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CAMBODIAN GOVERNMENT ATTEMPTS TO COMBAT CHILD SEX TOURISM WITH APPROVAL OF ANTI- TRAFFICKING LAW

by CERISE FRITSCH

“I was tricked and sold to a brothel when I was only 14. On the weekend, it can be as many as 20 customers; most of them are foreigners,” Sokha* testified to members of the Association of Southeast Asian Nations Regional Taskforce in Hanoi.¹

This young girl's victimization by sex tourists is unfortunately a common occurrence in Cambodia.² An estimated one-third of Cambodia's sex workers are children.³ Due to the growth in tourism in recent years in cities such as Siem Reap, Sihanoukville and Phnom Penh, an increasing number of foreigners are exploiting girls as young as 8 years old.⁴

Approximately 25 percent of child sex tourists are American, and according to U.S. law enforcement activity, their primary destination is Cambodia.⁵ Child sex tourists prey on developing countries like Cambodia where there is increased availability of low-priced child prostitutes, anonymity and corruption plaguing the judicial system.⁶ Other "pedophiles are motivated to commit child sex crimes overseas because they believe foreign child sex laws are less strict than ours," stated Lorain Brown, special agent-in-charge for U.S. Immigration and Customs Enforcement (ICE) investigations in Los Angeles.⁷

To combat the problem, Cambodia's Ministry of Justice recently approved the Law on Combating Human Trafficking and Sexual Trade.⁸ This law "aims to crack down on human trafficking and the act of sexual trade to protect the rights and morality of humans."⁹

The related U.S. law is the 2003 PROTECT Act.¹⁰ The PROTECT Act has "made it significantly easier for U.S. prosecutors to bring convictions against U.S. citizens committing sexual crimes against children abroad," according to the Protection Project, a human rights research institute.¹¹ The Act provides a definition of child sex tourism and allows for the conviction of perpetrators based on the intent to commit an illicit sexual act abroad with a minor under 18 years of age.¹² It also increases the penalty for child sex tourism from 15 years imprisonment to a maximum of 30 years and extends to U.S. citizens and individuals legally residing in the United States, including child sex tour operators.¹³

While the Protection Project states the PROTECT Act "is the broadest legislation on child sex tourism in U.S. history,"¹⁴ its effectiveness in prosecuting sex tourists in Cambodia is limited by Cambodia's lack of financial resources, technical expertise and capacity to collect admissible evidence for U.S. courts.¹⁵

The Cambodian government also fails to comply with the minimum standards for the elimination of trafficking.¹⁶ The U.S. State Department's 2007 Traf-

ficking in Persons Report placed Cambodia on the Tier 2 Watch list for its failure to demonstrate increased efforts to combat human trafficking, in particular, the government's failure to pass a comprehensive anti-trafficking law.¹⁷ According to U.S. Ambassador Dr. Mark Logan, director of the State Department's Office to Monitor and Combat Trafficking in Persons, Cambodian public officials who have been corrupt ". . . have [also] been part of the problem and part of the dehumanization of their fellow citizens."¹⁸

The Cambodian government took action in August 2007, possibly in response to the report, and approved the draft law on Combating Human Trafficking and Sexual Trade.¹⁹ "We have the political will," stated Khieu Sopheak, spokesman for the Ministry of Interior.²⁰ "Cambodia will not be a place for child sex tourists."²¹

If the new Cambodian draft law is passed, it would attempt to close the gaps in the outdated 1996 Law on Suppression of the Kidnapping, Trafficking and Exploitation of Human Beings by providing definitions of key terms such as "human trafficking," "child prostitution" and a "minor."²²

Non-governmental organizations (NGOs) working to combat child sex tourism in Cambodia have expressed there is a "pressing need for new legislation that will fill the gaps in the current law. The nature of child sex tourism requires a legal response" enabling the punishment of sex offenders traveling to Cambodia.²³

Specific provisions aiding in bringing traffickers to justice in the new draft law are the extraterritoriality provision and the provision on child prostitution.²⁴ The extraterritoriality provision allows for offenses committed within Cambodia and crimes committed abroad by Cambodian nationals to be prosecuted in Cambodia.²⁵ Similar to the U.S. PROTECT Act, child prostitution under the draft law applies to all children under the age of 18.²⁶

Currently, the debauchery provision of the 1996 law does not apply to someone who is sexually involved with a minor between the ages of 16 and 18.²⁷ However, a person can potentially still be charged with rape under the Law on Aggravating Circumstances for a maximum sentence of 15 years imprisonment.²⁸

According to Putman-Cramer of the NGO Coalition to Address Sexual Exploitation of Children in Cambodia (COSECAM), the new draft trafficking law is a “significant improvement on the current legislative situation,” but it does present some shortcomings.²⁹ The law places greater leniency in sentencing child traffickers by lowering the maximum sentence for persons who have sexual intercourse with children.³⁰ An accused who is convicted of having sexual intercourse with a child under the age of 15 will only receive a sentence of five to ten years if convicted.³¹ For indecent acts against minors under the age of 15, the law calls for a maximum sentence of one to three years with the possibility of a fine.³² Under the 1996 law, a person who engages in debauchery or sexual activities with a child who is less than 15 years of age will receive a harsher sentence of 10 to 20 years in prison.³³

Dr. Mattar from the Protection Project notes that “one of the key components most laws do not cover specifically is child sex tourism” because this is usually grouped with child prostitution.³⁴ The new draft law is no different in this respect.³⁵

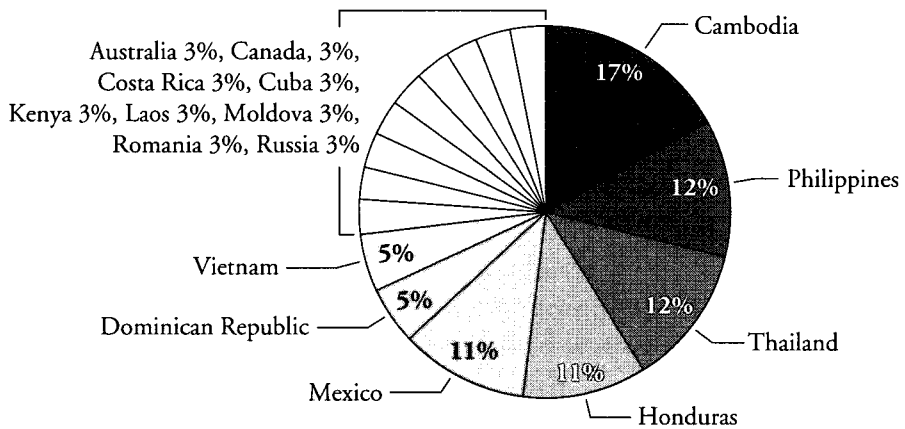
Other national and international laws serve to offset some of these limitations. Child sex tourism is illegal under the Cambodian Constitution.³⁶ The Royal Government of Cambodia has cooperated with the U.S. government in extraditing American citizens accused of child sex tourism to the United States under the PROTECT Act.³⁷ In July 2007, for example, Terry Smith, an American arrested in Cambodia for having sex with two girls ages 13 and 14, was sentenced in Oregon to 22 years in prison.³⁸ Arrests like these reflect “the joint efforts of Cambodian law enforcement officials” and the U.S. government, according to ICE spokesman Dean Boyd.³⁹

The U.S. government also hopes to partner with NGOs such as World Vision, COSECAM, End Child Prostitution Child Pornography and Trafficking of Children for Sexual Purposes, and International Justice Mission (IJM), that play an increasingly vital role in combating child sex tourism in Cambodia. For example, in the past eight months, 349 cases of child sexual exploitation, human trafficking and rape have been reported to Cambodia’s Ministry of the Interior through a World Vision supported 24-hour hotline.⁴⁰ Investigations by IJM resulted in the rescue of 37 girls, many under the age of 10, in Svay Pak, formally Cambodia’s most visited brothel village.⁴¹

If the new legislation in Cambodia becomes law, NGOs express hope that “Cambodia will now be taken off the U.S. blacklist as the worst country with human trafficking issues.”⁴²

*Sokha’s name was changed to protect her privacy.

STATISTICAL BREAKDOWN OF ALL COUNTRIES OF DESTINATION FOR AMERICAN CHILD SEX TOURISTS, BASED ON THE RECORD OF U.S. LAW ENFORCEMENT ACTIVITY⁴³



NOTES

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2 *Id.*

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4 Caroline Putman-Cramer, *Southeast Asia: Cambodia* in INTERNATIONAL CHILD SEX TOURISM: SCOPE OF THE PROBLEM AND COMPARATIVE CASE STUDIES, 105 (2007), available at http://www.kmk-studio.com/JHU/JHU_Report.pdf; Chris Hansen, ‘They have a future’ New developments in the hidden camera investigation exposing a child sexual slavery ring in Cambodia, August 8, 2007 DATELINE NBC available at <http://ori.msnbc.msn.com/id/20186675/>.

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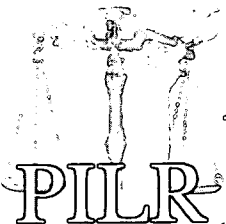
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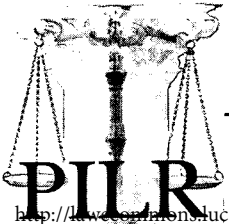
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- 12 PROTECT Act, *supra* note 10.
- 13 *Id.*
- 14 The Protection Project, *supra* note 11.
- 15 *Id.* at 12.
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- 18 Brian Calvert, Cambodia's Anti-Trafficking Efforts Still Weak, US Czar Says, Voices of America Khmer, September 11, 2007, <http://www.voanews.com/Khmer/archive/2007-09/2007-09-11-voa2.cfm>.
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- 25 *Id.* at 116.
- 26 PROTECT Act, *supra* note 10; Caroline Putman-Cramer, *supra* note 4 at 117.
- 27 Law on Suppression of the Kidnapping, Trafficking, and Exploitation of Human Beings, chp. 4, art. 8, available at http://www.cdpcambodia.org/trafficking_law.asp (Cambodia).
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- 30 *Id.*
- 31 *Id.*
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