Concerning Summary Repatriations of Sex-Trafficking Victims Out of Cambodia Part II (Law and Steps for Repatriation)

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CONCERNING SUMMARY REPATRIATIONS OF SEX-TRAFFICKING VICTIMS OUT OF CAMBODIA PART II
(THE LAW AND STEPS FOR REPATRIATION)

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I. Introduction to Part II

In Part I of this two-part series, I introduced the problem of summary repatriations of rescued sex-trafficking victims in Cambodia. I also introduced the legal system and administrative framework apparently tasked with handling this issue.

I use the term “summary repatriations” in this set of articles essentially to refer to the hasty and careless repatriations of rescued foreign victims without due consideration of each individual’s needs, which is contrary to the law. Such summary repatriations occurred in Cambodia, primarily among Vietnamese women and girls, through much of 2010.\(^1\) The Cambodian Ministry of the Interior (MOI) conducted these summary repatriations.\(^2\)

Although systematic and careful repatriation may be an appropriate resolution of a particular victim’s situation, summary repatriation of victims amounts to little more than their deportation. Deportation may be appropriate for illegal aliens but not for victims of trafficking, who are not defined as “illegal aliens” under international standards.\(^3\) According to the human rights group we assisted in this project, most victims simply ran away when faced with the prospect of automatic and certain repatriation and the unknown future this would entail.\(^4\)

Part II of this set of articles focuses more on an analysis of the main international and domestic legal standards protecting foreign victims from summary repatriations, which Cambodia should adopt and follow. These standards support the best interests of the victims, which requires an individual assessment of each case instead of blanket summary repatriations.

Part II concludes with a road map of the steps the Cambodian government should follow after rescuing victims in order to properly conduct repatriations and to assess and avoid inappropriate repatriations. These steps were constructed in accordance with Standard Operating

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\(^3\) See id.

\(^4\) See generally Part I, supra note 2.
Procedures (SOP) developed by the governments involved (especially in the cases of Vietnamese repatriations) with assistance from the International Organization of Migration (IOM). Although these steps should have been followed for each victim in the past, this often did not occur. The lapse in steps was likely due to gaps in Cambodia’s administrative and legal systems (discussed in Part I of this article), along with monetary expenses and similar factors.

In summary, while Part I gave an overview of Cambodia’s administrative systems and legal structures charged with the task of victim aftercare, Part II addresses two additional considerations. The first is the rights of victims under international and domestic legal standards, which suggests against summary repatriations. The second is the steps that should have been followed by the Cambodian authorities to ensure protection of victims’ rights during their rescue and aftercare. Some of my own suggestions going forward are included.

Thanks largely to various advocacy efforts, including this one, the situation has improved in Cambodia in the last couple of years. It is this author’s aspiration that the information in these articles may assist advocates in other countries dealing with similar issues involving the aftercare of rescued foreign victims.

II. The Legal Standards Protecting Rescued Victims: A Suggestion Against Summary Repatriations

A. Summary of the Laws and Standards Protecting Rescued Victims

A variety of the kinds of legal and administrative instruments discussed previously in Part I may come to bear among several levels in the government on the issues of victim aftercare and repatriation. Of course, implementation of these instruments should come through the various previously mentioned institutional actors charged with their enforcement.

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5 See Part I, supra note 2, at 72-94. Terms such as “systems” or “structures” in Cambodia should be understood loosely, as these often must to be constructed or implied from institutional practice and principles, rather than something explicit in clear texts. This is generally true for several aspects of Cambodia’s government, and is certainly so in this issue involving rescued victims.

6 See Part I, supra note 2, at 88-94.
(i.e., MOSAVY, MOI, NCC, Prime Minister, etc.), but the implementing role of non-government actors can be very significant and useful.\(^7\)

I have identified several of the most salient international and domestic legal standards impacting the rights of rescued victims that Cambodia’s institutional actors (governmental and non-governmental) must abide by.\(^8\) These include:

1. U.N. Convention on the Rights of the Child (ratified by Cambodia on 10/15/92);\(^9\)
2. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratified by Cambodia on 05/30/02);\(^10\)

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\(^7\) See id. at 72-87. 
\(^8\) The standards and institutions discussed are those that were identified at the time of our project assistance or shortly thereafter. Since the start of the project for the human rights group in 2010, other legal standards may have emerged, and attempts have been made to identify and include those here as well. I confess I may not have captured every standard applicable, despite trying, and other standards are likely still emerging. Such standards could be included in any subsequent writings. One subsequent standard is the National Plan of Action, supra note 1, which emerged after 2010. However, it adds little to the substantive provisions already existing; therefore, I do not give it great attention in this Part. Rather, it is a highly necessary procedural and coordinating device among the various actors. Surprisingly, some standards, like the Immigration Law, were remarkably irrelevant or lacking in detail on the issue. See generally ROYAL KRAM No. 05/NS/1994 ON IMMIGRATION (Sept. 22, 1994) [hereinafter IMMIGRATION LAW]. However, this Law says almost nothing about the repatriation of trafficking victims. See generally id. However, I still make some reference to it and other laws as appropriate. 
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4. U.N. General Assembly Resolution, A/RES/64/293, United Nations Global Plan of Action to Combat Trafficking in Persons (adopted August 12, 2010);¹²
5. The Thai MOU;¹³
6. The Agreement with Vietnam;¹⁴
7. Standard Operating Procedures with Vietnam (Vietnam SOP);¹⁵
8. The “Inter-ministerial Cooperation Agreement” (ICA);¹⁶
9. The MOSAVY Policy and Minimum Standards for Protection of the Rights of Victim[s] of Human Trafficking (collectively, the “MOSAVY Handbook”);¹⁷
10. Decision No 13 S.S.R. On The Establishment of the National Task Force to Implement Agreements, Memoranda of Understanding Between Cambodia and Relevant Countries on the Elimination of Trafficking in Person[s] and Assisting Victims of Trafficking,¹⁸

¹³ Memorandum of Understanding Between the Gov’t of the Kingdom of Cambodia and the Gov’t of the Kingdom of Thailand on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking, Cambodia-Thailand, May 31, 2003 [hereinafter Thai MOU].
¹⁴ Agreement Between the Royal Gov’t of Cambodia and the Gov’t of the Socialist Republic of Vietnam on Bilateral Cooperation for Eliminating Trafficking in Women and Children and Assisting Victims of Trafficking, Cambodia-Vietnam, Oct. 10, 2005 [hereinafter Vietnam Agreement].
¹⁵ Cooperation Agreement Between the Royal Gov’t of Cambodia and the Gov’t of the Socialist Republic of Vietnam on Standard Operating Procedures for the Identification and Repatriation of Trafficked Victims, Cambodia-Vietnam, Dec. 3, 2009 [hereinafter Vietnam SOP]. None have been developed for Thailand as of this writing.
¹⁶ AGREEMENT ON GUIDELINES FOR PRACTICES AND COOPERATION BETWEEN THE RELEVANT GOVERNMENT INSTITUTIONS AND VICTIM SUPPORT AGENCIES IN CASES OF HUMAN TRAFFICKING (Feb. 6, 2007) [hereinafter ICA].
¹⁸ MOSAVY DECISION NO. 13 SSR ON THE ESTABLISHMENT OF THE NATIONAL TASK FORCE (Mar. 12, 2006) [hereinafter 13 SSR]. The MOSAVY HANDBOOK, supra note 17, at 1, indicates a similarly-named “DECISION NO. 35 SSR.” setting up this task force (July 20, 2007), but we were not able to obtain a copy. Presumably, it was the later version actually signed by the Prime Minister although this is difficult to verify.
11. Decision No: 107 CNCC (Cambodian National Council for Children) On Guideline for the Protection of the rights of Trafficked Children of the Kingdom of Cambodia;\(^\text{19}\)

12. Guidelines on Procedures for Handover and Reception of Victims of Trafficking (VoT) between the Kingdom of Cambodia and the Socialist Republic of Vietnam (Vietnam Handover Guidelines).\(^\text{20}\)

The following is an expanded analysis of the above standards, including specific provisions and their relative influence. I have divided this into international and domestic (local) instruments for the sake of convenience, and I also give some initial background information on some of the instruments involved.

**B. International Standards**

1. Convention on the Rights of the Child

*Background:* This is a treaty ratified by Cambodia on October 15, 1992,\(^\text{21}\) as such, it should have the highest binding effect on the subjects on which it speaks.\(^\text{22}\) However, this Convention tends to be very general and gives only basic guidance on the specific problem of sex-trafficking.\(^\text{23}\) It is also limited to child victims.\(^\text{24}\)

*Specific Provisions:* Articles 7, 8, 10, 11, 21, 22, 25, 28, and 32-36 contain some supportive content for child victims.\(^\text{25}\) Specifically, articles 7 and 8 indicate children should not remain stateless,\(^\text{26}\) and article 28 supports a child’s right to an education.\(^\text{27}\) Articles 32-36 prohibit various forms of exploitation, including sex-trafficking.\(^\text{28}\)

\(^\text{19}\) **CAMBODIA NATIONAL COUNCIL FOR CHILDREN, DECISION NO: 107 CNCC ON GUIDELINE FOR THE PROTECTION OF THE RIGHTS OF TRAFFICKED CHILDREN OF THE KINGDOM OF CAMBODIA** (Dec. 20, 2007) [hereinafter CHILDREN’S GUIDELINE].

\(^\text{20}\) **MOSAVY GUIDELINES ON PROCEDURES FOR HANDOVER AND RECEPTION OF VICTIMS OF TRAFFICKING (VoT) BETWEEN THE KINGDOM OF CAMBODIA AND THE SOCIALIST REPUBLIC OF VIETNAM** (Dec. 15, 2010) [hereinafter VIETNAM HANDOVER GUIDELINES].

\(^\text{21}\) Child Convention, *supra* note 9, at 44.

\(^\text{22}\) See Part I, *supra* note 2, at 88-94 (discussing the hierarchy of Cambodian laws).

\(^\text{23}\) See Child Convention, *supra* note 9, at 47-48, 50-55.

\(^\text{24}\) See id.

\(^\text{25}\) Id.

\(^\text{26}\) Id. at 47.

\(^\text{27}\) Id. at 53-54.

\(^\text{28}\) Id. at 54-55.
Interestingly, article 39 of the Convention deals specifically with recovery and reintegration of child victims of exploitation. It provides that a State Party is obliged to reintegrate children in an appropriate way, fostering their “health, self-respect and dignity.” This is important because it supports a generally flexible approach in handling rescued victims of sexual exploitation and appears not to assume repatriation as the appropriate action in all cases.

2. The Optional Protocol on the Convention on the Rights of the Child (Optional Protocol)

Background: The Optional Protocol was ratified by Cambodia on May 30, 2002. This document was designed in part to deal with some of the growing issues resulting from the tragic sexual exploitation of children and to supplement the more generic provisions of the Convention. It also deals largely with many other areas of concern, such as child pornography and other kinds of exploitation.

Specific Provisions: While the Protocol does not discuss in depth the trafficking of child victims, it does have some provisions worth noting including article 8’s call for appropriate support services for child victims; article 10.1’s provision for the prevention of child sex tourism; and article 10.2’s specific note that “international cooperation” is necessary for a child victim’s repatriation and reintegration.


Background: The Supplemental Protocol was ratified in Cambodia and has some of the best language supporting the preferably voluntary

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29 Id. at 56.
30 Id.
31 Id.
32 Optional Protocol, supra note 10, at 228.
33 See id. at 247.
34 Id.
35 See id. at 247-49.
36 See id. at 251.
37 Id. at 252.
38 Id.
39 Supplemental Protocol, supra note 11, at 319.
nature of the repatriation of victims I have seen. However, it is a cooperative document for States Parties, meaning its effectiveness with sex-trafficking issues involving Vietnam, Thailand and other countries depends on the willingness of those countries to adopt and abide by this Protocol.\textsuperscript{40} Thailand signed the Supplemental Protocol in 2001 but has not yet ratified it.\textsuperscript{41} Vietnam only recently ratified the Supplemental Protocol, which should have a positive impact for Vietnamese victims.\textsuperscript{42} Of course, this status of adoption and ratification did not exist during of the rash of summary repatriations of Vietnamese victims that occurred prior to 2010.\textsuperscript{43}

Specific Provisions: The Supplemental Protocol’s Preamble states that one of its purposes is to provide an “international instrument addressing trafficking in women and children.”\textsuperscript{44} Its provisions may generally be quite useful in advocating for rescued victims.

Article 6 highlights the standard series of services and aftercare that States Parties are expected to provide victims, including legal information, recovery services, medical and material assistance, counseling, housing, education and other varieties of care.\textsuperscript{45} Such services require time instead of immediate repatriation.

Articles 7 and 8 deal specifically with immigration status and repatriation of victims:

Article 7, “Status of victims of trafficking in persons in receiving States,” in section 7(1), provides that “each State Party shall consider … appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.”\textsuperscript{46} Section 7(2) indicates humanitarian and compassionate factors shall be considered in reaching this determination (no greater specificity is given).\textsuperscript{47}

\textsuperscript{40} See id. at 343.
\textsuperscript{42} See id. (noting accession was on June 8, 2012).
\textsuperscript{43} See id.
\textsuperscript{44} Supplemental Protocol, supra note 11, at 343.
\textsuperscript{45} See id.
\textsuperscript{46} Id. at 345 (emphasis added); see also Global Plan of Action, supra note 12, art. 33 (using similar language).
\textsuperscript{47} Supplemental Protocol, supra note 11, at 345.
Article 8, “Repatriation of victims of trafficking in persons,” says that the State Party of the victim’s original nationality (or residence) is to “facilitate and accept” the return of the victim into this State, with due concern for the safety of the victim and “without undue or unreasonable delay.” This language puts some onus of expediency on the State of original nationality. Considering article 8(1) in light of article 7(1), this suggests that repatriation should be reasonably expedient, if and when it is appropriate (which impliedly it is in many cases but not in all cases).

Section 8(2) says when a State Party where a victim currently resides is returning her to the State Party of nationality, this must be done “with due regard to safety of the victim.” A return must first consider the status of “any legal proceedings” involving the victim’s trafficking. Most significantly, it states the return “shall preferably be voluntary.” Again, this is very useful in an advocacy context (as it was in our case) as it supports the central idea that victim repatriation should be voluntary.

Sections 8(3) and 8(4) also contain some useful indications on the steps and the need of the sending State Party to provide appropriate documentation. This reflects the same steps discussed in the Vietnam SOP.

Art. 8(5) says article 8 is to be implemented without prejudice to victims’ rights afforded under any domestic law. The significance of this in our context is not clear. One would normally interpret this to mean article 8 may not prejudice any greater rights given victims under domestic law. As such, this should not mean that any less favorable domestic rights may supersede the protections of the Supplemental Protocol. Although this implication is not altogether clear, article 8(5) more than likely implies that inferior domestic rights can and should be prejudiced by those in the Protocol if in conflict, as States have agreed to the Protocol as a minimum; thus, weaker domestic rights would be subjugated.

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48 Id. at 346.
49 See id.
50 Id.
51 Id.
52 Id.; see also Global Plan of Action, supra note 12, at art. 34 (using the same language).
53 Supplemental Protocol, supra note 11, at 346.
54 See infra, section II.B.7.
55 Supplemental Protocol, supra note 11, at 346.
Article 8(6) adds that article 8 is without prejudice to any bilateral or multilateral agreements governing the return of trafficked victims. This has the same interpretative issues mentioned in 8(5). Notably, the Thai MOU and Vietnam Agreement each draw from the Supplemental Protocol as a supporting reference. So it would seem whatever rights these MOU/Agreements intend to protect must be consistent with the Supplemental Protocol.

The Supplemental Protocol should have significant influence for intended policy discussions with institutions like MOSAVY or MOI. Specifically, articles 7 and 8 emphasize that repatriation should be voluntary and that, in appropriate cases, victims of trafficking should be allowed to stay in Cambodia. This can be either temporarily or permanently; reasons for a permanent stay include victim safety, the inability to trace family, or possibly settlement into a new life in Cambodia as part of the victim’s voluntary wishes.

4. U.N. Global Plan of Action to Combat Trafficking in Persons, General Assembly Resolution 64/293

Background: This resolution was adopted by the General Assembly (G.A.) on August 12, 2010. Traditionally, U.N. G.A. Resolutions are not legally binding as they are recommendations. However, the legal weight of a G.A. Resolution is the subject of an ongoing debate in international law, and such Resolutions can have some legal efficacy in particular contexts. For instance, in some cases a G.A. Resolution may reflect and articulate accepted principles of customary international law. Some scholars also suggest that if a country signs in favor of a resolution, it has expressed its intent to be bound by it. In that sense, indirectly, the dictates of this Resolution have a guiding, if not binding, effect on Cambodia, which has subscribed to its language.

56 Id.
57 Id. at 345-46.
58 See id.
59 Global Plan of Action, supra note 12.
61 See, e.g., id. at 883.
62 Id. at 892; see also Marko Divac Öberg, The Legal Effects of Resolutions of the UN Security Council and General Assembly in the Jurisprudence of the ICJ, 16 EUR.J.I.L. 879, 881-887 (2006) (using an interesting perspective to note various legal effects, including substantive and causal ones).
63 Kerwin, supra note 60, at 892.
This particular Resolution may or may not articulate any customary international law on human sex-trafficking; however, it certainly does reflect a number of the specific provisions already stated in the Supplemental Protocol, as noted above.\textsuperscript{64} It also seems to state some things entirely consistent with common sense.

\textit{Specific Provisions}: The Annex to the Resolution contains the Global Plan of Action, and Part II of the Global Plan of Action is the most useful part on the issues of repatriation.\textsuperscript{65} Paragraph 33 urges States to adopt special visas or other measures that would allow trafficking victims to remain “temporarily or permanently” in their territory after rescue.\textsuperscript{66} Essentially, this gives rescued victims official legal status, which corresponds with the approach already espoused in the Supplemental Protocol.\textsuperscript{67}

Paragraph 34 indicates origin countries should accept the victims; such returns must be done safely and “shall preferably be voluntary.”\textsuperscript{68} The voluntary nature of repatriation is not absolute; it is preferable. However, this may be a reflection of special considerations like age and competency, as voluntariness seems to be the norm urged in most cases. In regard to children, care is determined by what is in the “best interest of the child,” consistent with other common standards.\textsuperscript{69} In all cases, victims are to be given information in their native language as well as time to consult various options such as receiving services and discussing legal redress and compensation for their situation – safeguards which summary repatriations totally ignore.\textsuperscript{70} Next, I focus on some of the specific instruments between the countries involved.

\begin{footnotesize}
\begin{itemize}
\item[64] In fact, the Resolution urges Member States to sign on to the Supplemental Protocol (see \textit{supra} section II.B.3 for a discussion) if not already having done so, referring to it as the “Trafficking Protocol.” Global Plan of Action, \textit{supra} note 12, Annex Pt. II, ¶¶ 33-34.
\item[65] \textit{See id.}, at Annex Pt. II, ¶¶ 25-42.
\item[66] \textit{Id.} at Annex Pt. II, ¶ 33.
\item[67] \textit{Id.} at Annex Pt. II, ¶ 33; \textit{see also} Supplemental Protocol, \textit{supra} note 11, at 346.
\item[69] \textit{Id.} at Annex Pt. II, ¶ 37.
\item[70] \textit{Id.} at Annex Pt. II, ¶¶ 39-42.
\end{itemize}
\end{footnotesize}
5. The Cambodian/Thai MOU (Thai MOU)

**Background:** As indicated in Part I, this is not an actual treaty and is likely not legally binding upon each country in that sense.\(^{71}\) The individual signatories of the Thai MOU are Ith Samheng, the head of MOSAVY for Cambodia, and Anurak Chureemas, the head of Thailand’s Ministry of Social Development and Human Resources (MOSAVY’s counterpart).\(^{72}\) In Cambodia, the Thai MOU is signed by neither the Prime Minister nor Minister of Foreign Affairs, which is expected for a treaty; additionally, nothing indicates the signatures of these ministry heads was pursuant to a special appointment by the Prime Minister or the Minister of Foreign Affairs. As such, it seems Cambodia has not taken any internal steps toward ratifying the Thai MOU as part of Cambodian Law, and consequently the Thai MOU may not even rise to the level of an “International Agreement.”\(^{73}\) Its legal efficacy, if any, would seem to be at the most basic level of an international MOU. Still, the Thai MOU clearly purports to describe the roles of MOI’s national police and border patrol and seeks cooperation with other ministries, showing an intention to reach beyond the signing authorities as inter-State government policy.\(^{74}\)

Accordingly, although the Thai MOU is not a treaty, it is clearly intended to have some importance. The MOU is made “between the governments” of Thailand and Cambodia.\(^{75}\) Its provisions also authorize MOSAVY in Cambodia and the Thai equivalent to issue appropriate regulations and laws to protect and care for the victims.\(^{76}\) But its authoritative punch is subject to differing views. In terms of binding effect, article 22 states the MOU may be terminated at any time through diplomatic channels and by written notice six months in advance.\(^{77}\) Article 20 calls for the creation of a “Joint Task Force” to monitor and report on progress in the MOU’s implementation.\(^{78}\) The Thai MOU’s efficacy in the instance of handling Thai victims is also limited since repatriation issues between Thailand and Cambodia usually involve Cambodian victims. It is generally agreed that Cambodian victims living in Thailand is a far more common situation than Thai victims living in Cambodia. Nevertheless, the document

\(^{71}\) See Part I, supra note 2, at 88-94 (discussing the hierarchy of Cambodian laws).

\(^{72}\) Thai MOU, supra note 13, art 23.

\(^{73}\) See Part I, supra note 2, at 91-92 (discussing the definitions and distinctions between treaties and other agreements).

\(^{74}\) See Thai MOU, supra note 13, arts. 13, 14.

\(^{75}\) Id. at 1, 12.

\(^{76}\) See id. arts. 7, 9.

\(^{77}\) Id. art. 22.

\(^{78}\) Id. art. 20.
stands as the basic protocol for repatriation in either direction. It is also helpful for its articulation of rights.\textsuperscript{79}

\textit{Specific Provisions:} In referencing these provisions, I will also cross-reference to the almost identical provisions in the Vietnam Agreement, for the sake of comparison, discussing any unique aspects of the Vietnam Agreement separately below.

First, victims of human trafficking are not to be treated as illegal immigrants, as stated in articles 7(a), (b), 16(c).\textsuperscript{80} The MOU further specifies rescued victims shall not be prosecuted as illegal immigrants nor shall they be detained in immigration centers.\textsuperscript{81} If it were otherwise, the Immigration Law would require the MOI to expel every alien who entered Cambodia illegally, including these victims.\textsuperscript{82}

Second, a variety of provisions seem to afford general protection to victims after rescue rather than immediate repatriation. For instance, article 7(c) of the Thai MOU says the government authorities must ensure the security of trafficked victims.\textsuperscript{83} Article 8 provides legal recourse to victims against their abusers and accordingly suggests against summary repatriation (deportation) in order for victims to avail themselves of that legal system.\textsuperscript{84} Victims obviously must remain in the country if they wish to pursue such a case. Safety from menace and retaliation during judicial proceedings is provided for in article 15, and article 9 states the government must work with NGOs to provide trafficking victims with safe shelters, health care, and legal assistance.\textsuperscript{85}

Third, article 16 specifically states repatriation shall be arranged “in [the] best interest” of the victim, and deportation (i.e., removal without that determination and a beneficial process) is simply not allowed.\textsuperscript{86} Article 17 indicates the “Focal-Point” (MOSAVY in Cambodia) must provide security

\textsuperscript{79} See generally \textit{id}.  
\textsuperscript{80} \textit{Id.} arts. 7, 16; \textit{see also} Vietnam Agreement, \textit{supra} note 14, at 3-4.  
\textsuperscript{81} Thai MOU, \textit{supra} note 13, at 5; \textit{see also} Vietnam Agreement, \textit{supra} note 14, art. 5.  
\textsuperscript{82} Immigration Law, \textit{supra} note 10, arts. 36-37.  
\textsuperscript{83} Thai MOU, \textit{supra} note 13, art. 7(c).  
\textsuperscript{84} \textit{Id.} art. 8; \textit{see} Vietnam Agreement, \textit{supra} note 14, arts. 5, 6 for nearly identical provisions.  
\textsuperscript{85} Thai MOU, \textit{supra} note 13, arts. 9, 15; \textit{see} Vietnam Agreement, \textit{supra} note 14, arts. 9, 13 for similar provisions.  
\textsuperscript{86} Thai MOU, \textit{supra} note 13, art. 16 (stating “victims of trafficking \textit{shall not be deported.”}) (emphasis added); \textit{see} Vietnam Agreement, \textit{supra} note 14, art. 11.
for any repatriated victims. Similarly, article 18 declares the Parties (States) shall make every effort toward a victim’s “safe and effective” integration—something summary repatriations would ignore.

Fourth, several of the Thai MOU’s provisions mention the need for cooperation with government agencies across borders as well as with other ministries in Cambodia. Such cooperation again suggests against summary repatriations.

Fifth, wording such as “[r]epatriation of trafficked children and women shall be arranged and conducted in their best interest . . .” (and similar wording in the Vietnam Agreement) shows a bias in favor of repatriation. This wording clearly seems to indicate repatriation shall take place, according to an assumption this is in the best interests of the victim. However, I suggest that this and similar wording is subject to another implied and equally valid interpretation: if in a particular instance repatriation would not serve the best interests of the victim, then it should not take place, at least not any time immediately. Stated differently, repatriation is an option if it is in the best interests of the victim. I suggest this second interpretation best comports with standards elsewhere articulated in the Thai MOU and by MOSAVY in its “best interests” framework.

In sum, the Thai MOU clearly shows a bias in favor of repatriation as the best solution for rescued foreign victims but assumes this will be done in accordance with certain careful processes and in the best interests of victims. A theme of this project is that the governments involved have simply over- presumed that repatriation is in the best interests of most victims. However, the Thai MOU fails to expressly contemplate long-term stays of rescued victims in Cambodia as in their best interests. This was the option the human rights group we assisted urged should be recognized. In

87 Thai MOU, supra note 13, art. 17.
88 Id., art. 18; see also Vietnam Agreement, supra note 14, art. 13.
89 Thai MOU, supra note 13, arts. 11, 13, 14 (training of law enforcement and cooperation with MOI and others); see also Vietnam Agreement, supra note 14, arts. 7-9.
90 Thai MOU, supra note 13, art. 16; see also Vietnam Agreement, supra note 14, art. 11.
91 Article 12.2 of the Vietnam Agreement, for instance, indicates that the “Working Group” of each country has the responsibility to “arrange the repatriation for trafficked victims,” and to “carry out that repatriation of trafficked victims once arranged.” Vietnam Agreement, supra note 14, art. 12. The language seems to presuppose voluntariness and best interests are in fact being served in this approach.
92 See Thai MOU, supra note 13, arts. 7(b), 7(d), 16, 17 (noting that “shelter and protection shall be provided to victims according to the policy of each state,” and shall be under MOSAVY’s care in Cambodia).
no case, however, does the Thai MOU approve of summary repatriations (deportation). Instead, it merely over-assumes repatriation is what victims want or is in their best interests.


Background: This is captioned an “Agreement” and not a MOU; however Ith Samheng, of MOSAVY, in the Foreword to MOSAVY’s Policy and Minimum Standards, refers to both the Thai MOU and this Vietnam Agreement as the “Memoranda of Understanding with Vietnam and Thailand.”\(^{93}\) Thus, it is likely intended to be an international MOU and also appears less binding than a typical International Agreement.\(^{94}\) Some of the same points raised above with the Thai MOU also apply to the Vietnam Agreement’s influence. The Vietnam Agreement is signed only by ministry heads in the respective countries. In this case, Dr. Ing Kantha Phavi signed for the Ministry of Women’s Affairs (MoWA) in Cambodia, and General Le Hong Anh signed for the Ministry of Public Security for Vietnam. MOSAVY is not a party to the document. It appears, however, the Agreement’s implementation is now handled by MOSAVY.\(^{95}\) There are no indications of any attempt to adopt the Vietnam Agreement as part of Cambodia’s internal law: the Agreement is not signed by Cambodia’s King, its Prime Minister, or the Cambodian Minister of Foreign Affairs, and there is no indication of any special designation by Cambodia’s Prime Minister.

Specific Provisions: Several of the Agreement’s provisions mimic those in the Thai MOU and were already mentioned above. Also similar to the Thai MOU, the Vietnam Agreement seems to express a strong bent in favor of repatriation of foreign victims as actually in their best interests. Articles 11-13 in Part V use mandatory language toward repatriation: “[t]he parties shall use diplomatic channel [sic]. . . for repatriation” and

\(^{93}\) MOSAVY Handbook, supra note 17, at 2.
\(^{94}\) See Part I, supra note 2, at 88-94 (discussing the hierarchy of Cambodian laws and legal instruments).
\(^{95}\) The Vietnam Agreement directs each State’s “Working Group” to handle repatriation, Vietnam Agreement, supra note 14, art. 12, and indicates the Implementing Institution for Cambodia is the Ministry of Woman’s Affairs (MoWA), id. art. 14. However, the subsequent Standard Operating Procedures (SOP) for this Agreement indicate MOSAVY is the required “focal authority” for the handling and repatriation of foreign sex-workers. Vietnam SOP, supra note 15, art. 2(a). The Working Group’s actions continue under MOSAVY, according to the SOP. Id. art. 5.
“[r]epatriation shall be arranged quickly, in safety and . . . in their best interest according to conditions and policies of each Party . . . .”\(^{96}\)

In all cases, however, “[v]ictims shall be treated humanely throughout the process of protection, repatriation and the judicial proceedings.”\(^{97}\) If repatriation is to occur, it must be done humanely, with the best interests of the victims in mind and in accordance with the policies of each country. Such policies presumably embrace safety, security, and an initial determination of whether repatriation is really in the best interests of the victims.\(^{98}\) In all these cases, shelter and protection are to be afforded to the victims while awaiting any repatriation, and this protection will be given “in accordance with the legal regulation of each state.”\(^{99}\) Such wording strongly suggests against summary repatriation, if repatriation is even appropriate, and imposes the duty of victim care in Cambodia for some interim period on MOSAVY.

In summarizing the respective positions of the Thai MOU and Vietnam Agreement on repatriation, one may justifiably contest that the “best interests” verbiage in these agreements suggests repatriation is the answer in every case, rather than an option, depending on the circumstances. I suggest this optional view is more in keeping with the spirit and intention of the “victim-centered” approach espoused by MOSAVY itself.\(^{100}\)

The Thai MOU and Vietnam Agreement employ the “best interests” standard for victims in regard to repatriation and also indicate shelter and protection should be provided according to the internal “conditions and policies” and “legal regulation[s]” of each State.\(^{101}\) This suggests each State has some level of flexibility in directing its policies and regulations on repatriation. It is also conceivable that the “best interests” standard may be interpreted internally by each State to include a victim’s right to stay in

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\(^{96}\) Vietnam Agreement, \textit{supra} note 14, art. 11 (emphasis added).

\(^{97}\) \textit{Id.} art. 5.4.

\(^{98}\) \textit{See id.} art. 13.1 (stating that “[t]he Parties shall make all possible efforts towards the safe and effective reintegration of trafficked victims . . . ”).

\(^{99}\) \textit{Id.} art. 5.2

\(^{100}\) \textit{See generally} Vietnam SOP, \textit{supra} note 15 (introductory wording espouses a “victim-centered” approach).

\(^{101}\) \textit{See} Thai MOU, \textit{supra} note 13, arts. 7(b), 16(b) (stating that shelter is provided according to each state’s “policy” and repatriation is to be in best interests); \textit{see also} Vietnam Agreement, \textit{supra} note 14, arts. 5.2, 11 (stating that shelter is provided according to each state’s “legal regulation” and repatriation is to be in best interests, according to each state’s “conditions and policies”).
shelters or in aftercare in Cambodia (or in another country) indefinitely. Since these “conditions and policies” and “legal regulation[s]” in Cambodia are set by MOSAVY, we will have to look at its Policy and Minimum Standards (i.e., its Handbook) to see how it interprets “best interests” and how and when it considers repatriation to be appropriate.102

7. Vietnam/Cambodia SOP

Background: This document is designed to flesh-out steps seen in the Vietnam Agreement. As a separate document, the SOP appears to amount to something along the lines of a MOU or at most a very basic International Agreement. It is signed by MOSAVY’s representative for Cambodia and the Vice Minister of the Ministry of Public Security for Vietnam. Similar to the Thai MOU, the SOP designates MOSAVY as the “focal authority” in this work, once again suggesting MOSAVY’s primary role in comparison to MOI’s.103

Specific Provisions: These relate mostly to the procedure for victim processing and repatriation for victims initially trafficked from Vietnam. As a result, I consider several of its provisions in the next section (Section III) on actual intended steps in victim handling.

Summary on International Agreements/MOU with Vietnam, Thailand: Trying to determine the exact weight and efficacy of these is not an easy task. It seems obvious these agreements are more important than tokens of justice, as they are said to be made “between the governments” of the respective countries.104 In addition, these have spawned an important “Inter-ministerial Cooperation Agreement”105 on these issues and have established connections to some regional anti-trafficking MOUs such as the ASEAN Declaration on the Protection and Promotion of the Rights of

102 See infra section II.C for a discussion of Domestic Standards.
103 See Vietnam SOP, supra note 15, arts. 1(b), 2(b) (mentioning a cooperative role between MOI and MOSAVY for victim identification and naming the Department of Social Welfare (Anti-Trafficking Reintegration Office (“ATRO”)), or Provincial/Municipal Departments under MOSAVY’s authority (“DoSAYVY” or sometimes “DoSVY” [herein “DOSAVY” for simplicity]) as the “focal authority”).
104 See generally MEMORANDUM OF UNDERSTANDING BETWEEN THE GOV’T OF THE KINGDOM OF CAMBODIA AND THE GOV’T OF THE KINGDOM OF THAILAND ON THE SURVEY AND DEMARCATION OF LAND BOUNDARY, Cambodia-Thailand (2000) (indicating that a MOU may still be very significant in international relations, as indicated in the land-boundary dispute between Cambodia and Thailand).
105 See infra section II.C.8.
Migrant Workers (ASEAN MOU)\textsuperscript{106} and the MOU on Cooperation against Trafficking in the Greater Mekong Sub-Region (GMS MOU).\textsuperscript{107} These additional MOUs are not particularly specific or comprehensive in their protections but do offer some valuable support to victims in general, reinforcing each MOU or agreement above. They have probably also added resolve to multi-state initiatives such as the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) by supporting their joint anti-trafficking efforts, which are still ongoing in the region.

In sum, the international agreements above authorize MOSAVY and its Thai or Vietnamese ministerial counterparts to issue appropriate regulations and laws to implement the intended handling and protection of victims. MOSAVY has done that in its Handbook containing its Policy and Minimum Standards. Since these MOUs and Agreements are clearly intended to have a governing influence over how things are done within each State, and since MOSAVY is designated as the focal authority in Cambodia, its Prakas, regulations, and policies should govern on repatriation issues in Cambodia.

\textbf{C. Domestic Standards and Instruments}

8. The “Inter-ministerial Cooperation Agreement” (ICA)

\textit{Background:} This document is especially significant because it is a joint effort and understanding between several key ministries in regard to the rights and steps for handling rescued victims. It is signed by the Ministry of Justice (MOJ), MOWA, MOI, MOSAVY, and the Ministry of

\textsuperscript{106} \textsc{ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers} (Jan. 13, 2007), available at <http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3> (last visited Aug. 21, 2013) [hereinafter ASEAN MOU]. The ASEAN MOU was signed by the Prime Ministers or Presidents of ten countries, including Cambodia, Vietnam, and Thailand. It mostly contains general aims to provide protection of migrant workers, including repatriation, and to prevent improper recruitment and trafficking in persons. See \textit{id.} arts. 13, 14, 17.

\textsuperscript{107} \textsc{Memorandum of Understanding on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-Region} (Oct. 29, 2004), available at <http://www.no-trafficking.org/content/pdf/final_commit_mou.pdf> (last visited Aug. 21, 2013) [hereinafter GMS MOU]. The GMS MOU was signed by ministerial level officials of Cambodia, China, Thailand, Vietnam, Laos, Myanmar on October 29, 2004. It commits these governments to providing legal assistance and information to victims. \textit{Id.} at \S II.10. The GMS MOU also specifically ensures victims shall not be held in detention centers and that they will receive shelter and appropriate physical, psycho-social, legal, educational, and health-care assistance while ensuring their safe return. \textit{Id.} at \S III.16, 17, 20, 21.
Health and is dated February 6, 2007. It has been hailed as a breakthrough because of its shared standards and coordination among key ministries impacting rescued victims. It also contains some very useful wording for advocacy on the issue of handling rescued victims. While the significance of this ICA should not be underestimated, it is not captioned an “Inter-ministerial Proclamation” (just an “Agreement”), and there is some disagreement among my Cambodian colleagues as to its real binding effect and intended level of influence. It obviously carries some influence and is remarkable in showing what MOSAVY, MOI, and other ministries have evidently agreed upon.

Specific Provisions: Several of the provisions in the ICA closely correspond with those seen in MOSAVY’s Handbook. It appears that many of these provisions served as pre-cursors, shaping those later stated in the comprehensive 2009 MOSAVY Handbook. I will thus subsume a discussion of many of the ICA’s provisions into the next section regarding the MOSAVY Handbook, in order to compare the two. Still, some of its unique features are worth alluding to here.

First, in articles 2 and 3, the ICA defines Victim Support Agencies (VSAs) as including governmental and non-governmental organizations and First Contact Agencies (FCAs), which generally would not be able to offer shelter but may be the first step in victim care and rescue. FCAs and VSAs are valuable to the overall process of victim care, as demonstrated throughout the ICA.

Second, general provisions in articles 7-9 explain that the entire aim of the ICA is the protection of victims. As in other documents viewed, victims of trafficking are deemed not to be in violation of immigration laws. In fact, article 4 charges the police with notifying victims of their

108 ICA, supra note 16, art. 61.
110 See Part I, supra note 2, at 88-94 (discussing the hierarchy of Cambodian laws and legal instruments). On one hand, an Inter-ministerial Agreement would seem less significant than an Inter-ministerial Proclamation (Prakas). On the other hand, it is quite conceivable the ICA is intended to have the same weight as a Prakas but must be named an Agreement because it involves a consensus beyond government actors, including private sector actors, such as NGOs and Victim Support Agencies (VSAs).
111 ICA, supra note 16, arts. 2, 3.
112 Id. arts 7-9.
113 Id. art. 5.
rights in a language they can understand and further requires the police to turn victims over to the care of MOSAVY instead of keeping them in detention.\footnote{Id. art. 4 FCAs, as initial service providers, share a duty to inform victims on the range of services available to victims. See id. arts. 4, 5, 7, 9.}

Victims again are afforded legal services and protection during case prosecutions against their traffickers. Of note under the ICA is that foreign trafficked victims may gain authorization to remain temporarily in Cambodia for purposes of case prosecutions, and shelters must assist with legal services.\footnote{Id. arts. 10, 18, 37. This legal purpose is clearly not the only reason victims are entitled to stay in the country. Rather, this safeguard serves to underscore a broad range of reasons for allowing rescued foreign victims to stay in Cambodia for extended times, as shown next.}

Third, after rescue, victims are to have their status properly assessed; this involves efforts at a variety of levels, including the police, VSAs and perhaps ultimately, the courts.\footnote{See id. arts. 6, 9, 29.} Importantly, this shows an understanding among the signing ministries of a need for assessment in each case and strongly speaks against summary repatriations, which lack such careful assessments.

Fourth, the “best interests” standard for victim handling is again espoused in every case via articles 12 and 62.\footnote{Id. arts. 12, 62.} This also supports the need for proper assessment of victims’ needs in each case. Article 12 requires that “best interests” determinations include direct input from victims on their own situations, as age-appropriate, and must be based on each victim’s maturity and ability to make decisions on his/her own behalf.\footnote{See id. art. 12. This will be seen again in the MOSAVY Handbook standards below.}

Fifth, chapters 9 and 10 of the ICA deal directly with shelters and longer-term services and care of victims. The services that shelters are expected to provide include health, education, vocational-job skills training, rehabilitation (including counseling for emotional wounds), referrals to other service providers if necessary, and reintegration, if safe.\footnote{See id. arts. 28-31, 22-40, 49, 54, 59.}

Shelters should be staffed with appropriate counselors, caregivers, and social workers.\footnote{Id. art. 54.} Instead of the summary repatriations seen through
2010, shelters are expected to inform victims from the start how long they can expect to provide shelter and other services to the victim and must report their anticipated duration to the government.\footnote{Id. arts. 40, 63, 64.} Similarly, victims are to give an indication of how long they expect to remain in a shelter as well as their consent to such an arrangement.\footnote{Id. art. 63.} Departure from a shelter must be done with the consent of victims and with their safety first in mind.\footnote{Id. arts. 63-66.}

Perhaps most remarkably, the ICA gives shelters authority to act as the legal guardians of victims, in their best interests. Shelters thus have great authority to keep victims in their care, if judged in their best interests, subject to consent of the victim and according to his/her decision-making ability.\footnote{Id. arts. 62, 63, 66.} This authority can be used to attempt to persuade a victim from leaving a shelter (especially in the case of a child) if this would be dangerous, and the shelter can use its guardianship authority in some cases to keep a victim in its custody to prevent re-trafficking of the victim.\footnote{See id. arts. 63, 66, 67.}

Last, shelters are to insist on safe reintegration and should withhold release (or notify authorities) if it would not be safe to release victims. Shelters should also help released victims in starting a new business if possible.\footnote{Id. arts. 66, 77, 78. Notably, follow up of released victims is required among shelters, MOSAVY, MOWA, and VSA s for at least half-a-year.}

9. MOSAVY Policy & Minimum Standards, including its implementing Prakas 852 S.V.Y., 857 S.V.Y. (MOSAVY Handbook)

Background: Fashioned by MOSAVY, this is the most comprehensive set of standards, rights, and procedures for the protection of victims of trafficking. Issued in 2009, it is an entire Handbook and consists of three main parts: (1) Prakas No. 062 S.V.Y., on the Policy on Protection of the Rights of the Victims of Human Trafficking,\footnote{MOSAVY HANDBOOK, supra note 17, at 8-20 (dated Aug. 31, 2009).} (2) Prakas 852 S.V.Y. implementing that Policy,\footnote{Id. at 6-7.} and (3) Prakas 857 S.V.Y. on Minimum Standards for Protection of the Rights of Victims of Human Trafficking\footnote{Id. at 21-37.}
MOSAVY issued its Policy and Minimum Standards in accordance with the MOU/International Agreements calling for MOSAVY (as Cambodia’s “focal authority”) to set policies and regulations affecting rescued victims. In doing so, it also attempted to articulate what the “best interests” standard should consist of. Since MOSAVY’s Policy and Minimum Standards were implemented through its Prakas (as contained in the Handbook), they should govern nationally, even as against other government institutions.\textsuperscript{130}

Specific Provisions: For sake of convenience, I have summarized the principles and rights mentioned in the MOSAVY Handbook into six groupings.

(a) \textit{The “best interests” standard requires an initial case assessment, and a full, intentional case management process from start to finish.}

Each victim’s situation must be evaluated on a case-by-case basis. This includes assessment as to whether reintegration into the victim’s family and community is safe or even possible; that is, whether a victim, including a child, should remain in a shelter. Assessment must be comprehensive, and the case management procedure must run its course through the step of Closing. \textsuperscript{131} In contrast to summary repatriation immediately after a rescue, a serious case management process must commence and close.

According to the Minimum Standards, keeping a child victim in a shelter against her will is allowable if this is in the best interests of the child.\textsuperscript{132} However, this is so only if steps are speedily taken to locate safe

\textsuperscript{130} See Part I, supra note 2, at 93.
\textsuperscript{131} See MOSAVY HANDBOOK, at 12 (Assessment), 13 (Case Closure), 23-24 (comprehensive risk assessments on reintegration), 25 (victim’s right to information, in best interests of the child), 26 (case management process, recovery and follow up).
\textsuperscript{132} The term “best interests” (or its singular form) is used in the MOSAVY Handbook and in the CNCC’s Guideline for Children (see below) in sections referring only to children. I did not see its use in the Handbook in regard to adults specifically, although I believe it is implied. It is also used with respect to women in the Thai MOU, for instance. See supra text accompanying note 60. Thus the Handbook’s use of the “best interests” standard appears somewhat more limited than its use in the International Agreements/MOUs. Compare ICA, supra note 16, art. 12 (“best interests of the minors”), and ICA, supra note
family members. Such determinations simply cannot be made apart from a thorough case assessment.

(b) Rescued victims are entitled access to a variety of services, including long-term care.

These services include health services, legal services, counseling, education, and skills and vocational training. Yet victims would be deprived of all of such services under a system of summary repatriations. Both the MOSAVY Policy and Minimum Standards and the ICA clearly embody these protections. According to the Handbook, these services are considered rights. A specific example would be the explicit right to the availability of long-term shelter care when a family member cannot be successfully traced.

(c) These services and rights are intended to extend up until the case is closed.

Services, including education and skills training, counseling, etc., are to continue through Case Closure, a term defined in the Handbook. This should not happen until it is safe and stable for a victim to return to her community and family, i.e., a case cannot be closed until it is first determined that reintegration is stable and safe.

The right to the services indicated above extends through both the Rehabilitation and Recovery stages, as defined in the MOSAVY Handbook. Accordingly, victims should be able, if it is in their best interests, to indefinitely stay in shelters and aftercare in order to receive the skills and services they need, or to stay at least until it is safe or viable for

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133 MOSAVY HANDBOOK, supra note 17, at 27. But see ICA, supra note 16, art. 66 (stating a minor victim shall not be compelled to stay in a shelter, if there is a responsible guardian to take the child).
134 MOSAVY HANDBOOK, supra note 17, at 15 (rights to various services indicated), 22, 23, 25, 26 (long-term care, services, informed choice); ICA, supra note 16, at ch. 9 (“Services, Conditions, and Staff of Shelter”).
135 See MOSAVY HANDBOOK, supra note 17, at 23-36 (especially 6.6 “Right to Services”).
136 Id. at 10.
137 Id. at 13 (“Case Closure”).
138 Id. at 10 (“In a long-term shelter”), 13 (Case Closure), 27 (safe integration of children).
139 Id. at 15, 25, 31.
them to be repatriated and reintegrated, if ever.\(^{140}\) In theory, if repatriation is not safe or possible (i.e., a family cannot even be traced), a victim should be allowed to stay in aftercare, and the case should not close. The Handbook is devoid of any exclusions of this benefit for foreign rescued victims.

\(d\) Victims should have an initial right to decide if they even want to reintegrate somewhere, or remain in aftercare, and with whom they wish to live.

A victim appears to have a choice of either returning to her community or receiving continued care and rehabilitative services until such time as she is ready and able to return, if that should happen.\(^{141}\) Reintegration is a victim’s personal decision, as specifically defined in the Handbook.\(^{142}\) Interestingly, the Policy specifically provides, in a section heading, that Reintegration is in the victim’s community of her choice, even including integration into an NGO (presumably meaning a shelter).\(^{143}\)

In similar fashion, the Minimum Standards specifically state: “Strategically, where and when reintegration will occur will depend on the victim’s decision. Reintegration may be with their original family and community or with a new family and community.”\(^{144}\) Victims are clearly given a choice as to where they want to live, either with their own family and community or in another family or community, including an NGO.\(^{145}\)

\(^{140}\) See ICA, supra note 16, arts. 28 (victims entitled to health care, skills training, education), 33 (literacy and education), 39 (vocational training). A good example of the seriousness of these safety concerns over reintegration is evident from a joint project involving MOSAVY (ATRO) and IOM in 2004-2005, showing that of 137 known trafficked individuals (Cambodia to Thailand), sixty percent were not recommended for reintegration into their communities at the time of their rescue, MOSAVY & IOM, THE RETURN AND REINTEGRATION OF VICTIMS OF TRAFFICKING FROM CAMBODIA TO THAILAND 01 JULY 2004 – 30 MARCH 2005 at 14, available at www.humantrafficking.org/.../final_report_31_may_2005.doc [hereinafter THAILAND REPORT].

\(^{141}\) MOSAVY HANDBOOK, supra note 17, at 10 (“In the community”).

\(^{142}\) “Reintegration is the process of a victim’s return and resettlement into their family and community based on their personal decision.” Id. at 13 (bold in original).

\(^{143}\) Id. at 18 (heading entitled: “Reintegration of Victims into Families, Communities, and Non-Governmental Organizations”).

\(^{144}\) Id. at 32 (emphasis added); see also ICA, supra note 16, art. 65. (indicating a victim’s right to request staying in a shelter).

\(^{145}\) MOSAVY HANDBOOK, supra note 17, at 15, 18, 26, 32 (right to live with a new family or community).
The ICA is in support, giving a victim a right to live in a shelter of her “own accord.”

(e) **Victims have the right to information, and to be heard and consulted in their own case management.**

Victims not only have the right to information but must also be allowed to give informed consent in their care plan. They have the right to receive consultation and to have their own ideas heard and respected in regard to decisions affecting their rehabilitation and their futures.

In general, this right involves more than victims just receiving information: it allows direct participation and even decision making authority in the victims’ cases, including as to closure. This does not contemplate unbridled decision-making by the victims in all cases. For child victims, input must be age appropriate and other factors, such as whether her own family is stable or complicit in the trafficking, must be considered. These additional considerations are consistent with those noted in the ICA. For women, the intent is to respect and to actually honor their ideas, not in an absolute sense, but in accordance with practicality or law. For instance, in several cases a victim may express a desire to leave a shelter but that may not be safe. In other cases involving adults, an important question is whether the victim is acting independently enough to make a proper decision or whether a trafficker is still pulling the victim’s strings.

Admittedly, such age-appropriate independence assessments and similar standards for determining a victim’s appropriate decision-making

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146 See ICA, supra note 16, art. 65.
147 See MOSAVY HANDBOOK, supra note 17, at 24-27 (indicating rights to information and appropriate decisional authority, among others).
148 See id. at 30-33 (victim is given the rights of participation in case planning, cooperation, informed decision-making, and consultation, including as to closure).
149 In Svay-Pak, for instance, families are notorious for selling their children into brothels. This is often out of sheer laziness or greed, not always survival, as some naively assume. See NEFARIOUS: MERCHANT OF SOULS (Exodus Cry 2011).
150 See ICA, supra note 16, at ch. 10 (“Authority of Shelters”), arts. 63-69 (especially 63, 66, 67), arts. 12, 66 (with respect to a minor’s decision making authority).
151 See MOSAVY HANDBOOK, supra note 17, at 23-24; ICA, supra note 16, arts. 63, 66, 67. Notably, the MOSAVY HANDBOOK gives shelters greater authority than the ICA to restrain a victim wishing to leave, including in the case of children; however, the ICA allows a shelter to use its authority as guardian to restrain a child victim if it believes the victim is likely to be re-trafficked.
authority in her case are vague and ambiguous. They offer little guidance across a spectrum of ages and situations. However, these issues are still governed by the “best interests” standard in each case, and hopefully a caseworker has enough common sense and dedication to know how to evaluate the matter.\footnote{Of course, the “best interests” standard itself is vague. One can only hope that shelter workers and aftercare providers have enough common sense, good conscience, or a natural and basic sense of justice, accountability, advice, moral resolve, and courage to actually consider and do what is in a victim’s best interest, but I am sure that is not always the case. In any event, “best interests” must certainly include doing whatever it takes to stop a victim’s sexual exploitation and to attempt to restore some dignity to his/her human personhood (that should be a minimum in any assessment). \textit{See MOSAVY HANDBOOK, supra} note 17, at 25 (every victim of human trafficking in Cambodia is entitled to the “Right to Dignity”).}

In summary, a victim’s right of participation generally includes his/her right to help structure and have access to the case plan, to decide on referrals for additional services, and to be consulted in making a decision to close the case.\footnote{\textit{Id.} at 29, 32-33 (“Referral,” “Case Closure”).} And yet this general right of victims to make their own decisions and help structure their care is fundamentally at odds with the reality of summary repatriations in which victims really had no say.\footnote{\textit{Id.} at 28 (decision making rights), 31 (informed decisions in recovery).}

\(f\) \textit{Foreign Rescued Victims of Sex-Trafficking Shall Have the Same Rights as Cambodian Victims.} 

All the above rights, standards, and protections afforded in the Policy and Minimum Standards shall inure to the benefit of foreign sex-trafficking victims to the same extent they apply to Cambodian victims.\footnote{\textit{Id.} at 25 (all victims). Article 6.4 specifically prohibits any act of discrimination and/or stereotyping against the victim on the basis of sex, age, race, and ethnicity (among others).} The MOSAVY Policy is explicit on this: “The case manager for foreign victims \textit{shall ensure} that victims of human trafficking receive the necessary rights and services afforded to Cambodian victims, \textit{without any discrimination, from the beginning of the process of case management until closing the case.”}\footnote{\textit{See id.} at 18 (entitled “Sending Victims to their Country of Origin”) (emphasis added).} As a result, Vietnamese, Thai, and other victims should have the same services and rights as outlined above. If staying in aftercare for an indefinite time frame (due to necessity and “best interests”) is allowable for Cambodians, the same standards should apply to Vietnamese and any other foreign victims. If this runs afoul of immigration issues, I submit the
immigration standards must yield an accommodation to the victims, since
the generic rule should yield to the specific right.157

Whether adhered to or not, the acknowledged necessity of providing
these services to all victims, including foreigners, strongly suggests against
the summary repatriations of Vietnamese, Thai, and any other victims.

10. Decision establishing the National Task Force (NTF)

This is no longer a binding foundational document as the NTF has
been replaced by the National Committee to Lead the Suppression of
Human Trafficking, Smuggling, Labour, and Sexual Exploitation in Women
and Children (NC/S.T.S.L.S.).158 However, its purposes have likely been
incorporated into the new work of the NC/S.T.S.L.S. It appears the
Decision was signed by the Prime Minister on July 20, 2007.159 If so, this
would have given the creation of the NTF great significance. However, the
Decision, in English draft, offers very little substance regarding specific
rights and protections of rescued victims. Its only real value is in
establishing the NTF (now NC/S.T.S.L.S.), which shows a serious national
effort to develop a task force/committee approach exclusively dedicated to
combating trafficking.160

Articles 1 and 3 of the Decision show the NTF was created to
implement the International Agreements/MOU s not only with Vietnam and
Thailand but within the entire region (including the ASEAN and GMS
MOUs and COMMIT work).161 It was also charged with working closely
with the U.N. Inter-Agency Project on Human Trafficking (UNIAP) in
Cambodia and in assisting the CNCC with its five-year plan, and finally it
was expected to establish an “inter-ministerial facilitation group” for
internal coordination. In this sense it was a significant first step by

157 A good starting point for alleviating any tensions in this would be to amend the
Immigration Law, including allowing special visas for victims, as clearly urged by the
international standards above. See Global Plan of Action, supra note 52 and accompanying
text; Supplemental Protocol, supra note 56 and accompanying text. This is the subject of
subsequent articles.
158 See generally National Plan of Action, supra note 1.
159 This date appears in MOSAVY Decision No. 35 SSR. See note 18 and accompanying
text.
160 See generally id. The new NC/S.T.S.L.S. also handles “smuggling” along with
trafficking, showing a conjunctive link between all forms of illicit cross-border activity.
Hopefully, this will enhance efficiency in combatting both.
161 See ASEAN MOU, supra note 106 and accompanying text; GMS MOU, supra note 106
and accompanying text.
Cambodia in seeking to centrally coordinate several disparate anti-trafficking efforts on an internal and international scale. Since this involved cooperation among several States, repatriation and reintegration issues would certainly have been one of its key concerns.

11. Decision on the Guideline for the Protection of the Rights of Trafficked Children (Children’s Guideline, or Guideline)

**Background:** The Children’s Guideline, issued by the CNCC on December 20, 2007, should have the effect of any Decision at the ministry level indicated in the hierarchy of Cambodian law.\(^{162}\) Ith Samheng signed this document in his capacity as both head of MOSAVY and Chairman of the CNCC on December 28, 2007.\(^ {163}\) It also had the supporting endorsement of the Prime Minister.\(^ {164}\) It appears the CNCC is inactive, but the Children’s Guideline is remarkable for its expressed values on behalf of children suffering sexual exploitation, with these values likely remaining intact within MOSAVY’s current initiatives. Below, I highlight some of the salient provisions in the Children’s Guideline, in relation to repatriation.

**Specific Provisions:** The Guideline indicates repatriation is part of a child’s choice and is not mandated in all situations. It states a child’s views “shall be taken into consideration when considering whether s/he should be returned to the country of origin . . . and/or stay in a shelter.”\(^ {165}\) Clearly, this reflects the view that repatriation may not even happen—let alone that it would happen summarily and in haste. In general, a child also has a right to information about repatriation, informing that choice.\(^ {166}\) A child has age appropriate decision-making authority and rights to be consulted and to give consent.\(^ {167}\) However, a child’s choice is subject to final say by the authorities, depending on age and other circumstances.\(^ {168}\) In cross-border situations, the prosecutor apparently is supposed to get involved at the embassy/consulate level in helping a child receive a temporary place to stay.\(^ {169}\)

\(^{162}\) Children’s Guideline, supra note 19, art. 6; see Part I, supra note 2, at 88-94 (discussing the hierarchy of Cambodian laws).

\(^{163}\) Children’s Guideline, supra note 19.

\(^{164}\) Supporting Message signed December 14, 2007. Hun Sen was also CNCC’s Honorable Chairman. Children’s Guideline, supra note 19.

\(^{165}\) Id., art. 4 § 5.2.d.

\(^{166}\) Id., art. 3 § 5.a.

\(^{167}\) Id., arts. 3 § 4.a., 3 § 5.a., 4 § 5.2.d.

\(^{168}\) Id., art. 4 § 5.2.d.

\(^{169}\) Id., art. 4 § 2.1.a.
Similar to other standards, Cambodian ministries and institutions are admonished not to treat foreign trafficked victims (children in the case of the Guideline) as illegal immigrants but instead should “legalize their stay such as [by the] granting of a temporary visa.”\textsuperscript{170} This is very important. The Children’s Guideline is in some respects very helpful in that it says more in acknowledging the need to provide immigration status help to child victims than does MOSAVY’s own Policy and Minimum Standards. This greater accommodation to children as expressed in the Guideline is likely due to its focus on children. In contrast, the MOSAVY Handbook is aimed more broadly at all human trafficking and thus is less specific and comprehensive on the rehabilitative needs of children to stay in shelters, even though it certainly also addresses children.

The Guideline adds: “In cases where a trafficked child is to be repatriated,” the “competent authority” in Cambodia is required to coordinate with the origin county and ensure this can be done safely; help for costs should be sought from NGOs/IOs like the UN and IOM.\textsuperscript{171} In terms of detail, the Guideline is not all that specific or helpful in giving actual institutional guidance on the criteria in determining when repatriation is appropriate. It still importantly benchmarks the process by clearly indicating repatriation of children should never happen if that would be involuntary, unsafe, or unwise.

12. Vietnam Handover Guidelines

\textit{Background:} This document did not come into existence until at least November 20, 2010, which was after the initial research for this project and quite likely, in part, as a result of it.\textsuperscript{172} It was prepared by MOSAVY (with assistance of the IOM) after the human rights group we served presented this research to MOSAVY, indicating gaps in the cases of foreign victims and improper deviations from standards inherent in summary repatriations. Prior to the Vietnam Handover Guidelines, the steps for actual repatriation of Vietnamese victims consisted of a vague amalgam of very hard-to-understand steps listed in the SOP, some wording in various other documents, and a collection of summary internal charts and diagrams possibly meant to flesh that out (including charts from IOM or

\textsuperscript{170} Id., art. 4 § 4.3.
\textsuperscript{171} Id., art. 6, § 5.3.b., c., d.
\textsuperscript{172} See supra note 20. This was an initial draft of the Vietnam Handover Guidelines. The latest version, dated Dec. 15, 2010, is available at https://sites.google.com/site/iomvietnamhandovergdl/.
MOSAVY). Given its detail, the Vietnam Handover Guidelines is probably sufficient to close most of the gaps existing in the writings prior to its issuance. I have already indicated that an important conclusion from this project is that the vagaries surrounding the process of handling foreign victims, including MOSAVY’s apparent lack of any clear written guidelines on the matter, was a significant cause of summary repatriations. The Vietnam Handover Guidelines is probably clear enough to avoid that situation in the future.

Specific Provisions: Since this effectively is the road map for Vietnamese repatriation, it is covered in Section III below. It reflects the standard that ought to be followed in this situation. However, one unmistakable feature of the Vietnam Handover Guidelines is its clear call for all repatriations to be voluntary; it includes interviewing processes to

173 One such chart, the “Steps Chart,” listed 18 steps to be followed and was used by this author in trying to decipher all the actual steps in this research. Attempts to juxtapose this within the broader steps in the Vietnam SOP (the official document governing repatriation), in the hope of coming up with a clear outline for Vietnamese repatriations, proved almost impossible. This is because the SOP simply left out so much detail that it is hard to follow, and the Steps Chart did not always clearly coordinate with the steps in the SOP. It would challenge any reader of the English language to divine a clear approach to Vietnamese repatriations from the SOP and other documents/charts available in early 2010. According to information from the human rights group, the Steps Chart came from a previous version of a MOSAVY guidebook, and it stayed in draft form; however, the Steps Chart showed the intended steps that should have been followed in all victim processings and repatriations, as of early 2010, if not sooner. See email information on file with the author (dated Apr. 27, 2010, and Sept. 2, 2013). The Vietnam Handover Guidelines has evidently replaced the Steps Chart.

174 See Part I, supra note 2, at 69-72. With the help of UNICEF in 2001, MOSAVY (then MOSALVY) issued a well-thought-out reintegration guide for victims and street children. See generally THE MOSALVY REINTEGRATION AND FOLLOW UP PROGRAMME, A HANDBOOK [hereinafter MOSALVY HANDBOOK] (to be distinguished from the MOSAVY HANDBOOK, supra note 17, which is used extensively in this set of articles). It is notable for its careful and extensive family assessment process, designed to see if reintegration of victims is even advisable. However, the MOSALVY Handbook is designed for reintegration of Cambodians into society and ignores the situations of Vietnamese and other foreign victims of sex-trafficking. Some improvements to the program came in 2007. See, e.g., MOSAVY CIRCULAR No. 009 MoSVY ON REINTEGRATION AND FOLLOW UP ACTIVITIES FOR VICTIMS WHO STAY IN GOVERNMENT AND NON-GOVERNMENT ORGANIZATION CENTRES (Sept. 28, 2007); see also a “Quick Sheet” describing the Circular (on file with the author). Also in 2007, MOSAVY’s subordinate ATRO division instituted a barrage of new intake and assessment forms (on file with the author). While these additional initiatives are all laudable in their aim of making sure reintegration of at-risk individuals with their families and villages is wise, none seems to contemplate a specific process for assisting foreign victims of sex-trafficking. Even the subsequent MOSAVY Handbook inadequately covers steps specifically designed for assisting foreign victims, as I have argued.
ensure this. The Steps Chart previously noted and used in this author’s research similarly called for assurances that all repatriations would be voluntary;\textsuperscript{175} however, the Vietnam SOP includes no such indications of voluntariness.

\textbf{D. Summary on Standards}

The substantive impact of the legal standards analyzed above shows that summary repatriations of victims should never occur. Victims are not illegal aliens and should have a say in what happens to them. In some cases, repatriation is not even a viable alternative. It may not be in the best interests of the victim. Special consideration should be given to children. Applying this to the situation of victims from Vietnam, Thailand, and elsewhere, it would be helpful to look at the case management steps that \textit{should} be followed after a victim’s rescue. I turn to this and conclude.

\textbf{III. Specific Steps In The Repatriation Process}

In this section, I summarize ascertainable steps in the repatriation process, including determinations of its suitability. I start with a general section, which should be applicable for all sex-trafficking victims, domestic or foreign, including the occasional Thai victims and the more common Vietnamese victims. In some ways, applying these steps to Cambodian victims and foreign victims seems odd, since Cambodian victims would not have procedures in place for issues like repatriation and foreign family identification. However, some steps are common to both domestic and foreign victims. As indicated above, the same rights of Cambodian victims must also extend to foreign victims. I will treat the specific situation of Vietnamese victims secondly, as specific steps for that process are now available. In the case of other victims, such as from Thailand or other countries, such specific steps have not been established and apparently do not exist at this time.\textsuperscript{176} This lack of specific steps for repatriation of other foreign victims could be due to their relative infrequency or shorter stays in comparison to Vietnamese victims. In any event, the general steps indicated below should apply at some level to all victims, regardless of their country of origin.

\textsuperscript{175} It did this in at least two steps: Step 2 (mentioning a Voluntary Return Agreement), and Step 6 (checking consent). Steps Chart, \textit{supra} note 173.

\textsuperscript{176} In researching this matter, we sought from MOSAVY an indication of any specific steps or standard operating procedures available in regard to repatriations back to Thailand. Apparently none exist, but someone in the government assured that “they know how to do it.” Email communication (Apr. 27, 2010) (on file with the author).
A. General Steps (All Victims, Including from Other Countries)

In essence, a compilation from various sources is necessary to expound on these steps. However, the primary source for this information is the MOSAVY Handbook including its Policy and Minimum Standards (especially articles 6 and 7). 177

Starting with Chapter II, article 7 of the Minimum Standards, one can see a good outline of the steps to be taken from the time a victim of human trafficking is identified to the time his/her case is closed. This is known as the “case management process.” 178 During this process, service providers have the responsibility to shelter the victims and help them reintegrate into a “normal life” (if that is even possible). 179

This case management process consists of 10 steps: (1) Victim identification, (2) Crisis intervention, (3) Referral, (4) Reception, (5) Case-planning, (6) Assessment, (7) Recovery, (8) Reintegration, (9) Follow-up, and (10) Case closure. 180 Article 7 notes that these steps are not always sequential as they may overlap and, in some cases, can be simultaneous. 181 In that regard, I will switch the order of the first two steps for logical presentation purposes below.

1. Victim identification is the process of determining whether an individual’s or group of individuals’ experience is consistent with being trafficked as outlined in the Supplemental Protocol. 182 While victim identification should start immediately after a rescue, it is a process that may continue well into the case management phase. Victim identification is usually conducted by interviewing the suspected victim in a safe place, consistent with the principles in the Convention on the Rights of a Child. 183

The police will often take initial interviews, along with victim

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177 Compare MOSALVY HANDBOOK, supra note 174 with MOSAVY HANDBOOK, supra note 17, at 24-33; see also ICA, supra note 16 (arts. 4-6 especially). The International Agreements and MOUs with Vietnam and Thailand indicated above in Section II also provide information.

178 See MOSAVY HANDBOOK, supra note 17, at 11-13 (giving the same list of steps).

179 Id. at 28-33 (detailing the case management process).

180 Enumeration is mine, and does not necessarily correspond to that in the MOSAVY Handbook. Id. at 11.

181 Id. at 28.

182 See supra section II.B.3.

183 MOSAVY HANDBOOK, supra note 17, at 11, 28.
statements, after a rescue, and the police have the right to detain rescued individuals for this purpose.\textsuperscript{184} The interviews must be conducted as soon as possible after the rescue operation, and if not completed within two days, the police must seek “guidance” from a prosecutor.\textsuperscript{185}

In these interviews, the national police, or a VSA (Victim Support Agency) if it first encounters the victim, has a duty to make a preliminary determination (i.e., “provisional identification”) as to whether the rescued person is a victim of trafficking.\textsuperscript{186} A prosecutor or judge makes final determinations. If such determinations are at odds with that of a VSA’s indicating that an individual is in fact a victim of trafficking, the VSA may investigate and add additional information supporting its view.\textsuperscript{187}

Victim identification interviews “shall be kept as brief as possible by limiting questions to essential information, such as name, age address, or place of birth, perceived threats to safety, and the immediate needs of the victims.”\textsuperscript{188} In addition, “[a]t all stages of interviewing trafficked children [i.e., including subsequent interviews as to a child’s repatriation interests], the investigator/officer and interpreter/translator should be of the same gender as the trafficked child, dressed in civilian clothes, trained in administering child friendly/sensitive interview methods and knowledgeable about the issue of child trafficking.”\textsuperscript{189}

After identification of a person as a victim of trafficking, the police (and VSA if involved) must notify the victim of her/his rights and services available to them in a language s/he understands.\textsuperscript{190}

After this, the police are expected to send the victim to the “Provincial/Municipal Department of MOSAVY” (i.e., “DOSAVY”) to await the next step of referral to an NGO/Shelter.\textsuperscript{191}

\textsuperscript{184} ICA, \textit{supra} note 16, art. 4.
\textsuperscript{185} Id.
\textsuperscript{186} Id. arts. 4, 6.
\textsuperscript{187} Id. art. 6.
\textsuperscript{188} MOSAVY \textsc{Handbook}, \textit{supra} note 17, at 28.
\textsuperscript{189} CHILDREN’S \textsc{Guideline}, \textit{supra} note 19, § 2.2(d).
\textsuperscript{190} ICA, \textit{supra} note 16, art. 4.
\textsuperscript{191} Id. In some instances, the police may directly refer a victim to an NGO. MOSAVY & IOM, \textsc{Repatriation from Cambodia to Vietnam of Vietnamese Victims of Trafficking from 15 May 1999 – 30 March 2005}, at 22, available at www.humantrafficking.org/.../final_report_31_may_2005.doc [hereinafter \textsc{Vietnam Report}] (note: This Report is combined in the same document with the \textsc{Thai Report}, \textit{supra} note 140. See Part I, \textit{supra} note 2, at 72-73, n.13).
2. **Crisis intervention** refers to the “immediate short-term assistance to victims” who are unable to cope effectively with their present situation due to their past experiences that produced “emotional, mental, physical and/or behavioral imbalances.”\(^{192}\) Crisis interventions may occur either simultaneously with “victim identification” or some time later in the “rehabilitation process.”\(^ {193}\)

In this process, the police may perform raids and rescues to remove victims of trafficking and work with social workers to ensure that they are taken to a safe place. In effect, crisis interventions are required in any situation where a person’s psychological and physical safety is at risk. This includes situations where reintegrated victims notify service providers that their trafficker has appeared in their village.\(^ {194}\)

Furthermore, the “need for a crisis intervention is to be determined according to the needs of the victim” and must be carried out “with the officials, especially in cooperation with . . . social affair officials, NGO service providers, private service providers, and Embassy and/or immigration officials (in case of foreign victims).”\(^ {195}\)

3. **Referral** is the act of “referring or transferring the client to appropriate services” with the informed consent of the victim.\(^ {196}\) In this process, the referring organization must clearly communicate the client’s “expected results” to the receiving organization so that it may better respond to the victim’s needs.\(^ {197}\)

The Minimum Standards provides that a referral is to be based on the victim’s own decision, according to his/her requirements, at any time during the assistance process. The victim’s needs must come first.\(^ {198}\) Any prejudice against victims as to the decision on referral is not allowed, and this supports foreign victims.\(^ {199}\)

4. **Reception** refers to the act of receiving and providing initial services to the victims; this can be at various locations, including police

\(^{192}\) MOSAVY HANDBOOK, *supra* note 17, at 11.  
\(^{193}\) *Id*. at 11-12.  
\(^{194}\) *Id*. at 12.  
\(^{195}\) *Id*. at 29.  
\(^{196}\) *Id*. at 12.  
\(^{197}\) *Id*.  
\(^{198}\) *Id*. at 29.  
\(^{199}\) *Id*. 
stations, shelters, hospitals, and skills-based training facilities.\textsuperscript{200} This is a very important first step in victim care and is the first impression a victim will have of a service agency. Service providers are expected to build close rapport with the victims and use a “gender sensitive” approach according to each victim’s special circumstances.\textsuperscript{201}

Specifically, service providers have the responsibility to “orient the victim to their necessary physical surroundings, and also explain to them their purposes and roles, principles, rules and necessary regulations” of living in those managed premises; in short, they must make the victim feel as comfortable as possible before any intake interviews.\textsuperscript{202}

5. **Case Planning** is the process of setting goals and objectives for the successful resolution of the victim’s case; the victim is actively encouraged to participate in his/her own case planning.\textsuperscript{203} Case planning shall be conducted as soon as possible after victim identification and shall address the victim’s needs; the victim must be informed and consulted about all activities in his or her case planning regularly.\textsuperscript{204}

The victim’s active participation in case planning is particularly emphasized in the Minimum Standards. In addition to guaranteed confidentiality of the case planning, the Minimum Standards stipulate that the victim is to be provided his or her plan on request and that the plan can only be developed with the victim’s consent.\textsuperscript{205} Obviously, this should have a direct effect on any decision to repatriate, if the victim has never consented to it.

Further, somewhere within the case planning stage (if not prior to that or in the next stage, “Assessment”), victims shall be given the right to seek legal action, including compensation against their abusers/traffickers.\textsuperscript{206} Police, prosecutors, and VSAs should provide victims with information on legal rights in the first instance (and this could happen

\textsuperscript{200} *Id.* at 12.
\textsuperscript{201} *Id.* at 30.
\textsuperscript{202} *Id.*
\textsuperscript{203} *Id.* at 12.
\textsuperscript{204} *Id.* at 30.
\textsuperscript{205} *Id.*
\textsuperscript{206} *Id.* at 26 (Right to Justice); see *ICA*, *supra* note 16, arts. 4, 10 (cross-border situations), 18 (victims filing a complaint against perpetrators), 37 (right to “sue for compensatory damages”).
at initial interviewing just after rescue). Service providers shall inform victims about legal issues and procedures for filing a complaint against their perpetrators and offer help to victims in contacting legal services; this information shall be given in a language the victims can use and understand. In cross-border cases, if a victim “agrees to be a witness until the end of prosecution against a suspect, the prosecutor must inform the immigration police of this case, in order to secure temporary authorization for the victim to remain in Cambodia.”

In addition, for children without legal documentation, the “relevant competent ministries and institutions should assist them to immediately legalize their stay such as [by] granting of a temporary visa.”

6. **Assessment** refers to the process of gathering, reviewing, and evaluating specific information related to a victim’s case for the purpose of keeping track of the victim’s progress and enabling service providers to detect the successes and needed changes to the overall case planning. Assessment is a “multifaceted, ongoing process” including interviews and detailed assessments on issues like “health, risk [including feasibility of a victim’s return to his/her community], socio-legal, shelter, staff, community, family, skill and ability and livelihood assessments of the victims”; it must be conducted at appropriate times for the victim. Service providers shall conduct, at a minimum, “an annual assessment of the quality of services offered.”

7. **Recovery** defines the process of healing for each victim from his/her horrific and incapacitating experiences; it involves helping develop the person’s skills, capacity, and esteem to enable them to function in society. The practical steps include, among others, counseling, life skills, medical assistance, and vocational skills training. Each victim’s unique experience also means his/her recovery process will be unique, and service

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207 ICA, supra note 16, arts. 4, 18, 19, 37, 38. Victims are also encouraged to cooperate with prosecutors in criminal cases against their traffickers/abusers.
208 Id. arts. 4, 18; see also MOSAVY HANDBOOK, supra note 17, at 25 (non-Khmer language victims). This informational duty extends also to police and prosecutors. ICA, supra note 16, arts. 4, 18.
209 ICA, supra note 16, art. 10.
210 CHILDREN’S GUIDELINE, supra note 19, § 4.3 (b).
211 MOSAVY HANDBOOK, supra note 17, at 12.
212 Id. at 30-31.
213 Id. at 31.
214 Id. at 12-13.
providers must ensure that the recovery process serves the victim’s individual needs.\textsuperscript{215}

In this endeavor, victims “shall have the right to make informed decisions about which services will be most helpful or appropriate for them and when they want to engage in these activities.”\textsuperscript{216} Thus, victims have the right to either accept or decline the services listed above. Children especially shall be given opportunities for age-appropriate activities to aid their recovery.\textsuperscript{217}

8. **Reintegration**, if it can be successful, serves as the ultimate goal when aiding victims of trafficking. It is the process of returning and resettling a victim into his/her family and community based on a victim’s personal decision.\textsuperscript{218}

Victims have significant discretionary power in this decision, including if, when, and with whom reintegration should take place, as this can be a new community instead of the victims’ original families or communities.\textsuperscript{219}

Reintegration is speculative. It will only begin after proper assessment of both the particular nature of the victim and the location of reintegration is completed. Victims will begin this process on a trial basis, with their safety regularly assessed by service providers to see if additional assistance or support is necessary (special assistance and counseling are expected for children).\textsuperscript{220}

Obviously, in the case of Vietnamese or other victims (such as from Thailand), “Reintegration” might first require **Repatriation** into another country as a separate step (i.e., this would not be the case if the victim chose and was allowed to reintegrate into a new community in Cambodia). MOSAVY’s Handbook acknowledges this, yet it fails to specify any particulars in that process. In one instance it even refers very confusingly to “repatriation” and “deportation” synonymously (inconsistent with the idea

\begin{flushright}
\textsuperscript{215} Id. at 13.
\textsuperscript{216} Id. at 31.
\textsuperscript{217} Id.
\textsuperscript{218} Id. at 13.
\textsuperscript{219} Id. at 32.
\textsuperscript{220} Id. at 32. Assessing this and making adjustments along the way would seem extremely challenging in the case of an international reintegration and is not likely something MOSAVY (and Cambodia’s government) is going to be checking into.
\end{flushright}
of a “reintegration”). However, the specific steps listed below for Vietnamese victim repatriations might offer an approximate guide that is clearer for repatriations to other countries, in which out-of-country Reintegration could occur.

9. **Follow up** refers to the process of “checking on the current status and evolving needs of the victim after reintegration.” The follow-up case plan shall prioritize the victim’s needs and be prepared regularly and flexibly. The number of follow-up visits should be arranged between the victim and service provider and conducted in a discreet manner in adherence with the victim’s wishes. Finally, case workers have a responsibility to “link victims to services available in their community or village of origin.”

10. **Case closure** is the final step indicating the end to service. Successful case closure can be determined by the following criteria: (1) the stability and sustainability of the victim’s family relations, (2) the economic stability of the family, (3) the reintegrated person’s ability to participate in daily activities, and (4) enough proof indicating that the reintegrated person is “economically and psycho-socially” stable.

Case closure is only permitted once it is ensured that the victim is healthy, emotionally and financially secure, and is confident in her ability to keep her livelihood. A victim “shall be consulted” in any decisions to close her case, and a hasty case closure, including for uncooperative victims, is unacceptable.

**B. Vietnamese Victims**

Specific steps in the case of Vietnamese victims come primarily from the Vietnam SOP for repatriation and the Vietnamese Handover Guideline indicated above. A smattering of other details may come from Vietnamese-specific provisions located in a variety of other documents, such as the ICA. To simplify matters, I have included verbatim the entire set of steps for Vietnamese victims from the Vietnamese Handover Guideline (below), inserting additional details and clarifications only when necessary. Presumably, these more specific Vietnamese steps supersede the general

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221 *Id.* at 18 (objectives).
222 *Id.* at 13.
223 *Id.* at 32. In terms of how this would happen in an international reintegration, the MOSAVY Policy and Minimum Standards again remain silent.
224 *Id.* at 13.
225 *Id.* at 32-33 (emphasis added).
steps indicated above for all Vietnamese victims. Understandably, an exact sequencing of steps is not always possible, as some steps can occur simultaneously or overlap.\(^{226}\) The specificity of these Vietnamese steps could be instrumental in shaping similar steps for victims from other countries.\(^{227}\)

1. Rescue and recovery

Rescue is conducted by the Ministry of Interior [MOI] through the Department of Anti-Human Trafficking and Juvenile Protection (DAHTJP) of the General Commissariat of National Police and, in certain instances, in collaboration with NGO partners. Anti-trafficking Police refer rescued women and children to the [DOSAVY] shelter, where they are interviewed and remain for up to twenty-four hours.\(^{228}\)

[DOSAVY] refers the victim(s) to other NGOs/shelters to receive appropriate support such as housing, food, medical treatment, psychological support, vocational training etc.\(^{229}\)

Vietnamese VoT [Victims of Trafficking] will be offered the option of voluntary repatriation to Vietnam.\(^{230}\)

Initial interviews would also be used to make preliminary identifications of a victim of trafficking, as stated in the general steps

\(^{226}\) See id. at 28-33. We do not have a great deal of information about the time that this process normally takes. The 1999 – 2005 Vietnam Report states that the most common length of time between interviews with ATRO staff and Vietnamese officials was between one and four months but adds that one person waited ten months and another waited two years. Vietnam Report, supra note 191, at 27.

\(^{227}\) The headings and much of the content of the first nine steps indicated here are quoted verbatim from the Vietnam Handover Guidelines (bullet points and formatting in the original text have been eliminated).

\(^{228}\) This is probably in Phnom Penh. See Vietnam Report, supra note 191, at 20-21.

\(^{229}\) See Vietnam SOP, supra note 15, art. 3(a) (insisting individuals are to receive various services while “awaiting the results of the verification and identification process”).

\(^{230}\) Vietnam Handover Guidelines, supra note 20, at 8-9; see also Vietnam Report, supra note 191, at 21 (“Vietnamese trafficking victims are offered the opportunity to voluntarily return to Vietnam.”) (emphasis added).
above. Individuals identified (preliminarily) as victims should be informed of their options and rights.

At this point, an implied step (one not expressed at all in the Vietnam Handover Guidelines nor in the SOP) must be assumed. This implied step takes into account what happens if the victim declines the offer of repatriation. So, I have inserted steps 1.a. and 1.b. into the process to help depict that situation.

(1.a. If the victim does not wish to be repatriated)

In this case, the international standards to which Cambodia subscribes, such as the Supplemental (Palermo) Protocol, require that Cambodia take steps to allow the victims to legally stay in Cambodia and receive services until such time as repatriation is feasible and safe, if ever.

The Children’s Guideline is more imperative, stating that for undocumented children, “relevant competent ministries, institutions should assist them to immediately legalize their stay such as granting of a temporary visa.” Also, if a victim wishes to remain as a witness in a prosecution against suspects of trafficking, the prosecutor must inform immigration of this so the victim can receive temporary authorization to remain in Cambodia.

Assumedly, the same general steps indicated above for all victims should apply for those who choose to remain: Case Planning, Rehabilitation, Reintegration, and so on through Closure.

(1.b. If the victim does wish to be repatriated)

In this case, continue with the steps below.

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231 Vietnam SOP, supra note 15, art. 1(b).
232 ICA, supra note 16, art. 4; see also VIETNAM REPORT, supra note 191, at 21 (“Women and children are provided with information related to their options and are free to make a choice about their future.”).
233 The Vietnam SOP’s failure to indicate any step in this direction again highlights my contention all along that MOSAVY had virtually nothing in place to handle victims who did not wish to be repatriated, and this contributed to their summary (automatic) repatriation.
234 Supplemental Protocol, supra note 11, at 345.
235 CHILDREN’S GUIDELINE, supra note 19, art. 4.3 (b).
236 ICA, supra note 16, art. 10.
237 See supra section III.A.
2. Requesting Voluntary Repatriation through [MOSAVY]

Vietnamese VoT who express an interest in being voluntarily repatriated to Vietnam are interviewed [a second interview] by Vietnamese-speaking NGO caseworkers at the respective shelter. Details of the interview are to be recorded using a “VoT case data form” issued by [MOSAVY] (Annex 5).

The VoT case data form is written in three languages: Khmer, Vietnamese and English. The form must be completed in both Khmer and Vietnamese. A 4×6 inch full-size photo of the victim (full-size meaning the entire body, rather than only the face) must be attached to the first page of the form. One form must be completed per person.

The fingerprints of the victim(s) must be taken using the “victim declaration for voluntary return and request for repatriation to home country form” (attached to the case data form). This form confirms the victim(s) voluntary decision to be repatriated to Vietnam. If the victim(s) is/are minor(s) (below 18 years of age), the fingerprints of [a] caregiver or parent/guardian/ are required.

The care provider (NGOs/shelter) should submit an official request letter to the General Director of Directorate of Technical Affairs of [MOSAVY] with the following supporting documentation:

1. Letter requesting repatriation (Annex 3)
2. Summary case interview record (Annex 4)
3. VoT case data form (four copies) ([Annex] 5)
4. Victim declaration for voluntary return and request for repatriation to home country form with victim’s fingerprints (attached to the case data form) (four copies)

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238 All annexes and appendices referred to in the Vietnam Handover Guidelines are available online at: https://sites.google.com/site/iomvietnamhandovergdl/. See supra, note 172. The annexed forms are in Khmer, Vietnamese, and English and are very helpful in understanding and are central to, the repatriation sequence.
5. Photo (4x6 inch) of the victim (six copies).\textsuperscript{239}

3. Request to the Vietnamese Embassy in Phnom Penh for identification and repatriation

Upon [MOSAVY’s] receipt of the request for repatriation from the NGO/shelter, the ATRO [Anti-trafficking and Reintegration Office] Administrator at [MOSAVY] reviews the request and supporting documentation and assigns the case a code number. ATRO then submits a request to the Vietnamese Embassy for victim identification and repatriation.

ATRO liaises with the Vietnamese Embassy and the relevant NGO/shelter to determine an agreed date and time to conduct an interview [a third one] with the victim(s) for verification and identification.

An official from the Vietnamese Embassy then conducts the interview with the victim(s) at the NGO/shelter, in the presence of ATRO officials and the relevant case worker.\textsuperscript{240}

4. Family tracing in Vietnam

The Vietnamese Embassy makes a formal request to the Vietnamese Government to undertake the family tracing and assessment and sends the victim(s) interview results to the Ministry of Public Security (MPS), which is charged with this task. The success of the process is, in part, dependent upon the clarity and quality of the information gathered by the NGO and the Vietnamese Embassy in relation to accurately identifying the location of the victim’s family.\textsuperscript{241}

\textsuperscript{239} \textit{Vietnam Handover Guidelines}, supra note 20, at 9; see also Vietnam SOP, supra note 15, arts. 3(b), (d), (e) (describing similar paperwork somewhat less precisely, including content of the victim’s file).

\textsuperscript{240} \textit{Vietnam Handover Guidelines}, supra note 20, at 9; see also Vietnam SOP, supra note 15, art. 3(e) (use of diplomatic, consular channels). Informed consent and confidentiality are to be respected; see also Steps Chart, supra note 173, at Step 4 (indicating similar references to embassy involvement).

\textsuperscript{241} Case data forms are thus preferably included with as much information as possible. \textit{See} Steps Chart, \textit{supra} note 173, at Step 5.
Within a maximum of 30 working days, the Vietnamese Embassy informs the ATRO Administrator at [MOSAVY], in writing, of the outcome of the family tracing and whether the victim(s) has/have been identified.\footnote{VIETNAM HANDOVER GUIDELINES, supra note 20, at 9-10; see also Vietnam SOP, supra note 15, art. 3(c) (indicating Vietnam, as the Requested Party in this context, has 30 working days in which to verify identification or accept the victim anyway).}

It appears from the SOP that Vietnam must give a response within this allotted time (thirty days) as to its intent to accept the victim even if successful identification and family tracing are incomplete.\footnote{Vietnam SOP, supra note 15, art. 3(c).} The SOP seems to corner the Receiving Party (Vietnam) by requiring a conclusive decision on victim acceptance within this time, whether ready or not. This creates an awkward situation for Vietnam in terms of victim care for an individual whose identity is unclear.\footnote{Id.} Vietnam could hedge against this uncertainty by simply indicating its refusal to receive the individual, precisely due to this lack of identification within the thirty days. In that situation, it is not clear what should happen next. Should the victim remain in Cambodia permanently, or will a new thirty-day cycle commence? The SOP is silent. It seems the Handover Guideline anticipates this situation better as it attempts to give a solution in Step 5.\footnote{The SOP, in contrast, offers no real guidance on this issue. It simply urges the countries to work cooperatively on victim identification and family tracing given the short time and high stakes involved. See id. (calling for cooperation among the respective “focal . . . [and] related authorities to identify and verify the victim’s nationality and conduct family tracing”).}

5. **Issuing of laissez-passer**

Upon [the Vietnamese authorities] receiving the family tracing results from the (MPS), the Vietnamese Embassy in Phnom Penh notifies the ATRO Administrator at [MOSAVY].

If the family tracing is inconclusive, the ATRO Administrator will cooperate with the NGO/shelter to collect more information, which will then be provided to the Vietnamese Embassy.\footnote{I can only assume if the information is not sufficient, the process will continue indefinitely until identification and family tracing are satisfactorily concluded, so long as}
If the family tracing is successful, the Vietnamese Embassy in Phnom Penh will issue the laissez-passer to the victim(s). The laissez-passer will [also] be sent to the ATRO Administrator at [MOSAVY] for further processing.\textsuperscript{247}

The \textit{laissez-passer} is issued by the Vietnamese Embassy in Cambodia as a kind of entry permit to Vietnam.\textsuperscript{248}

6. Developing the handover-reception plan and repatriation schedule

Within five working days upon receipt of laissez-passer, the ATRO Administrator consults with the Vietnamese Embassy and NGO/shelter to determine the repatriation date and the appropriate border-crossing gate, which should be that which is closest to the temporary center/shelter where the victim(s) will be supported in Vietnam.\textsuperscript{249} The agreed repatriation date must be confirmed by the Vietnamese counterparts.

The ATRO Administrator prepares the list of escorting staff and forwards this to counterparts in Vietnam. In return, Ministry officials and NGOs will provide a list of escorting staff to [MOSAVY] one (1) week before the repatriation takes place.\textsuperscript{250}

\textsuperscript{247} \textsc{Vietnam Handbook}, supra note 20, at 10. In Step 6 of the former Steps Chart, if family tracing is successful, the victim’s consent to repatriation is again verified before issuing a \textit{laissez-passer}. Steps Chart, supra note 173, at Step 6. If the victim still consents, she continues toward repatriation; if not, it seems steps similar to those in 1.a., above will have to be implemented to allow her to stay in Cambodia.

\textsuperscript{248} \textit{Vietnam SOP}, supra note 15, art. 4(b).

\textsuperscript{249} Id. arts. 4(a), (d).

\textsuperscript{250} Id. art. 4(a) (indicating the handover plan “includes a list of victims to be returned”).
The following individuals comprise the basic escort team. Each has a specific role in the repatriation process:

1. One representative from the [MOSAVY];
2. One representative from the [DOSAVY] in the province of origin of the VoT and from the provinces bordering Cambodia-Vietnam where the handover-reception will occur;
3. One representative from the Vietnamese Embassy in Cambodia;
4. One representative from the Department of Immigration of the General Commissariat of National Police, the Ministry of Interior (or Anti-trafficking police);
5. One representative from each NGO/shelter currently supporting the victim(s);
6. One representative from funding agency (optional).

7. Administrative process in preparing for repatriation

Upon [ATRO’s] receipt of the laissez-passer from the Vietnamese Embassy and confirmation of the agreed repatriation date, a letter is prepared by the ATRO Administrator on behalf of the Minister of [MOSAVY] to the Director General of the General Commissariat of National Police, [MOI], to request a Cambodian exit permit for the VoT and a waiver of any fees normally paid when leaving the country. Attached to the letter is the original of the laissez-passer. The request, once approved by the Director General [of MOI], is passed to the Department of Immigration for issuance of the exit permit.

The ATRO Administrator prepares the handover materials which consist of:

1. Handover document with the names of the victim(s), handing-over and receiving parties and witnesses.
2. Laissez-passer issued by the Vietnamese Embassy with the exit permit issued by the Department of

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251 VIETNAM HAN DOVER GUIDELINES, supra note 20, at 10.
252 See also Vietnam SOP, supra note 15, art 4(b) (immigration authorities of the handover party issue it).
Immigration of the General Commissariat of National Police, MOI.

3. VoT case data form (to be handed over to any institution or NGO providing support to the victim(s) in Vietnam).

4. Other documents related to victim(s).  

According to the Steps Chart used previously, IOM Vietnam, as a relevant and guiding IO, actively participates in this process. It helps set the repatriation date and receives several documents including: (1) a case data form, (2) the laissez-passer, (3) an arrival notification, and (4) an escort list of victims. It apparently has assisted in the actual handover of the victims into Vietnam.  

8. Notification of the Department of Immigration

The ATRO Administrator prepares the documents on behalf of the Directorate of Technical Affairs at [MOSAVY] and submits the information to the Cambodian Department of Immigration and General Commissariat of National Police, [MOI]. The documents include a request for one official from the Department of Immigration to be assigned to accompany the victim(s) to the border for repatriation. Documents also include a border arrival notification and a list of all participants taking part in the repatriation.  

253 VIETNAM HANOVER GUIDELINES, supra note 20, at 10-11. The Vietnam SOP indicates additional documentation, such as: “Handover minutes of the victim’s handover and reception,” and “Health record[s].” Vietnam SOP, supra note 15, art. 4 (“Documents exchanged . . .”). Step 13 of the Steps Chart includes documentation pertaining to “vehicle details.” See Steps Chart, supra note 173, at Step 13. An “arrival notification” should have also been included in this list. See VIETNAM HANOVER GUIDELINES, supra note 20, at 11 (indicating in Step 8, a “border arrival notification” is also included).

254 Steps Chart, supra note 173, at Steps 8, 15.

255 The Vietnam SOP encourages such active cooperation with IOs and NGOs to help the repatriation process run smoothly. Vietnam SOP, supra note 15, art. 4(d). Interestingly however, the Vietnam Handover Guidelines contains a footnote (note 3) claiming since 2001, IOM has only acted as a fundraiser and coordinating body exchanging information between Vietnam and Cambodia (thus denying its active assistance in repatriation processes). VIETNAM HANOVER GUIDELINES, supra note 20, at 10. This attempted disclaimer of IOM’s active assistance is at odds with information in the Steps Chart, indicating a greater active role for IOM and is strange as to any apparent purpose in so saying.

256 VIETNAM HANOVER GUIDELINES, supra note 20, at 11. Both documents were indicated earlier in reference to Step 7. See supra note 253 and accompanying text.
9. Return and reception

On the date of the repatriation, all persons involved, including the VoT and escorting staff should meet at the agreed location, as notified by the ATRO Administrator, to travel to the international border entry point where the repatriation will occur. This point of entry should also be agreed upon and confirmed with the Vietnamese counterparts.

Upon arrival, the representative from the [Cambodian] Department of Immigration is responsible for facilitating the border crossing to the handover-reception location in Vietnam.

The victim(s) are then interviewed by the Vietnamese police for verification and identification to ensure their information matches the documentation.

Once the official handover has been carried out between the Cambodian [MOSAVY] (acting as the handing-over party) and the Vietnamese police (acting as the receiving party), both parties will sign the handover document. A brief handover meeting will then be held between the two parties to discuss any relevant issues related to repatriation. 257 Victim(s) are introduced to the representatives of the relevant government department who will accompany them home or to the NGO/shelter. 258

At this stage, I include two other steps not included specifically in either the Vietnam SOP or in the Vietnam Handover Guidelines. These are at least implied and are necessary in any event to complete the process in compliance with the steps indicated above for all victims. 259

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257 This may culminate in the so-called “handover minutes” of the victim’s reception, referred to in the Vietnam SOP. See Vietnam SOP, supra note 15, art. 4(d) (Step 3, yet lacking any clear description of these handover minutes). However, the Vietnam Handover Guidelines, including its Annexes, does not mention or include these minutes, and it appears they are no longer used.

258 VIETNAM HANDOVER GUIDELINES, supra note 20, at 11; see also Vietnam SOP, supra note 15, art. 4(d) (indicating three Steps).

259 See supra section III.A.
10. Reintegration and Follow-Up (Similar to Domestic)

Various groups in Vietnam, including the Vietnamese Women’s Union (WU), the Department of Social Evil Prevention (DSEP), the Department of Labour, Invalids and Social Affairs (DOLISA), and NGO/shelters shall provide support, recovery, and follow-up to victims.  

11. Case Closure (Same as Domestic)

This occurs when the victim’s relations with family are “stable and sustainable,” the economic condition of the family is stable, and the victim can participate in “usual and regular daily activities” such as schooling, job, or vocational training.  

C. Summary on Steps

As can be seen from the above, specific steps for handling the repatriation of foreign sex-trafficking victims in Cambodia are missing from MOSAVY’s Handbook. However, at least in Vietnam, steps are indicated, albeit from a compilation of various sources with different levels of legal force. In the case of Vietnamese victims, many of the steps appear to be something worked out more in practice (customary) with assistance from organizations like IOM. Although the Vietnam SOP is supposed to be the governing document, it is almost incoherent in terms of explaining an understandable system. 2010’s Vietnam Handover Guidelines, coming after our initial research and reporting, provided much needed clarity, and as a result, sufficiently clear steps now exist.

In all cases, the above shows repatriation and reintegration require the consent of the victim. Accordingly, the practice of summary repatriations in the past was improper and hopefully will fade away as a
distant memory. Involvement of IOs and NGOs in the process has helped safeguard the proper process.

**IV. Conclusion**

I have attempted in this set of articles to address the former rash of summary repatriations of rescued victims of sexual exploitation back to their homelands of Vietnam and elsewhere. Such repatriations are unjust and are likely to place rescued victims back into positions of vulnerability. In such cases, rescue and reintegration only complicate matters. I have attempted to show by an examination of relevant standards and steps, including those already in effect as of early 2010, that this course was clearly improper. In fact, repatriation itself may even be improper. Some rescued victims are simply better off staying in Cambodia, and this is often indicated in their own choice. While a hard pill to swallow, acceptance of this fact is required in the law, as each victim’s case has its own prescription. This is the position of the human rights group we came to serve, and it seems just.

As indicated in the Introduction to Part I, at least three conclusions from this research project were evident, and I state them in a slightly altered way in summary here. First, MOI seemed to be running its own summary repatriation show. In order to prevent summary repatriations, it was clear greater single-mindedness and coordination was needed at the ministerial level, and MOSAVY was tasked with leading and pulling this together. I am informed the situation has improved. Second, the “best interests” standard for victims, including the many child victims, is a good one. It calls for a careful assessment of each victim’s case and shall be applied equally to foreign victims. This standard does not permit summary repatriations to save costs and time, and if applied correctly, it would not even allow repatriation as an acceptable solution in some cases. The best interest of foreign victims is not synonymous with repatriation, despite contrary assumptions of many, and a careful assessment is imperative. Third, a significant contribution to the problem of summary repatriation was MOSAVY’s evident lack of specific written steps in its standards, indicating how it should adequately assist foreign victims. In essence, drafting glitches created a void with no real alternatives to repatriation. It appears this issue has now largely been resolved.

Of course, gaps still remain in the system, including the need for changes in the law reflecting the status of victims. For instance, issuing
special visas for trafficking victims to remain in shelter care for longer durations is important. Improving communications with shelters and service providers is always an ongoing need. Initiatives such as the National Plan of Action and victim identification work with several IOs (UNAIP recently) indicate Cambodia seems sincere in its efforts to improve the situation. In sum, justice requires an individual assessment of each victim’s case. This may not be convenient, but it is in everyone’s “best interests,” including those of the States involved.