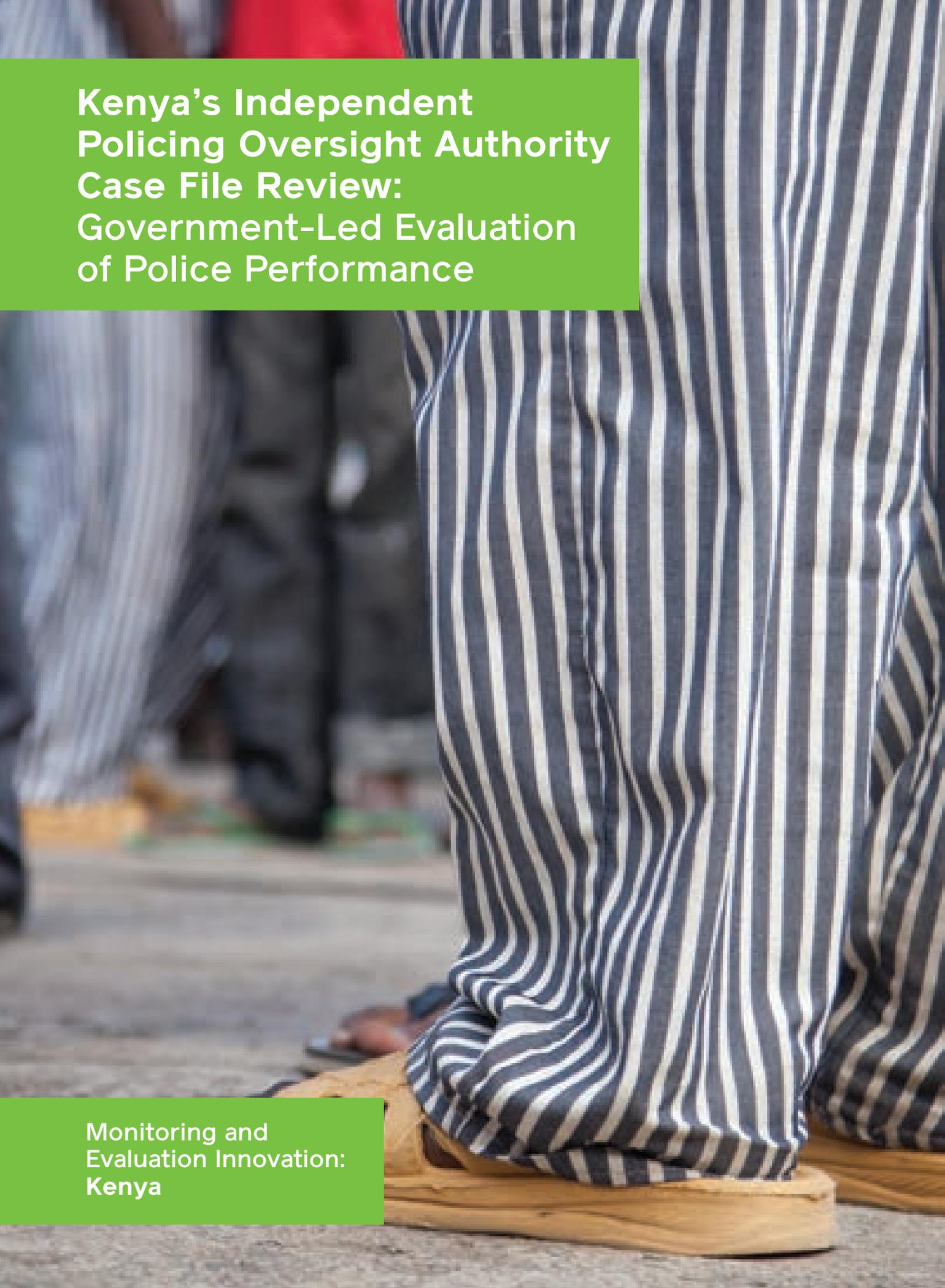
³Human Rights Ombudsman, Report “Violencia Sexual en contra de Niñas,

Adolescentes y Mujeres en Guatemala”, 146th period of sessions of the Inter American Commission for Human Rights, Guatemala, October 2012.

⁴See section 6.2.3.2: Law Against Sexual Violence, Exploitation, and Trafficking of Persons.

⁵The *Ministerio Publica* (“Public Ministry”) is most analogous to the U.S. Department of Justice





**Kenya's Independent
Policing Oversight Authority
Case File Review:
Government-Led Evaluation
of Police Performance**

**Monitoring and
Evaluation Innovation:
Kenya**

Overview

KENYA'S INDEPENDENT POLICING Oversight Authority (IPOA) made history in late 2013 by releasing an innovative study that revealed significant gaps in police practice.

Key Finding

In 64% of the felony cases reviewed in IPOA's study, people had been put on trial without sufficient evidence to charge them in the first place.

Meaning, in nearly two out of every three cases, Kenyan men and women were facing serious criminal charges and, many times, life sentences in prison, even though there was not enough evidence to meet the standard to charge them with a crime.

"This finding provides irrefutable evidence that the police in Kenya have not been conducting sufficient investigations. The result of this practice is the needless suffering that comes when innocent men and women are kept languishing in prison for years until their case is heard. Now it has been documented in a government study."

—Shawn Kohl, IJM Field Office Director

Study Summary and Commentary

Kenya's Independent Policing Oversight Authority

Background

NAIROBI IS arguably one of the most violent cities in the world. While increasingly bold attacks by the terrorist organization Al-Shabaab—including the major assault on a shopping mall in an affluent Nairobi community that killed 67 in 2013—have made worldwide headlines, common crime and violence are also ubiquitous and receive little global notice.

The city's skyrocketing crime rate has fed popular demand for a strong police response, and law enforcement is responding by sweeping up and arresting large numbers of slum residents after incidents of break-ins, robbery and arson. Police, for their part, are poorly trained, under-equipped, undisciplined and feared by Kenyan citizens and Somali refugees alike for their tendency to pin unsolved crimes on random passers-by and charge and detain with no legal justification at all.

This is not the only threat to the rule of law. The Chief Justice of the Kenya Supreme Court, Honorable Willy Mutunga, reports that the greatest threat to the public justice system is the significant backlog of cases—a staggering 500,000, many of which have languished without action for several years. For a country with a population of 40 million, a case backlog of this magnitude is dangerous indeed.

Today, Kenyan prisons are overcrowded with people charged with common crime as well as those suspected of terrorism, but Nairobi is increasingly less safe. Indeed, acts of terrorism, violent crime and police abuse have destabilized the country and pose a serious threat to Kenyan and international interests in the region.

The Report

AN EXTRAORDINARY REPORT commissioned by Kenya's Independent Policing Oversight Authority (IPOA)—an agency statutorily created by the Kenyan parliament to

oversee the country's police service following the adoption of the new Constitution in 2010—revealed compelling data that illuminates major causes of this practical collapse of the criminal justice system.

To fulfill its policing oversight mandate, IPOA leadership conducted a baseline study of police performance. The study utilized several different methodologies to create a clearer picture of the actual performance of the police, not just perceived performance. The first such study conducted in Africa, the unprecedented report was only possible because of IPOA's statutory mandate. The study included:

- 1. Survey:** 5,082 households and 515 police officers from approximately three-fourths of Kenya's 47 counties were surveyed about police performance. One-third of all respondents had experienced police abuse, including assault, bribery, falsification of evidence and threat of imprisonment within the previous 12 months. Fifty three percent (53%) of police respondents had witnessed police abuse in the year prior to the survey
- 2. Case Analysis:** The independent research team commissioned by IPOA conducted an in-depth analysis of 203 concluded (closed) felony cases from four representative police stations. IJM provided technical support on this case file review. The charges examined were "robbery with violence," "theft by servant" and "preparation to commit a felony."¹ IPOA found that 64% of the concluded cases had never met the minimum evidentiary threshold for charging. These were all cases that had been fully adjudicated over several years, but should have never been instituted. Corroborating the extremely high number of merit

One-third of all of the respondents had experienced police abuse, including assault, bribery, falsification of evidence and threat of imprisonment within the previous 12 months.

less cases, the study revealed that only a quarter (25%) of cases ended in conviction.

The significance of these findings cannot be overstated. In short, three-fourths of the felony cases tried were unsuccessful. Defendants in these cases are often eventually released, but many have spent years in overcrowded remand facilities with dangerous criminals. And, prior to release, up to 25% of the incarcerated population may be victims of police abuse, according to some faith-based NGOs and reports from individuals in the prisons system.

The standard practice of charging people without sufficient evidence results in enormous government waste in a country struggling to provide basic resources to its citizens. Furthermore, the incarceration and detention of innocent people results in systemic human rights abuses perpetrated by those investigating and charging without evidence, as well as perpetuates insecurity and violence, because real criminals are rarely convicted.

Thorough investigations are the exception. Real criminals, along with the innocent, are ultimately released when their cases end without a conviction. Because police do not collect evidence sufficient to charge—much less convict—perpetrators, victims of crime have little reason to report it to the criminal justice system.

The result is that fewer complaints and cases are reported to police because there is no confidence in the public justice system. Another result is an increase in “mob justice,” as the public takes matters into their own hands — a total collapse of the rule of law.

The findings, while disturbing, offer valuable insight into the root causes of inadequate government resources, prison overcrowding and a breakdown in the rule of law in Nairobi. For the past 13 years, International Justice Mission has provided legal assistance to innocent men and women who have been imprisoned without sufficient evidence in Nairobi. Since 2008, IJM lawyers have provided pro bono services to secure the acquittal and release of more than 165 men and women.

Through this significant experience representing falsely accused persons, IJM has identified systemic in-

firmities that contribute to IPOA's staggering finding that 64% of felony cases lack the requisite evidence to charge a person with a crime. The root of the problem is two-fold: no accountability for police officers who manufacture evidence and falsely charge innocent persons, and the lack of professionalization in the decision to prosecute. If these two issues were addressed, a significant reduction of meritless cases and systemic victimization of citizens would result. Additional anticipated results would include a decrease in the number of innocent Kenyans held in pre-trial detention, and increased security and public confidence in the public justice system in Nairobi.

Innovative Methodology

THE IPOA STUDY has provided the clearest and most accurate picture yet of the extent of this urgent issue in Kenya. The study itself is unprecedented. Most studies of police performance measure only “perception,” meaning the way people (the public, the police themselves, or both) feel about law enforcement through opinion surveys. For the first time ever in East Africa, this study measured the actual performance of the police, in addition to perception, by reviewing closed and adjudicated police case files. The study is a great credit to IPOA and to the Kenyan Police Service, which provided unlimited access to the case files.

IJM provided technical expertise regarding the concept and design of the case file review portion of the study, helping to develop tools that allowed the government research team to evaluate police on clear performance indicators.

Solving the Root Problems

IN MANY of IJM's false imprisonment cases, Nairobi police have rounded up men (and sometimes women) in poorer neighborhoods and threatened them with false charges if they do not pay certain amounts of money. In other IJM cases, police are under extreme pressure to “solve” cases and find a suspect among the same demographic: poor, not formally educated and unaware of their rights. In still other IJM cases, police use false charges to cover up excessive force or a theft of police property, fear-

ing that otherwise they will be punished.

Given the overwhelming need and the high prevalence of such police abuse, IJM is supporting law enforcement agencies responsible for holding police officers accountable for the abuse of power. Kenya inherited a repressive system in which police themselves were responsible for charging and prosecuting suspects, a colonial vestige that has already been discarded in the UK and several other Commonwealth countries because of the corruption it perpetuates. IJM is committed to supporting Kenya's Office of the Director of Public Prosecutions (ODPP) to professionalize the decision to prosecute and consolidate the decision to charge into the ODPP and away from the police.

Furthermore, IJM is supporting the police responsible for investigating police officers who abuse their power, including the Internal Affairs Unit and Criminal Investigations Department. Additionally, IJM is supporting the National Police Service Commission and the Independent Policing Oversight Authority to fulfill their mandate through trainings and legal support.

Substantial Impact

PROFESSIONAL POLICING and prosecution is necessary in all criminal cases, but it is acutely needed in the fragile East Africa region. Two of the four countries bordering Kenya are immersed in a civil war. This places Kenya in a crucial role to enhance stability and security for the entire region. Police sweeps and mass arrests of thousands of persons of Somali decent undermine an effective counterterrorism strategy. Residents of poor neighborhoods

who have been subjected to mass arbitrary arrests fear the police with good cause and go out of their way to avoid them. There is little hope that police will find cooperative witnesses or informants among the community, which is essential to win the war on terror.

The unsubstantiated arrest and detention of civilians is counterproductive because it places thousands of innocent individuals in proximity with actual criminals and terrorists. When Kenyan magistrates inevitably dismiss cases for lack of evidence, innocent victims of police abuse may well return to their communities embittered and desperate, some having lost years of their lives and suffered degradation, sickness and the loss of their family.

The IPOA's seminal report is alarming, and should send a clear message to the leadership of Kenya and international donors about where attention and resources should be focused. Accountability and oversight of the police is possible through a strong and well-funded IPOA, Internal Affairs Unit and National Police Service Commission. Additionally, the Government of Kenya should provide significant financial support to the ODPP, which is committed to the professionalization of the decision to prosecute and the reform of the long-understaffed prosecution service.

Kenya's newly-formed institutions—IPOA, the ODPP, and the National Police Service Commission—represent the best hope for a fundamental change in the Kenya Police Force. With additional resources and political support, they offer a road-map for safeguarding Kenyans and providing an anchor to a vital region and partner of the US and Europe.

Responding to the IPOA Report

Representing Victims of Abusive Detention

IN NAIROBI, IJM identifies innocent men and women who are victims of police abuse. The IJM team investigates cases to prove these men and women's innocence and represents them in court to secure their freedom and acquittal. IJM social workers also provide ongoing care to victims and their families while they are imprisoned. Part of the needs assessment includes the development of a reintegration plan with a goal towards self-sufficiency for victims and their families once they are released. IJM is partnering with community groups and churches to assist with the reintegration process, aiming to provide a social safety net as victims transition back into life with

their families and communities.

These individual cases not only provide urgently needed relief to victims of wrongful imprisonment and abusive detention, but also provide IJM with crucial insight into where the criminal justice system is failing the poor.

Empowering Detainees through Rights Training

IJM HAS ENTERED into a Memorandum of Agreement with the Kenyan Prisons Service of Nairobi County to provide basic legal rights and advocacy training for prisoners who cannot afford a lawyer. Many of the men and women awaiting trial in prison have received little to no formal education. Now, those same impoverished people await

¹International Justice Mission provided technical assistance to IPOA for the file review.



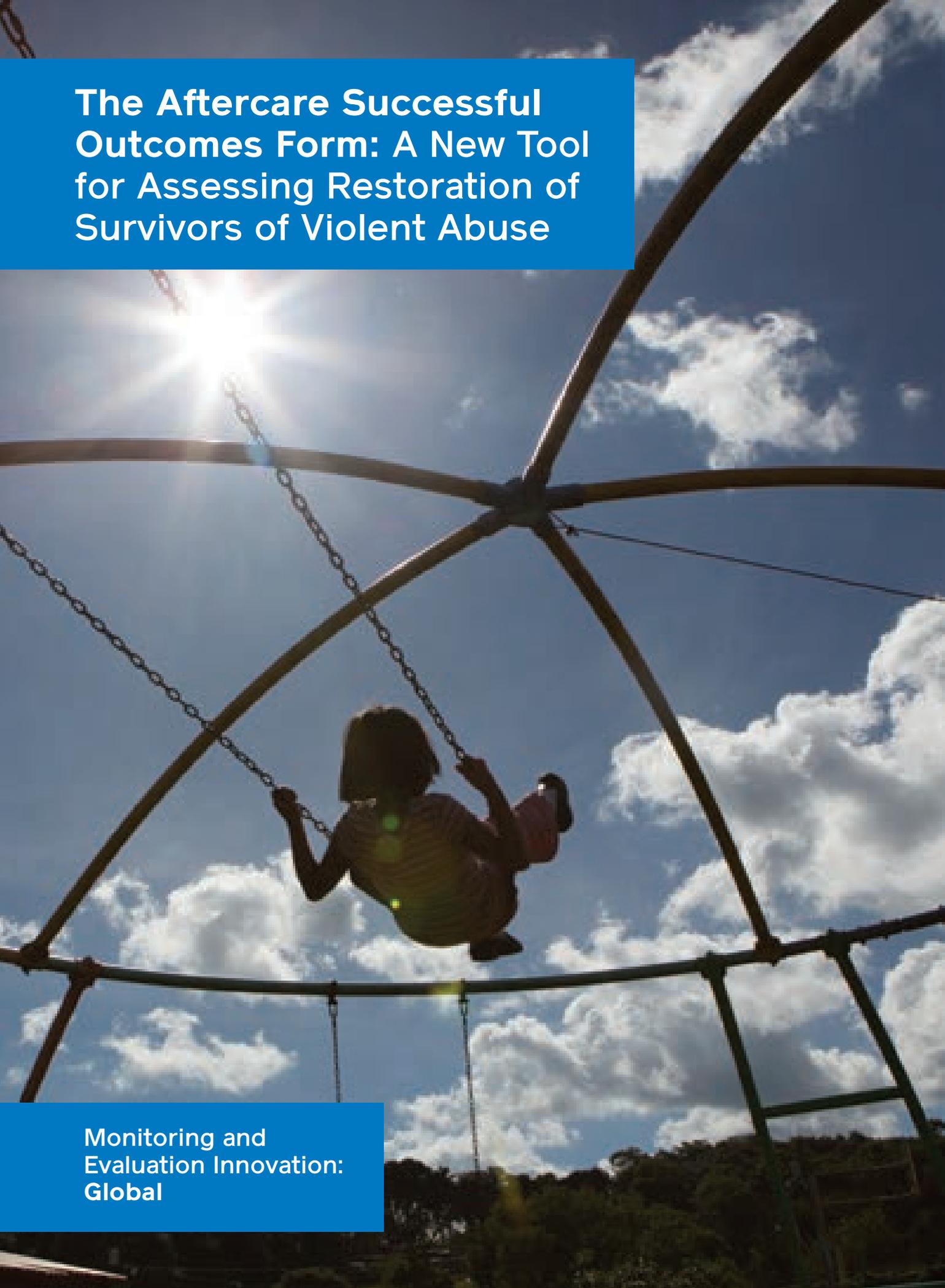
ing trial will learn about their basic rights under Kenyan law, such as their right to know the charges brought against them and their constitutional right to have the proceedings translated into a language they understand.

Equipping Prosecutors to Ensure Just Charging

IJM IS TRAINING newly hired state counsel on the National Prosecution Policy and the factors they must consider when making the determination to prosecute. These

counsel will number in the hundreds and come from across the country. IJM is also supporting the Office of the Director of Public Prosecution (ODPP) to professionalize the decision to prosecute. As the most important function of the prosecution service and one that the IPOA study revealed had been made incorrectly in 64% of cases, IJM is collaborating with the ODPP to develop tools and pilot them in various courts to improve decision-making in this key area.

Kenya's newly-formed institutions—IPOA, the ODPP, and the National Police Service Commission—represent the best hope for a fundamental change in the Kenya Police Force.

A low-angle photograph of a child swinging on a swing set. The child is silhouetted against a bright sun in a blue sky with scattered white clouds. The swing set's metal frame is visible, creating a geometric pattern of lines. The sun is positioned in the upper left, creating a lens flare effect.

The Aftercare Successful Outcomes Form: A New Tool for Assessing Restoration of Survivors of Violent Abuse

Monitoring and
Evaluation Innovation:
Global

Overview

A TEAM OF SOCIAL WORKERS at IJM has developed an unprecedented measurement tool to assess the extent to which survivors of violence are equipped to live safely and sustainably.

The Aftercare Successful Outcomes form (ASO) assesses the level of functioning of survivors of violence in several areas necessary for restoration and the ability to lead an independent, fruitful life, including:

- Trauma recovery (emotional well-being)
- Economic empowerment/education (financial well-being)
- Health (physical well-being)
- Housing/support system/protection (social well-being)

Impact

IN A FIELD where measurements of success have typically been ad-hoc, this tool provides a new way of rigorously measuring a survivor of violence's level of restoration.

“Using an ASO score to compare a survivor’s functioning at different stages throughout the case will give us insight into how effective our aftercare programs are. This is critical to ensuring that these programs are actually facilitating the restoration of those they are meant to serve.”

—Kathy Stout-LaBauve, LCSW, IJM Vice President of Aftercare

Monitoring and Evaluation Innovation

The Aftercare Successful Outcomes Form: A New Tool for Assessing Restoration of Survivors of Violent Abuse

Background

SURVIVORS of rape, forced labor slavery, sex trafficking, property grabbing, abusive detention and other violent abuse do not simply heal with time. Trauma triggers a complex set of adaptive mechanisms in victims of violence: Put simply, during a traumatic experience, the brain is “wired” to respond in a way that will help the victim survive.

However, when the survivor is removed from the traumatic situation, these necessary survival mechanisms become maladaptive, often harming relationships, self-esteem and state of mind. The behaviors and conscious and unconscious mental responses that helped the person survive become an obstacle to his or her recovery and restoration. When trauma is not addressed, survivors can develop an “insidious, progressive form of post-traumatic stress disorder that invades and erodes the personality.”¹

Aftercare at International Justice Mission

INTERNATIONAL JUSTICE MISSION serves survivors of forced labor slavery, sex trafficking, rape, property grabbing and police abuse of power. The organization has developed a comprehensive aftercare program designed to decrease vulnerability and increase general well-being in the lives of the survivors of violence it serves.

Each aftercare participant receives an individualized treatment plan tailored to meet his or her specific needs and help access opportunities to build a safe, sustainable future. IJM works with various partners, including government social service providers and non-governmental aftercare homes, job-readiness training centers and other local non-profits to provide opportunities (including job skills training or education) and connect survivors to a supportive community.

The Challenge: Measuring Aftercare Success

OVER TIME, IJM social workers noted that certain components of the treatment plan appeared to result in significant improvements for those being served by the organization. For example, they witnessed that survivors of violence who received trauma-focused therapy were more confident in their court testimony than survivors in the past that had no exposure to trauma-focused counseling. Parents reported that their children (survivors of rape and sexual assault), who were often irritable, tearful and anxious before participating in IJM’s aftercare program were no longer withdrawn and isolated, and were able to appropriately engage with family and friends.

But these anecdotal trends were inadequate to fully assess success of aftercare services. IJM needed a tool to assess the level of services provided, and to also measure the extent to which these services contributed to clients’ successful restoration and ability to function in society.

In the social work field, traditionally, metrics of success

Defining Restoration

THE VISION OF IJM AFTERCARE IS: *the restoration of our clients through services that set a global standard and create replicable, sustainable models of excellence, ultimately contributing to reliable access to needed services for victims of violent injustice.* “Restoration” refers to a measureable improvement in the condition of a client from the time of initial assessment until the completion of their treatment—this improvement should be such that the client has the ability to transition into a safe and sustainable living environment.

“If we have dreams of providing meaningful assistance to the hundreds of millions of the world’s poorest citizens in their struggle against poverty, we must also have our eyes wide open to the countless millions of the world’s poorest suffering under conditions of such acute traumatic stress.”

— GARY A. HAUGEN, IJM President and CEO,
 (in *The Locust Effect: Why the End of Poverty Requires the End of Violence*)

for care provided to survivors of violence have primarily focused on whether or not various services and supports have been provided, or by the length of time for which a survivor of violence received services. While such measurements provide a useful baseline, they are insufficient to assess the extent to which these services actually contribute to the well-being and healing of their beneficiaries.

An extensive review of current practice and literature in the social work field yielded very limited research into models to systematically measure the effectiveness of aftercare services provided to survivors of violence against an objective standard on an individual basis.

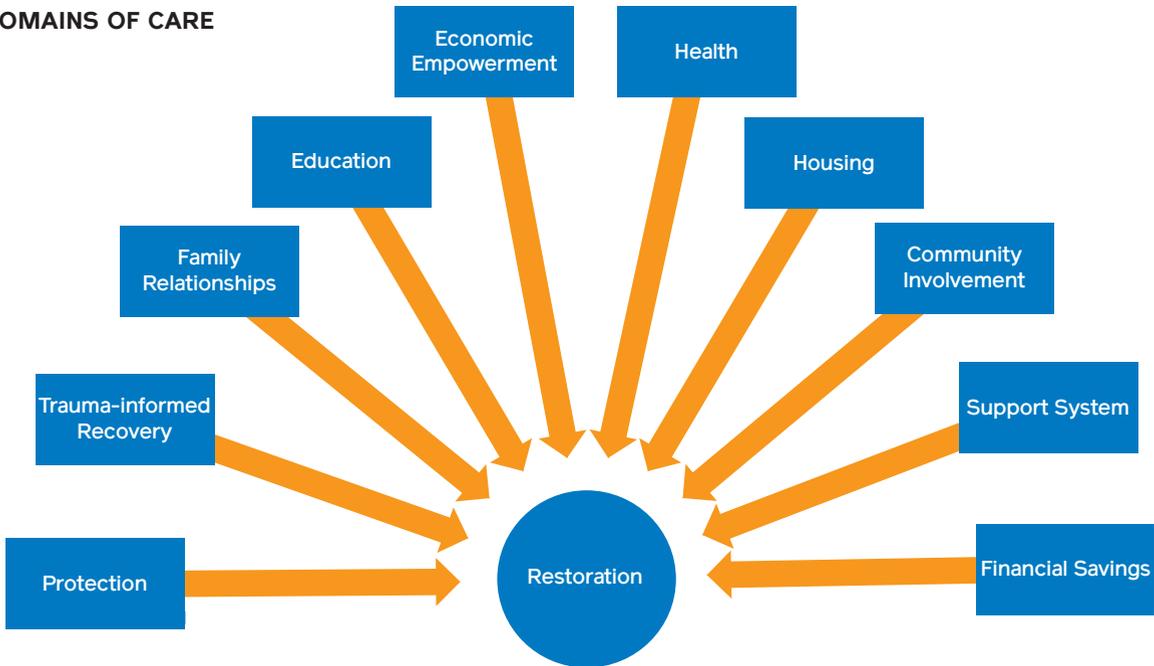
Aftercare Successful Outcomes Form

IN RESPONSE to the need for a tool to clearly measure whether beneficiaries had experienced successful restoration, and in acknowledgement of this gap in the social work and psychology literature, IJM has developed and implemented a new resource: the IJM Aftercare Successful Outcomes Form, an unprecedented measurement tool in the social work field.

Development of the Tool

THE FIRST STEP in the development of this tool came out of the IJM office in Cebu, the Philippines, where the IJM aftercare team conducted research on economic self-sufficiency and restoration for the trafficking survivors they served. The team brought together stakeholders working with survivors of commercial sexual exploitation, and

DOMAINS OF CARE



they identified types of support that had been necessary for the successful restoration of the survivors they supported into their home communities and/or independent living situations. Concurrently, the IJM aftercare team in Chennai, India, identified indicators for successful restoration of released forced laborers and designed the prototype for the Aftercare Successful Outcomes Form.

This research provided a foundation for the development of similar data across different types of abuse. IJM case managers serving survivors of forced labor slavery, child sexual abuse, commercial sexual exploitation, property grabbing, abusive detention and police brutality identified categories of support that led to the successful restoration of survivors of these forms of abuse.

The case managers then classified indicators of successful restoration of survivors into ten domains (see figure on previous page); the resulting set was in line with the domains of care that have been identified in the literature as being necessary for the restoration of a survivor of violence.

While all ten domains can play a role in restoration for a survivor of violence, the importance of each domain relative to the others varies depending on the form of violence. (For example, establishing economic security will play a primary role in the restoration of a survivor of forced labor slavery, while it may play a less central role in the restoration of a survivor of sexual assault, where the

Next Steps

THE ASO FORM was launched in all IJM field offices in 2013. Throughout 2014 and 2015, IJM is testing the tool to ensure it creates a valid measurement of the degree of restoration of IJM aftercare participants. In particular, IJM will assess the weighting of the priority domains of care and the standard domains of care to ensure that these provide a true reflection of a survivor's status. IJM has collaborated with multiple domestic and international aftercare organizations to discuss the measurement of success for clients participating in aftercare programs. Though many organizations are seeing improvement in clients' lives, evaluation procedures are largely anecdotal and informal. The information gleaned from these collaborations sheds light on the need for a tool to measure restoration, and IJM will use several methods of validation to test the ASO Form.

assault was not related to a place of employment or source of financial stability.)

The case managers developed a distinct set of key domains for restoration for each of the five primary forms of violence that IJM addresses: forced labor slavery, sex trafficking, rape and sexual violence, property grabbing, and police abuse of power (abusive detention and police brutality). Recognizing the substantial impact that the achievement of some of these domains will have on the

SAMPLE: Ratings in the "Protection" domain for a child victim of sexual violence

| DOMAIN: PROTECTION | |
|--|---|
| <input type="checkbox"/> Exceptional (4) | <ul style="list-style-type: none"> • Aftercare Participant has been in a safe environment, free of abuse, for the past 9 months. • Aftercare Participant's caregiver is consistently motivated and able to protect the child. |
| <input type="checkbox"/> Satisfactory (3) | <ul style="list-style-type: none"> • Aftercare Participant has been in a safe environment, free of abuse, for the past 6 months. • Aftercare Participant's caregiver is somewhat motivated and able to protect the child. |
| <input type="checkbox"/> Vulnerable (2) | <ul style="list-style-type: none"> • Aftercare Participant has been in a safe environment for a period of 3 months. • There are concerns about the potential for abuse in the home. • Aftercare Participant's caregiver is not motivated or able to protect the child. |
| <input type="checkbox"/> Highly Vulnerable (1) | <ul style="list-style-type: none"> • Aftercare Participant has been living in an abusive environment in the last 45 days. • Aftercare Participant's caregiver is not motivated or able to protect the child. |

One year after the completion of the treatment plan, IJM contacts the former aftercare participant to complete the ASO Form again in order to assess the individual's "sustained restoration."

chances of achieving success in other domains, the social workers defined "priority domains"—critical to the restoration of the survivor, weighted more heavily—and "standard domains" for each type of abuse. (For example, for a child survivor of sexual assault, establishing a family or guardian support system has a dramatic impact on whether or not the child will be able to access educational opportunities. Therefore, while "support system" and "education" are both important domains of care for a child survivor of sexual assault, "support system" has been defined as a priority domain critical to restoration, while "education" was defined as a standard domain.)

The ASO Form

USING THESE defined priority and standard domains of care, IJM created a distinct Aftercare Successful Outcomes Form (ASO Form) for each type of violence the organization addresses.

An ASO Form is established for each survivor of violence who is receiving care in IJM's aftercare system. These forms create a "snapshot" of the aftercare participant's functioning within each of the relevant domains at the time of assessment. In order to guide treatment and goals, assess vulnerabilities and evaluate program efficacy, each participant is assessed at multiple points in time. The aftercare case manager completing the form uses his or her professional judgment to rate the aftercare participant on a four-point Likert scale (exceptional, satisfactory, vulnerable, highly vulnerable) for each of the domains. These scores are weighted based on level of importance to achieve restoration for a survivor of the particular type of abuse (that is, "priority" domains are weighted more heavily than standard domains.).

ASO Forms produce an overall score that is used to measure whether the aftercare participant has achieved restoration—that is, whether or not the individual has been equipped to live safely and sustainably at the time he or she leaves IJM's aftercare program. This overall score is the average of the participant's weighted scores.

If he or she receives an overall score of 3.0 or above (and has no scores below 3.0 on a priority domain), he or she is considered "restored;" scores of 2.99 and below are considered "not restored."

IJM aftercare staff complete the ASO Form for each aftercare participant when he or she enters the aftercare program, at various points throughout the participant's care and when the participant completes his or her treatment plan. IJM is very interested in the success of aftercare participants after they are out of the organization's direct care. One year after the completion of the treatment plan, IJM contacts the former aftercare participant to complete the ASO Form again in order to assess the individual's "sustained restoration"—that is, the participant's ability to maintain a level of restoration for one or more years from the time of the completion of his or her treatment plan.

Impact of the ASO Forms

The data captured by this new tool allows IJM to:

1. Determine the course of treatment for aftercare participants, and recognize areas of vulnerability. This process helps guide treatment plans and goals.
2. Evaluate internal programs, and understand how well our programs are working for our aftercare participants. This process guides IJM's understanding about participants' vulnerabilities and strengths, and it will also help to identify the gaps in our programs so that IJM can improve the quality of services provided.
3. Establish greater continuity of care when aftercare services are being provided over multiple years, and help to increase sustained restoration.

¹ Herman, J. (1992). *Trauma and Recovery: The Aftermath of Violence from Domestic Abuse to Political Terror*. New York: Basic Books, 86.

**We must start
talking differently
about poverty—
and start doing
something
differently.**

- Gary Haugen



The work of
International Justice Mission
has been generously
supported by leaders in the
private and public sectors,
including:

Bill & Melinda Gates Foundation

USAID

Ford Foundation

Google.org

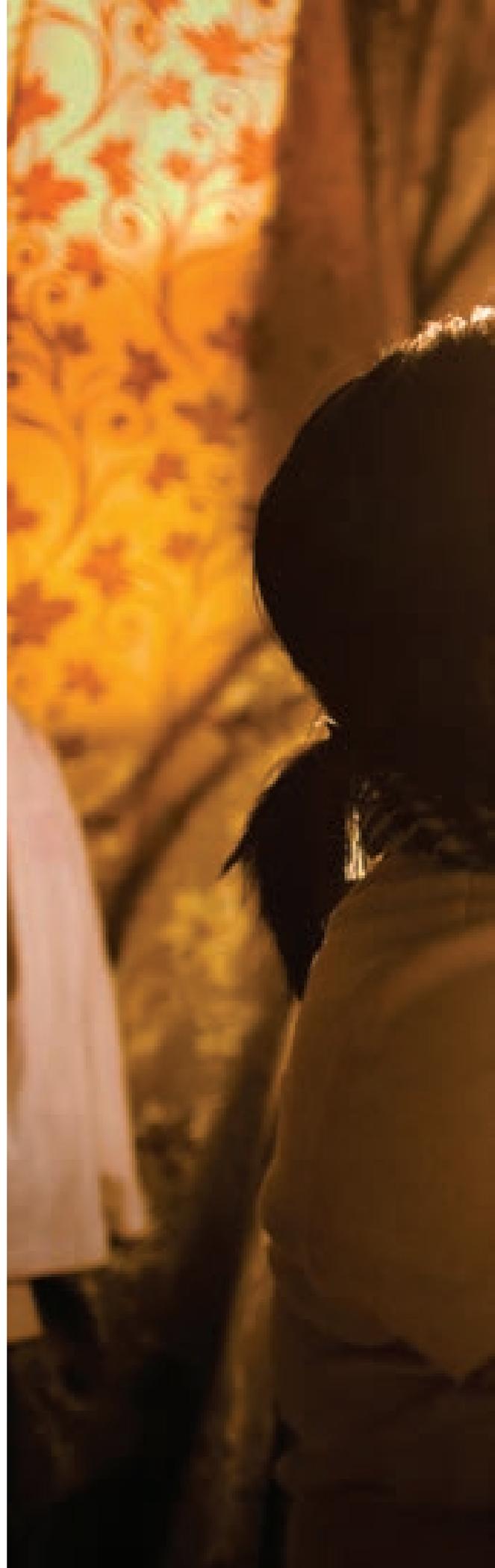
U.S. Department of State,
*Office to Monitor and Combat
Trafficking in Persons*

Humanity United

The Asia Foundation

Equitas

Harbourton Foundation







IJM

INTERNATIONAL JUSTICE MISSION

PO Box 58147
Washington, DC 20037

T 703.465.5495

F 703.465.5499

IJM.org



INTERNATIONAL JUSTICE MISSION is a global organization that protects the poor from violence throughout the developing world. IJM partners with local authorities to rescue victims of violence, bring criminals to justice, restore survivors, and strengthen justice systems.

Highlighted as one of 10 non-profits "making a difference" by *U.S. News and World Report*, IJM's effective model has been recognized by the U.S. State Department, the World Economic Forum and leaders around the globe, as well as featured by *Forbes*, *Foreign Affairs*, *The Guardian*, *The New York Times*, *The Phnom Penh Post*, *The Times of India*, National Public Radio and CNN, among many other outlets.

All text and images © 2014 International Justice Mission