

CASE SUMMARY (Cambodia): Chai Hour II Hotel
Western Collegiate Model United Nations Conference, ICC Mock Trial

Case Background:

“Cambodia is a source, transit, and destination country for human trafficking. The traffickers are reportedly organized crime syndicates, parents, relatives, friends, intimate partners, and neighbors.”¹

Although prostitution was outlawed in Cambodia from 1975 to 1979 during the rule of the Khmer Rouge, it gained a resurgence in the 1980's. Approximately 22,000 UN personnel were stationed in Cambodia during the early 1990's, many of whom frequented sex trade establishments. This caused a boom in the brothel business, and by 1993 the number of prostitutes peaked at an estimated 20,000. When the UN soldiers left Cambodia, the number of working prostitutes dwindled to half that number.²

Since that time, the sex industry has increased tremendously in Cambodia and other South Asian countries. There are cultural beliefs that fuel the demand for younger prostitutes. Many Khmer believe that sex with a virgin will increase their virility and restore good health. Additionally, the spread of AIDS is a growing epidemic in Southeast Asia and gives rise to a higher demand for younger and younger virgins due to widespread fear of contracting the disease from women of majority age. It is reported that children as young as four years old have been sold into the sex industry in Cambodia.³

Many children sold into the sex trade are offered for sale by their own parents, in a desperate effort to offset familial economic hardship. However, a great number of child prostitutes are fraudulently lured into the profession with false promises of legitimate employment in garment factories, coffee houses, and restaurants. Once they are taken into the fold of sex brokers in the industry, these children are often beaten, tortured, exposed to addictive drugs, and imprisoned against their will in brothels for the purpose of satisfying the sexual appetites of paying customers.

In recent years, the Cambodian government has made a point of building high-profile cases against white pedophiles from Western countries who book sex tourism travel to Asia in order to procure the services of child prostitutes. However, it is estimated that 85% of the sex industry clientele are actually Asian men. The sex industry worldwide nets over \$12 billion. According to Cambodia's Minister of Women's Affairs Ms. Mu Soc Hua estimates, 30,000 of the nearly 100,000 prostitutes in Cambodia today are children.⁴ Ms. Mu Sock Hua believes that the Cambodian government is too corrupt to bring justice to the real perpetrators (often high ranking government officials and even police officers), and focuses too much attention on Western pedophiles in order to appease international human rights groups.

¹ Structure of Cambodian Task Force on Human Trafficking; <http://www.humantrafficking.org/countries/cambodia>

² “Children of the Dust”, by Mikel Flamm and Ngo Kim Cuc; Bangkok Post, Feb. 23, 1997.

³ UNICEF Report: “For Sale: The innocence of Cambodia,” Ottawa Sun, October 24th, 1996

⁴ Dateline: “Children for Sale”, <http://www.msnbc.msn/id/4038249/>

In 2005, 58% of sex workers claim they were sold into prostitution against their will. In that year, there were 665 reported child sex offenses in Cambodia, resulting in 280 investigations and 397 arrests. Just over 1% of offenders were foreign nationals.⁵

One of the biggest problems facing prosecutors in Cambodia is the reluctance of victims of sex trafficking to come forward with their stories. Shame and fear deter many victims from seeking help from authorities. Most recently, Cambodia has stepped up efforts to clean up the dirty image of the sex trade by raiding brothels and arresting the prostitutes. More often than not, the actual perpetrators are never even charged or prosecuted.

Chai Hour II Hotel Trial

Defendants:

1. Ms. San Sinith (female housemate of victim) 21 years old
2. Ms. Khun Nary (female housemate of victim) 23 years old
3. Mr. Te Pao Ly (hotel owner)
4. Mr. Sam Leng (hotel manager)

Summary of Facts:

Two women and two men stand accused of sex trafficking charges in connection with the alleged sale of a 17 year old girl's virginity to an unidentified man in Phnom Penh, Cambodia. Ms. Sinith and Ms. Khun were housemates with many other women in residence at the Chai Hour II Hotel, owned by Mr. Te Pao Ly and managed by Mr. Sam Leng. At the first trial, the two female defendants admitted to the sale of the girl's virginity, but the hotel owner and the manager both deny any knowledge of the transaction. The alleged victim in this case testified at trial that she asked her housemates to sell her virginity for \$1000 because she "needed the money" to help her family.

On December 7th, 2004, police in Phnom Penh and anti-trafficking NGO "AFESIP" raided the Chai Hour II Hotel, which operated as a "karaoke bar" and "massage parlor". 83 women and girls were removed and transported to the AFESIP shelter. Seven suspects arrested during the raid were released from jail hours later by police on the orders of a powerful official. The next day, approximately 25-30 men forced open the entrance gate to the shelter and removed the females in order to return them to the Chai Hour II Hotel.

During the raid, a search of hotel owner Mr. Ly's quarters revealed a K-59 handgun. Mr. Ly contends that it was a licensed firearm obtained during his service as an RCAF intelligence officer and he simply hadn't returned the gun after returning to civilian life. Mr. Ly also contends that the search of his hotel in his absence should bar admissibility of the gun into evidence. Since he was not present in the hotel at the time of the transaction, and arrested after the raid, he maintains his innocence on all counts.

Sam Leng, hotel manager, also denies any knowledge of the suspect transaction, and originally denied pornography had been shown at the Chai Hour II Hotel. However, when faced

⁵ <http://www.cambcomm.org/ff.html>

with pornographic videotapes seized in the hotel during the raid, and asked for friends names, Sam Leng admitted to showing the videos to customers who requested to view them.

The case has already been tried in Phnom Penh Municipal Court, and was appealed by the defendants after a guilty verdict. The verdict was overturned by the higher court, and two of the defendants were released before they served their full sentence. Doubt in the global community persists regarding procedural errors made by the judge at the trial level. As a result, the case has initiated outcry in the international community. Activists for human rights who condemn sex trafficking of women and children worldwide demand justice. For purposes of the ICC mock trial at WestMUN, the Chai Hour II Hotel case has been referred to the International Criminal Court for a new trial.

Recommended Charges: Article 7 Crimes Against Humanity, under the Rome Statute:

- 7(1)(c) Crime against humanity of enslavement
- 7(1)(d) Crime against humanity of deportation or forcible transfer of population
- 7(1)(e) Crime against humanity of imprisonment or other severe deprivation of physical liberty
- 7(1)(f) Crime against humanity of torture
- 7(1)(g)-1 Crime against humanity of rape
- 7(1)(g)-2 Crime against humanity of sexual slavery
- 7(1)(g)-3 Crime against humanity of enforced prostitution
- 7(1)(g)-6 Crime against humanity of sexual violence
- 7(1)(k) Crime against humanity of other inhumane acts

Prosecution

The burden of proof lies with the prosecution. The prosecution team is expected to be familiar with all of the elements of the crimes charged, and to prove each and every element under those crimes. After researching facts readily available online, prosecution will determine which crimes under the Rome Statute to prosecute, and convey such in writing to the defense. Prosecution will argue that the International Criminal Court has jurisdiction, pursuant to Cambodia's ratification of the Rome Statute in 2002.

Defense

The defendants in this case must actively assist in their own defense. Both teams are encouraged and required to research the case online and obtain as many facts as possible to substantiate their respective cases. Defendants will take the witness stand in this case.

Note: Due to victim privacy laws, the victim in this real-life case has not been named. For purposes of the mock trial exercise, the complaining witness will be **Sina Vann**. Sina Vann is a former child prostitute rescued by the anti-trafficking group AFESIP (French acronym for "Acting for Women in Distressing Situations). AFESIP was founded and is operated by Somaly Mam, herself a former child prostitute.

Prosecution Witnesses:

Bob Mosier, Investigator for International Justice Mission
Sina Vann
Somaly Mam

Defense Witnesses:

All four defendants named in the case

*All named witnesses can be researched online using the links below, or your own independent research through Google.

Jumpstart Your Research with these LINKS:

1. <http://www.nytimes.com/2009/01/01/opinion/01kristof.html>
2. <http://www.humantrafficking.org/updates/156>
3. <http://cambodiamirror.wordpress.com/2007/02/>
4. <http://newsgroups.derkeiler.com/Archive/Soc/soc.culture.cambodia/2007-02/msg00066.html>
5. <http://lotusreads.blogspot.com/2008/10/lost-road-to-innocence-by-somaly-mam.html>
6. <http://www.humantrafficking.org/updates/33>

For information on the rules of procedures of the ICC please refer to:

Rules of Procedure and Evidence:

http://www.icc-cpi.int/NR/rdonlyres/F1E0AC1C-A3F3-4A3C-B9A7-B3E8B115E886/140164/Rules_of_procedure_and_Evidence_English.pdf

-More detailed and specific instructions on the court will follow shortly.