Exploitative Labour Brokerage Practices in Cambodia:  
The Role and Practices of Private Recruitment Agencies

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Background of Labour Migration and Trafficking in Cambodia

Labour brokering is a potentially lucrative business in Cambodia. With a rapidly increasing labour force which grows at an annual rate of 3.5 percent (since 2001), Cambodia has a sizeable young population who are hungry for employment. The government faces a tough challenge of creating 300,000 new jobs every year in order to absorb the new entrants into the labour market (Oum et. al., 2005). It is in this context that employment companies play a significant role, by servicing the needs of Cambodia’s workforce and alleviating domestic unemployment problems. According to the Ministry of Labour and Vocational Training (MOLVT), a total of 9,118 Cambodian men and women have been officially sent by licensed recruitment agencies to work overseas. Women make up 58 percent of this figure. This figure is infinitesimal if we consider that there are more than 180,000 irregular Cambodian migrant workers in Thailand and tens of thousands more who have been smuggled or trafficked into other countries like Malaysia, Japan, Qatar, Hong Kong, Taiwan, Saudi Arabia, Somalia etc. These numbers show that there is a strong demand for remunerated employment and that people are willing to take risks in order to pursue better livelihood alternatives. If properly managed, international labour migration – in which people move in a safe, orderly and legal manner – can be a strong force for economic growth and social development in Cambodia.

Like many of the countries in the Greater Mekong Sub-region (GMS), Cambodia has yet to establish an integrated and effective labour management system. The Royal Government of Cambodia (RGC) has adopted a market economy approach to the recruiting and sending of Khmer workers, leaving it largely in the hands of private, profit-driven recruitment agencies. The absence of an independent watchdog assigned to ensure that labour sending companies adhere to a strict code of ethics and corporate social responsibility has resulted in companies operating with a high degree of self-discretion. An examination of the Cambodian legal and structural framework for the regulation of labour sending companies indicates a lack of clear mechanism at the national level for monitoring the brokerage practices of labour sending companies. This has led to opportunistic brokers, recruitment agencies and employers taking advantage of the migrant workers. In addition, there are few or weak provisions within the Sub-Decree 57, the key policy document governing the activities of recruitment agencies, to protect the rights and welfare of migrant workers who are sent to work abroad. Although it is widely acknowledged that migrant workers with a legal status can better access legal protection and basic services compared to irregular or undocumented migrants, this is not always the case in reality. Migration experts have argued that without proper migration management system in place, legal migrant workers may find themselves as vulnerable to abuse and exploitation by their labour agents.

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1 Parts of this paper are extracted from a research which this author conducted for the UN Inter-Agency Project on Human Trafficking (UNIAP) under the Coordinated Mekong Ministerial Initiative against Human Trafficking (COMMIT) Project Proposal Concept 8. The report is titled “A Study into Exploitative Labour Brokerage Practices in Cambodia” and was published in Phnom Penh in March 2007.

2 The term “recruitment agencies”, “labour sending companies”, and “employment companies” are used interchangeably in this report.
and employers as workers who have migrated without employment contracts (Battistella & Skeldon, 1999).

To date, Cambodia has initiated some form of mutual labour cooperation with only three countries in the region, i.e. Thailand, South Korea and Malaysia. Although Cambodia has a MOU with Thailand on the Cooperation in the Employment of Workers, signed in May 2003, it was only recently in September 2006 that licensed recruitment agencies have started sending Cambodian migrants officially to Thailand. So far, more than 2,000 workers have been sent. At the same time, the Thai government has agreed to accept and legalize the status of more than 180,000 Cambodians who are working in Thailand illegally. There has been evidence of Cambodians being trafficked into Thailand to work in fishing and fish processing, sawmills, construction, and agriculture etc. (LSCW, 2005; ILO, 2005). The extent of the human trafficking/smuggling network and its routes and actual processes remain elusive to many working on counter-trafficking in Cambodia as there is little attention and almost non-existent research on it (Derks et. al., 2006). An Inter-Ministries Working Group for Cooperation has been set up, comprising of Cambodian and Thailand officials, to issue IDs to Cambodian migrant workers in Thailand, upon which they may proceed to apply for a work permit which would allow them to stay and work in Thailand. As the MOU has only been recently implemented, it remains to be seen what kind of disparities will exist in terms of benefits and protection between the newly recruited workers to Thailand and those whose illegal status are now being regularized in Thailand.

**Regulatory Framework for Private Recruitment Agencies**

In Cambodia, the key policy document governing the recruitment and sending of Cambodian workers for overseas work is the Sub-Decree 57 on Sending Khmer Migrants to Work Abroad, which was created in 1995. The main objectives of the Sub-Decree are:

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

Essentially, the Sub-Decree is a guideline on the procedural measures between the current MOLVT, termed as “providing party”, and private recruitment agencies termed as “receiving party”. Any company wishing to recruit and send Cambodians for overseas work has to first register with the Ministry of Commerce (MOC) before proceeding to obtain a license with the MOLVT. The licensed company is obligated to adhere to the terms and conditions as set forth in the Sub-Decree. There are currently 13 licensed companies with the MOLVT.

Having been created more than 10 years ago, Sub-Decree 57 is an outdated policy document which does not reflect the migration dynamics and realities in Cambodia today. The provisions contained in the 22 articles of the Sub-Decree are rudimentary and lack clarity in both the processes and desirable minimum standards. There are only five articles that refer (explicitly or implicitly) to the worker, namely Article 9 on the employment contract, Article 10 on the rights of annual leave, Article 14 on pre-departure training, Article 19 on missing workers, and Article 20 on violations of provisions. The provisions are so broad and subject to interpretation that they amount to little protection for the workers. For example, Article 5 recommends that every worker shall be provided with social security contributions but it is unclear as to what they should be. Under Article 20 any person that violates the provisions shall be punished but there is no mention of what the penalty is.

Recognizing this, the MOLVT has been fervent in creating and passing several Prakas in the last two years to complement Sub-Decree 57. In July 2006, a new Sub-Decree 70 on the “Creation of the
Manpower Training and Overseas Sending Board (MTOSB)” was created. The MTOSB is equivalent to a public employment agency and one of its first tasks is to recruit, train and send workers to South Korea. Sub-Decree 70 was created as part of the fulfillment of requirements between the RGC and the South Korean Government. In addition, Prakas 108 on the “Education of HIV/AIDS, Safe Migration, and Labor Rights for Cambodian Workers Abroad” was created in May 2006 to promote pre-departure training for migrant workers on health issues, safe migration, and labour rights in order to reduce their vulnerability to related problems; and Prakas 012/07 on the “Creation of a Labour Migration Taskforce” was created in January 2007 to develop and implement policy and action plans under the Labour Migration Section of the MOLVT. Apart from the creation of additional legislation, another important yet recent development was the stricter enforcement of Sub-Decree 57, specifically Article 7 on the guarantee fee of US$100,000 that a recruitment agency is required to deposit with the MOLVT. As a result of this, the number of licensed recruitment agencies was reduced from 42 to 12 by the end of 2006. Observers have interpreted this as the government’s strategy to sieve out genuine players from the “dummy companies” thereby enabling them to better administer and monitor a smaller pool of agencies. Besides, this move was made in the hubbub of attention and interest in labour migration generated by international organizations.

The salient points in the regulatory framework and Sub-Decree 57 deserve to be highlighted. The MOLVT can grant a license to any company wishing to provide employment services for overseas work operate as long as they have been approved by the MOC and fulfill the following basic requirements: 1) Have a well equipped office with sufficient capable staff; 2) Sign a contract with the MOLVT; and 3) Deposit of US$100,000 with the MOLVT. There are no restrictions placed on the nationality or ethnicity of the company's ownership. Once granted a license is valid for five years and can be renewed for another five years if the company is found to have complied with the obligations as outlined in the Sub-Decree. The MOLVT reserves the right to cancel the license if the company did not comply with the provisions stated in the contract or in Sub-Decree 57 or if it had committed a “serious mistake”. However it is not clear what constitutes a “serious mistake”. The MOLVT does not have a clear checklist on the kind of misconduct or negligence that would result in the suspension or termination of a license, and there is no precedent. MOLVT usually receives feedback about the company from the migrant workers themselves, Cambodian embassies, Ministry of Foreign Affairs, labour agents, and the media. There is no mention about limitations placed on the scope and transferability of the license.

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Cambodia</th>
<th>Pakistan</th>
<th>Philippines</th>
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<tr>
<td>National</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Application fee</td>
<td>None</td>
<td>US$16</td>
<td>US$200</td>
</tr>
<tr>
<td>Registration</td>
<td>Company</td>
<td>Company</td>
<td>Company</td>
</tr>
<tr>
<td>Character reference</td>
<td>No record</td>
<td>Good conduct certificate</td>
<td>No record</td>
</tr>
<tr>
<td>Refundable deposit</td>
<td>US$100,000</td>
<td>US$5,000</td>
<td>US$20,000</td>
</tr>
<tr>
<td>Other</td>
<td>No license fee required</td>
<td>License fee – US$500</td>
<td>Surety bond – US$2,000</td>
</tr>
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<td>Validity of license</td>
<td>5 years</td>
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The Cambodia government has largely relinquished the responsibility of conducting pre-departure training and orientation to private recruitment agencies. Pre-departure training and orientation is not mandatory and there are no minimum standards set by the MOLVT on the type of pre-departure training that should be provided. Intrinsically, it is up to the discretion of agencies to decide on the duration, format and content of the pre-departure training programme. However the MOLVT has recommended that agencies train workers on the following topics:

- Terms and conditions of employment contract

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3 Interview with Ministry of Labour and Vocational Training, Phnom Penh, 5 June 2006.
4 Interview with MOLVT, Phnom Penh, 5 June 2006.
In reality, pre-departure trainings range from a few days to a few months. For domestic workers, the training focuses on teaching the women and girls basic household chores such as cleaning, washing and cooking. They are also given a basic course in English and in the spoken language of the destination country. Migrant workers have reported that they received very little information as to their rights, the duties and obligations of their employers and labour agents, the worksite and living conditions, practical tips on health and safety, the location and telephone number of the Cambodian embassy, and where and how to seek help in times of distress (Lee, 2006). According to the agreement between the MOLVT and recruitment agencies, pre-departure training is a service that should be provided free of charge to the migrant workers. However it is highly probable that agencies have passed on some of these costs as recruitment fees to the workers.

There is currently no active monitoring of recruitment activities by the MOLVT. While admitting to a lack of capacity and resources in doing this, the MOLVT had also demonstrated their resolve by establishing a taskforce within the Department of Employment and Manpower to conduct monitoring and inspection visits at the pre-departure stage. They have created a basic “quality checklist” for all licensed recruitment agencies which looks at their: 1) Training centre; 2) Payment of the US$100,000 deposit; 3) Staff; 4) Operations; and 5) Logistics and transportation. This checklist is untested and it is expected to be elaborated and improved upon in due course. With regard to conducting workplace surveillance at destination countries, the MOLVT is again hamstrung by the lack of capacity and resources. There is no proper mechanism for workers to lodge complaints, both inside and outside of Cambodia, against their recruiter or employer, and receive due redress. The main channel of feedback on migrant-related abuses comes from the Cambodian embassies.

As mentioned previously, there is no clarity in Sub-Decree 57 as to what constitutes a “serious mistake” or misconduct on the part of the recruitment agency. It is also not clear what kind of penalties will be imposed on the errant companies. Having an open and transparent policy on the penalties and sanctions that could be applied to a breach of good conduct could serve as an effective deterrent to malpractices. A combination of strategies could be adopted, including forfeit of deposit and performance bonds posted, fines, revocation or withdrawal of license, imprisonment, seizing of assets and public blacklisting of companies convicted of misconduct. In case an employment company is found to be involved in the trafficking of migrant workers or subjugating workers in exploitative situations, the government should consider criminal proceedings as an immediate option.

**Exploitative Labour Brokerage Practices - Findings from UNIAP Research**

The author conducted a research for UNIAP which examined the factors that led to the trafficking of Cambodian migrant workers, in the context of legalized international movements. The observations and findings presented here are based on primary and secondary research that the author has conducted and extrapolated over the course of three months from May to August 2006. The focus of the research was on the exploitative practices and outcomes of labour brokering in Cambodia. Since little was
known about it, the nature of the research had been exploratory in nature. During the research period of May to August 2006, the author came across:

- Two underaged girls sent illegally by a licensed agency to work as housemaids in Malaysia
- NGO referral of six women recruited and sent to work as housemaids in Malaysia by an unlicensed company
- Unconfirmed number of some 100 women recruited and trained to work as housemaids in Saudi Arabia by an unlicensed company
- Four underaged girls recruited to work as housemaids in Malaysia by an unknown company but who escaped
- Newspaper report of a woman sold by a licensed agency to work in Saudi Arabia
- Unconfirmed number of 50-80 men trafficked by a company registered in Thailand to work in Somalia

Of these cases, 10 were documented within the imposed time and resource limitations. Based on the findings and interviews, the following conclusions were drawn. Due to the limited nature of the research, the findings are not exhaustive nor can they be in any way fully representative of the migration situation in Cambodia.

First, there were numerous cases of malpractice and apparent negligence by licensed recruitment agencies in Cambodia. The Cambodian government adopts a laissez-faire approach to labour migration management, leaving the process of recruiting, placement and sending of Cambodian migrants largely in the hands of private recruitment agencies that are licensed by the MOLVT. The agencies are supposed to operate as a one-stop centre, where everything is taken care of, such as the making of passports, work permits and other legal documents, providing language and skills training prior to departure, ensuring food and accommodation during pre-departure training, transporting workers to their employers, mediating between workers and employers during disputes, keeping a check on workplace abuses, ensuring the protection of the rights and safety of the workers, providing for safe return or repatriation of workers, and so on. These terms and conditions are clearly stated in the agreement between the labour sending company and the MOLVT. A company wishing to operate as an employment company has to assume these responsibilities automatically, with minimum intervention and support from the government. Any company that fails in doing so risks having its license revoked or being fined.

The self-regulatory environment in Cambodia has produced some negative results, largely due to the lack of enforcement of legislation. Moreover the articles in the Sub-Decree 57 are so broad that they leave too much room for interpretation and maneuver. The worker is entirely reliant on the recruitment agency for providing a safe and orderly migration process, with the prospect of working and living under decent conditions. The very nature of this relationship puts the worker in a state of “vulnerability” vis-à-vis the recruitment agency/employer who not only has the capacity to abuse its power, but has profit-motivated reasons to do so. Therefore it hardly came as a surprise that malpractices were frequent and some of them are described in the following paragraphs.

It is not uncommon for companies to use independent brokers based in the villages as a means to advertise job openings and to recruit migrants. These brokers usually know the migrants and their families and they have an intimate knowledge of the place and its inhabitants. Most of these brokers work on a commission-basis, i.e. they get a sum of money from the employment company for every

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5 “Unlicensed” here refers to companies that are not registered or licensed with the MOLVT to recruit and send Cambodians overseas for work.
person they manage to recruit. The amount ranges from US$10 to 50. These brokers are usually not trained or educated on the legislation of labour recruitment in Cambodia; their primary objective is to make money and they can resort to illegal measures to pursue their own agenda. Two girls interviewed in Kampong Cham recounted how a broker forcibly took them away from their homes to a recruitment agency in Phnom Penh. It did not matter to the broker that the two girls were underaged – 16 and 17 years old – or that their parents were not informed. However instead of reporting the matter to the authorities, the recruitment agency (a licensed one with the MOLVT) willingly accepted the two underaged girls for training within its centre. They were kept confined under poor living conditions in the centre, and were offered sex work as a means to earn money to obtain fake passports.

Article 3 under the Sub-Decree 57 clearly outlines that only persons aged 18 and above can be formally recruited for overseas work. In the second instance, a pair of underaged sisters was recruited by a licensed agency to work as housemaids in Malaysia, under fake passports and IDs. The younger girl ended up working with a highly abusive employer and eventually was rescued from her predicament by the Cambodian embassy in Malaysia. Given her tender age and the circumstances, it was nearly impossible for the girl to know how to seek or access help. It was fortuitous for her that a friendly neighbour decided to intervene in the matter. The whereabouts of her older girl remains a mystery and it is believed that she is trapped in a similar abusive situation.

Although the MOLVT states that there is a standard employment contract to be used between all workers and labour sending companies, it is hard to determine if this is applied in practice. Firstly, most Cambodian workers do not retain a signed copy of their own contracts hence it is difficult to obtain such a contract and ascertain their actual terms and conditions. Secondly, a contract can only be as useful in protecting the rights of the worker as the degree of justice meted out by the law enforcers. Oftentimes, the uneducated and lowly skilled worker, driven by poverty and the desire to eke out a better life, is unable to make informed decisions about the consequences of his/her migration choice. The unequal power relation between the worker and the company sets the basis for an employment contract that reflects the dominant interests of the company. For example, a worker who terminates his/her contract prematurely can be penalized by having his due wages forfeited; also, the recruiting company need not be held liable for charges or compensation should a worker sustain injuries/losses at work.

Excessive extraction of payment is a commonly reported abuse. The absence of a cap on recruitment fees means that recruitment agencies are freely disposed to charge the migrant worker at will any sum of money they deem appropriate and which is in their interests. The migrant is usually told what he/she owes to the company but not explained the breakdown of actual expenditure and the rationale behind each item. Sometimes additional charges for food and security protection are accrued to the worker without his/her consent. One interviewee told us that her agency decided unilaterally to charge her five months instead of the original agreement of four. She had no say in the matter, much less the ability to protest.

Employment companies appear to be negligent when they do not take the necessary steps to ensure the welfare and protection of recruited workers, such as monitoring workplace conditions and abuses and also, when they do not take into account the worker’s viewpoint in the case of a dispute and ensure that due redress is given to the aggrieved worker. Presently, these two responsibilities are haphazardly implemented by recruitment agencies at the detriment of the workers’ safety. Although some companies request that their partners in receiving countries conduct worksite visits, actual practices are the exception rather than the norm. Some companies, even upon receipt of news that the workers might be abused, choose to ignore rather than investigate the case. In one case, the family had no information
on the whereabouts of their daughter who was working as a housemaid in Malaysia. Despite their suspicion that she might be in some form of trouble, the company staff displayed a complete lack of interest in trying to reach out to the girl. In addition, workers who complained about mistreatment by their employers were often scolded by their labour agents for being lazy and trouble-seeking. If their grievances were not dismissed summarily on the phone, they would usually be chastised in front of their employers and even punished for making a complaint in the first place.

Some recruitment agencies have been reported to confiscate the passports of the workers upon their return to Cambodia. Furthermore agencies have deliberately withheld the salary of the workers after their contracts were terminated; some deter workers from pursuing their deserved wages by threatening to demand money for the recruitment fees that the workers have not managed to pay off yet. Oftentimes there is no compensation or insurance provided for any injuries/losses that the workers might have suffered during work.

**Second**, there were unlicensed companies operating illegally to send Cambodians to work overseas. One of the revelations uncovered during the research was the ease in which some unlicensed companies were operating within Cambodia to send people overseas for work. Companies wishing to enter the overseas employment business are required by law to register themselves with the MOLVT and comply with the obligations set out in the Sub-Decree 57. The ministry has a list of companies that are licensed and authorized to send Cambodians overseas for work but this research came across many men and women who had been recruited by semi-legal and unlicensed companies. Some of these were actually companies whose licenses had expired but continued to operate their businesses, which is considered illegal by law. According to the interviewees, the semi-legal and unlicensed companies operated very much like other recruitment agencies: they arranged the passports, work permits, placement and transportation for the workers; they provided pre-departure training on language, skills, culture; and they took away the first few months of salary from the workers to pay for their expenditure. Usually the workers had to sign an employment contract with the companies, and the workers travelled to the receiving countries with proper passports and work papers.

This research chanced upon at least three active, clandestine networks sending Cambodians to work as 1) domestic workers in Saudi Arabia, 2) fishermen in Somalia, and 3) domestic workers in Malaysia. In the official database of 2005, Cambodia had sent 34 women to work in Saudi Arabia. However in May 2005 the Cambodian government decided to suspend all labour migration to Saudi Arabia due to the lack of a diplomatic presence there to monitor the situation of migrant workers and to render assistance if the need arises. It was unclear from the interviews if the two women who were working in Saudi Arabia had been part of the official group of 34 women dispatched to Saudi Arabia or if they had been sent by an unlicensed company. They had no employment contract or any legal papers to prove this. They also could not remember the name of the company which recruited them. At the time of interview, the women had not reported the violations and exploitation they experienced to the central authority. One woman was promised US$150 a month working as a housemaid in Saudi Arabia, a good working environment and ample food provided by her employer. She ended up being beaten, raped and sold by her first employer. She was sent home by her employer after two months without her salary. In the second case, the Khmer woman was so badly abused by her Saudi employers

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6 Interview with MOLVT, Phnom Penh, 25 August 2006.
7 The 34 women were sent by Accept Group Co. Ltd.
8 Interview with MOLVT, Phnom Penh, 25 August 2006. The Saudi Arabian embassy in Thailand had reported to the MoLVT that all the Cambodian migrant women there are doing well. There is no reported case of abuse yet.
that she tried to commit suicide. She managed to extricate herself from her predicament after being hospitalized and discovered by an NGO.

With regards to Somalia, Cambodia has no mutual agreement with the country on labour migration and it was clear from the description by the migrants that they had been deceived and trafficked into working as indentured labour in Somalia. The two men who were interviewed were promised well-paid jobs as fishermen in Thailand but they ended up as forced labour after being shipped illegally to Somalia. Their employment contracts with a Thai company did not preclude their subsequent abuse and exploitation for 13-16 months. One of them tried to escape but was recaptured and brought back to work. Given the circumstances it was impossible for any of the 100-odd men working in Somalia to leave their exploitative situations. The interviewees were fortunate to be able to make it back home. Their recent return to Cambodia in May/June 2006 at the time of interview suggested that their recruiters were still actively trafficking poor, illiterate and jobless Cambodian men to Somalia to be exploited. Involvement in or condoning of the trafficking network by duty bearers was considered to be one possible reason for the trafficking trade in Cambodia. However this requires a substantial degree of further investigation and verification. In the last instance, an unlicensed company was operating much like a licensed recruiting agency in sending Cambodian women to work as housemaids in Malaysia.

All three networks described above were able to function fully, albeit illegally, as employment agencies without being subject to regulation and accountability. Such an act undermined the authority and efficacy of the MOLVT as the governing body of labour migration and signaled weakness in migration management. It also had the damaging impact of “penalizing” licensed companies that were operating within defined legal and ethical boundaries of what is acceptable and what is not. This creates incentives for corrupt, dishonorable individuals and companies not to register themselves with the relevant authorities. More importantly, the illicit nature of the business puts the rights and safety of the migrant workers at high risk.

Third, abuses by employers in receiving countries are common, ranging from long working hours, little or no rest, inadequate food, forced confinement, physical and psychological assault, limited or no freedom of movement and communications, withholding of wages to rape, debt bondage and forced labour. All female migrants who were interviewed for this research worked as domestic workers in either Malaysia or Saudi Arabia. Foreign domestic workers constitute one of the most vulnerable groups of migrant workers. They face particular vulnerabilities due to the following factors: First, it is a highly gender-biased type of work with cooking, cleaning, washing, caring etc perceived as natural women’s activities, that is often undervalued. This phenomenon becomes more pronounced in a society with strong patriarchal values that systematically discriminates against women, such as Saudi Arabia. Secondly, domestic work is hidden as it occurs within the walls of private homes. As such it is hard to detect abuses or signals of distress, much less to reach out to the workers. The compulsory live-in system with her employer’s family also denies the domestic worker her right to personal privacy, a personal life, freedom of movement and association. These can lead to her isolation, loneliness and increase her vulnerability to abuse by her employers. Thirdly, irregularities are common and this renders women vulnerable to abuse, exploitation and violence. Irregularities arise from the fact that this sector is subject to little regulation in national labour laws and from the atypical employer-employee relationship (Battistella, 1999, p. 9) Domestic work is excluded from the scope of labour code in Cambodia, Japan and Singapore; and there are no specific regulations on domestic work in basic labour legislation in China, Hong Kong, Thailand and Vietnam; domestic work is covered in specific chapters, titles or sections in labour code, employment act or act concerning contracts of employment in Malaysia and the Philippines (Chew, 2003). Since the labour or employment laws in
many countries do not regard domestic work as proper work, domestic workers are hence not entitled to the rights and benefits that foreign workers in other industries may receive.

All the women documented in this report suffered a range of physical abuses and violations of their rights. Their employers imposed on them a harsh and at times brutal environment of long working hours, little or no rest, inadequate food, physical and psychological assault, solitary confinement, limited or no freedom of movement and communication and so forth. One 15-year-old girl was beaten until she fell unconscious. Another was raped by her employer and someone else that her employer sold her to for a week. Yet another was attacked so badly by her employers that she tried to commit suicide. All these women and girls were unwittingly recruited into highly exploitative work conditions and were literally “enslaved”. None of the companies that recruited them (including their labour agents in the destination countries) were sympathetic to their ordeal or interested in addressing the injustices they suffered.

Fourth, Cambodian migrants face various vulnerabilities at different stages of the migration process. Vulnerability is linked to being ill-informed about the risks of migration and the potential for trafficking, having little or no education, little or no skill, little self-esteem and little “street smarts”. And poverty is linked to all these factors (ILO, 2006, p. 21). The type of vulnerabilities that contributed to the migrant worker being exploited can be broadly divided into: 1) economic, 2) lack of education and information, 3) family situation (number of dependents, illness, family breakdown, gambling, alcohol), 4) social context (social networks, social exclusion), and 5) individual characteristics (personality, rape) (Derks, 2006).

At the point of recruitment, migrant workers face a set of vulnerabilities that comprise of poverty, unemployment (underemployment) and desire to seek a better life. At this stage, it is easy for the broker to persuade the targets to agree to his/her proposition. The villagers have so little that the promise of a slight improvement of their situation sounds attractive. Moreover they have few means of verifying the truth of what was told. Perhaps it is not considered necessary in their community setting, where information is exchanged freely and informally, particularly when the broker is someone they are acquainted with or someone who lives in the same/nearby village. The second type of vulnerability exists before the workers are about to sign an employment contract with the recruiting agency, usually at the office in Phnom Penh. The hopes and expectations built up before going to Phnom Penh makes the workers reluctant to quit at this stage, even if there are doubts. The workers may be pressured into signing a contract, the content and significance of which they have little comprehension. For most of the workers, the prospect of going abroad fills them with both excitement and trepidation at the same time. Their low education and skills, as well as their complete reliance on the recruiting agencies for information and arrangements, do not allow their grasp and appreciation of the situation to go beyond the consuming thought of being able to earn more money. Finally, the migrant workers experience their worst vulnerability at the destination place. Being in a foreign land, unable to express themselves, with little money, passport (or other IDs) confiscated, and at a loss of where to seek help, the migrants are literally at the mercy of the employer. Add to that the low social standing of the migrant workers, it is all too easy to incarcerate the workers and subject them to work in a situation akin to forced slavery. The solitary foreign domestic worker may suffer this trauma a hundredth fold in intensity due to the nature of her work. The possibility of the domestic worker in extricating herself from this situation is very low – she may have to resort to drastic measures which could potentially be life-threatening.

Debt is another factor which increases the vulnerability of the worker in being trapped into forced labour. None of the persons interviewed reported being in debt of any kind prior to migration. However advance money from the recruitment agency can be considered a form of debt bondage.
Migrant workers can easily accumulate fraudulent, odious debts after they decide to enter into an employment agreement with the recruiting agency. Without knowing how and why exactly, they find themselves owing money to the company for expenditure on transportation, food, lodging, training, medical examination, making of passport and other legal documents, work placement, airfare and so on. These debts occur even before they have started work. The company demands that the workers complete the full tenure of their contracts in order to service the debts. Workers are coerced into staying on the jobs, even if conditions are deplorable. One woman reported that her company wanted to make her pay US$1,000 for premature termination of her contract even though she was being abused by her employers and wanted to leave. When she was able to return to Cambodia, she was afraid to ask for her salary because she feared that the company would ask her to compensate for failing to complete her length of contract. In the end she did not get any remuneration for the months of work she performed.

Changing Roles of Private Recruitment Agencies

At a recent Skills Sharing Workshop on Labour Recruitment Practices in Cambodia held in Phnom Penh, private recruitment agencies in Cambodia recognize that they play an important role in:

- Facilitating Cambodian workers in finding paid work overseas
- Providing a safe and legal channel for migrant workers
- Assisting workers in obtaining travel documents and work permits
- Alleviating domestic unemployment pressures by creating jobs outside of Cambodia
- Ensuring terms of employment are fair and acceptable to workers, recruitment agencies, and employers
- Ensuring basic rights of workers are protected under national laws and the laws of receiving countries
- Ensuring workers do not end up working in exploitative situations at destination countries
- Providing pre-departure training and orientation for workers
- Promoting vocational training and skills upgrading of workers
- Guaranteeing safe return of workers to Cambodia upon completion or termination of contracts

At the time of writing, the establishment of an official association for recruitment agencies called the “Association of Cambodian Recruitment Agencies” or ACRA is underway. According to CAMFEBA, who initiated and supported the forming of the association, the primary objective of ACRA is to raise the professional and ethical standards of individual agencies and to strengthen self-regulation within the labour sending industry. ACRA will provide a common platform for licensed recruitment agencies in Cambodia to share information and improve cooperation, develop a binding code of conduct, and work closely with the government ministries in promoting safe and legal migration as a force for social development. The idea for ACRA was first mooted against a background of increasing negative media reports of malpractices by recruitment agencies and allegations by some human rights NGOs that agencies are profiting at the expense of poor and

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9 This workshop was held from 21 to 22 March 2007 at the Sunway Hotel in Phnom Penh, and co-organized by the MOLVT and UNIAP, together with the ILO, UNIFEM and IOM. It saw the participation of more than 80 representatives from the MOLVT, Ministry of Women’s Affairs, Ministry of Foreign Affairs, Ministry of Interior, private recruitment agencies, employers’ association, local NGOs, and the media. The workshop was organized to support the Project Proposal Concept Number 8 (PPC8) under the COMMIT SPA which aims to address exploitative brokering practices in order to improve “regional cooperation to prevent and suppress illegal and/or exploitative brokerage practices”.

10 CAMFEBA stands for Cambodian Federation of Employers and Business Associations. The initiative behind the Cambodia Manpower Association has received technical and financial support from the ILO/Japan Project on Managing Cross-border Movement of Labour in South East Asia.
vulnerable migrant workers. This has led to a backlash against the recruitment agencies. Villagers are reluctant to migrate through formal channels since they do not perceive additional benefits over migrating with informal recruiters; some have also retracted their contracts prior to departure, causing the agencies to suffer substantial losses. With the formation of ACRA, recruitment agencies hope to improve their public image.

The openness of the recruitment agencies towards sharing information and cooperating with NGOs, as demonstrated during the *Skills Sharing Workshop* and the process of establishing ACRA, is a positive change from their former skepticism towards NGOs and the way they used to jealously guard information. Apart from the desire to improve their public image, recruitment agencies also are recognizing that NGOs can play an important supporting role by educating workers on human rights, labour and immigration laws of receiving country, customs and culture of receiving country, and contractual obligations prior to departure. Currently, only one NGO is providing pre-departure training to a few agencies on reproductive health, HIV/AIDS and STDs, albeit on a small scale and rudimentary level. In addition, recruitment agencies are publicly acknowledging that international migration can be an empowering experience for Cambodian migrants and the benefits can be an engine for social and economic growth in the country. To this end, recruitment agencies must avoid the “commodification” of migrant workers and accord them greater dignity and protection in the process.

With the establishment of ACRA in Cambodia, it is likely there will be greater standardization within the industry on services, procedures, pre-departure information, and fees. Recruitment agencies will also be compelled to introduce greater transparency and accountability into their work. On the other hand, the opposite could happen if the agencies do not bind themselves to a high ethical and professional standard. Furthermore this could imply that the recruitment agencies will have a greater bargaining power vis a vis the migrant workers who currently have no unionized means of negotiating with the recruitment agencies or their employers.

**Conclusion**

The extent of the problem of trafficking for labour exploitation remains unknown. It is fair to say that there are Cambodian migrants who had been recruited by recruitment companies to work overseas and who ended up in exploitative situations. However no one knows the extent of the problem as there has yet to be a systematic, comprehensive documentation of all situations and all forms of exploitation of Cambodian women and men migrants, in the context of legalized international movements. In reality, it is hard to ascertain if a worker had been recruited by coercive, deceptive or other means for the purpose of exploitation. Furthermore, in most cases, exploitation took place only at destination points, i.e. highly abusive employers. To what extent then, should the recruitment agency be held liable for an outcome in which it may claim not to foresee or be aware of?

The current policy and legislative framework for regulating labour migration and management in Cambodia requires development and in its current state allows for abuse by opportunistic recruiters and brokers. It is recommended the Cambodian government strengthen its legislation and regulation and ensure their strict enforcement. Doing this will solve part of the problem. Another part comes from understanding the different types of vulnerabilities involved during the migration process and how they can be minimized to prevent the worker from being trafficked and/or exploited. With the implementation of the MOU on *Cooperation in the Employment of Workers* with Thailand and the shrinking of the pool of licensed recruitment agencies in Cambodia, the Cambodian government has demonstrated its resolve to address the problem of exploitative brokerage practices and to promote safe, orderly migration through the legal channels. The forming of an Association of Cambodian
Recruitment Agencies should introduce greater standardization, accountability and ethics in the way migrant workers are recruited and sent for employment overseas. As Cambodia’s labour sending industry is still in its fledging stage, it is only through appropriate regulation and monitoring by the MOLVT and cooperation among key stakeholders that the problem of exploitative labour brokerage practices can be effectively addressed.
References


