ANTI-TRAFFICKING RESPONSES TO THAILAND’S TIER 2 WATCH LIST STATUS:
SEEING POLICY THROUGH WOMEN’S EYES

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A Khmer girl joins the commemoration of Cambodia's 5th National Day Against Human Trafficking. Tmar Pouk, Cambodia
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The year 2012 marks a pivotal moment in Thailand’s anti-trafficking policy efforts. In the past year, Thailand has come under criticism for its failure to comply with the recommendations outlined in the US Department of State’s annual Trafficking in Persons (TIP) Report, which ranks all countries in the world according to criteria set forth by the 2000 Protocol to Suppress and Prevent Human Trafficking and monitored by the US’s Office to Monitor and Combat Trafficking in Persons (G/TIP). The 2011 TIP Report cited problems with Thailand’s inability to comply with the minimum standards of anti-trafficking policies that are identified in section 108 of The Victims of Trafficking and Violence Protection Act of 2000 (TVPA) (US Department of State, 2011). Above all, the TIP Report mandates that Thailand increase its efforts to prosecute cases and penalize traffickers. It concluded by downgrading Thailand to “Tier 2 Watch List” status—the second-to-lowest “rung” in anti-trafficking compliance for countries around the world.

One of the responses to this downgrade has been an increase in State Department funding for the policy of Smart Raids, or collaborative efforts between anti-trafficking NGOs and the Royal Thai Police to raid brothels, karaoke bars and massage parlors in an attempt to help women who they believe may be working there against their will. While this policy is intended to address the needs of trafficking victims, this research found that, in fact, this process is often detrimental to the women it is intended to help. Women working in the brothels, many who are there voluntarily, are arrested, questioned and detained—sometimes for a period of several months to a year—in an attempt to facilitate the prosecution of traffickers. Women under the age of eighteen are the primary targets of these raids, as they are automatically deemed trafficking victims by the US State Department. The effects of these practices on women are often devastating: rather than empowering the women, the policy of detaining them for long periods of time hinders their ability to provide for families who rely on their incomes to survive.

In a parallel discovery, this research found that other actors working to combat trafficking in Thailand are employing positive alternatives to Smart Raids, often with more effective results. Three community-based organizations, The Empower Foundation, The Kachin Women’s Association of Thailand, and the Human Rights and Development Foundation have created strategies to address trafficking in productive ways. These organizations operate outside the anti-trafficking movement, taking on a range of issues that relate to “push factors”—the factors that motivate a woman to migrate from her home country in search of a better life in Thailand. This research found that by focusing on prevention rather than rescue, community-based organizations are developing strategies for success. This report considers the Smart Raid policy’s effects on female trafficking victims, potential victims and voluntary sex workers, and offers alternative solutions to this initiative. It suggests that the Smart Raid policy, while intended to assist trafficking victims, is actually having negative impacts on the women the movement is seeking to help. Conversely, the work of community based organizations whose agendas focus on prevention strategies such as education and migratory support demonstrate a model for best practices in anti-trafficking policy. Placing the experiences, observations and stated
needs of migrant women and sex workers, i.e., “potential trafficking victims” at the forefront of the analysis, this report offers suggestions for an improved methodology for anti-trafficking research, one that could also have important implications for practice.

The context and background for this research is set within the US State Department’s 2011 Trafficking In Persons (TIP) Report Thailand Country Summary. As the TIP Report’s evaluation of Thailand states, “Given the significant scope and magnitude of trafficking in Thailand, there were a low number of convictions for both sex and labor trafficking, and of victims identified among vulnerable populations (US Department of State, 2011: 320).” As several NGO employees interviewed in this study explained, if Thailand fails to demonstrate increased efforts in investigating and prosecuting sex trafficking investigations cases, it will be downgraded to Tier 3 status and be subjected to sanctions, particularly in the fishery export sector.

Thailand is in a precarious position with regards to the TIP Report because, according to Section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, countries that remain on the Tier 2 Watch List for two consecutive years and that would otherwise remain there for a third consecutive year will automatically be downgraded to Tier 3. Thailand has been listed as a Tier 2 Watch List country in both 2010 and 2011 TIP Reports. Furthermore, according to the Trafficking Victims Protection Act (2000) Section 110(d)(1) Withholding of Non-humanitarian, Non-trade Assistance (B), “the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director’s best efforts to deny, any loan or other utilization of the funds of the respective institution to that country.”

Senator Jim Webb has raised a number of cautions about the TIP Report. In his opening remarks to the Senate Foreign Relations Committee Subcommittee on East Asian and Pacific Affairs April 7, 2011 Hearing on Combating Human Trafficking in Asia, Webb pointed out that the State Department relegated Thailand to the Tier 2 Watch List in 2010 against the recommendation of the US Embassy in Thailand. He went on to contend that the TIP Report’s methodology is inconsistent and lacks in transparency, causing “confusion and resentment” for countries forced to submit to the consequences of its results (Webb, Opening Remarks, 2011). These cautions underscore the point that economic sanctioning of Thailand by the US could have extremely adverse effects on Thailand’s political stability.

The health of the Thai fishery export sector hangs in the balance with the threat of a 2012 TIP Report downgrade in that the US is Thailand’s largest consumer of seafood exports. According to the International Trade Administration at the US Department of Commerce, the US imported more than $1.6 million in seafood from Thailand in 2010.
The Report has shook up the sector in other unexpected ways as well. Shrimp packaging plants employ tens of thousands of migrant workers and children, according to “The Degradation of Work: The True Cost of Shrimp,” an exposé on Thailand’s frozen shrimp industry by The Solidarity Center. Raids on these plants have been on the rise of late as the Royal Thai Police attempt to increase prosecutions in time for the 2012 TIP Report’s June release.

In addition to TIP Report concerns, the Commercial Seafood Consumer Protection Act introduced in January 2011 to Congress requires inspection of foreign facilities, among other directives, and “authorizes the refusal of admission of any imported seafood or seafood products from countries that do not fully comply with applicable federal requirements.” This law will allow further economic sanctioning beyond what is outlined in the TIP Report, as it directly applies to trade where TIP Report-related sanctions can only be on non-trade and non-humanitarian funds. The threat of multi-faceted sanctions seems to leave Thailand with little choice but to aggressively boost prosecutions for trafficking, regardless of whether or not this is actually the best course of action for dealing with the problem.

Re-conceptualizing the problem

The problem with focusing on trafficking prosecutions is that it sets in motion a chain of events that are often unproductive in combating actual human trafficking cases. One of the principle reasons for this has to do with the conceptual framework in which anti-trafficking policy was designed. Anti-trafficking policy, while intended to have a broad reach that addresses many types of exploitative labor situations, is enacted in a conceptually difficult space due to the fact that “trafficking,” per se, is vaguely defined under the 2000 Palermo Protocol. The Protocol’s rhetorical frame employs contrasting and often conflicting notions about sex, sex-work, power, national identity, labor and human rights. Moreover, because the Protocol is vague and incomplete, individuals and institutions working to combat trafficking tend to “cherry pick” whatever definition, point of view, or subjectivity best serves their interests and agendas—agendas that are largely influenced by Western cultural values, norms, beliefs and prejudices. Ignored by the Protocol are the critical issues of migration policy and economic incentives to migrate—two key issues that the women I interviewed expressed as concerns.

Also ignored by the Protocol is the very real distinction between forced and voluntary sex work. My research found that the needs of sex workers are diverse, and cannot be treated uniformly. Not all sex workers are victims of human trafficking, and while sex trafficking does indeed remain a problem in Thailand, it is complicated by its existence within a larger consensual sex industry. Many women work voluntarily in Thailand’s sex industry, earning a living and providing for their families. These women should not be considered victims of sex trafficking.
EXECUTIVE SUMMARY

But the policy of Smart Raids fails to adequately take this distinction into account. During a Smart Raid, women in brothels and other establishments selling commercial sex are rounded up, detained and questioned in order for the government to determine whether they are trafficking victims. Those over the age of eighteen who claim to be working voluntarily are fined 1000 baht (US $30) and can be held in detention for up to one month (Personal communication 2010). While social workers and other service providers work to identify trafficking victims, those who are working consensually bear the brunt of having their livelihoods disrupted and their movement restricted while held in detention. The policy of Smart Raids penalizes consensual sex workers unnecessarily, thereby violating their human rights.

In addition, Smart Raids do little to address the ever-worsening problem of slavery in other sectors such as domestic work or factory work—forms of trafficking that often go unseen by NGOs and government actors. Such a discrepancy in the impact of this policy suggests that there are still large sectors of the migrant population whose needs are not effectively being met by current anti-trafficking endeavors. I suggest that anti-trafficking policy in Thailand be reimagined to more effectively address these difficult-to-reach scenarios. One way to begin re-imagining anti-trafficking policy is to first take the diversity of women’s experiences into account. The experiences of female migrant laborers and sex workers—women who I am calling “potential trafficking victims”—are nuanced and diverse, and often diverge from the fixed categories used to respond to them in anti-trafficking policy. The women interviewed in this study came from different backgrounds. Some migrated under the promise of a well-paid job awaited in Thailand only to face domestic slavery upon arrival. Some knowingly entered into sex work, but found the environment of the brothel problematic. Virtually all were tasked with the burden of supporting their families in Burma—second to the bottom in its dismal human rights record (White, 2004). Without speaking to the diversity of the female migrant population, anti-trafficking policies risk missing opportunities to effectively help women. I suggest that it is detrimental to paint a broad policy brush over these varied experiences. When heard, these diverse voices can be assets in the formulation of more effective policy, given these observations, this report offers short and long-term policy recommendations for the US State Department and the Thai Government. The policies offered here suggest that we begin to adopt a new conceptual framework, or paradigm, for combating trafficking in Thailand.
### Recommendations for the US State Department’s Office to Monitor and Combat Trafficking In Persons

- Re-direct funding currently dedicated to Smart Raids toward trafficking prevention strategies, including education and migration support.
- Work with the Thai government to implement regulations on sex work, including minimum wage and safe working conditions in brothels, karaoke bars, and massage parlors.
- Revise TIP Report benchmarks of success to reflect the need for more robust trafficking prevention strategies.
- Open a dialogue with CBOs conducting trafficking prevention efforts in Thailand, regardless of their members’ migration status.
- Construct a system that facilitates transparent, observable metrics of progress toward trafficking prevention goals.
- Support academic researchers in designing improved ways of measuring progress in Thailand’s anti-trafficking initiatives.

### Recommendations for the Thai Government’s Ministry of Interior and Department of Social Development and Welfare

- Re-direct funding currently dedicated to Smart Raids toward trafficking prevention strategies, including education and migration support.
- Work to implement regulations on sex work, including decriminalization of prostitution, minimum wage and safe working conditions in brothels, karaoke bars, and massage parlors.
- Open a dialogue with CBOs conducting trafficking prevention efforts in Thailand, regardless of their members’ migration status.
- Support academic researchers to collaborate with Thailand’s Anti-Human Trafficking office in Bangkok and develop improved anti-trafficking methodology.
Over the past two decades, labor migration in the developing world has become “feminized” (Sassen 2000; White 2004; Harvey 2005). In Thailand, female migrant laborers pour into the country at increasing rates every year due to the economic and political climates and stalled or dysfunctional development policies in the surrounding countries of Burma, Cambodia and Laos. Conditions in Burma, a nation “near the bottom with regard to levels of education, healthcare and protein consumption” (White 2004) and lacking protections against child labor (US Department of State, 2002), provoke many of these migratory journeys. Many Burmese women, who are caught in a web of economic desperation due to the common practices of military land conscription, forced labor, and violations of human rights (see “Urgent Appeal from KWAT” 2011), leave their homes and risk their personal security to migrate to Thailand-- a destination they believe offers greater economic opportunity. The higher economic status and the country’s wealth in the region (Thailand’s GNP per capita is six times higher than that of Burma, seven times that of Lao PDR, and twelve times that of Cambodia (IOM 2005)) make the prospect of settling there appealing. Thailand’s Office of Immigration estimates that while Thailand hosts 200,000 documented migrant laborers from Burma annually, the real estimate exceeds 1 million. (Thailand Office of Immigration, 2011). Indeed, the MAP Foundation, an NGO that documents labor migration in Northern Thailand, estimates that this number exceeded 1,400,000 in 2011 (Personal communication 2011).

Labor migration can be considered the entryway into our understanding of how trafficking from Burma to Thailand occurs. However, due to the ever-shifting and informal processes of labor migration, government and non-governmental organizations lack an understanding of the ways in which migration intersects with labor exploitation (i.e., “human trafficking”). Understanding the relationship between labor migration and trafficking would help anti-trafficking organizations streamline their efforts toward smarter, more productive policies. Such policies, I argue, should be oriented toward prevention rather than tackling the problem of trafficking after it occurs.

In order to understand labor migration and build strategies for prevention, we must first better understand the backgrounds, needs and experiences of female migrant laborers. Female migrants form a culturally diverse group which should not be regarded as one essentialized unit. Burma hosts over thirty known ethnic groups (White 2004), and Northern Thailand hosts migrants from Akha, Kachin, Shan, Lahu, Hmong, Yao, Naga, Karen, Burmese, Khmer, Lao and Thai communities. These women have different social, economic, political and personal incentives for migrating.

Additionally, female migrants who enter sex work often have diverse reasons for doing so. While some sex workers have been forced into the trade, others participate voluntarily. Without a robust understanding of the differences between consensual sex work and actual sex trafficking, efforts to suppress trafficking often target individuals who are not in need of protection, while failing to successfully impact the lives of actual victims.
The need exists for the anti-trafficking movement to better understand the nuances of women’s migration experiences, including where and how these experiences intersect with situations of exploitation. The best way to gain this understanding, I suggest, is to listen to the experiences and suggestions of female migrant laborers and sex workers themselves. Engaging in such dialogues with female migrants and sex workers could help us glean information about how to combat trafficking before it occurs. The research forwarded in this report advances the hypothesis that the most responsible data collection methods in anti-trafficking work involve listening to the intended beneficiaries of policy initiatives, and adopts the view that those being affected by trafficking are well-positioned to collaborate on policy creation. This approach is also known as “participatory methodology.” (For more on this methodology, see Watkins and Shulman 2009, Ledwith and Springett 2010, Friere 1993.)

Part One of this report examines the policy of Smart Raids by viewing this policy “through the eyes” of female migrant laborers and sex workers. It provides an overview of the policy and offers recommendations for reform. Enacted through a collaboration between the Royal Thai Police’s Anti-Human Trafficking Unit and participating NGOs, Smart Raids often result in the detention of female migrant laborers and sex workers regardless of whether or not they are victims of human trafficking. This policy is enacted in an effort to bolster prosecutions against traffickers (see Seagrave 2009; Jordan 2010). While well intended, the effects on women can be devastating, as being detained interrupts a woman’s ability to earn a living and provide for her family.

Part Two focuses on alternative responses to trafficking enacted by local community-based organizations in migrant communities. The research found that local actors are developing highly creative strategies to support and assist female migrants and sex workers—strategies that could prove to be superior practices in trafficking prevention. This section of the report introduces a comparative framework for anti-trafficking policy, demonstrating that CBOs often meet the needs of migrant laborers and sex workers more effectively than NGOs do. Three organizations making important contributions will be discussed: The Kachin Women’s Association of Thailand (KWAT), an organization providing support to Burmese ethnic minority migrants in Chiang Mai; The Empower Foundation, an organization providing support for sex workers throughout Thailand; and the Human Rights and Development Foundation (HRDF), an organization focusing on collective bargaining strategies among factory workers in Samut Sakhon. Rather than dedicating their anti-trafficking efforts to advancing prosecutions, these organizations foster community support, rights-based organizing, education and cross-border partnerships that help prevent human trafficking from occurring.
RESEARCH QUESTIONS

1. How effective is the Smart Raid policy in combating human trafficking in Thailand?

2. What issues do female migrant laborers and sex workers feel should be addressed in anti-trafficking policy?

3. What strategies are CBOs enacting to help prevent trafficking from occurring?
The research was conducted over two visits to Thailand comprising a two-month period in 2011 and early 2012. Qualitative interviews were conducted in English and in Thai with over 30 employees at NGOs, CBOs, government and UN agencies; with 20 female migrant laborers and sex workers; and, with members of the Royal Thai Police force, Thai and Cambodian border police, and Thailand’s Office of Immigration. Several interviews were conducted in the Akha, Kachin, Burmese and Khmer languages with the assistance of translators. Data was collected in Bangkok, Chiang Rai, Chiang Mai, Poi Pot, and Samut Sakhon. While the names of three CBOs will be used, the names of most NGOs as well as the female migrants and sex workers I interviewed will remain anonymous.3

To the extent possible, I sought to center the interviews on the experiences of female migrant laborers, as these actors are the focal point of the anti-trafficking movement’s “victim-centered approach” (US State Department 2011). Much rich data has already been collected on stories that support women’s status of victimization—for example, stories of exploitation while in prostitution and other labor situations. These stories are often mediated by NGOs that have worked to assist the women. Critically, I chose not to focus on the experiences of women being assisted by NGOs, as I felt that the women’s responses could be compromised due to their alliance with the NGO. Instead, I sought to interview women who were in the midst of their migration experiences. Data was collected from sex workers employed in brothels and karaoke bars, as well as from female migrants working in factory and unskilled labor situations, many of whom received assistance from CBOs. Many participants served as staff members of CBOs, using their first-hand experiences and knowledge to support women facing similar circumstances.

This study’s limited sample size prevents the research from claiming to be representative of all female migrant laborers, sex workers, NGO employees and others involved in the “trafficking in persons space” in Thailand. The data presented here is useful, however, in helping us understand some common patterns, concerns, and experiences among these actors.

3 See Appendix B for a key of respondent demographics
**DEFINITION OF TERMS**

In order to clarify the findings of this Report I will first offer a definition of key terms:

- **“Trafficking Victims”** are women in precarious labor situations whose experiences of coercion, exploitation or abuse within their migratory journeys have been defined as “trafficking” by the state.

- **“Potential Trafficking Victims”** are women in precarious labor situations whose experiences of coercion, exploitation or abuse could be viewed (but has not necessarily been deemed) as “trafficking” by the state. These individuals did not necessarily regard themselves as victims at the time the research was conducted.

- **“Survivors”** refer to women who have endured labor exploitation related to the process of migrating from Burma into Thailand, or who have been coerced into prostitution unwillingly. These victims identify with having experienced exploitation and, in some cases, call this exploitation “trafficking.” Importantly, this term is employed when the individuals referred to have been assisted by an organization in some way that is meaningful to them.

- **“Female Migrants”** are women who travel from Burma to Thailand in search of work. Often these women are tasked with providing for families in home villages and communities that rely on their labor as a means of survival.

- The **“Anti-Trafficking Movement”** is a group of state and non-state actors organized around efforts to combat human trafficking. They include NGOs, INGOS, CBOs, government actors and others.
Contextualizing the policy: The history of Smart Raids in Thailand

Policies designed to combat trafficking in Thailand are recent inventions. Human trafficking only emerged as a central concern for the US State Department within the last two decades. It formally crystallized into an official global problem with the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the UN Protocol against the Smuggling of Migrants by Land, Sea and Air (“Palermo Protocols”).

Formal problems demand formal solutions. Smart Raids, a policy described as a mechanism for freeing victims of human trafficking while minimizing harm to others (US Department of State Trafficking In Persons Report 2010), were designed to fill that gap. “Smart Raids” are a State Department funded policy in which an anti-trafficking organizations and the Royal Thai Police “raid” brothels, karaoke bars, massage parlors or other venue offering commercial sexual services in order to locate and assist women who may be working there by force. Ideally, these Raids are “grounded in real evidence, have a well-defined goal grounded in law, and are planned to ensure the safety of everyone involved. They should also include arrangements to segregate supervisors, conduct victim-centered interviews, cross-reference victims’ accounts, and quickly transition to post-rescue care and shelter for identified victims” (TIP Report 2010). The TIP Report distinguishes these interventions from “Blind Sweeps,” the latter of which do not rely on credible surveillance or verification of the evidence of trafficking victims in the targeted location.

The Smart Raid policy, while intended to do no harm to women, nevertheless often causes problems for consensual sex workers. This is likely due to the fact that the policy originated in tandem with anti-trafficking legislation that conflated the issue of trafficking with the issue of prostitution. In 2003, President George W. Bush enacted the President’s Emergency Plan for AIDS Relief (PEPFAR). PEPFAR began as a five-year plan for public health outreach to 15 countries, allotting $15 billion to address the issues of HIV/AIDS, malaria and tuberculosis. The plan included the Anti-Prostitution Loyalty Oath (APLO), also
commonly called the Anti-Prostitution Pledge, which denied funding to any organization with activities that “promote or support the legalization or practice of prostitution,” and required that any organization receiving PEPFAR funding have a policy that explicitly states its opposition to prostitution (GPO, HR 1298, 2003).

Shortly after the Anti-Prostitution Pledge was enacted, it became the site of deep divides among anti-trafficking NGOs in Thailand. Many NGOs that had been working together to combat trafficking now were unable to continue doing so due to the US government’s mandate that NGOs “take a side” on abolitionist versus pro-rights responses to prostitution (see Doezema 2000; Global Alliance Against Trafficking in Women 2010). Prior to the legislation, coordination among religious NGOs, secular NGOs, and even sex workers rights organizations was achieved through an organized (albeit fragile) personal communication network. As Liz Hilton, Director of The Empower Foundation—a support organization for sex workers in Thailand⁵—explains, the Bush legislation put an end to this cordiality:

LH: Back in 1980, three-hundred women were rounded up [in a brothel in Chiang Mai]. The new head of police needed to show power, so he did a crackdown. Organized all the bribes. That’s always been happening. A police-prostitution connection. CCPCR [an NGO advocating for children’s rights] jumped in as part of it. And in 2001, International Justice Mission—the cops for Christ—descended from heaven into Chiang Mai and the money from George Bush arrived. For us, we could say that the motivation was all about border control for America. Our analysis is that somewhere in their mind, gangs, drugs and women all follow the same big transnational crime networks. Before the Anti-Prostitution Pledge, people could sit around the table and talk about the issues freely. But once the Anti-Prostitution Pledge came, it became a dividing line. We had to talk about it and it divided us.

Hilton explains that a coalition of NGOs attempted to work together to conduct Smart Raids in the early 2000’s, shortly after Anti-Prostitution Pledge legislation was implemented; however, the imposition of the moralistic stance against prostitution created a rift in these efforts. When the US government became a vocal actor in anti-trafficking policy, relationships between NGOs worsened. Policies and practices supporting the criminalization of sex workers increased, and NGOs began to view their efforts as “fighting crime” rather than offering support to trafficking survivors.

Importantly, this “crime-fighting” approach to trafficking has failed to produce robust results. As noted by the head of a prominent anti-trafficking organization in Chiang Mai, Chiang Rai province in Northern Thailand only reported four prosecutions in 2011, despite several Smart Raids being conducted in the area (Personal communication 2011). While funding for Smart Raids has been bolstered by the State Department in recent years, prosecutions remain minimal. This discrepancy begs the question of whether a “crime-fighting” response to trafficking is, in fact, the most effective approach.

⁵ The Empower Foundation is a community-based organization run entirely by and for sex workers in Thailand. The organization uses an ethic of empowerment to assert that sex is a legitimate form of work, involves the use of a woman’s mind as well as her body, and should be respected and supported by society rather than stigmatized and criminalized (www.empowerfoundation.org)
Anti-prostitution policy through sex workers’ eyes

One of the problems with adopting a “crime-fighting” approach to trafficking is that this approach implicitly accepts the idea that prostitution is a crime. Rights-based approaches to prostitution suggest that sex workers should be treated as legitimate laborers and offered protections, rather than being criminalized (See Global Alliance Against Trafficking in Women 2011; Jordan 2010). These approaches problematize anti-trafficking laws that conflate sex trafficking and prostitution. Thai law, however, like that of the US, criminalizes women who engage in sex-work, subsequently forcing them to conduct this work in the informal labor sector. Anti-trafficking policies that approach trafficking from crime-fighting perspectives often do nothing to unpack the nuances of consensual versus forced prostitution, as prostitution is viewed in this paradigm as an illegitimate, criminal enterprise.

Many of the women interviewed in this study expressed critical views of Thailand’s anti-prostitution laws. Sex workers at the Empower Foundation expressed that they viewed their work as a legitimate form of labor, and felt discriminated against under current anti-prostitution law (Personal communication 2011). Liz Hilton explained that Empower Foundation is currently in dialogue with the International Labor Organization to take formal steps toward establishing the legitimacy of sex work. These criticisms should be taken seriously, as they point to an important intersection between anti-prostitution and anti-trafficking policies. Criminalizing prostitutes increases women’s risk of exploitation within brothels and reinforces the conceptual bridge between trafficking and prostitution. Criminalizing prostitutes also reinforces moralistic ideas about women’s sexuality that are outdated and impractical. As feminist theorist Patricia Hill Collins has pointed out, “It is important to remember that what appear to be natural and normal ideas and practices concerning sexuality are in fact carefully manufactured and promoted by schools, organized religions, the news media, and, most importantly, government policies” (2000: 145). The criminalization of consensual sex workers in Thailand exemplifies such a manufactured idea.

The Thai government, with the support of the US government should instead focus on regulating and unionizing sex-work. Such a change would help address the problematic blurring together of trafficking and voluntary prostitution, and allow for the development of more effective anti-trafficking policies. Interviews with The Empower Foundation revealed that the Smart Raid policy often serves as a veiled attempt to “catch” prostitutes, while failing to help actual trafficking victims in need of assistance. Furthermore, Smart Raids do little to prevent trafficking scenarios from occurring in the future, as they are ineffective strategies for shutting down brothels (Personal communication 2011) or locating trafficking victims who are not involved in the sex industry. Directing anti-trafficking resources toward these efforts wastes government funding and distracts advocates from developing strategies to help actual victims.
Dispelling myths about sex work and sex trafficking

Interviews with sex workers in Thailand dispelled several myths about the connection between human trafficking and sex work. Voluntary sex workers were not troubled by the content of their work (i.e., engaging in the commercial sale of their sexuality); rather, it was the lack of regulation and relegation to the informal labor sector that concerned them. Many sex workers worked multiple jobs, revealing that sex work is but one of many vocations in the informal labor sector that women engage in, and therefore rarely exemplifies the notion of “slavery” that is associated with human trafficking. Sex workers also explained that this form of labor pays better than other jobs in the informal labor sector. Finally, sex workers and their advocates expressed the belief that implementing regulationist policies such as minimum wage, lack of quotas and caps on percentages given to brothel owners, in tandem with regarding sex work as a legitimate form of work, would be the best strategy for protecting sex workers from exploitation.

Understanding the causes of women’s entry into voluntary sex work helps illuminate the differences between voluntary sex work and sex trafficking. Understanding these differences may enable policy makers to adopt a more nuanced approach to anti-trafficking policy.

An Akha sex worker in Chiang Rai (AKFSWD’S2) described her incentives for working in a karaoke bar:

AKFSWD’S2: A lot of people come with friends. People know this place. They talk and talk, say they get a lot of money so they come with friend. Their parents their families are very poor so they want to help their parents. Some sex workers, they are afraid their parents know. So some people go to Bangkok and work. A lot of people in ethnic groups, they come from the mountains to help their parents. Then their parents send for money. A lot of sex workers have very poor families.

AKFSWD’S2 explained that women’s incentives for working in brothels are rooted in economic disadvantage and strong ties with family and community. Akha migrants, like many ethnic minority migrants, as well as Thais, adopt a sense of responsibility toward taking care of their families. This is especially true among oldest daughters, who are often the primary breadwinners. Many of the Akha sex workers I interviewed said that the desire to care for their families--many of them living in remote villages in Burma’s Shan and Kachin states-- motivated their entry into sex work.

One migrant (AKFSWD’S1) explained that sex work is often one of an array of jobs that women perform during the course of their workdays:

AKFSWD’S1: In the day there is *acheap*—“another occupation.” Like construction, agriculture. Another labor job. You know? We need to get more money. My income and my spending are not balanced. We need more money so I work here. I don’t know how much I make on one month working in here. Some days we have a lot, some days we don’t have. In the day is about 150 [Baht] every day, but in the evening not sure. It depends on experience in the job during the night. But I have to
AKFSWD’S1’s explained that sex work is but one of a plethora of vocations undertaken by many female migrants. This suggests that sex work, like any work, offers women the ability to pay for electricity, water, and other necessities, and does not necessarily constitute an elusive, abusive or desperate act (Kempadoo 1999) in which women are enslaved. Indeed, none of the women I interviewed spoke about her work as being a source of misery or misfortune. Rather, sex work was discussed in practical terms: a means of generating the income necessary to survive.

Interviews with Western faith-based NGO employees in Chiang Mai and Bangkok presented a very different view of sex work, however. Broadly, the attitudes these employees held in regard to sex work promoted an abolitionist stance on prostitution. This stance suggests that sex work is inherently degrading to women and that all sex workers are trafficking victims (see MacKinnon 2007; Barry 1995; Jeffries 1997). Several employees at faith-based NGOs explained that their work consisted of assisting in brothel raids and “rehabilitating” the sex workers they found there. These policies included “counseling” and “giving love to” the women in order to prevent them from returning to the trade. Additionally, “life skills” activities were offered as alternative ways of generating income. Such activities included sewing, hand-weaving and jewelry-making.

My research found, however, that these alternatives were rarely effective in reversing sex workers’ decisions to continue working in the sex industry. This is because alternative forms of income-generation rarely produce revenues sufficient for women to support their families. One sex worker (BUFSWD) explained the problematic remittances garnered through producing handicrafts:

BUFSWD: [If I was sewing I would make] only make 150-180 baht per day [$7-$9]. If I was a Thai person, 200 baht per day. If I am a migrant, only 120 per day. In Mae Sot [on the Thai-Burma border] only 80 baht per day.

In contrast, BUFSWD explained, sex work is a far more lucrative vocation. The women at Empower Foundation earned enough money to buy farm equipment and start businesses:

BUFSWD: In Mae Sot the women are migrants. Customers aren’t paying a lot but the women are still making three times the minimum wage.

BUFSWD’s analysis of the discrepancy between sex work and other forms of work in the informal labor sector explains the commonsense decision made by many women to enter and remain in the sex industry. While many NGOs attempt to “rescue” women from sex work, “life skills” training can never compensate for the deeper issue at hand: namely, that professional opportunities are denied to migrant women. Interviews with migrants revealed that Burmese women are banned from working in Thailand’s formal labor sector due to their status as non-Thai citizens. The denial of these opportunities is of great concern to sex workers and other migrant laborers. Empower Foundation is working to remedy this disparity by offering language and computer skills training to all the women who come through its doors, while also offering support for safe labor practices in sex work. The hope is that through this training, migrants will be able to more readily bargain for participation in professional jobs that offer upward mobility and security.
The sex workers I interviewed explained that they viewed legitimate employment status as a key to their future emancipation. Regulationist approaches to sex-work, they suggested, would offer practical solutions to the problem of exploitative conditions in brothels—a very real scenario. Having the freedom to set their own schedules, secure a minimum wage, work with brothel owners to create safe working conditions (such as safe sex) and eliminate customer “quotas” would allow sex workers to function professionally, rather than criminally. This, in turn, would reduce the potential for exploitation. Such improvements have been demonstrated in the Netherlands, where brothel legalization has led to an increase in law enforcement’s ability to detect cases of sex trafficking (Women’s Anti-Discrimination Committee Examines Netherlands’ Policies 2007).

Currently, anti-trafficking policy in Thailand does not address these concerns, but instead prioritizes the concerns of the state. Liz Hilton has discussed the incompatibility of the stated needs of women with Thailand’s current anti-trafficking policy:

LH: One woman came to work in a karaoke bar. She thought the debt was too high. There was no freedom of movement. Thought the owner was taking too high a cut. These were the criticisms—of the workplace itself, and the fact that there are no regulations within them. But with anti-trafficking policy and law, when you think about it, none of the options under that law would protect her family or her.

Hilton explained that policies criminalizing sex work, in tandem with policies designed to combat trafficking by focusing on prosecutions, do sex workers a disservice. Hilton’s analysis reveals the problems with the conceptual link between prostitution and trafficking that anti-trafficking policies reinforce, explaining that within the current framework, policies designed to curb trafficking do not support women’s agency or emancipation. Instead, they focus on state-driven agendas that have little to do with women’s needs.

Implementing regulations in sex work in Thailand would require the US government to reconsider its moralistic stance against prostitution. While the Anti-Prostitution Pledge legislation was overturned in 2008, my interviews revealed that many organizations combating trafficking still adhere to its agenda. In fact, one employee at a State Department funded NGO in Bangkok did not realize that the legislation had been overturned under President Obama (Personal communication 2011). A more nuanced approach to fighting labor exploitation in the sex industry would necessitate putting the practical needs of sex-workers before the moralistic ideologically-based needs of the anti-trafficking movement.

Collective bargaining strategies within brothels could help advance this agenda. Labor rights oriented NGOs which are currently funded by the US Government, however, do not include sex workers in their purview. As an interview with one State Department-funded NGO employee revealed, the only laborers who receive US government-supported strategic planning and unionizing efforts are factory workers (Personal communication 2011). I argue that introducing these strategies to sex workers and allowing them into the conversation is paramount to developing a successful and sustainable approach to anti-trafficking policy in Thailand.
As previously discussed, labor migration is the key to understanding trafficking in Thailand. How and where labor migration and exploitation intersect, however, is a question that often gets left out of anti-trafficking policy agendas. In place of these questions, assumptions are made about how trafficking occurs (through “vast criminal networks”) and the narratives used to describe trafficking are often sensationalized (see The Salvation Army: Combating Human Trafficking). Seldom are the nuances of labor migration ever discussed in anti-trafficking campaigns and policy initiatives.

This research found that sex trafficking, in particular, rarely occurs according to the sensationalized narrative offered by many NGOs and reinforced in the TIP Report. Women from villages in the countries surrounding Thailand do migrate seeking work; however, the idea that they are “tricked” into becoming prostitutes under the false pretense of working in other occupations is largely a misnomer. The research indicated that women are usually aware of the range of labor opportunities they will face upon arriving in Thailand: from cleaning, to cooking and restaurant work to sex work.

Additionally, this research found that the notion that poverty is always a primary “push factor” in incentivizing labor migration is a misnomer. It is not just the very poor who are on the move: middle-income earners in Cambodia, for example, often work “double shifts” as migrant laborers. These migrants enter Thailand for days at a time and then return home, seeking to improve their living conditions in the context of a country that is slow to develop. The lack of nuanced understanding of these processes does a disservice to migrants who are at risk of exploitation.

Additionally, Thailand’s policy of criminalizing undocumented migrants further endangers migrants who may be potential trafficking victims. Without proper documentation migrants are subject to criminal procedures in Thailand; however, often migrants are unable to obtain the proper documentation needed to make their employment status legitimate. As one grassroots community organizer (KHMLN1) on the Cambodian border explained,

KHMLN1: People think it’s all poverty but no. There’s no mechanism to support migration. To get a letter or to register you have to go to Phnom Penh. Nobody up here in the provinces can effectively do that. So they migrate illegally and then are subject to all kinds of labor exploitation. It’s about survival.

While migrants seek support for safe migration processes, the Thai government has not responded to these expressed needs. Instead, in partnership with NGOs implementing anti-trafficking policies such as Smart Raids, the government has been cracking down more harshly on “illegal” migrants. Often, these crack-downs are enacted in a stated attempt to increase prosecutions of trafficking cases. The effects of these practices on female migrant laborers are often devastating: rather than responding to migrants’ needs, the practices of criminalization, detention, and grooming for prosecution prevent migrants from providing for families who rely on their remittances to survive.

Recent scholarship has turned our attention to the problematic processes and constraints encountered by female migrants in other areas around the globe. Parrenas’ *Illicit Flirtations: Labor, Migration, and Sex Trafficking in Tokyo* (2011) explores the structural constraints that limit the choices and autonomy of Filipina migrant hostesses in Japan. As Parrenas explains, "We need to dismantle the binary framework that separates these two distinct migratory flows and construct a middle ground that recognizes the agency of migrants without dismissing the severe structural constraints that could hamper their freedom and autonomy" (p. 7). Such concerns are reflected in the experiences of migrants facing criminalization upon entry into Thailand.
Problems with the prosecution focus

The overwhelming similarity of concerns raised by the female migrant laborers I interviewed, and the discrepancies between these concerns and anti-trafficking policies evoke questions about the privileging of prosecution in anti-trafficking policy. Prosecution has been emphasized by the 2011 TIP report, which outlines a set of benchmarks for measuring policy effectiveness. NGOs which focus their efforts on bolstering prosecutions receive the vast majority of State Department funding (Personal communication, 2011). One large INGO which conducts both Smart Raids and Blind Sweeps, continues to receive large sums of funding for its efforts elsewhere in the Mekong Region (Personal communication, 2011), and one Chiang Mai-based NGO reportedly received upwards of $250,000 for its Smart Raid efforts this year. A prominent US-based religious INGO which coordinates on Smart Raids throughout Thailand received upwards of $750,000 in 2010. These organizations use Smart Raids as their primary initiatives. In so doing, they promote the idea that detaining sex workers will logically lead to an increase in trafficking prosecutions. However, as I have discussed, this hypothesis is precarious at best.

Additionally, the focus on prosecutions is problematic because the value placed on prosecution varies according to different social and cultural contexts. Members of many ethnic minority communities, as well as Thai culture, do not adhere to the same “justice” paradigm evoked by the law-and-order framework that drives Thailand’s anti-trafficking policy (Segrave, Milivojovic and Pickering 2009). Indeed, many sex workers I interviewed did not view their “mama sans” or “carriers” (people commonly referred to by the anti-trafficking movement as “recruiters,” “transporters” or “traffickers”) as adversaries. Rather, they saw these individuals as allies who supported their efforts to earn a living in Thailand. Understanding these cultural differences is key to building a more nuanced approach to policy.

Additionally, the trafficking survivors I interviewed expressed no desire to provide witness testimony as a way of bringing their traffickers to justice. Rather than viewing the criminal justice system as a vehicle for their emancipation, these women sought assistance from people and organizations they could trust: namely, CBOs from their ethnic communities who were mobilized to support them.

One labor trafficking survivor (BUFSLD’S) explained her clear reasoning behind not wanting to prosecute her traffickers:

EK: Do you ever think about the driver’s family [who enslaved her in a domestic labor situation]? Do you want to punish them for what they did to you?

BUFSLD’S: No. It was my mistake because I never think about the situation carefully. The reason I want to go back to Burma is that I have one sister, I worry about her not to go. People who don’t know about the situation coming to Thailand—I want to help them avoid.

EK: What about the Auntie [who recruited you into the trafficking situation]?

BUFSLD’S: I get angry at Auntie. But then I think about it. Auntie also don’t know.

The resistance to penalizing traffickers raises important questions about the cultural and religious mores that fuel such different ideas about law and justice. Indeed, it could be argued that the Buddhist notion of karma treats the idea of punishment differently from Western conceptions
of liberty and freedom. The idea of karma is rooted in a “natural law” suggesting that wrongs will be righted on their own, without the needed intervention of human action. Western conceptions of justice, upon which the criminal justice framework is based, sees human action as a necessary component of enacting justice. This notion is reinforced in the anti-trafficking policy focus on prosecution, which relies on witnesses to participate in “righting the wrongs” of their traffickers.

But migrants from Buddhist communities may not naturally agree with this paradigm, nor value it above other policy responses. In contrast to wanting prosecutions, the majority of the women I interviewed expressed the desire for the Thai government to instead treat migrants with dignity, equality and respect. When asked what would improve anti-trafficking policy, their answers was not “prosecutions”, but rather “immigration policy change.” This discrepancy suggests that policy makers relying on witness testimonies to bolster prosecutions may be fighting an uphill battle. Working with survivors to ascertain best approaches to trafficking could potentially foster more effective interventions.

Other aspects of the prosecution focus have been noted as problematic. In the event that a detainee is deemed to be an actual victim of human trafficking, the process of testifying in a case is laborious and often traumatic (Interviews with Thai Office of Immigration; Empower Foundation and Trafcord). One NGO employee explained that a typical trafficking prosecution case takes up to a year, during which time witnesses are detained in shelters with restricted movement (Personal communication, 2011). Often, victims resist testimony on the grounds that it may compromise their economic situations. Accounts by an employee at a large INGO (THFIN1) working to repatriate trafficking victims verified these concerns:

THFIN1: Sometimes a victim doesn’t want to testify. Even though she’s been tortured and beaten, she thinks at least I have a job. At least she can feed her family.

Additionally, to some victims, testifying has detrimental social consequences:

THFIN2: There were three Uzbek women who were trafficked to Chiang Mai. They escaped and went to [our organization] for help. But [our organization] had to use forms to file their cases and these women were afraid that their stories would be told. They were scared that if their families found out they’d be shunned back home, and punished by law. So they rejected assistance from [our organization].

In addition to these concerns, several migrants expressed a desire for the Thai government to instill prevention efforts, including implementing minimum wage for unskilled labor activities:

KCFCBD 2: In Mae Sai, I work in the shop where they sell the eggs. Only 1,000 baht [$30] per month. I stayed with the shop owner.

EK: Was it the type of situation where the owner said, here’s your salary, now do whatever (I want you to do)?
KCFCBD 2: Yes. One salary, do whatever the owner tell me to do.

EK: What could have helped prevent this? What are the main things that could have made this better?

KCFCBD 2: Government, they not care. The government has the duty to say how much is the minimum wages, and to tell the employers that is the minimum salary. If for cooking, cooking. If for cleaning, cleaning. Baby-sitting, baby-sitting. Currently we only have one salary for everything. And we are very tired of it.

KCFCBD 2 explained that preventing labor exploitation begins with policy change. Imposing regulations on unskilled labor could benefit migrants in at-risk situations. Such a rights-based approach to labor migration could help to prevent scenarios of human trafficking.

Another female migrant and Project Director at the Kachin Women’s Association of Thailand (KCFCB3) echoed these concerns regarding the rights of migrant laborers:

KCFCB3: Some of us have passport. But most do not have travel document. This is a big challenge for us. With a labor card, the Thai government, they only permit you to do unskilled labor. Not permitted to do a professional job. Even with the labor card they could get arrested. These are big challenges for us.

KCFCB3 articulated the difficulty and complexity of seeking professional opportunities as a migrant laborer. She explained that “even with the labor card” migrants face discrimination and criminalization, and that such documentation only allows migrants to conduct unskilled labor in a sector that remains unregulated. Labor vulnerability remains a top priority for migrants who understand how their precarious status might lead to exploitation. This connection, however, has not yet been acknowledged within anti-trafficking policy, which continues to focus on prosecution at the expense of prevention.

While prosecution is of central value to governments and State Department-funded NGOs, female migrant laborers revealed that it was not of value to them. These women were neither ignorant about the legal paradigm, nor were they passive actors in the fight against trafficking. On the contrary, many were strongly committed to policy change. But the change they sought was not congruent with the TIP Report’s benchmarks for success. It is therefore a primary argument of the present report that anti-trafficking policy work to address the complexities of Thailand’s migration policy and offer protections to migrants, regardless of their document (or citizenship) status. Treating trafficking and labor migration as separate issues is a simplistic and inaccurate approach.
Another nuance in the experience of migrants that may help inform anti-trafficking policy involves migrants’ interactions with the Thai Royal Police. Under the 2000 Palermo Protocol many, if not all, of the women I interviewed would likely be considered “trafficking victims.” Virtually all of these women had experienced some form of exploitation within precarious labor situations. But across the board, these women expressed that under no circumstances could they go to the police for assistance, due to their fear of being arrested, detained, locked up indefinitely, teased, abused, demeaned and deported. Many migrants expressed fear of being “caught” by the Thai police, even though it was often police who acted as “carriers” for the migrants. Understanding migrant-police relations may inform our understanding of why anti-trafficking strategies are failing.

6 “Carries,” a term I heard used by virtually every migrant I interviewed, refers to individuals on both sides of the Thai-Burma border who help migrants cross the border without being seen by border police. Often, carriers assist migrants in crossing the river, arrange transportation, provide fake documents such as passports and serve as translators in destination cities. They are almost always members of the Royal Thai Police or Burmese military junta.
One undocumented female migrant from Burma (KCFD 1) who could be considered a trafficking victim described how a carrier had exploited her:

KCFD 1: He lied to me. He said he carry me to Bangkok and I give 4,000 Baht [$120] first. We go together. We stay in Chiang Rai, and he… (throws up hands) – we can not find him. He took my money and ran. And we go on bus and police caught me. We don’t know how to—we go—one man also say it’s ok. And police catch me.

EK: Where did the police take you?

KCFD 1: They took me to jail.

EK: Did you tell the police what happened with the carrier?

KCFD 1: I stay in IDC one night and in jail one night. And I pay the head of jail – “tow moo” in Burmese—1,800 baht.

EK: So you’ve paid now 5,800.

KCFD 1: Now gone. So no money. They sent me to border of Burma. They said, “Go cross the river.” You know, everyone blames the migrant worker. “Why did you come?” Now I understand Thai language. They sing, “Ma Tamai Mae Lai…Why did you come if you don’t love me?” The police sang to me. It insulted me.

This story highlights the precarious encounters that migrants have with the Royal Thai Police, both during their migration experiences as well as in jail. It also illustrates the lack of agency trafficking victims have under Thailand’s current immigration policy. KCFD 1 had been coerced into going to Bangkok and then tricked out of a large sum of money. She was exploited by her carrier-- a member of the Thai Police-- then subsequently teased while in jail. The fact that the police were not sensitized to her experience and did not seek to verify whether she had been a victim of human trafficking points to the Anti-Trafficking Police’s poor training and lack of accountability. While the Royal Thai Police raid karaoke bars, massage parlors and brothels--places where, in 2011, few trafficking victims were found-- episodes of actual exploitation go unnoticed. This disconnect reinforces the image of the police as adversaries in migrants’ eyes, and provides clues as to why many trafficking victims go unseen and unserved by law enforcement.
Seeing detention through migrants’ eyes

Another nuance in the experience of migrants that should be considered by anti-trafficking policymakers is the experience of detention. As I have explained, the Thai government detains migrants who are suspected of being trafficking victims in order to groom them as witnesses in anti-trafficking prosecutions. The rationale for this policy is that trafficking cases are notoriously messy and virtually impossible to prove without the testimony of a reliable eyewitness (Thailand’s Office of Immigration 2011). Victims are held in Thailand’s International Detention Center (IDC) or Ban Gretregarn (“Gretregarn House”), a government shelter.

In a presentation by Thailand’s Office of Immigration in Bangkok on December 9, 2011, the Officers explained that in response to Thailand’s Tier-2 Watch List downgrade in the TIP Report, Thailand has increased its securitization policies in an attempt to “catch” trafficking victims. This response has led to an increase in the number of migrants being held in detention centers. While the government rationalizes that detention centers offer victims needed protection from brothel owners and former traffickers, in reality these facilities deny women access to communication technology and restrict their movement (Interviews with The Empower Foundation and Trafcord). In addition, detained migrants face the problem of not being able to send their remittances home. Often they are held for many months, without due process or translators (Interviews with The Empower Foundation and Trafcord). These problems illustrate the complexity involved in detaining migrants, and the disconnect between anti-trafficking policy and the needs of migrants.

As previously discussed, the policy of Smart Raids and subsequent detention does not appropriately acknowledge the agency of sex workers (and other laborers) who are not trafficking victims. Instead, these women have their lives and work disrupted by anti-trafficking efforts. As Ann Jordan (2010) notes, the result of Smart Raids is that “Sex workers who do not want to be ‘saved’ are being subjected to violent raids and rescues and some of them are being arrested, abused, and deprived of their livelihood” (p. 11). These discrepancies provide important clues as to why anti-trafficking is not as effective as it could or should be.

An interview with the head of a Thai NGO (THFLN2) reinforced this perspective:

THFLN2: We have to understand that some people, some women want to work. Some blame us: “Why you come here? This is my job. We don’t want you here.” But our objective is to protect the victim who need help. The underage girl needs help.

EK: What about the other women? What happens to them?

THFLN2: We need to take them all out. We say, “We need your cooperation.”

EK: Do the non-victims cooperate?

THFLN2: We don’t force them. We ask their cooperation. They do [cooperate]. I think the women know that prostitution is against the law.
THFLN2 acknowledged the discrepancy between the treatment of consenting sex workers and the treatment of those who are underage, and thus automatically considered trafficking victims by the government. She referenced the fact that prostitution is illegal, implying that the consenting sex workers often comply with Smart Raids because they know they are breaking the law. Later she explained that these women, if Thai citizens, are fined 1,000 baht [$30] and kept in detention while non-citizens are deported. Underage girls, however, may be kept in detention for up to a year while being groomed to be witnesses. If they are migrants, they are then deported. This “weeding out” process, while designed to identify victims, often violates the rights of women who are not victims of trafficking—an issue that should be acknowledged as a problem in anti-trafficking policy.

Additionally, while NGOs such as THFLN2’s organization attempt to treat all sex workers with respect, the police do not necessarily respond in kind. In contrast to THFLN2’s description of calmly asking sex workers to cooperate during a raid, the Thai government’s Office of Immigration (2011) presented a less cooperative picture. A video of migrants huddling in cells in Bangkok’s IDC depicted men without shirts and women wearing messy clothes, sitting on cell floors while members of the police kept watch. While this video was likely intended to demonstrate the Office’s ability to manage the detention process, it failed to address the importance of respecting migrants’ human rights.

This oversight speaks to a lack of engagement around the economic and social rights of female migrants. Freedom of movement, freedom to work and freedom to live in dignity, as many scholars have explained (see in particular Cook 2004) are rights that often go un-acknowledged by legal frameworks that are, ironically, designed to help women. Instead, such frameworks often privilege civil and political rights, such as the right to prosecute and the right to free speech. Civil and political rights deal primarily with issues related to the public sphere and participation in political processes. As women in developing contexts are often more concerned with social and economic rights (Sassen, 2002), their needs largely go un-acknowledged within such frameworks. Civil and political rights that treat people as independent, rational actors while dismissing systems of economic disadvantage and social discrimination, are not the types of rights female migrants need defended most. The oversight around these issues for women held in detention points to the danger of human rights violations occurring as a result of anti-trafficking policy.

The research revealed that women’s civil and political rights are also being violated when due process is often not effectively carried out during questioning. The lack of adequate translators employed in Thailand’s detention centers prohibits NGO employees, social workers and police from communicating effectively with women from ethnic minority communities. The US State Department, as a government body, should be vigilant in attempts to ensure due process, a cornerstone of democracy. As interviews with the The Empower Foundation revealed, however, the State Department has not taken active steps to ensure that due process takes place. The Empower Foundation has created a report documenting a brothel raid (the “Mida” raid) in which the lack of translators and legal counsel resulted in an underage woman being held in detention for months, despite her never having engaged in sex work. This example demonstrates the problems and complexities with anti-trafficking responses to Thailand’s Tier 2 Watch List status.
The importance of community-based organizations (CBOs)

As I have demonstrated thus far, NGOs and government actors who rely on prosecution-oriented anti-trafficking strategies often miss important opportunities to effectively meet the needs of victims, potential victims and survivors. In contrast, my research revealed that many grassroots community based organizations (CBOs) are emerging to support migrant women who are in precarious labor situations. These organizations, often operating “below the radar” of the anti-trafficking movement, combat human trafficking by utilizing prevention-based strategies. These groups operate in solidarity with migrants and sex workers, generating trust within their communities. The research demonstrated that more often than not, trafficking victims, potential victims and survivors all actively sought out relationships with CBOs rather than approaching the Royal Thai Police or anti-trafficking NGOs. I have already introduced The Empower Foundation, an important CBO working to support the needs of sex workers in Thailand. Now I will discuss two other important CBOs with whom I met during my research: The Kachin Women’s Association of Thailand (KWAT) and the Human Rights and Development Foundation (HRDF).

The Kachin Women’s Association of Thailand (KWAT) was created in 1999 in Chiang Mai, Thailand to respond to the needs of the growing population of Kachin migrants (www.kachinwomen.com). The organization is closely linked with KIWA, the women’s arm of the Kachin Independence Army in Burma’s Kachin State, which has been resisting oppression by the Burmese military junta for several decades (Personal communication 2011). Prolonged fighting between these factions has recently resulted in renewed atrocities against the Kachin people in Burma (“Report Exposes Atrocities in Burma’s Newest War” 2011). In response, KWAT seeks to raise awareness about conditions in Burma while promoting gender equality among the Kachin people.

My research took me to the offices of KWAT and later, to a safe house for Kachin migrants. Supported under the auspices of KWAT’s Migrant Program, the safe house serves as a drop-in center, offering computer skills training courses, English and Thai language courses and community support for female migrants struggling to sustain legitimate employment in Thailand. The organization is run by migrants themselves: women who have left their villages in Burma to seek a better life in Thailand, only to face discrimination due to their nationality, ethnicity and gender.
The following story of a female trafficking survivor from Burma’s Kachin State (KCFD’2) exemplifies the impact of KWAT’s Migrant Support Program:

KCFD’2: I grew up in Tachilek [a city on the border of Burma and Northern Thailand]. In 1982 my family moved to Mychina [the capital city of Kachin State, Burma]. In 1990 I married. In 1997 my husband passed away and left me with two girls. (laughs) I am laughing because we hear this story a lot.

After he passed, the children needed to go to school. I needed to support them myself. I knew that there was money in Tachilek so I decided to go to in search of work. I left my daughters with the relative in Rangoon in 1998. I came to Tachilek and found work as a housekeeper in Chinese house for 4 months. My salary was 1000 baht per month [$30] in 1999! At that time I was keeping only 200 baht for myself and sending 800 baht [about $22] to the children.

My cousin was working in a different house in Mae Sai. She told me, “There is job in Chiang Mai doing housekeeping. We’ll both go and work for 750 baht per person.”

So then the boss brought us to Chiang Mai- but on the way the police stop us. The boss gave some money to the police but I don’t know how much.

In 1999 I worked in Chiang Mai for 7 months. My salary was increased to 900 baht [about $27]. But the regular salary was 4000 baht [$120]. I wanted a regular salary. So I looked for another job. I contacted the Kachin church community in Chiang Mai.

While I was looking for the normal paid job, I heard that there is a health training in Mae Sot. At that time, at the beginning of 2000, KWAT had just formed. They said, “Does anyone want to go to represent KWAT?” KWAT helped me to get there. There were only a few people in KWAT at that time so it worked out.

EK: How many women were working at KWAT at that time?

KCFD’2: Around ten. There a lot of people in the Kachin community who have problems. So we think we need an organization to help the women help themselves. I serve as a representative for KWAT. After two years of the medical training I went back inside [Burma] to work in the KIA controlled areas. I served with a mobile clinic service for five years: from 2000-2005.

EK: Tell me about your work in the mobile clinic. Who did you treat?

KCFD’2: I worked in fourteen villages. I got the health mobile funding clinic from BRC [Burma Relief Center]. I was the head of the nursing clinic. We went around to the villages, curing diarrhea and malaria. We gave training to the villagers about traditional birth, hygiene, education to schools, children and family planning.
THE IMPORTANCE OF COMMUNITY-BASED ORGANIZATIONS

Medic traveling on elephant

Medic traveling in Burma
I bought all the medicine from Mychina and went around. There was a doctor too; he and I worked together. But while I was serving away from the doctor I take care of the injury people. Because that area is jungle so people cut themselves. I had to sew them up.

There were of course serious sicknesses that I could not cure that needed to be cured in the big hospital. One was a soldier from KIA. In the fighting he was unconscious for three days and they bring him to me. I was checking and giving the medicine and also the urine pipe… I installed.

EK: In the middle of the jungle!

KCFD 2: Yeah. I had the equipment. After two days the man was alive.

KCFD 2’s fortuitous alliance with KWAT illustrates two important issues: first, it demonstrates the power of education as a means of trafficking prevention. By assisting KCFD 2 in accessing and excelling in a rare medical training opportunity, KWAT provided an inroad to a vocation that would have otherwise been denied to her. As many women from KWAT explained, a wage ceiling and systematized discrimination against the Burmese prevent migrants from earning fair wages. Since, by necessity, KWAT functioned outside the purview of a state-legitimized organizational structure, this CBO opened an important door for KCFD 2, one that fostered her intellectual potential and empowered her with skills that were urgently needed in her community.

Second, this example demonstrates the power of community networks in trafficking prevention. By forming alliances with other migrants in circumstances similar to their own, the Kachin Women’s Association of Thailand provides support to migrants in ways that NGOs can not. I suggest that the “unrecognized” status of CBOs in Thailand creates a kind of “safe-haven” for women who would otherwise remain isolated. Having a network through which to identify dangerous situations and express grievances about exploitation enables migrant women to build intelligent, comprehensive strategies for trafficking prevention.

A second CBO exemplifying the importance of support networks is the Human Rights Development Foundation (HRDF). Located in Samut Sakhon, a seaside factory town in central Thailand, HRDF offers support to migrants from Burma who work in Thailand’s fisheries industry. The organization uses grassroots, participatory methods to address labor exploitation among migrants.

An interview with an 18-year-old female migrant (BUFSLD’S) from a small town near Rangoon, Burma highlights the importance of community-based organizations in counter-trafficking initiatives. In addition, it demonstrates the fear held by many migrants of being caught in Thailand’s anti-immigration system. BUFSLD’S was a labor trafficking survivor who had used a Thai carrier to cross the border on the promise that a job in an orange grove awaited. After crossing, she was forced into domestic slavery, working for a family that starved and tortured her. Upon running away, she avoided the police for fear of being deported. Finally, she found help from HRDF’s Migrant Justice Program. Like many other migrants, BUFSLD’S’s primary concerns involved sending money back to her family and avoiding detention:

BUFSLD’S: At the factory we get small room for the worker. And the factory nearly 400 Burmese workers are there. Peeling shrimp.
EK: Do they pay you?

BUFSLD’S: Yes. Sometimes over 100 or 200 baht per day [$3-$10].

EK: Is it better in the shrimp factory than the beer factory [where you had worked in Burma]?

BUFSLD’S: Yes, Its ok.

EK: I’ve heard some stories about the shrimp factories not paying. Or beating employees. Have you seen any problems like this?

BUFSLD’S: No. Now I don’t have documents so I can’t go out.

EK: So it sounds like the problem is not with the factory but with the fact that you don’t have documents.

BUFSLD’S: Every day is ok at the factory. I have food and a place to sleep. But the problem is I can not go out. They LET me go out, but they can not be responsible for my security. I have no document.

EK: What would happen if the police found you?

BUFSLD’S: I don’t know but I’m scared to find out. I have information: If police arrest, I have to stay 45 days at the jail and send back to Burma border. Then Burma authority will detain us and we will have to get money to be released.

EK: What do you think the next step is? What do you want it to be?

BUFSLD’S: Now I’m thinking to collect some money to travel back to Burma. I worry about my family.

This interview demonstrates the importance of implementing safe migration policies as a mechanism for preventing trafficking. Contrary to the TIP Reports concerns regarding labor trafficking in the fisheries sector, this migrant expressed that it was not the conditions of the shrimp factory that were of concern, but rather, her precarious immigration status. Had BUFCBD been able to migrate safely, she may not have been exploited. Additionally, safe migration policies would have enabled her to send money home to her family.

CBOs such as HRDF work with migrants to ensure that conditions in factories are safe, and provide migrants with important education and training opportunities. Unlike the government and State Department funded NGOs, they are not concerned with retribution against traffickers; rather, their role is to support migrants so that scenarios of trafficking are not repeated.

HRDF also introduces collective bargaining practices into migrant communities in the factories of Samut Sakhon. As the head of HRDF’s Migrant Justice Program (BUFCBD) explained,
BUFCBD: We try to educate them on the organizing issue. We form the informal group. We use the structure and concept the same as the Thai trade union. And we work with the Thai union to learn how they fight for their rights. Because migrants have no voice in Thai society.

By focusing on rights-based approaches to labor and by fostering a network of community support, CBOs such as the Human Rights and Development Foundation, the Kachin Women’s Association of Thailand and Empower Foundation enact trafficking prevention strategies that arguably offset the problems created by the Smart Raid policy. Educating migrants in home villages, building alliances between migrant communities on both sides of the border, providing language and professional skills training to migrant women and offering personal support all serve as important means of preventing trafficking and exploitation from occurring.

It is the recommendation of this Report that the U.S. and Thai governments work to engage with CBOs by opening a dialogue focusing on best practices in human trafficking prevention. Currently, many CBOs are organized and led by migrants whose immigration status remains precarious. Their members therefore feel uncertain about engaging with the Thai government or with Western NGOs (who they view as a link to the police). I suggest that the U.S. State Department work with the Thai government to create a “safe space” for inter-organizational engagement. Rather than regarding CBOs as “criminals” within Thailand’s immigration framework, these organizations should be invited into a dialogue that acknowledges the important achievements they are making toward improving Thailand’s trafficking record.

It is also worth noting that CBOs possess a rich, first-hand understanding of conditions in source countries such as Burma. This knowledge positions these actors as potential leaders in data-collecting methodology. A report released in November, 2011 by the Kachin Women’s Association of Thailand, for example, documented instances of rape, murder, torture, forced labor and forced resettlement in Kachin State occurring from June through November, 2011 (“Report Exposes Atrocities in Burma” 2011). Such field data is virtually impossible for NGOs to obtain, as these actors are banned from operating within Burma. Since a comprehensive approach to trafficking prevention necessitates looking at labor migration from all sides, data from migrants’ home communities is crucial to understanding the conditions under which women migrate. CBOs could be a source of valuable insight for anti-trafficking policy makers.6

6 Understanding the realities in Burma is also paramount to my critique of the Smart Raid policy. Given that this policy often results in female migrants who are deemed “non-victims” of human trafficking being repatriated back to their home villages, conditions in Burma should be considered before repatriation is enacted. The 2011 TIP report has acknowledged that sending women home unsupported poses problems to migrants who may face persecution and atrocities by the Burmese Junta. Indeed, it has been documented that Burmese military often target migrants who try to flee the country (MacClelland 2010) with retribution. As rule of law in Burma is non-existent (KWAT, 2011), female migrants who the Thai government detains and forces to return to Burma face severe threats to their security. Thailand’s anti-trafficking policy should acknowledge the reality of “push;” that is, the conditions underlying migration that often coincide with situations of human trafficking. “Push” is yet another nuance that should be considered in a re-imagined approach to anti-trafficking policy in Thailand.
Seeing the border through migrants’ eyes

A final issue for consideration in re-imagining anti-trafficking policy involves migrants’ lack of access to passports in their home countries. As one interview with a grassroots anti-trafficking activist on the Thai-Cambodian border (KHMLN1) suggested, the lack of villagers’ access to easy passport processing causes problems in safe migration practices:

KHMLN1: Seventy-five percent of people living in the rural areas [of Cambodia] are poor. There are four million people in Cambodia looking for jobs. So they migrate. There are at least one million laborers from Cambodia working in Thailand. Some are documented, but some are looking for a quick job—just to survive. There is no mechanism to support migration. To get a letter and register you have to go to Phnom Penh. But nobody up here in the provinces can effectively do that. So they migrate [to Thailand] illegally and then are subject to all kinds of labor exploitation. It’s about survival.

This activist explained that implementing passport centers at key areas along the border would enable safe migration processes. Passport machines, centers and personnel training would be needed to achieve this. But the Cambodian government has not made passport access a priority, and Western NGOs are unable to implement this structure. The lack of passport access is an important nuance that should be noted by anti-trafficking policy makers working with governments engaged in the MOU process with neighboring countries. Building cross-border strategies for migration support could be a key step toward human trafficking prevention.

One female trafficking survivor (KCFD1) from Mychina elaborated on the problem of unsafe migration and its relationship to trafficking:

KCFD1: The Thai government, at the gate they have police. They take money for carriers. We need support for migration. Of course people will migrate because Burma is the way it is. The root cause is that the Burmese government need to change. Make passport easily. Make VISA easily. Take care of their children. The government is like the parents. But other people’s parents hate us! So we are fatherless and motherless.

EK: What do you think about the Thai government’s anti-trafficking policy?

KCFD1: There is a problem. Can the government guarantee the future of the migrant woman? What if the brokers chase them and kill them? We can not protect them. When we have the victim we can not bring them to the government.

KCFD1 explained that cross-border migratory journeys are inevitable processes. Given this, she reasoned, the Thai government should make efforts to recognize the realities in Burma and offer support to migrants. Current anti-trafficking policy, however, does not address these issues. On the contrary, it leaves migrants at risk of exploitation.

The interviews further revealed that upon being sent back to their home countries, many migrants are likely to cross again. But this problem goes unacknowledged and un-addressed in anti-trafficking policies. As noted earlier, the data collected here suggests that more often than not, the Thai government and police use anti-trafficking policy as a veiled means of catching, detaining and deporting illegal migrants. A prevention-oriented approach to trafficking would necessitate addressing the issue of labor migration, rather than continuing to problematize it.
Recommendations and Conclusion

The data gathered in this study suggests that state-driven, prosecution-focused approaches to combat trafficking in Thailand often prove ineffective. However, alternative strategies are emerging that show real promise. Practical prevention-oriented strategies are already being implemented by local community based organizations who approach the nexus of labor migration and trafficking holistically, involving the participation of female migrant laborers and sex workers in their efforts. These strategies have the potential to be successful if they are supported by other actors in the trafficking in persons space. This Report therefore recommends that policy makers nurture, support and network these local solutions through increased dialogue with community-based organizations in Thailand.

Additionally, the Thai government, with the support of the U.S. government, should take steps to support safe migration policies for women fleeing Burma. Working with neighboring countries via the MOU process to implement better passport making facilities, penalizing corruption within the Thai police force (particularly “carriers” who exploit migrants) and supporting the human rights of migrants held in detention centers are all areas requiring increased focus.

Furthermore, the Thai and US governments should re-direct anti-trafficking funding away from Smart Raids and instead, work to develop more robust prevention policies. As this Report has shown, Smart Raids are oriented toward a narrow prosecution focus, seldom delivering robust results. In addition, they have detrimental effects on consensual sex workers whose families depend on their remittances to survive. Re-directing efforts toward future-oriented prevention goals will foster more fruitful results.

Re-imagining anti-trafficking policy also requires that policy-makers acknowledge the needs of consensual sex workers, particularly by supporting of the implementation of regulations within sex work. Introducing minimum wage and safe labor standards in brothels, karaoke bars and massage parlors will minimize the risk of trafficking, exploitation and abuse within the sex industry. Such a progressive approach to sex work would reduce waste in anti-trafficking resources.

Finally, the US State Department’s TIP Report benchmarks of success should be revised to reflect the need for impactful, measurable prevention strategies. In tandem, it is suggested that the State Department re-consider the mandate for anti-trafficking prosecutions in Thailand, as this mandate incentivizes Smart Raids. Such a re-direction, while potentially difficult to quantify in impact, is nevertheless likely to reduce victimizations and obviate incarcerations.

As the present research has shown, labor migration is a complex process that must be understood and addressed if we are to understand human trafficking. The best sources of data about labor migration are migrants themselves. Migrants’ needs, experiences, backgrounds and destinations are not all alike. The diversity of the experiences illuminated in this study indicates the need for further research geared toward understanding the complexities of where and how labor migration and human trafficking intersect. Additionally, this research shows that the experiences of sex workers are not all alike, and that sex trafficking and consensual sex work are two very different categories of analysis. Collapsing these categories together results in policies that do harm to consensual sex workers while failing to address the needs of victims. Understanding these distinctions will allow policy makers to foster more beneficial methods of addressing the problem of human trafficking.

Human trafficking remains an urgent problem for Thailand, the Mekong Sub-Region and the world. The urgency of this problem demands that policy makers adopt a more nuanced approach if sustainable long-term solutions are to be achieved. Many resources and copious amounts of funding have been expended on anti-trafficking strategies. Thus far, however, these strategies have not effectively solved the problem. Re-visiting the data on the ground and seeing anti-trafficking policy through the eyes of the women it is intended to help will, in turn, help us foster strategies for success.
Table 1.

Table 2.
### APPENDIX B: INTERVIEWEE IDENTIFICATION CHART

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WORKS CITED


www.state.gov/documents/organization/30368.pdf
Works Cited


Erin Kamler is a doctoral student at the University of Southern California’s Annenberg School for Communication and Journalism and an award-winning composer, musician and playwright whose research focuses on using the arts as a tool for political communication. Her dissertation project engages a study of the trafficking of women in Thailand and critiques the State Department-driven anti-trafficking movement through the lens of culture and feminist international relations. Conversationally fluent in the Thai language, Erin has conducted qualitative fieldwork with anti-trafficking NGOs, government actors, female migrants, sex workers and trafficking survivors, and she is currently writing a musical based on her research. She has worked in collaboration with the US Department of State to research NGO communication processes in Southeast Asia and served as a volunteer at the Development Education Programme for Daughters and Communities, an anti-trafficking NGO in northern Thailand. Erin holds a BA in music composition from Sarah Lawrence College and a masters in public diplomacy from USC’s Annenberg School. For more information about her work, please visit www.erinkamler.net or contact erin.kamler@gmail.com.