

Brief supporting Evidence Report 23

**FROM SEX WORK TO ENTERTAINMENT AND
TRAFFICKING: IMPLICATIONS OF A
PARADIGM SHIFT FOR SEXUALITY, LAW AND
ACTIVISM IN CAMBODIA**

Sexuality, Poverty and Law

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The Law on Suppression of Human Trafficking and Sexual Exploitation 2008 (LSHTSE) was introduced in response to the US government condemning Cambodia for failing to address sex trafficking and threatening to withdraw aid from the country unless action was taken. The Act confirmed the illegality of human trafficking, underage prostitution and procuring for prostitution through the use of force or coercion. It also made all activities associated with commercial sex illegal by criminalising all third party involvement in sex work which is defined as sexual exploitation. Supplying sex workers with accommodation, transport, employment, advertising or any other services to consenting sex workers constitutes sexual exploitation. Selling sex without any of these services is criminalised by provisions against soliciting. This law exists in a framework of sometimes contradictory government policies and directives aimed at limiting HIV, rescuing and rehabilitate women and girls and ensuring 'safer communities' by removing beggars drug users and prostitutes from streets. The impact has been to change both how women sell sex and how they are classified. Those who sell sex through legal entertainment venues are classified as 'entertainment workers.' Women who sell sex in illegal venues are classified as victims of sexual exploitation and women forced into the sex industry are considered 'victims of human trafficking.' Thus the term 'sex worker' has disappeared from all documents about policy and programming in the four years since the legislation passed.

The legal status of sex work and terminology has shifted frequently in Cambodia, yet there has been very little independent research to date about the size and nature of the country's sex industry. ILO calculated that 21,463 women entered the entertainment industry between late 2007 and early 2009. Godwin (2012) estimated that there were between 42,000 and 47,000 sex workers nationwide with approximately half of them in Phnom Penh. An estimated 220,000 men buy sex from women in Cambodia (CDHS 2005 cited in CACHA 2009). Nevertheless it is clear that the sex industry changed dramatically in the wake of the law. Most brothels were closed and street prostitution was dramatically reduced by mass arrests. Women no longer sat outside massage venues and bars to attract customers. The law and its enforcement was vigorously opposed by sex workers' networks, human rights organisations and health agencies who said it violated human rights, would fail to capture perpetrators of abuse and contribute to the spread of HIV and STIs. Evidence was gathered that showed a significant reduction in sex workers accessing education, condoms and clinical services.

As the crackdown against freelance sex workers and small brothels was taking place, the sex industry was re-establishing itself in entertainment venues, restaurants and beer gardens – staffed by 'entertainment workers' who serve drinks to customers, and often drink with them. They are ostensibly legal because no sex is available in them. In fact commercial sex is negotiated in the venue and it takes place somewhere else, often a nearby guesthouse. While maintaining the fiction that the venues do not facilitate commercial sex, the government also issued clear instructions to the entertainment venues about how to avoid prosecution by distancing their operations from the sex work upon which they depend for profit. That advice was to require women to stay until the end of their shift as a waitress or beer promoter before leaving with clients. There is strong evidence that this results in excessive alcohol consumption by both clients and sex workers and means that violence and unprotected sex are likely because the participants are often alcohol affected and they must go to isolated places.

Impact on HIV has been a particular concern since the law was introduced. Cambodia has the highest prevalence of HIV in Asia. By 1998 the official HIV prevalence was 43 per cent among commercial or brothel-based 'direct sex workers', and 19 per cent among beer sellers and other 'indirect sex workers' (NCHADS 1998). The new law was backed by some ministries and UN agencies but it appears to have caught agencies concerned with HIV off guard. The Cambodian HIV prevention strategy which had been designed to reach street and brothel workers collapsed. The government struggled to replace it with a programme

for the new 'entertainment' workers. This proved difficult since, if venues could be linked to prostitution, their operators would be charged with trafficking and sexual exploitation. To counter this a further executive directive was issued decreeing that condoms must be available in the entertainment venues, and that they must not be used as evidence for prosecutions under the Law to Suppress Trafficking and Sexual Exploitation.

Street sex workers and NGOs workers suggested that high levels of violence by police and in detention centres and shelters around the 'crackdown' of 2008/9 have declined, but remain unacceptably high. Some detentions continue even though sex workers are given the option of release if they say they are not trafficked and promise to cease prostitution. This applies to older, poorer or substance dependent, HIV positive and transgender sex workers that work on streets or in slum conditions, because they cannot join the 'entertainment' industry. Their health and welfare outcomes are adversely affected by reduced income, especially as prices in Cambodian cities have risen sharply with economic progress.

Unfair arrests and detention interrupt HIV positive sex workers' adherence to their medication, while brutal and disrespectful behaviour by police continue to be reported, along with deprivation of food and hygiene in police stations. Sex workers report that 'small time' people who rent them rooms or provide transport are being charged with trafficking rather than the genuine traffickers, and available information about those charged appears to support that claim.

A picture emerges from the available literature and interviews of unfocused and chaotic law enforcement occurring amidst confusion about the extent to which human trafficking, sexual exploitation and commercial sex overlap, all set against a background of a dysfunctional criminal justice system and inept or corrupt police – some of whom are, no doubt, directly involved in the sex industry themselves.

To this picture can be added a complex set of UN, governments unions, and non-government organisations that deliver or co-ordinate health education and services, rescue and rehabilitate trafficking victims, negotiate with employers or advocate on policy and legal issues. These organisations are funded or authorised to conduct their various missions by a range of national and international institutions. Although some agencies have policies that encourage participation of their target groups this does not include sex workers. The only women that can participate in policy advocacy are those who agree to identify as an 'entertainment worker', 'beer promoter' or 'victim' of trafficking and sexual exploitation', and will deal with the issues as they are configured around those constructs rather than as sex work.

A culture of dependency on foreign-funded NGOs in Cambodia has been well documented and is particularly evident for sex workers. Opportunities to develop, articulate and advance demands are curtailed by this dependency, combined with the elimination of the category of 'sex worker' in favour of the newly imposed constructs that are grounded in the anti-trafficking and anti-prostitution discourse expressed in US policy.

Despite this unfavourable environment, several organisations work well within the restrictions of the law. High quality STI services and education are available to sex workers in the main cities from US backed NGOs. Conditions for 'entertainment workers' are being addressed by various local, organisations that reflect local identities, networks and economic realities, and work with local tools such as enforcing labour law and lobbying with other informal workers for inclusion in schemes that will benefit them. Sex workers would benefit more if international donors could find effective ways to support these local member-driven initiatives rather than making funds available only to professional advocates and institutional service providers.