



Trafficking in East Timor

A Look into the Newest Nation's Sex Industry 2004

*Cathleen Caron prepared this report on behalf of the Alola Foundation Anti-trafficking for Sexual Exploitation Needs Assessment team.

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EXECUTIVE SUMMARY

Between March and June 2004, the Alola Foundation conducted an Anti-trafficking for Sexual Exploitation Needs Assessment in East Timor. The objective of this qualitative study was three-fold: 1. to analyze the situation and assess the needs of trafficking victims for sexual exploitation, 2. to uncover the scope of trafficking operations by understanding how the sex industry operates, and 3. to evaluate the political, legal, cultural, and social context of prostitution and the efforts to combat human trafficking. To achieve objectives one and two the needs assessment team surveyed 42 sex workers (women, girls, men, and boys) as a means to identify trafficked persons and their needs. In addition, the team contacted over 400 other sources to complement and confirm the data obtained from the sex workers themselves. Objective three was accomplished by interviewing over 60 persons in governmental agencies, local and international non-governmental organizations, the United Nations mission and agencies, and private individuals.

Prostitution and human trafficking for sexual exploitation have existed in East Timor for centuries. From the Portuguese colonial period (1511-1975), to the Japanese occupation during World War II (1942-1945), to the Indonesian occupation (1975-1999), there has been some form of sexual exploitation that can be considered trafficking under the international standard set forth in the 2000 "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime" ("Trafficking Protocol"). In May 2002, East Timor became the world's newest nation when the United Nations Transitional Administration in East Timor (UNTAET) transferred its interim authority to the new government.

Currently in Dili, East Timor's capital city of an estimated 150,000 persons, there are approximately 250 female sex workers from East Timor (100), Indonesia (60), China (35), Thailand (30), Philippines (20), and Australia (3). In addition, Dili has 100 East Timorese male sex workers and 10 Indonesian male sex workers. Research indicated that the sex workers in the nation's districts are exclusively East Timorese women.

Of the female sex workers in Dili, the research team concluded that a significant proportion of them have possibly been trafficked. During the study period it was challenging to identify with 100% certainty the percentage of trafficking victims from the total numbers of sex workers. For that reason, the team developed a potential trafficking percentage rating for each nationality based upon information from various sources about organizing patterns, recruitment, and working conditions. Using this reasoning the team estimates that in Dili there are a maximum of 115 potentially trafficked persons, with a nationality breakdown as follows: East Timorese (0), Indonesian (30), Chinese (35), Thai (30), Filipina (20), and Australian (0). None of the East Timorese or Indonesian men and boys or the East Timorese women in the districts appeared to have been trafficked.

East Timor is a destination country for trafficking for sexual exploitation. No evidence indicates that East Timor is a sending or transit country or that domestic trafficking exists for any form of human trafficking. Trafficking to East Timor for forced labor may also be occurring, although that issue was beyond the scope of the current study.

Under the current legal framework, facilitating prostitution and trafficking is illegal, however, self prostitution (i.e. adult sex work) is legal. Since 2002 there have been a series of anti-trafficking efforts spearheaded either by the United Nations Civil Police (UNPOL) or the national police (PNTL). None of these law enforcement efforts has resulted in a single trafficking conviction. For the most part, the women and girls uncovered in the raids have been charged with crimes and deported. In other circumstances, some women were voluntarily repatriated by international agencies. Substantial confusion exists among the law enforcement and legal communities as to the identification and rights of trafficked persons and non-coerced adult sex workers. No comprehensive anti-trafficking law exists in East Timor.

East Timor has not yet developed a multifaceted approach to prevent trafficking, although important steps are underway. The Trafficking Working Group, consisting of government representatives, United Nation officials, and international agencies formed in 2003 to discuss trafficking issues and formulate governmental action plans. Prevention law enforcement efforts have consisted of an interdiction-type policy of selectively refusing entry to suspected sex workers with practically no effort to identify and assist trafficking victims. Only limited trafficking awareness trainings have occurred.

Currently, no specialized services exist in East Timor to support persons who have been trafficked. Although some well intentioned efforts were made by local non-governmental organizations to provide services, these have been ad hoc and insufficient. No shelter exists for trafficked persons. No legal advocates are trained in the complexities of representing trafficked persons who face a plethora of legal issues including criminal, immigration, labor, and other civil issues.

The East Timorese government is increasingly prioritizing the issue of trafficking. This is an historic opportunity to develop a comprehensive anti-trafficking strategy that meets the needs of trafficked persons and law enforcement. Immediate steps should include: the development of a multi-service safe house for trafficked persons, a drop-in informational center for sex workers (as an alternative strategy to gain access to trafficked persons), and a legal service center for women with a specialized trafficking unit. The programs should be developed through a consultative participatory process that ensures active stakeholder input.

Trafficking for sexual exploitation to this island nation of 830,000 persons has not yet become a large scale challenge. To the contrary, multidimensional measures enacted now could dramatically reduce trafficking. Additional precautionary measures should be undertaken to prevent East Timor from becoming a trafficking source country in the future.

I. Introduction

Prostitution¹ is a billion dollar global industry and East Timor, like every country in the world, partakes in that commerce. In East Timor, prostitution is both embraced and condemned. Certain aspects of the commercial sex industry are legal, while others are not. While on some level it is culturally acceptable, evidenced by the ample numbers of clients, there is also consistent public condemnation. Prostitution exists in a confused netherworld of legality, illegality, acceptance and rejection. Meanwhile, the women and children are providing sexual services and men are paying for it. That is the undeniable reality.

While most people will acknowledge that prostitution exists in East Timor, little is known publicly about the industry. In 2003, prostitution made the front pages of the local papers and television news after a series of events culminated in a few highly publicized police raids on suspected brothels in Dili, the nation's capital. These cases caused substantial confusion. Suddenly, East Timorese, Indonesian, Chinese, and Thai women were being apprehended by the police and no one knew what to do next. The lack of services and legal framework made it painstakingly clear that no one knew really who these women were or why they were allegedly involved in East Timor's sex industry. Before any serious investigation could be undertaken, the women were gone: returned to their countries of origin or released in Dili. Following these events, the issue of prostitution and possible trafficking garnered substantial attention and became a central concern for many, including East Timor's First Lady, Kirsty Sword Gusmão.

To date, there have been no published studies on prostitution or trafficking of women and children for sexual exploitation in East Timor. Through the Alola Foundation, the non-governmental organization the First Lady founded in 2001 to raise awareness about the problem of sexual and gender based violence as experienced by women in East Timor, she decided to find out more about these women and their working conditions.² As a result, the United States Agency for International Development (USAID) provided funding for the Alola Foundation to conduct a needs assessment of trafficking of persons for sexual exploitation in East Timor. This report details those findings.

The objective of this study was three-fold:

1. to analyze the situation and assess the needs of trafficking victims for sexual exploitation,
2. to uncover the scope of trafficking operations by understanding how the sex industry operates, and

¹ The politics of language is a very serious issue among advocates and commentators in this area. The drafters of this report use the terminology of sex worker, prostitution, sex industry, trafficking victim, pimp, client, etc. without the intention of being derogatory to any group or individual or to legitimize a specific viewpoint. The primary purpose of this report is not to advocate for one political position over another but, rather, to inform and educate about the facts of trafficking in East Timor. It is hoped that the information generates discussion and debate to enable East Timor stakeholders to form their own opinions on the issues. For that reason, specific word usage should not be interpreted as an intentional position on the global politics surrounding trafficking for sexual exploitation.

² For more information about the Alola Foundation see Appendix A.

3. to evaluate the political, legal, cultural, and social context of prostitution and the efforts to combat human trafficking.

As a result, the Alola Foundation can make knowledgeable recommendations to the government and other interested parties on how to provide needed services to trafficking victims and what measures should be taken to combat the international crime. This was not intended to be a quantitative study rather a general, qualitative, snapshot of the current situation.

When East Timor earned full independence on May 20, 2002, it became the world's newest and also one of its poorest nations. Close to sixty five percent of the population earns less than US\$2.00 per day in this tiny island nation of 830,000 persons located just northwest of Darwin, Australia.³ Forty percent live below the national poverty line and fifty percent are illiterate.⁴ East Timor is strongly Catholic with over 90% of the population professing to be Catholic.⁵

As a new country, East Timor is faced with many priorities. The trafficking of women and children for sexual exploitation is a grave violation of human rights that can not be tolerated. Through the publication of this report, the Alola Foundation hopes to provide first hand data on the issue of human trafficking, to raise awareness about the presence of trafficking within East Timor's borders, and facilitate appropriate governmental and non-governmental responses to this affront to human dignity.

II. Methodology

Between March and June 2004, the Alola Foundation conducted the Anti-trafficking for Sexual Exploitation Needs Assessment in East Timor. The team consisted of three East Timorese researchers, one East Timorese administrative assistant, and one international consultant. The research was divided into two categories: sexworker/trafficking victim outreach and anti-trafficking evaluation. The bulk of the field research occurred over a twelve-week period.

II.A. Sex worker/Trafficking Victim Outreach

The team of three national researchers⁶ had two specific goals: to quantify trafficking victims and to identify their needs. Researching the existence and needs of trafficking victims is a complex and difficult undertaking. Since trafficking⁷ is illegal, it is by nature a subtle, hidden industry. For that reason, the team's approach was to understand how prostitution operated in East Timor first. Understanding the larger picture would, it was hoped, facilitate the identification of trafficking victims who are a subset of the industry as a whole.

³ Bidani, Benu and Kaspar Richter (2003). "Timor Leste: Poverty in a New Nation" xv, Ministry of Planning and Finance, ADB, JICA, UNDP, UNICEF and UNMISSET.

⁴ Ibid. xv.

⁵ UCAN Interview (May 2004) with Bishop Alberto Ricardo da Silva. Retrieved on September 14, 2004 from <http://etan.org/et2004/may/15-21/20church.htm>.

⁶ The three East Timorese were male. Although ideally the team would have been of mixed gender, it proved difficult to find an East Timorese woman who was willing to work at nights.

⁷ Unless otherwise indicated, all references to "trafficking" refer to trafficking for sexual exploitation only.

The team worked most nights going to local clubs, bars, karaoke bars, massage parlors, restaurants, hotels, street corners, private homes, or, any location where sex workers would potentially be found. At each establishment they attempted to quantify the sex worker presence, taking into account the sex workers' mobility between establishments during the course of one night. Additionally, information was gathered from various sources about the establishments, the organizers, the clients, and the sex workers, which complemented and confirmed the data obtained from the women themselves, the principal source of information.

After testing various methods of collecting data directly from the sex workers, the team developed a "Sex Worker Survey," a questionnaire aimed at learning, in a quick and unobtrusive manner, the circumstances of recruitment into prostitution in East Timor, the present working conditions, and their needs.⁸ The survey was designed principally to identify trafficking victims (women who have been trafficked tend not to self identify, therefore posing questions to solicit information regarding their potential status as trafficking victim was crucial).

Every sex worker is a potential trafficking victim. It is not until she⁹ reveals the facts of her situation that the legal determination can be made. Due to the difficulty of identifying a trafficking victim before an interview, it was impossible to gather information from trafficking victims exclusively. Furthermore, it would have hindered the research. The more that trust was gained through regular, non-trafficked sex workers (the women who are more accessible) the more information the team learned and was better able to focus the research on establishments that harbored potentially trafficked women. For that reason, the team explained to the survey participants that it was a sex worker, not trafficking victim, needs assessment. Although portions of the survey proved superfluous for the women who had not been trafficked, it was overall a useful tool and as a consequence the team gathered a substantial amount of information about all sex workers and their needs in East Timor, not just the trafficking victims.

The geographic focus of the research was primarily in Dili where the majority of the sex industry is concentrated. However, the team also conducted research in two districts: Maliana and Liquisa.

II.B. Anti-Trafficking Evaluation

The second part of the research was the evaluation of the prevention, prosecution, and protection mechanisms with regard to national anti-trafficking efforts. Accomplished primarily through over 60 interviews with persons in governmental agencies, local and international non-governmental organizations, the United Nation mission and agencies, and private individuals, this research proved to be much more straight-forward. Virtually every entity that had some interaction with sex workers and trafficking victims was interviewed. Secondary material was also used, although there is very little written about this topic in East Timor.

⁸ Survey is attached as Appendix B.

⁹ Unless otherwise indicated "sex workers" and "trafficking victims" etc. are assumed to be female.

III. Human Trafficking: the International Standard

Presently, the most widely accepted international standard for trafficking of persons is set forth in the 2000 “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime” (“Trafficking Protocol”). Article three defines human trafficking as the following:

“(a) ‘Trafficking in Persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) ‘Child’ shall mean any person under eighteen years of age.”

No precise statistics exist as to the numbers of persons who are victims of all forms of human trafficking per year, let alone victims of trafficking for sexual exploitation. Estimates from various non-governmental agencies and governmental sources vary greatly from 700,000 to 2 million per year.¹⁰ Principally, two reasons cause the trafficking estimates to vary so greatly: the difficulty in quantifying an illegal activity and the manner of defining trafficking, i.e. the more broadly the definition is interpreted the more persons are considered to be victims of trafficking and visa versa.

Some commentators argue that prostitution is, by definition, exploitation and therefore all persons in prostitution are trafficking victims. For two reasons this report is drafted on the opposing premise that not all women in prostitution are trafficking victims. First, the Trafficking Protocol’s drafters intentionally left “exploitation” undefined so that countries that legally allow prostitution could sign the Protocol without prejudicing their domestic laws.¹¹ This statement

¹⁰ UNESCO Bangkok’s Trafficking Statistic Project is currently analyzing the varied statistics and methodology to develop more precise numbers see: www.unescobkk.org/culture/trafficking.

¹¹ Jordan, Ann D. (2002). “Annotated Guide to the Complete UN Trafficking Protocol” 8, International Human Rights Law Group. Retrieved on October 7, 2003 from www.hrlawgroup.org (now www.globalrights.org). Also

inherently implies that not all women in prostitution have been trafficked otherwise it would be a legal impossibility. Second, distinguishing women who have been trafficked as a sub-group of sex workers facilitates the identification of the particular needs and issues these women face.

In human trafficking, countries are usually classified as “source,” “destination,” or “transit” nations; in other words persons are respectively taken from, sent to, or passed through a particular country. The persons who cause someone to be trafficked, the “traffickers,” are not necessarily persons unknown to the victim. They can just as easily be friends or family knowingly or not placing the victim into a trafficking situation. Although the classic image of a trafficking victim is one who is tricked and sold into a big city brothel, the definition encompasses a much broader range of exploitation and circumstances. One such example is that trafficking is not confined to peacetime or financial gain.

Examples of human trafficking can be seen throughout East Timor's history. Examining the historical underpinnings reveals that while trafficking in its present form may be unique, it is not new. Over the years the type of victims and methods may have changed but there is one truth throughout: women have been brutalized by sex trafficking in East Timor for a very long time.

IV. Historical Summary of Trafficking of Women and Children for Sexual Exploitation in East Timor

Prostitution and trafficking are not recent phenomena in East Timor. During the limited research period, the team did not uncover any systematic historical study concerning the sex industry and trafficking. The following is a brief summary of different historical periods. Due to the lack of written information, the majority of the information was collected through oral interviews with persons who have first hand information about the sex industry during that time period. This is far from a definitive historical study on trafficking. To the contrary, it is hoped that this anecdotal evidence will spark additional research into this undocumented piece of East Timor's history.¹² While the data collected is not sufficient to draw definitive conclusions about the historical presence of trafficking, it is certainly enough to strongly suggest that indeed it did occur. The summary also reveals that recent events are not to blame entirely for the sex industry's current state. Rather, the sex industry and the exploitation of women, fueled by East Timorese and foreign men alike, have both existed in East Timor for centuries.

IV.A. Portuguese Occupation (1511-1975)

Information gathered regarding the Portuguese colonization period mostly related to the later years of occupation. Depending on the factual scenario, many women in various forms of prostitution during this time may also have been trafficked.

includes the UN Interpretative notes and describes the debate at the drafting conferences on the issue of whether all sex workers are trafficking victims and its legal significance.

¹² Although the team uncovered some limited information that trafficking for forced labor had also occurred, further investigation was simply beyond the scope of the current study. It is hoped that the historical issue of trafficking for forced labor will be explored at some point.

In Dili, the nation's capital, "pimps,"¹³ or prostitution facilitators controlled the sex industry, selling women for sexual services from small brothels littered throughout the city's neighborhoods as well as restaurants and bars. The clients were mostly Portuguese soldiers and businessmen as well as East Timorese and Chinese, most likely Chinese-Timorese. Besides scant anecdotal information that women were brought to East Timor from other Portuguese colonies such as Mozambique, Angola, and Guinea Bissau to serve in brothels, which would suggest a high likelihood of trafficking, the team uncovered no concrete information regarding East Timor as a destination country for trafficking victims.

There is, however, evidence of domestic trafficking. One current day pimp recounted how he recruited minor girls in the districts such as Baucau and Viqueque. Ensuring the parents that he would find them jobs as domestic servants in foreigners' homes he would then transport the girls to work as prostitutes in his brothel.

In the districts, additional anecdotal examples of domestic trafficking exist. Allegedly in order to maintain positive relations with the Portuguese occupiers, local village chiefs offered the sexual services of local girls to important government, army and police officials. These girls were purportedly recruited and then kept available for these visitors. It has also been said that some Liurai, the East Timorese traditional rulers, had a system to select local girls to provide sexual services to visiting Liurai or Portuguese officials.

Finally, some women entered into "local contracts" with foreigners, mostly Portuguese military members. These women were akin to paid domestic servants but also provided sexual services over a long period of time. Other sources suggest that when the foreigner left, the woman remained in the home and served the next resident. If the women were coerced into this exploitative situation, this can also be considered domestic trafficking.

IV.B. Japanese Occupation (1942-1945)

During the Japanese occupation of East Timor during World War II, reportedly 60,000 East Timorese lost their lives.¹⁴ Japanese military forces enslaved East Timorese women, as well as other women in occupied territories throughout the region, as "comfort women" or sexual slaves. Although the phenomenon has been well documented in the other countries, little research on East Timor is available. Some estimate that 700 women were forced into sexual slavery during this time.¹⁵ Japanese or East Timorese collaborators lured or abducted women and girls throughout East Timor into military brothels where they were forced to sexually serve soldiers, as one victim recalled, up to ten times a night. While this phenomenon is better known as sexual slavery or rape it is also an example of domestic trafficking.¹⁶ Purportedly, the brothels in the city continued in operation during this time.

¹³ "Pimp" is used for lack of a better word to mean a person who organizes and profits from facilitating prostitution.

¹⁴ United Nations Development Program (2002). "East Timor Human Development Report 2002" 70.

¹⁵ Shimoyachi, Nao (December 14, 2002). "East Timorese recalls wartime sex-slave experience" The Japan Times. Attached as Appendix C.

¹⁶ Domestic trafficking may not be the most obvious, or perhaps ultimately even the most useful description of the specific act. Multiple definitions of a single act, however, should not diminish the inhumanity of it; rather it should underscore the multiple ways women are exploited.

IV.C. Indonesian Occupation (1975-1999)

In 1975, the Indonesian military invaded East Timor beginning a twenty-four year long occupation costing up 200,000 East Timorese lives.¹⁷ During this period, sexual exploitation of women occurred in many forms, some of which can also be considered domestic trafficking.

In order to control the sex industry, it was concentrated exclusively into brothels in a policy known in Indonesian as “lokalisasi” or literally, localization. “Malvinas,” “Asgor,” and “Caicoli” were the names of some of the better known brothels during this period. Although it is known that Indonesian women were transported to East Timor to work in these brothels it is not known whether these women were trafficked. Similarly, East Timorese women worked in the brothels, but it is uncertain whether some were domestic trafficking victims.

Forced marriage, another institution that can be a forum for trafficking, also occurred during this time period. East Timorese women were forced to marry Indonesian military members in order to protect other village women and girls from rape. This extreme sacrifice constitutes trafficking because the women were recruited and coerced so that another person could achieve control over them for the purpose of exploitation. One survivor who was forced to enter three marriages with Indonesian military members recalled telling her friend who was pressuring her to agree to the second marriage:¹⁸ “Ok. I’ll cut myself in half. The lower half I’ll give to him, but the upper half is for my land, the land of Timor.”¹⁹ The women forced into these arrangements later became known as “TNI wives.”²⁰

Other women and girls were simply abducted and later forced into marriages. Perhaps the most famous “TNI wife” is Juliana dos Santos, also known as “Alola,” the Alola Foundation’s namesake. In September 1999, a militia leader abducted Alola, aged 16, during a massacre at the church in Suai, East Timor and took her over the border into West Timor and forced her to become his second wife.²¹ Despite a campaign for her release, which included East Timor’s First Lady, Kirsty Sword Gusmão accompanying the family to petition the United Nations Human Rights Commission in Geneva to intervene, Alola continues to this date under his control and has borne him two children. There are a handful of documented cases of international trafficking like Alola’s.

IV.D. Arrival of the United Nations and Independence (1999-present)

A new era began when the East Timorese voted overwhelming in favor of independence from Indonesia through a United Nation’s sponsored referendum in August 1999. That transition also marked the arrival of a large United Nations presence, which continues to the present day. While undoubtedly the international presence has helped stabilize the fledgling nation it has also

¹⁷ United Nations Development Program (2002). “East Timor Human Development Report 2002” 71.

¹⁸ It is important to note that traditionally in East Timor when a man and woman live together they are considered married even though they have not had a civil or religious ceremony to formalize the arrangement.

¹⁹ CAVR Public Hearing on Woman and Conflict, Dili, 28-29 April, 2003. p.14 testimony of Beatriz Miranda Guterres.

²⁰ TNI stands for “Tentara Nasional Indonesia” the name of the Indonesian military after 1999.

²¹ Sword Gusmão, Kirsty (2003). “A Woman of Independence” 308 Macmillian, Australia.

presented new challenges. The sheer personnel numbers alone offer some insight into the dramatic impact on this small island nation of just over 800,000 and its sex industry. What follows is a brief summary of the various missions and their staffing numbers.²²

United Nations Mission in East Timor (UNAMET) (June 1999-October 1999).

The first mission's mandate was to carry out the independence referendum. The deployment called for 242 civilians, 271 civilian police, and 50 military observers for a total of 563 persons.²³

International Force in East Timor (Interfet) (September 1999-February 2000).

The United Nations Security Council authorized this multinational force to restore security and protect the United Nations' mission from the Indonesian backed militia violence that engulfed East Timor after the vote for independence. Australia led this effort with 4,500 troops.²⁴

United Nations Transitional Administration in East Timor (UNTAET) (Oct. 1999-May 2002).

UNTAET had overall responsibility for the administration of East Timor and was empowered to exercise all legislative and executive authority, including the administration of justice and support capacity building for self-government during the transition period to independence. The mission authorized a maximum strength of 9,150 military, 1,640 civilian police, and 506 civilian personnel.²⁵ In March 2002, the mission stood at 7,687 total uniformed personnel, (6,281 troops, 1,288 civilian police, and 118 military observers) as well as 737 international civilian personnel. During the UNTAET period there were as many as 11,296 military and civilian personnel in East Timor.²⁶

United Nations Mission of Support in East Timor (UNMISSET) (May 2002-present).

UNMISSET's mandate was to provide assistance to the East Timorese authorities until they were ready to assume all operational responsibilities. The mission called for a maximum strength of 5,000 military troops, including 120 military observers; 1,250 civilian police; 455 international civilian staff; 100 experts for the Civilian Support Group; and 241 United Nations Volunteers. The total allowable international presence was 7,046 persons.²⁷ From the initial 7,000, the staffing numbers have dropped, as anticipated, slowly and steadily as the transition progresses, with the ultimate end being the mission's withdrawal, currently scheduled for May 2005. As of May 2004, for example, UNMISSET consisted of 1,738 total uniformed personnel, (including 1,549 troops, 60 military observers, and 129 civilian police) supported by 265 international civilian staff.²⁸

²² Although no data on gender is readily available, it can be presumed that the vast majority of military personnel were men.

²³ United Nations (1999). "UNAMET Fact Sheet." Retrieved on August 10, 2004 from http://www.un.org/peace/etimor99/Fact_frame.htm.

²⁴ Australian Government Department of Defense. "Australia's Role in Interfet" Retrieved on August 10, 2004 from [http://pandora.nla.gov.au/parchive/1999/S1999-Nov-19/easttimor.defence.gov.au/Extra/1/322228\(2\).html](http://pandora.nla.gov.au/parchive/1999/S1999-Nov-19/easttimor.defence.gov.au/Extra/1/322228(2).html)

²⁵ UNTAET Press Office (2002) "UNTAET Fact Sheet 2" Retrieved on August 10, 2004 from <http://www.un.org/peace/etimor/fact/fs2.PDF>.

²⁶ United Nations (2002). "UNTAET- Facts and Figures" Retrieved on August 10, 2004 from <http://www.un.org/peace/etimor/UntaetF.htm>

²⁷ United Nations (2004). "East Timor-UNMISSET-Facts and Figures." Retrieved on July 7, 2004 from <http://www.un.org/Depts/dpko/missions/unmisset/facts.html>.

²⁸ Ibid.

The conclusion of UNMISSET will not mark the end of international presence. Foreign persons working for United Nations agencies and international and local non-governmental agencies, as well as business persons and the occasional tourists will remain, although their numbers are less significant than the United Nation missions.²⁹ Foreigner male presence, and their influence on the sex industry, is something that East Timor must continue to contend with for many years to come. One must not lose sight, however, that one clientele has remained consistent throughout the country's tumultuous history: East Timorese men.

V. Snapshot of Prostitution and Trafficking in East Timor Today³⁰

V.A. Introduction

This section describes the East Timorese sex industry as the Anti-trafficking Needs Assessment team found it between March and June 2004. It was a period of UNMISSET downsizing, however, the mission's numbers still reached approximately 2,000, the majority being uniformed personnel. It is a snapshot of who the women are, where they come from, their needs, how they are brought here, and in general how the sex industry operated in East Timor for this specific moment in time.

V.B. Summary of Research

Only by understanding how the sex industry and trafficking operates generally in East Timor can programs be successfully designed to aid its victims. The needs assessment relied on two forms of information collection. First, the team conducted formal surveys that it designed at the project's outset to facilitate the documentation of the information shared with them by the women.³¹ The team conducted a total of 38 surveys with East Timorese (21), Indonesian (16), and Thai (1) women and girls.³² The survey results offer an important insight into these women's lives.

Second, during the investigation, more than 400 other sources informally provided the outreach team with information about the sex industry. Persons such as bartenders, waiters, taxi drivers, pimps, clients, hotel managers, hotel owners, bar managers, police, and sex workers themselves provided bits of information crucial to understanding the industry's organization. These sources, that must remain anonymous for their own protection, complemented and confirmed the information gathered in the surveys while also providing needed information about women we could not reach.

²⁹ As of May 2004, no numbers were available from the East Timor Migration Department on the numbers of foreigners living in East Timor.

³⁰ This report focuses on the trafficking of women and children for sexual exploitation. Other forms of trafficking were formally outside the scope of the study, although some useful information was collected and is discussed in section VI.

³¹ Attached as Appendix A.

³² No surveys were completed with Chinese, Filipina, or Australian women and girls for reasons articulated in each nationality section.

Based on the above sources, the team concluded that currently East Timor has an approximate total of 250 sex workers from: East Timor (100), Indonesia (60), China (35), Thailand (30), Philippines (20), and Australia (3).³³ East Timor is a destination country for trafficking victims of sexual exploitation. No evidence indicates that East Timor is a sending (East Timorese persons being trafficked out of the country), or transit country, (persons being passed through the country on route to other destinations), or that domestic trafficking exists (trafficking of East Timorese within the national borders). Foreign sex workers are concentrated in Dili, the nation's capital of approximately 150,000 persons.³⁴ In the districts, research indicates that the women in sex work are exclusively East Timorese.

V.B.1. Trafficking for Sexual Exploitation

Classifying a situation as one of trafficking is a fact-intensive case by case determination. In the same establishment some of the women may be trafficking victims and others not. Considering the small size of the sex industry, the team initially thought it would be possible to speak with all suspected trafficking victims. While this proactive style was ambitious it proved too difficult to achieve during the twelve-week investigation period.

By definition, trafficking victims are the sex workers with less freedom and are difficult to access in a confidential manner. Due to their precarious situations (the team usually interviewed them at their work places) and with no safe place available to them it was difficult, more difficult than anticipated, to quantify with 100% certainty whether a woman had been trafficked. Another obstacle was that the team did not offer these women anything for revealing the reality of their situations. The team spoke of promises of future services but had no immediate benefit to provide the women. Trust was the only means, and only time allows for that.

As an alternative, the team developed a potential trafficking percentage for each nationality. The trafficking victim estimates, as noted in each nationality section, are based upon the organizing patterns, recruitment, and work conditions as described by the women and other sources. For example, when women are recruited, as opposed to arriving independently, into the East Timorese sex industry, there is a much higher likelihood that the conditions are not what they were promised, resulting in a likely trafficking situation under international law. Under the Trafficking Protocol, three basic elements must be met for an adult sex worker to be classified as a trafficking victim. She must have been subject to a form of: (1) recruitment, (2) coercion (3) and control by a person for the purpose of exploitation.³⁵ As will be shown not all sex workers in East Timor are trafficking victims; in fact most are not.

V.B.2. Locations of Sex Worker Activity

In Indonesian times, prostitution was concentrated in controlled brothels; this is no longer the situation in East Timor today. What changed with the United Nations missions' arrival was the

³³ There was no evidence of women from other countries involved in sex work during the investigation period. (In 2003, there were cases of Vietnamese trafficked women. See Appendix D for details)

³⁴ Suara Timor Lorosae (September 15, 2004). "Penduduk TL naik 17,4 persen"

³⁵ See entire definition in section III. The three points are a simplified version of the trafficking elements. For a complete breakdown of the trafficking legal elements see Rosenberg, Ruth ed. (2003) "Trafficking of Women and Children in Indonesia" 15, International Catholic Migration Commission and American Center for Labor Solidarity. Retrieved on March 8, 2004 from www.icmc.net.

diversity in prostitution venues and the women's nationalities. Most notably, Thai women, massage parlors and karaoke clubs came onto the scene. This is not to say that the United Nations is at fault or was directly involved in these changes in the sex industry, rather, when the demand changes, the organizers adjust the supply to adapt to the new situation.

During the time period studied, prostitution or prostitution-related activities (primarily soliciting clients) occurred in the following types of places in Dili: brothels, bars, karaoke clubs, discotheques, massage parlors, and on the streets. Interestingly, 50% of the establishments have a mixed nationality sex worker environment while the other 50% are exclusive to one nationality.

Brothels. The legal definition of a brothel varies by country but usually refers to the premises where prostitution occurs. The brothels are not the controlled, concentrated brothels of Indonesian times, but decentralized and scattered in private homes throughout the city. East Timorese and Indonesian women work in the city brothels. Some brothels have women living and working fulltime and the pimps retain a percentage of the earnings. In others, the sex workers just stay for a few hours to work but live elsewhere or simply rent rooms by the week or month.³⁶ Anecdotal evidence also suggests that brothels exist near some of the nation's military bases.

Karaoke. Dili karaoke bars offer music videos which customers can sing along with prompted by the lyrics that flash on the screen. Except for the bars that only have karaoke as side entertainment, these establishments employ women as karaoke singers. In almost every one of these clubs, a customer can sing in the public bar area, or pay extra to go to a private room for his own personal karaoke. For additional money, the clubs employ women to accompany clients to the private room to sing with them or, if paid a little extra, have sexual relations. The staff karaoke singers/sex workers in these clubs are Chinese and Indonesian.

Massage parlors. Most massage parlors in Dili also double as places of prostitution. Sex workers in these establishments are primarily Thai, Chinese, and Indonesian.

Bars and discos. Sex workers go to bars and discos to meet potential clients. Some of these establishments also have, discreetly, rooms that they rent for the sex services. All sex worker nationalities, except Chinese women, go to bars and discos.

Call-Ins.³⁷ This describes the action when the pimp or a client directly contacts the sex worker (usually through a telephone call) to make arrangements for sexual services. All sex worker nationalities operate through this form.

Streets. Several street corners or roads are home to sex workers looking for passing clients. In most of these locations you will not find sex workers seven days a week. They usually work a few nights a week. Only East Timorese sex workers work the streets.

³⁶ The trend in Dili is for the pimp to charge room rental and not directly retain earnings from the sexual act. This is a creative, yet doubtful, way to avoid violating the pimping law.

³⁷ The team developed this descriptive term.

V.B.3. Forms of Sex Work Activity

Sex work is not confined to brief sexual transactions. The team investigated the following forms of sex work in East Timor.

“Local Contracts.”³⁸ These are unofficial contracts that sex workers enter into with clients to provide sexual services for months or sometimes years.

“Escorted Vacations.” Some sex workers are hired to accompany clients on vacations.

“United Nations sex workers.”³⁹ Although there are rumors, no evidence indicated that any sex workers in East Timor have been following United Nations’ missions around the globe, i.e. “mission hopping.”

Sex Tourism. There is no evidence that East Timor has visitors whose primary intention is to have sex with prostitutes.

“Virginal Sex.” The team uncovered no evidence that sex with a virgin is a sought after commodity. Fortunately, this practice does not seem to be occurring to date in East Timor.

V.B.4. Clients

Finally, generalities about the East Timorese sex industry must not exclude its impetus: the clients. Without men there would be no prostitution. Although a detailed investigation of the clients was beyond the scope of the current assessment, it is an area that merits study. If one focuses only on the supply without understanding the demand, the sex industry will never be fully understood and its continued existence, in some form or another, will be assured.

Sex workers of all nationalities have clients from a multitude of nations. For example, East Timorese and Thai sex workers have both Portuguese, Australian, and East Timorese clients. The Thai and Chinese men do seem to prefer sex workers of their own country but never to the total exclusion of other nationalities. Similarly, East Timorese men have a diverse portfolio when it comes to choosing the nationality of their sex providers.

V.B.5. Sex Worker Trends

From the surveys and other sources, certain trends stand out as common to sex workers of all nationalities working in East Timor. Foreigners come to do sex work in East Timor because they believe they can earn more money than they do in their countries of origin. Earning United States dollars, the nation’s official currency, is an attraction. First, sex work pays better, in real terms, in East Timor. Second, there is a certain prestige and security in being paid in United States dollars. These two facts were repeated over and over again by the foreign sex workers.

The foreign women, all of whom have been recruited from their country of origin, know their destination is East Timor when they begin transit. No one the team had contact with was recruited or independently arrived from a third country. Once they arrive in East Timor, the foreign sex workers, with the exception of the Indonesians, live largely isolated from East

³⁸ The team developed this descriptive term.

³⁹ The team developed this descriptive term.

Timorese society. The sex workers are discouraged from associating with East Timorese, either through direct limitations on their freedom of movement or warnings that Dili is too dangerous to venture out. None of the foreign women the team spoke to knew any of the local languages. Several of them said that they came to East Timor on a temporary basis to make money and were simply not interested in integrating into East Timorese society. Whether this is just a reflection of a perceived East Timorese rejection of them and their profession is unclear. Regardless, this segregation makes the foreign sex workers even more vulnerable to exploitation.

For the vast majority of sex workers, sex work is a fulltime job. Only a few Indonesians and East Timorese do it to supplement other sources of income. Almost all have children to support; the foreigners having often left the children behind in their home countries.

There are, of course, differences among the nationalities and the individual sex workers. The following section attempts to highlight some of the trends particular to each nationality.

V.C. Sex Workers in Dili, East Timor by Nationality

Nationality	No. of Female Sex Workers in Dili	No. of Potential Trafficking Victims in Dili
East Timorese	100	0
Indonesian	60	30
Chinese	35	35
Thai	30	30
Filipina	20	20
Australian	3	0
Total	248	115

V.C.1 East Timorese Sex Workers

East Timorese Female Sex Workers in Dili: 110	Potential Trafficking Victims: Few if any
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V.C.1.a. East Timorese Sex Worker Demographics

The majority of sex workers in Dili are from East Timor, approximately 100. The team surveyed 16 of these East Timorese women and girls, who ranged in age from 14 to 34 years, with a total of five minors. Six of them started sex work at the age of 14. The average age to begin sex work in the surveyed group was 17 years. The highest level of education varied from no schooling at all, to two women who had dropped out of university. Only seven out of the 16 originated from Dili, yet all of them began sex work in Dili.

<u>Surveyed East Timorese Female Sex Workers in Dili</u>	
No. of surveys	16
Age Range of Surveyed Females	14-34
Average Age to Begin Sex Work	17

The East Timorese women work in brothels and on the streets. Some work through pimps all the time, some part time, and others work independently. They go to bars and discos looking for clients. They may use one of the back rooms of the local clubs when they pick up a client at a bar. Sometimes they work as “call-ins” meaning that they respond to a call from either the pimp or a client for sex. Others go to parties or to the beach on the weekends looking to pick up clients. Three surveyed women mentioned that clients have taken them overseas to accompany them on vacations.

One sex worker woman described her “local contract” arrangement with an Australian man. For more than one year now he pays her rent, provides her food, clothing, jewelry and helps her with the expenses of her three children. The man visits her for sexual services usually three times per week. Sometimes she still solicits clients on the side for extra money.

The prices the East Timorese women and girls charge for sex services varies. For a “short time” meaning one sexual act, it ranges from US\$5-20 for the regular sex workers and US\$50-200 for the more elite workers. For “long time” meaning an entire night, the prices vary from US\$20-30 to US\$400-850.

V.C.1.b. Entrance into Sex Work

The vast majority of the East Timorese females surveyed entered sex work after living through a trauma that changed their lives. The adult women entered sex work to sustain their families (almost all had children) after their husbands abandoned them either through divorce or international migration for employment. Five persons who started sex work as minors cited rape as the catalyst for their entrance into the sex trade. In East Timor, a girl who loses her virginity has compromised marriage prospects. Several girls discussed their loss of self-esteem after losing their virginity to boyfriends who then abandoned them. One 17 year old said that after becoming pregnant her boyfriend would not recognize the child and left her telling her that she was not a virgin anymore; she “felt broken and hurt.” At age 14 she started sex work. Two other women who also by age 14 entered sex work did so after being raped by their boyfriends. One was only 12 when raped by the boyfriend who had promised to marry her. Her parents chased her from her home and now at age 18 she is a single mother of two. A 16 year old recalled how she was a victim of incest after her father sent her to live with an uncle in Dili in order to study. “One day my uncle raped me and he continually did the same thing.” Threatening to kill her and tell the aunt that she stole money, the girl did not tell anyone about the abuse until “one day my aunty caught us in the act and she chased me out of the house.” Finally, one 14 year old said that the pivotal reason for eventually becoming a sex worker was her rape by construction workers.

Out of the 16, only two East Timorese sex workers surveyed said that they began prostitution to have fun and make easy money. One of them learned, along with her cousin, from her mother and aunt who were already in the profession. Overall, however, the women became sex workers out of economic necessity or the loss of self-esteem related to the abandonment of boyfriends after losing virginity or being raped.

V.C.1.c. Trafficking

None of the East Timorese sex workers appear to be trafficking victims. With the exception of one, all the women surveyed were recruited by friends, family, or classmates who were already

in the business in Dili. None of the East Timorese revealed evidence of coercive recruitment, an element in determining if an adult has been trafficked. Similarly, none of the women surveyed were in debt related to sex work, felt that their freedom was restricted at any time, or had relinquished control over their identity documents, all facts indicative of a possible exploitative situation, the third trafficking factor. Although some of the East Timorese women worked in brothels, there was no evidence that any are forced to serve clients or held against their will, rather they had the freedom to come and go as they wished; again factors that indicate that these are un-coerced adult sex workers, not trafficking victims.

Sex workers who are minors deserve special scrutiny. Under the Trafficking Protocol, the coercive element does not apply to minors; that is, the recruitment of a child for the purposes of exploitation is considered to be trafficking regardless of the means used to recruit the child (e.g. coercion, deception, etc.). If these minors truly worked for themselves, as they claimed they did, then they are not trafficking victims.⁴⁰ If however, they worked under the exploitative control of a third party, whether a family member or pimp, then they would be trafficking victims. Without these details it would be premature to definitively state that none of the surveyed girls was a trafficking victim.

V.C.1.d. Future

For the East Timorese sex workers, prostitution is their means of economic livelihood. Most believe they are earning sufficient money. Many talk about their children and the hope to save money to, as one sex worker mother noted, “try to build a better new life which is important for my children.” One minor wanted to return to her studies “but I don’t have money so I think I just keep working and if I have enough money I might go back to school, but I doubt I can go back.”

The majority said that they would leave sex work if they could find alternative employment; however, most fear that they are not skilled to do other work. One 18 year old described her desire to leave sex work “because sex work for East Timorese is a scandal and is a shame for family and society.”

V.C.2. Indonesian Sex Workers

Indonesian Female Sex Workers in Dili: 60	Potential Trafficking Victims: 50%
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V.C.2.a. Indonesian Sex Worker Demographics

Out of the 60 sex workers in Dili, the team surveyed 16 women, none of them minors. All except two were sex workers in Indonesia before arriving in Dili.⁴¹ One of the two started after her husband in Dili divorced her leaving her with one child to support, and the other an 18 year old, started after having sex with her boyfriend who then left her. The surveyed group tended to have reached a higher level of education and was, on average, older than their East Timorese counterparts.

⁴⁰ Sex with minors, regardless of consent, is statutory rape. For that reason the child sex workers although perhaps not trafficked persons are still rape victims.

⁴¹ One Indonesian sex worker did not state where she started.

<u>Surveyed Female Indonesian Sex Workers in Dili</u>	
No. of surveys	16
Age Range of Surveyed Females	18-39
Average Age to Begin Sex Work	20

Indonesian sex workers in Dili work independently and through pimps in brothels and karaoke bars. They also do call-ins, and can be found in bars and clubs looking for clients. Working along side East Timorese sex workers comes easily for Indonesian women, most probably due to common language (Indonesian⁴²) and geography (many of the Indonesian women come from the other half of the island, West Timor). The surveyed women relied on sex work as their sole employment, with the exception of two who work to supplement their income earned from a restaurant.

Various sources indicate that Indonesian sex workers charge US\$25-50 for a “short time” and US\$50-100 for all night, or “long time.” The workers surveyed said that they usually charged US\$50 for sex work. One woman claimed to charge different prices for locals (US\$25-30) and foreigners (US\$50-100), but most ask for a set price regardless of nationality.

The reasons the Indonesians go into sex work are the same as the East Timorese. The women are in financially precarious situations and, for the unmarried women, there is a feeling of shame associated with the loss of virginity to a boyfriend who later abandons them. Five women surveyed began sex work after their husbands left them. Three women started sex work at 18 or 19 after their boyfriends left them, and one at age 18 after both her parents died. One woman from East Java escaped from a forced marriage and soon after became a sex worker in Indonesia at the age of 18. The average age for the surveyed Indonesian sex workers to enter the sex industry was 20.

V.C.2.b. Trafficking

Indonesian women end up in East Timor's sex industry via two principal routes. First, they come by land from West Timor either independently or recruited by East Timorese-based pimps (either East Timorese or Indonesian). Second, East Timorese men conduct recruiting trips to various parts of Indonesia, promising women jobs, and then flying them to Dili. Sources indicate that between four and six Indonesian pimps operate in Dili.

Kupang, the capital of Indonesia's West Timor, is a sending and transit city for the sex industry. Five women surveyed were originally from Kupang. Others explained that they had arrived from other parts of Indonesia and worked in Kupang, some for years, before going to East Timor. From Kupang, some women go to East Timor independently to join friends already in prostitution in Dili. Others are recruited by Dili-based East Timorese and Indonesian businessmen and pimps who then arrange their travel to Dili. Finally, some of the pimps recruiting from other parts of Indonesia bring the women into East Timor via Kupang.

The Indonesian women who arrived independently to Dili from West Timor are not trafficking victims. Friends already working in the sex industry in Dili encouraged them to come, telling them could make good money in Dili as sex workers. None of these women are in debt to a

⁴² Under the Indonesian occupation East Timor's official language was Indonesian.

pimp. Many of these women have children that they left behind. They make regular visits to see their children and drop off money. All had control over their passports and either processed their own visa extensions through the East Timorese Migration Department or traveled to West Timor to renew them.⁴³

Sex workers who are recruited to work in East Timor have a higher likelihood of being trafficking victims because the reality is often not what was promised. Pimps or businessmen (the women use one or the other) recruited five of the Indonesian women surveyed. Two from Kupang and the one from Bali were recruited for sex work and are possibly trafficking victims. The recruiters promised that they would earn high wages from sex work in Dili. The East Timorese male recruiter (different recruiters on separate trips) went to Kupang to arrange for passports and travel arrangements and then traveled with the women by land to Dili and handled immigration at the West/East Timor border. Once in Dili, the women seem to be fairly independent although one of the “businessmen,” retains the passport of one woman for immigration purposes despite her discomfort with that arrangement. The woman from Bali arrived more independently, having the recruiters wait for her at the Dili airport. They helped her find a house, and she must provide them free sex on demand (as does one of the Kupang recruits) in return for their recruitment assistance. Certain facts in each scenario are exploitative and suggest that these women may have been trafficked. For example, having no control over the passport secures the holder’s control over the woman; she is not free to leave the country, or even seek assistance from her embassy if needed. Likewise, the demand for free sex is an example of control for exploitation. These facts are indicative of possible trafficking situations.

The two women surveyed who were recruited in Jakarta are trafficking victims. An East Timorese businessman offered them US\$100-200 per month for a cleaning job in the hotel and restaurant he owned in Dili. The only condition was that they had to work for him for one year, a condition to which they agreed because “who would want to refuse” the promise of a good job with a high salary. He arranged for their travel and paid for all related expenses. The two women flew to Kupang and then traveled to the West Timor/East Timor border where the man waited for them and handled the immigration authorities. After one month of cleaning, he began pimping the girls out to his guests. Soon they were, and continue to be, fulltime sex workers. The man arranges all their sex work, paying them US\$50 for each client, and sometimes obligates them to provide sexual services for free for his business clients. One described her fear that the man “will get angry if something goes wrong or if he hears a bad story about us.” They consume “alcohol and ecstasy because it is one of the needs in our life.” Clients, typically East Timorese, Australian, and Chinese, usually do not wear condoms, and one of the women said only one of her clients does. The women live in one of the man’s homes with two guards. They are not allowed to leave the house unaccompanied, and one would not even attempt to violate that rule “because the man will get mad at me.” To make a telephone call to anyone except a relative requires his prior permission. He keeps the passports, insisting that it is necessary for immigration purposes. Despite the circumstances, one of the women said she wants to save more money and does not want to leave the situation now. Regardless of purported consent,

⁴³ See section VII.D for information on foreign sex workers’ immigration status.

these women are trafficking victims: they were recruited under false circumstances and are now exploited and controlled in various ways as sex workers.⁴⁴

Other examples of exploitative situations came from second hand sources. One Indonesian sex worker was angry with her pimp for forcing her to take clients for free. She did not feel able to refuse because the pimp threatened to send her back to Indonesia if she resisted. Moreover, she also is in debt to the pimp and is scared of losing her only source of income with which she supports her three children whom she left behind in Indonesia. It is likely that this woman is trafficked because she is being held in the prostitution (harbored) by the threat of deportation (coercion) and continuously exploited. A sympathetic pimp recalled the terrifying story of a Kupang sex worker who sold her 14 year old cousin's virginity for US\$100 in Kupang then took her to Dili and pimped her out, apparently against her will, for ten days collecting US\$1400. The girl was given US\$400 of the total before becoming so sick that her cousin took her back to Kupang for medical treatment. If these facts are true, the girl is certainly a trafficking victim because she was abducted and maintained in sexual exploitation.

V.C.2.c. Future

Overall, most of the Indonesian women surveyed, once in the sex work, reported to be doing and earning as expected. Similarly to the East Timorese women surveyed, the Indonesian women want to provide for their families and, for now, sex work is allowing for that although some would leave if presented with viable options. The Indonesian sex workers' dreams, as one expressed it, are strikingly commonplace: "To have a simple and quiet life, have a peaceful family life with my two kids and have a good husband who loves me."

V.C.3. Chinese Sex Workers

Chinese Female Sex Workers in Dili: 35	Potential Trafficking Victims: 100%
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V.C.3.a. Chinese Sex Worker Demographics

Approximately 35 sex workers from mainland China are in Dili. The Chinese do not operate like the other sex workers who frequent bars and clubs to solicit clients. Working in massage parlors, karaoke clubs, and as call-ins through pimps, Chinese sex workers work under controlled environments, out of the public view. The team uncovered no evidence to suggest that any Chinese sex workers operate independently. Most of the establishments with Chinese sex workers do not have sex workers of other nationalities. Prices vary for sex from US\$50-70 for a one time sexual transaction to US\$100 for "long time" or overnight. Although the clients are mostly Chinese nationals and local Chinese-Timorese, the sex workers also service other nationalities such as Indonesian and Australian men.

It is uncertain when East Timor first became a destination country for Chinese sex workers. In the 1590s the Portuguese brought to East Timor the first Chinese workers to log sandalwood trees. By the 1800s a permanent Chinese immigrant community, originating from China's Guangdong province, was established on the island. Today, an estimated 1,500-2,000 Chinese

⁴⁴ Under the Trafficking Protocol consent to the intended exploitation is irrelevant where any of the means (such as coercion) have been used.

descendants reside in East Timor, mostly concentrated in Dili.⁴⁵ Considering the current interest of Chinese-Timorese in mainland Chinese sex workers, it would be surprising if this demand were a recent phenomenon.

For several reasons, the team was unable to conduct any surveys with Chinese sex workers. The women speak various Chinese languages and if they speak English at all, it is limited. Working with the hired Timorese-Chinese translator was a challenging and new experience for the team. The situation was further complicated because the women preferred to speak to the translator, not just for language and cultural reasons, but because they were suspicious and uncomfortable with the East Timorese. Some of the women spoken with, but not formally surveyed, said they did not come to East Timor to know the culture or its people, but to make money and go home. Access was also more difficult because they operate in controlled establishments. The women that do “call-ins” are the most challenging to contact because they live in private residences and go to work only when called-in to meet a client. These women are not waiting at the massage parlor or karaoke club for customers; they are hidden and very little is known about them. For those reasons, the team was unable to obtain detailed information in the time-frame available. From other sources, however, the team did collect sufficient information on the sex workers to draw a sketch of their living and working conditions in Dili.

V.C.3.b. Trafficking

Today the Chinese sex workers come from two provinces in southeastern China: Fujian and Guangdong. They arrive directly from mainland China through sophisticated and organized networks. The mainland Chinese organizers purportedly have connections with local Chinese-Timorese and other foreign businessmen. They arrive to East Timor by air to the Dili airport but also increasingly by land at the West Timor border. According to the officials at the West Timor/East Timor Batugade border point, Chinese women have been crossing there since March 2004. Since then, two groups, a total of twenty persons, successfully entered. One was led by a Chinese woman living in Dili and the other was led by an Indonesian. The organizers spoke on behalf of the women, none of whom spoke any of the local languages, and handled all the immigration transactions. The organizers told the border officials that the women were tourists.

One 22 year old Chinese sex worker described her experience in a local karaoke bar. The manager recruited her from China for a one year contract. When the contract finishes she will return and be replaced by another Chinese woman. Her movement is limited and she needs permission from the manager to leave the club where she works and lives. He discourages her from going out in Dili, saying that many “bad people” are in Dili. She casually shrugged off the restriction saying that it did not really matter as long as she makes good money. Echoing that sentiment was one of her 23 year old co-workers who had been a sex worker and karaoke singer in Hong Kong before returning to Guangdong province where the karaoke manager recruited and promised earnings in United States dollars.

For many of the Chinese sex workers in East Timor simply not enough is known about their individual situations to determine if they are victims of trafficking or not. However, because they were recruited through organized networks into the sex industry and operate under close

⁴⁵ Robin Jong interviewing his father Jong Chun Te of The Chinese Association, June 28, 2004.

control, it may well be that the conditions are not what they bargained for, leading to a possible trafficking situation.

V.C.4. Thai Sex Workers

Thai Female Sex Workers in Dili: 30	Potential Trafficking Victims: 100%
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V.C.4.a. Thai Sex Worker demographics

Approximately 30 Thai sex workers operate in Dili. Evidence indicates that the Thai sex worker presence in East Timor coincided with the United Nations arrival. Most women work in massage parlors and karaoke clubs and a smaller group frequents clubs and bars to meet clients. On average the men pay US\$50 for a “short time” sexual transaction and US\$100 for all night. If working through a third party, the sex workers receive only a portion of the money; for example, one Thai sex worker at a massage parlor earned US\$30 for every US\$100 job. The clients include Portuguese, Filipino, and East Timorese men.

The team conducted only one formal survey with a Thai sex worker, who is very likely a trafficking victim. Although most of the Thai women speak limited English (they do not speak the local languages), a translator was required to avoid miscommunication. Despite several months of inquiry, the team found no Thai speaking person in Dili willing to outreach with the team to bars and clubs. Under the circumstances, the team did their best, in English, to talk with the women, and, of course, relied on other sources to complement and confirm what they learned about the Thai sex workers.

V.C.4.b. Trafficking

Thai women arrive directly from Thailand to Dili via air travel. While some of the women claim to have arrived on their own accord to join friends, the majority confirm that they arrive in an organized fashion. The Thai trafficking networks to East Timor are of a smaller scale and more informal than their Chinese counterparts. Either a local Thai operator recruits through an agent in Thailand, or persons involved in the Dili clubs go to Thailand themselves to recruit directly.

The massage and karaoke establishments are similar in how they operate, recruit, and control their Thai sex workers. The Thai women are recruited from Northeastern Thailand for one year contracts. Some women say that they are recruited to work as masseurs or waitresses and are soon also pressured into sex work while others come knowing that they will do sex work. Most arrive indebted for the airfare, typically starting from US\$1,500. Usually the women's passports are kept by the management and they are only allowed to leave the work place, where they also live, with permission. When money is owed, the women are not allowed to leave East Timor until the debt is paid. Examples of women in this situation who have “escaped” with the aid of sympathetic clients are found in Appendix D.

The Thai women in these situations are trafficking victims. Coercion into sex work after being recruited purportedly for another job is a classic example of trafficking. They find themselves in an exploitative situation: pushed into prostitution, no control over their passports, and limited freedom of movement. Even if the pressure into sex work is more indirect, for example if the owner demands the debt to be repaid and the woman does not earn enough through massage

work to pay it so she agrees to start sexually serving clients, it is still trafficking because the management has power over these women and the “abuse of power or a position of vulnerability” is a coercive factor in the Trafficking Protocol definition. These women are far from home, do not know the local languages, and do not know where to go in East Timor for help. It is a precarious situation that easily becomes a trafficking situation.

Even women who come to East Timor knowingly for sex work can find themselves in situations that can be classified as trafficking. For example, a recruiter in Thailand promised a group of 10 experienced Thai sex workers Australian soldier clients and US\$75 per sexual transaction in East Timor. On that basis the women agreed and the recruiter arranged their transportation. Once in East Timor they discovered that their clients were Thai and they only earned US\$20 per customer after the owner's cut. After three weeks, these women returned to Thailand disappointed with the working conditions. The owner tried to prevent them but was dissuaded when the group countered by saying that they would tell their United Nation clients that they were being held against their will. These particular women also were not indebted to the owner (rather to others in Thailand), making their exit much easier. Because they knew they would do sex work does not diminish the fact that they did not find the promised working conditions; they were deceived or defrauded into an exploitative situation. The women who are promised certain clients and certain pay are legally just as much of trafficking victims as the women who think they are going to be working as waitresses.

There does also seem to be a smaller group of Thai sex workers working out of restaurants and beauty salons who go to the bars and clubs at night looking for sex work who may be more independent. Little information, however, was gathered on that group of workers.

V.C.5. Filipina Sex Workers

Filipina Female Sex Workers in Dili: 20	Potential Trafficking Victims: 100%
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There are approximately 20 Filipina sex workers in Dili who frequent clubs and bars looking for clients. These women also work as “call-ins” meaning that they wait for their pimp or clients to call them to make arrangements. Most of the women speak English fairly well but do not speak the local languages. Recruiters based in Dili bring women directly from the Philippines. Some know they are going to work in the sex industry and others do not. Unfortunately, the team did discover the Filipina sex worker presence in Dili until the end of the project period and so little information was collected on their lives and work conditions. Because they are recruited from the Philippines and do not arrive of their own accord, their potential for being trafficking victims is high although unconfirmed.

V.C.6. Australian Sex Workers

Australian Female Sex Workers in Dili: 3	Potential Trafficking Victims: None
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A few Australian sex workers are in East Timor. These are older, independent operators who have come on their own accord. Portuguese, East Timorese, and Australian men were their usual

clients during the research period. There is no evidence indicating that these women are trafficking victims.

V.D. Prostitution in the Districts

District Female Sex Workers: Unknown	Potential Trafficking Victims: Few if any
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V.D.1. Sex Worker Demographics in East Timor Districts

In an effort to obtain a sampling of the sex industry outside of Dili, the team traveled to two districts: Liquisa and Maliana. In two towns within these districts, the team interviewed village chiefs, police officials, health workers, and of course, the sex workers themselves.⁴⁶ One town with approximately 1,800 persons had only one sex worker and the other town, population approximately 1,200, had six women working as prostitutes. In both towns local leaders said that as far as they knew, prostitution had always existed in their communities, similarly to its current form. In addition, the team interviewed persons in Dili about prostitution in the districts to determine if the team's findings in Liquisa and Maliana were fairly representative. Based on these sources some preliminary conclusions can be drawn.

It appears that almost every town in East Timor, large and small, has a handful of women who work as local prostitutes. These women are East Timorese who keep a low profile. In the small towns, almost everyone knows the identities of the local sex workers. In the bigger towns, however, the local sex industry operates quietly and often local persons do not realize it exists. According to several interviews, village chiefs have the power to allow or disallow prostitution in their town, regardless of the national laws on the issue. Several village chiefs allowed the women to operate their sex business recognizing what little economic alternative these women had to support their families. At the same time, the local population rejects the women in the sex profession and, accordingly, they live isolated to some degree from the larger communities.

In the two towns, the team surveyed a total of five East Timorese women. All of the women started sex work in their early twenties after being abandoned by husbands and finding themselves in dire economic circumstances with families to support; one woman was left with six children.

Surveyed Female East Timorese Sex Workers in Districts	
No. of surveys	5
Age Range of Surveyed Females	20-27
Average Age to Begin Sex Work	22

They received clients in their home or rented a room in a neighboring house. One sex worker charged US\$15-20 per client for one to two hours. Similarly to the sex workers in Dili, they feel they have no alternatives to earn a living and therefore continue with the work. Several were quick to say that they would rather run a small business or find a salaried job but have no means to make that happen. In the meantime, this is how they support their families.

⁴⁶ The town names are withheld to protect the sex workers' privacy.

V.D.2. Trafficking

No evidence suggested that the five surveyed women, or East Timorese sex workers in other districts, were domestic trafficking victims. Due to the study's time restraints, further research should be conducted before excluding entirely the possibility that some East Timorese women or girls are subject to domestic trafficking.

V.E. Men and Boys in Sex Work

Male Sex Workers in Dili: 110	Potential Male Trafficking Victims: Few if any
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V.E.1. Male Sex Worker Demographics

A description of the East Timorese sex industry would not be complete without discussing the other sex workers: men and boys. Approximately 100 East Timorese and 10 Indonesian male sex workers operated in Dili during the project period (additional to the 250 female sex workers described above). Their clients are foreign and local men. For approximately 50%, sex work is their exclusive source of income and they began the work out of economic necessity. The other 50% are casual sex workers who do it for extra spending money. An estimated 75% of the male sex workers are under 18 years of age.

Surveyed Male Sex Workers in Dili	
No. of surveys	4
Age Range of Surveyed Males	13-22
Average Age to Begin Sex Work	14.5

Similar to Indonesian times, male sex workers operate in bars, clubs, and on the streets.⁴⁷ A few of the younger boys who sell cigarette lighters and other paraphernalia at the bars at night will also offer sexual services for US\$5-10.

V.E.2. Entrance Into Sex Work

In addition to other sources, the team surveyed four male sex workers: one 14 year old East Timorese minor who is a full time sex worker, one adult East Timorese who does sex work "for fun" in addition to his fulltime regular day job; one 13 year old Indonesian who uses sex work for additional money, and one 18 year old Indonesian who relies exclusively on sex work for his livelihood.

The East Timorese boy started sex work with a pimp whom he considered his friend. As he said the "[f]irst time I only wanted to try it and my friend/pimp encouraged me and after a while I feel I want to do more because I enjoyed it." The boy does not consider himself controlled or exploited. The East Timorese adult was introduced to sex work by a foreign man who approached him offering \$100 for sex. After realizing what "easy money" it was, he began working as a sex worker outside of his day time employment. Starting out of curiosity, not necessity, the surveyed East Timorese male sex workers say they are content with the work and see no immediate reason to stop.

⁴⁷ The team did not investigate when male sex work activity historically began in East Timor.

At age nine, the Indonesian minor became a sex worker in Jakarta, Indonesia after his boyfriend raped him. A few years later he met an East Timorese pimp who offered him a non-sex worker job in Dili. The boy made his own arrangements and traveled to Dili via Kupang, West Timor. For extra money, he soon began sex work in addition to his day job. The Indonesian 18 year old originally came from Kupang, West Timor with a family member to live in Dili. Like the East Timorese adult, he began sex work after a foreign man offered him money for sex. Since then he has been a full time sex worker. Neither male said that he feels obligated to do sex work or is in an exploitative situation.

Unlike their female counterparts, the male sex workers have more freedom and less economic pressures to remain in the profession. For the most part, the male sex workers did not start prostituting out of dire economic need to support their families, rather most are supporting only themselves, and almost half have another source of income. Nothing the team uncovered suggests that male sex workers in Dili are trafficking victims, domestically or otherwise, but further research would be required to confirm whether this is the case.⁴⁸

V.F. Violence Against Sex Workers

The sex workers also reported particular incidents of overt violence which they have experienced.⁴⁹ Client abuse was the most common source of violence. The violence usually occurs when the sex workers refuse to serve a client outright because the client has no money, is too drunk, or is being abusive. Two women recounted being raped when a drunk client refused to accept the sex workers' choice not to serve them. One described the scene: "a client was drunk with no money. I refused to service him but he forced me to anyway." Others are bitten or verbally abused when they say no to clients.

Client violence also occurs when the client wants additional or unusual services. For example, one East Timorese client bit an Indonesian sex worker when she refused to have anal sex with him. The same woman was also verbally abused and pushed around by an Australian man who wanted to have more sex than she was willing. Most sex workers see the abuse as a way of life, a risk that goes along with the job. One sex worker put it this way: "We are often beaten but that is the risk for us as sex workers. Sometimes we are crying and upset but we can't do much about that."

Often times the sex workers feel abused and mistreated by East Timorese security forces as well. One worker recalled how a uniformed East Timorese in the military refused to pay after having sex, using his status as a member of the armed forces to intimidate her. The sex workers also accused the local police of extorting free sex from them. While it may be only a small minority, it nonetheless happens, placing the women in a vulnerable position: abused by the forces that are supposed to provide them protection from abuse. Frustrated, one sex worker summed it up this

⁴⁸ Although the boys may not be trafficked, they are legally considered victims of rape because sex with a minor is statutory rape. Consent is irrelevant.

⁴⁹ The team gathered little information on violence suffered by the Chinese, Thai, Filipina, and Australian sex workers. Presumably, the situation is distinct from the East Timorese since these women (except the Australians) work under tighter operator control and have no family in Dili.

way: “We need police to protect us, not to abuse us or harass us using bad words, fucking us for free, hitting us, and throwing us around....why if we want to be sex workers they do not accept it, and as we know there are sex workers in the entire world.”

The surveyed sex workers also feel rejected and scorned by East Timorese society, including sometimes their own families. There is a strong perception that “most of the society does not accept us as sex workers.” Almost all the sex workers reported some form of abuse such as people throwing mud and calling them bad names, children publicly identifying them as a “prostitute” to embarrass them, or receiving harassing phone calls from unidentified numbers. This feeling of contempt is “really painful.” Sometimes the East Timorese workers are threatened by family members who refuse to accept their work; “My father threatened me saying that it was a shame for the family.”

V.G. Sex Worker Needs

In addition to understanding the sex industry's operations and demographics, the team aimed to identify the needs of the sex workers and trafficking victims, as they themselves saw it. This section will summarize what the sex workers themselves said they lack.

V.G.1. East Timorese and Indonesian Sex Worker Needs⁵⁰

By far, safety and health issues were the predominant concerns cited by the East Timorese and Indonesian sex workers in the surveys. While most East Timorese know where to go for medical care, only half the Indonesian sex workers had that knowledge. A minority said that even though they knew medical care was available, they were embarrassed to get checked for sexually transmitted infections (STIs) at these locations. As one minor stated “I am not brave or ready to explain to doctors.” Almost one quarter stated that they currently have or have had symptoms indicative of an STI. Two Indonesian sex workers resorted exclusively to traditional medicines for health problems.

The sex workers were keenly aware of the importance of health for their own well being as well as their ability to work. When asked if they would use an STI/HIV monthly check-up free of charge, there was a unanimous “yes.” Regular check-ups were recognized as useful “because STIs do not always have symptoms.” Only one, an East Timorese minor, specifically requested that it not be “in an open place or in public because we are shy.”

When asked if they would use a place just for sex workers that served as a resource center (a place to go for information) the vast majority responded in the affirmative. One East Timorese said: “That kind of place is really needed in East Timor.” The sex workers stated that they wanted information available regarding: safety and security for when they are working, safe sex (including condoms), sexual and general health (including health checks), alternative employment opportunities (including obtaining funding to open small businesses), counseling, and legal rights. Both East Timorese and Indonesian sex workers clearly wanted to use the information to help themselves and others. An Indonesian sex worker said she would use a resource center “because I am Indonesian and I have to know properly the information about sex

⁵⁰ Unless specifically noted, the male sex workers' concerns were similar to the women's. Anything particular to the male sex workers is specifically identified.

work in East Timor.” Having the center focus on sex workers only was a bonus “because it can provide different information special for us as sex workers.” Others were so encouraged by the resource center concept that they wanted to serve as conduits; “I need to get information about sex workers and then tell other sex workers.” Some also looked to a safe place like this to break the isolation they feel. One Indonesian sex worker said she would go to the resource center “because I can meet a lot of people, make friends and get information.” Only a few sex workers expressed worry that they would risk being identified publicly as sex workers if they associated with the center.

When asked if they wanted and would use a safe house, a confidential place to assist workers who want to leave sex work and/or get assistance to go home, almost all said “yes.” Although none admitted that they needed it immediately, they considered it important to have available to use if they had trouble. Above all, it would be a back-up support “because if anything happen to me here I can have someone who will help me or protect me.” It is a security for “who knows one day I might have problems and I need that help so I can always use that place.” Above all, the dominant need is for a place to feel safe, as one sex worker said; “If harassed - a place for protection and safety.” The sex workers also recognized the importance of assisting the foreign sex workers who want to leave East Timor.

A majority of sex workers also identified the need for an organization that assists sex workers when necessary. Again, the dominant theme was that a sex worker organization could help provide safety and protection for them and be a means to help each other: “We can collaborate with each other and help each other when we need it.” One also said that an organization would assist them “[s]o the society in East Timor can accept us.” The Indonesians especially felt the need, as foreigners, to have an organization to help them out, as long as, one worker explained, the East Timorese would want them to participate.

In the surveys, the sex workers raised legal issues again and again in a variety of contexts. Interestingly, it was not so much as seeking justice for past wrongs, say harassment or assault, or even to ensure against future infringement upon their rights, such as labor or immigration, rather a general and very strong feeling that the law can help them be safer.⁵¹

Consistent vulnerability is a status that all the sex workers want to end and law is considered a means to do that. As one sex worker said, she “wants to have a regulation for us sex workers so we can be safe and no one can hurt us.” They want the freedom to work in a safe environment because “sex work is a job too; so we need to be safe during our work.” The sex workers also want the same rights as other laborers. There is a “[n]eed to set up law for freedom to work as sex worker, to have the same rights as other workers.” Notably, hardly any realized that prostitution, in and of itself, is actually legal; they clearly perceive that it is not.⁵²

The other strong belief is that law will legitimize sex work leading to their acceptance into East Timorese society. Although the sex workers do not see themselves as separate from regular society, they feel that they are treated that way. They no longer wish to be “hated by society because of our job.” Another sex worker added that they want to have “freedom to go

⁵¹ One male sex worker stressed the need for a law to support gay rights.

⁵² See section VII.B for more on related laws in East Timor.

everywhere and not be discriminated or stigmatized by society.” Over all they want to be equal and feel they have the right “to have protection and respect from society because we are also human beings who have the same rights as others.” Above everything else, the sex workers want to be respected for who they are and what they do right here and now.

V.G.2. Foreign Sex Worker Needs

As mentioned previously, only one non-Indonesian foreign sex worker participated in the survey. For that reason, the information collected about the foreign sex workers' needs is mostly derived from informal and brief conversations with the sex workers and other sources.

The Thai women, seemingly without exception, were acutely aware of the need to use condoms to protect their health and one of their major concerns was the lack of access to condoms in East Timor.⁵³ Alarmingly, the Thai sex workers also felt they had no option but to have unprotected sex which caused them grave worry about the health consequences.⁵⁴

The one Thai sex worker who did respond to the survey shrugged off the idea of utilizing most types of support or services for sex workers during her one year stay in East Timor and said repeatedly that she did not “want to get information in East Timor because I am busy...I have a lot of work and a lot of clients.” This attitude is perhaps not surprising in light of the foreign sex workers' segregation, willing or not, from East Timorese society. On the other hand, this same Thai sex worker did not know how to find medical services in Dili and was interested in receiving free monthly STI/HIV check ups.

V.H. Conclusion

As indicated in the testimonies and other sources, women and children are being trafficked into East Timor for the purpose of sexual exploitation. Lack of services to address the needs of the sex workers and the trafficked person has caused the women to feel isolated and endangered. Some believe that when the United Nations mission ends, so will the trafficking problem. This is shortsighted. As shown, prostitution and trafficking have existed in East Timor for centuries. A more likely scenario is this: the sex industry and trafficking, which is part of that industry, will adjust to the new reality as it has time and time again.

⁵³ Condom availability was an issue highlighted in the “Dili STI study,” an STI/HIV study which included East Timorese and Indonesian sex workers as one of the high risk groups for STI/HIV infections. Pasani, Elizabeth (2004). “The Dili STI Study 2003” 35, Family Health International/IMPACT, East Timor.

⁵⁴ Only two Indonesian sex workers were specifically asked about their use of condoms. Out of the two women, only one had a single client that used condoms during sex. This very anecdotal finding is consistent with the Dili STI Study which found that East Timorese and Indonesian sex workers had very low condom usage with East Timorese clients. Ibid. 8.

VI. Other Forms of Human Trafficking in East Timor

VI.A. Introduction

Trafficking for sexual exploitation is not the only form of human trafficking. The Trafficking Protocol specifically states that in addition to prostitution, exploitation shall include, at a minimum, “forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”⁵⁵ According to a recent study in Indonesia, in addition to prostitution, human trafficking for domestic service, servile marriage in the form of mail order brides,⁵⁶ various forms of forced labor,⁵⁷ adoptions, and transportation of drugs were found to be occurring in Indonesia.⁵⁸

The assessment team found no evidence that East Timor was a source, transit, or destination country for human trafficking for domestic service, organ removal, mail order brides/servile marriage, adoptions, or drug transportation during the time period studied.

VI.B. Trafficking for Forced Labor

A possibility exists, however, that East Timor is a destination country for forced labor. No statistics are available on the numbers of foreign workers laboring in East Timor because no administrative procedures are yet established to issue working visas.⁵⁹ Unofficially, there are estimates on how many non sex-industry foreign workers are in East Timor and their labor conditions.⁶⁰ A local labor organization believes that there are 1,000 skilled workers from Indonesia, China, Thailand, Philippines, Australia, and Vietnam in East Timor who earn better wages than locals.⁶¹ On the other hand, the Prosecutor General estimates that 400 Chinese and 300 Vietnamese construction workers are possible trafficking victims earning US\$3.00 a day, US\$2.00 less than what an East Timorese would earn for the same job. He further asserts that the employers confiscate the foreign workers' passports and handle the visa extensions on their

⁵⁵ Trafficking Protocol, Article 3(a).

⁵⁶ The “mail order bride” describes a phenomenon where men order women, sometimes even through the internet, to be sent to them to be their wives. “Mail order brides are a modern manifestation of arranged marriages and may constitute trafficking when the girl is pressured by her family (especially if she is under 18) and ends up in servile or exploitative conditions.” Rosenberg, Ruth ed. (2003) “Trafficking of Women and Children in Indonesia” 20, International Catholic Migration Commission and American Center for Labor Solidarity. Retrieved on March 8, 2004 from www.icmc.net.

⁵⁷ Forced labor included migrant work and child labor. Ibid.16.

⁵⁸ Ibid. 6, 114.

⁵⁹ Due to the lack of working visas, most foreigners work illegally on tourist visas. Foreign businesses, however, must register under the new investment law. According to the 2003 statistics available under that registration process there are 233 foreign companies operating in East Timor with a total of 866 employees from 20 different countries (excluding East Timor). Working in these foreign companies were 95 Chinese workers (18 males in construction) and one Vietnamese employee in “industry.” “Data Statistica Servisu Rai Liur Nian” 2003-2004 issued by the Secretariat of Labor and Solidarity. Additional foreign workers are employed by East Timorese companies, which are not required to register under the foreign investment law.

⁶⁰ The team was unable to identify any organizations, local or international, that provide support to foreign workers.

⁶¹ Interview with Rigoberto Monteiro, KSTL, June 14, 2004.

behalf.⁶² A spokesperson on behalf of the Chinese Embassy in East Timor does not believe that Chinese nationals are trafficked to East Timor for forced labor in the construction industry. He does, however, admit that they live in basic conditions at the work site, and says that if their earnings are low, it is likely due to the down periods between construction jobs.⁶³

Despite the fact that the Secretary of Labor has had no specific suspicions of trafficking for forced labor, the Secretary does not dismiss the possibility of its occurrence in East Timor. Without the foreign worker regulations in place, virtually no administrative oversight of the foreign labor exists. The Secretary hopes that the forthcoming regulations regarding procedures and criterion for foreigner workers will minimize the possibility of East Timor being a destination country for forced labor.⁶⁴

Currently, there is no evidence to conclude that East Timor is a source country for trafficking in forced labor. However, it is vulnerable to be so in the future. Although no statistics are available, it appears that a relatively low number of East Timorese emigrate from East Timor to seek employment abroad. This, however, is likely to change in the near future. For several years East Timorese have been immigrating to Portugal looking for employment.⁶⁵ From Portugal, many move on to higher paying factory jobs in England and Ireland. Additionally, the East Timorese government is currently negotiating bilateral agreements with Malaysia, Singapore, and Korea to send East Timorese workers to those countries. The Secretariat of Labor and Solidarity has already registered 1,300 laborers willing to go abroad once the agreements are settled.⁶⁶ Opportunities also bring challenges. Populations accustomed to emigrating for employment are potentially more vulnerable to traffickers who offer seemingly legitimate international work prospects. For these reasons it is important that East Timor takes measures now to stop the trafficking that is occurring and prevent any new forms of human trafficking from commencing.

VII. Anti-Trafficking Efforts in East Timor

VII.A. Introduction

In addition to the analysis of the sex industry and trafficking victims, the assessment team researched the prosecution, prevention, and protection efforts that East Timor has undertaken to combat human trafficking. Overall, there is much to be done in East Timor when it comes to drafting and enacting the laws and providing services that are needed as soon as possible.

After the 1999 referendum when the people of East Timor voted for independence from Indonesia, the country suffered tragic consequences. The Indonesian-backed militia wreaked widespread destruction causing the displacement of two-thirds of the population and destruction

⁶² Interview with Longhinos Monteiro, Prosecutor General of East Timor, March 31, 2004.

⁶³ Interview with Mr. Cheng Shuping, Chinese Embassy representative, April 26, 2004.

⁶⁴ Interview with Arsenio Banu, Secretary of the Labor and Solidarity Secretariat, May 3, 2004.

⁶⁵ East Timorese born on or before 1975 are eligible for Portuguese citizenship.

⁶⁶ Interview with Arsenio Banu, Secretary of the Labor and Solidarity Secretariat, May 3, 2004.

of 70% of the nation's infrastructure.⁶⁷ The justice sector suffered a similar fate. All the courts were burned, and most of the legal infrastructure and archives were destroyed.⁶⁸ There was not a single judge and only 70 persons with legal training in the country.⁶⁹ Five months after the United Nations Transitional Administration in East Timor (UNTAET) transferred power to the fully independent state of East Timor, the country still counted only 17 trial judges, 6 investigating judges, 9 public defenders and 9 prosecutors operating in four district courts.⁷⁰ The situation during the period of investigation was similar.

While the lack of structure highlights the disadvantages East Timor has in preventing trafficking now, it also presents an opportunity for this new country to establish human rights centered laws, policies, and practices in its future efforts.

VII.B. Legal Framework Related to Prostitution and Trafficking

To understand what tools are available in East Timor's anti-trafficking efforts the existing legal framework regarding trafficking and prostitution must be examined. To that end, the following is a summary of the current laws in East Timor regarding human trafficking and prostitution. While it is understood that additional laws can be utilized to combat trafficking, the purpose of this report is not to produce an exhaustive list, but to examine the specific laws that currently exist.⁷¹

VII.B.1. Domestic Law

The only East Timorese-promulgated law on human trafficking is found in the Immigration and Asylum Act.⁷² Article 81 "Human Trafficking" states:

1. All persons who under threat of force or any other form of coercion, fraud, deceit, abuse of power or by taking advantage of the victim's vulnerability, recruit, transfer, lodge or keep persons with the purpose of exploiting them or placing them in sexual exploitation, forced labour, slavery or human organ trafficking networks, shall be punished by imprisonment of not more than 8 years or fewer than 3 years.
2. The same penalties shall apply to those who, through payment either in cash or in kind, buy consent from a third party in control of the victim, to perform the activities provided for in item 1 of the present Article.
3. If the victim of the activities provided for in items 1 and 2 of the present Article is a minor under 18 years of age, the mere transportation,

⁶⁷ Bidani, Benu and Kaspar Richter (2003). "Timor Leste: Poverty in a New Nation" 3, Ministry of Planning and Finance, ADB, JICA, UNDP, UNICEF and UNMISSET.

⁶⁸ United Nations Development Program (2002). "East Timor Human Development Report 2002" 33, 39.

⁶⁹ Ministry of Justice-UNDP (2002). "Joint Assessment of the Justice System" 4.

⁷⁰ Ibid.

⁷¹ For an example of utilizing various laws, i.e. non-specific to trafficking, to combat trafficking, see Rosenberg, Ruth ed. (2003) "Trafficking of Women and Children in Indonesia" 197-208, International Catholic Migration Commission and American Center for Labor Solidarity. Retrieved on March 8, 2004 from www.icmc.net.

⁷² Law 09/2003 effective as of 15 October, 2003.

recruitment, transfer, lodging or keeping of these persons for the purposes described in item 1, constitutes a crime that shall be punishable by imprisonment of not more than 12 years or fewer than 5.

Authority to investigate human trafficking under the Immigration and Asylum Act is the responsibility of the national police Migration Department.⁷³

During the assessment period, the Ministry of Justice was drafting a law wholly dedicated to anti-trafficking as well a new penal code. Posterior to the research period, it has been learned that the Ministry of Justice has opted not to complete the anti-trafficking law in preference for incorporating anti-trafficking measures into the forthcoming East Timorese penal code.

VII.B.2. Subsidiary Laws Still in Effect in East Timor

Until the new nation legislates a full array of laws, the country has had to rely upon secondary sources of law as a backstop to a legal vacuum. In August 2003, the National Parliament ended the debate about the appropriate subsidiary legal source (Indonesian or Portuguese) by issuing a law stating that in the absence of national legislation, UNTAET regulations and additionally Indonesian law (as it existed on October 25, 1999, the date UNTAET assumed all legislative, and executive authority in East Timor) were the applicable laws.⁷⁴

Accordingly, the Indonesian Penal Code continues to be in effect.⁷⁵ The following are the relevant provisions of the Indonesian Penal Code most utilized by law enforcement in East Timor regarding trafficking and pimping:

Article 296: “Any person who makes an occupation or a habit of intentionally causing or facilitating any obscene act by others with third parties, shall be punished by a maximum imprisonment of one year and four months or a maximum fine of one thousand rupiahs.” [“pimping law”]

Article 297: “Trade in women and minors of the male sex shall be punished by a maximum imprisonment of six years.” [“trafficking law”]

Article 506 “Any person who as a souteneur [pimp] takes advantage of the prostitution of a woman, shall be punished by a maximum light imprisonment of one year.” [“pimping law”]

⁷³ Ibid Article 83. The Immigration and Asylum Act's, Chapter XI “Immigration Crimes,” Article 79, Aid to Illegal Immigration”; Article 80, “Illegal Solicitation of Labour”; Article 82, “Criminal Association” also criminalize activities related to trafficking. This Act and other significant national laws can be found on the East Timorese non-governmental organization's Judicial System Monitoring Program website: www.jsmp.minihub.org.

⁷⁴ For a full analysis of the debate surrounding applicable subsidiary laws see Judicial System Monitoring Programme report (2003) “The Court of Appeal Decision on the Applicable Subsidiary Law in Timor Leste” available at www.jsmp.minihub.org.

⁷⁵ According to UNTAET Regulation 1999/1, the subsidiary law is effective as long as it does not violate international human rights standards, or conflict with the United Nations Security Council Resolution 1272 mandate or UNTAET regulations.

To summarize, these provisions coupled with the Immigration and Asylum Act mean that prostitution is not illegal in East Timor; only the act of facilitating prostitution (i.e. acting as a pimp) is against the law.

VII.B.3. International Law

East Timor has yet to ratify the principal anti-trafficking treaty the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Crime” (Trafficking Protocol), although the treaty is expected to be submitted to the National Parliament for ratification by the end of 2004.⁷⁶ According to the Constitution of the Democratic Republic of East Timor, Section 9.3, once the Trafficking Protocol is ratified, any internal laws contrary to it will be invalidated.⁷⁷

VII.C. Prosecutions of Trafficking Related Crimes

VII.C.1 Introduction

Between 2002 to June 2004, there was a series of prosecutions, investigations, and incidents related to prostitution and trafficking in East Timor. The manner in which these operations and subsequent prosecutions were executed highlights the confusion regarding the appropriate use of the trafficking and prostitution laws. It also offers valuable insight into what is lacking in the current legal framework and practice for East Timor to be able to successfully combat human trafficking.

Evaluating all the potential trafficking cases between 2002 to June 2004 proved to be a formidable task. Not only do statistics on trafficking not exist, but the police, prosecutor's office or courts do not have searchable electronic databases to begin to locate cases involving potential traffickers or trafficking victims. To determine if any possible trafficking cases existed at all, the team first interviewed international and local police, prosecutors, defense attorneys, court officials and sex workers asking them if they had ever been involved in a case that could involve potential traffickers or trafficking victims. From tidbits of information collected from these sources, the team began to reconstruct, case by case, the anti-trafficking efforts since 2002. Once a sketch of cases began to form, the team tried to identify all the parties involved in a particular case and interview them to fill out the details. Often not all the parties were available or willing to be interviewed. The research was a painstaking and inefficient process.

Further complicating the inquiry was the lack of systematic filing systems, especially notable in the Dili District Court, to locate specific case files.⁷⁸ In the prosecutor's and private and public defense attorneys' offices where there was more of an established system, at least to locate the

⁷⁶ For a list of all the treaties relevant to human trafficking see Rosenberg, Ruth ed. (2003) “Trafficking of Women and Children in Indonesia” 237-242 (Appendix A), International Catholic Migration Commission and American Center for Labor Solidarity. Retrieved on March 8, 2004 from www.icmc.net.

⁷⁷ The RDTL Constitution Section 9.3 states: “All rules that are contrary to the provisions of international conventions, treaties and agreements applied in the internal legal system of East Timor shall be invalid.” Note that the Immigration and Asylum Act has a slightly different trafficking definition than the Protocol.

⁷⁸ The Dili District Court, which was the venue of the cases examined, has no uniform filing system making access to past cases labor intensive. Literally, the investigative judge's case files were stacked in piles, unordered and unnumbered, on a bookshelf.

physical files, the files still were not readily available, sometimes misplaced or simply missing. When the officials could not locate the actual files, they relied on their memory alone. Despite these limitations, or perhaps because of them, it was important to put forth in this report the facts of the case uncovered so that the information is not forgotten. The case by case details are found in Appendix D.

What follows is a categorical summary of the operations and other incidents involving trafficking and potential trafficking victims from 2002-2004.

VII.C.2. Law Enforcement Anti-trafficking Efforts

When East Timor assumed governmental authority in 2002, UNTAET's mandate ended and the United Nations Mission of Support in East Timor (UNMISSET) was established to assist the new government. Under the new arrangement, the United Nations continued to play a critical role in continuing governmental operation, including law enforcement. The National Police of East Timor (PNTL), part of the Ministry of Interior, is composed of five divisions: National Investigations Department (NID), Office of Strategic Information Development (OSID), Migration, Internal Investigations, and District Police (the main one being Dili District). The UNMISSET United Nations Police (UNPOL) divisions mirrored the national structure. UNPOL directed the various police departments while training their East Timorese counterparts to assume full authority, which was accomplished in its entirety by May 2004. According to the theoretical structure, all operations should have involved both UNPOL and PNTL officers, but the reality was sometimes different. For that reason, the operations below are divided according to the law enforcement division that took the lead, which sometimes was in exclusion of its local or international counterpart.

VII.C.2.a. UNPOL Operations⁷⁹

UNPOL-NID and UNPOL Dili District conducted four known operations on suspected brothels in Dili in 2003. Charges under the Indonesian Penal Code were brought against suspected operators and possible traffickers in two raids and against the women in the other two. The women picked up during these raids were foreigners: Thai (27) (a result of two raids), Chinese (1), and Indonesian (5). In two cases, the women were considered potential trafficking victims, and accordingly were not detained, yet questioned and released. The first group of Thai women was voluntarily repatriated with the assistance of the Thai embassy and international agencies. In the other two cases, the women were suspected as the criminals and received deportation orders at their detention review hearings. None of these raids resulted in trafficking convictions.

In 2004, UNPOL-NID led two raids on establishments suspected of facilitating prostitution of foreign women. On these premises they found Thai (15), Filipina (3), and Chinese (1) women, all of whom denied being sex workers. The women were questioned and not detained. Although they could not build a case against the operators for trafficking or facilitating prostitution, the Migration Department fined the employers and the women under the Immigration and Asylum Act (which came into effect in October 2003) because the women admitted to working illegally on tourist visas. Migration authorities also noticed the women in both cases to abandon, i.e. leave East Timor because of their illegal employment. An UNPOL-NID officer explained that the immigration laws were another route to combat trafficking. Even though the women may be

⁷⁹ See Appendix D for individual case details.

forced to leave the country, which the women may consider a punishment, enforcing immigration laws serve as a deterrent against the traffickers, the primary focus, he commented.⁸⁰

Finally, several cases involved likely trafficking victims who fled establishments where they were being pressured into sex work. The women ultimately left East Timor with the assistance of UNPOL, private individuals, international agencies or embassies, when available. None of these cases resulted in prosecutions of traffickers either.

VII.C.2.b. PNTL Operations⁸¹

Other operations involving potential trafficking victims were conducted by PNTL. In early July 2003 attention was called to a porno VCD that was circulating in Dili. Although law enforcement's investigation was inconclusive, many believed that the video was filmed in East Timor and that some of the women were East Timorese. At the same time, rumors began circulating that high school aged girls from Maubara, a small town west of Dili, were being forced into prostitution in Dili.⁸² These two issues sparked such a public outcry that the National Parliament debated what should be done. As a result, the National Parliament requested the Prosecutor General, as one parliamentarian said "to calm the situation in Dili, starting with activities of prostitution in many parts which can be seen as a health and moral disturbance to the community."⁸³ Another parliament member recalled the representatives wanting the Prosecutor General to "clean[...] Dili of sex worker activities and of the exploiters of prostitution."⁸⁴

As the Prosecutor General understood it, the National Parliament asked him to take action against prostitution because it was adversely affecting East Timorese culture. He considered the request a mandate and accordingly, although not legally required to do so, launched "Operation Teki."⁸⁵

In practice, Operation Teki targeted East Timorese and Indonesian women who were independent sex workers. Virtually no effort was made to arrest traffickers or pimps. The three raids were conducted in July 2003 using similar tactics: undercover agents solicited and engaged in sexual intercourse with the sex workers, and subsequently, uniformed officers raided the premises to execute the arrest. At least two of the raids were filmed and later aired on the local television news broadcast. None of the officers paid for the commercial sexual intercourse. Most of the Indonesian women (including two East Timorese refugees with families in West Timor) were eventually deported to West Timor. The others were released pending trial and their cases, with one exception, have since been closed.

Operation Teki was an anti-prostitution moral crusade, not a legally legitimate law enforcement effort. Selling one's own sexual services is legal in East Timor. There is no question that these

⁸⁰ Interview with John White, UNPOL-NID, April 6, 2004.

⁸¹ See Appendix D for individual case details.

⁸² Based on a field investigation consisting of interviews with local police, the village chief and others, the team concluded that the rumors were unsubstantiated.

⁸³ Interview with Mariano Sabino, National Parliament member, June 18, 2004.

⁸⁴ Telephone Interview with National Parliament member, Quiteria Goncalves, June 18, 2004.

⁸⁵ Interview with Longhinos Monteiro, Prosecutor General of East Timor, March 31, 2004. In Tetum, one of East Timor's official languages, "teki," means gecko, but it is also commonly used to mean beautiful young woman.

sex workers were subjected to illegal arrests. The more interesting question is why East Timorese legal authorities knowingly violated their own legal norms.

In November 2003, the appellate court overturned the deportations in the only Operation Teki case that was appealed on the basis that prostitution was not a crime in East Timor.⁸⁶ The arguments utilized in the prosecutor's opposition brief to the defense's appeal express the non-legal motives behind the arrests. The prosecutor explained that the suspects "had violated decency norms, civility, and disrespected the community order and culture of East Timor...and conducted prostitution practices...without a license against local culture." Moreover, the sex workers' activities "could easily create problems moreover on the health issue. The health of sex workers is not guaranteed, considering many people visiting East Timor from various countries, various diseases could spread from one person to another through sexual intercourse (HIV, AIDS, SARS, etc.)." The prosecutor also took the opportunity to express her opinion of the clients, the "immoral men who come to their rented rooms." Contradictorily, while affirming the fact that these women were independent operators the prosecutor charged them under the Indonesian Penal Code's pimping provisions.⁸⁷

Although they acted to the contrary, most of the officials involved in Operation Teki realized that prostitution is in fact legal. Quietly, the prosecutors recognized the misuse of the prostitution-related laws, but explained that they felt pressured to pursue these cases although they saw no legal basis to do so. Along the same lines, the same parliamentarians quoted above who supported Operation Teki's creation knew that self-prostitution was legal, but felt compelled to act. Even the Prosecutor General recognized that self-prostitution is legal; however, he believed that only trafficking victims are true victims, and independent sex workers are criminals, at least in the face of East Timorese morals and culture.⁸⁸

VII.C.3. Legal Analysis of Anti-trafficking Cases

There have been no convictions of traffickers for trafficking-related crimes in East Timor. Important lessons can be learned when one examines the challenges the law enforcement community identifies, the illegal practices in the anti-trafficking cases thus far, and other reasons why the anti-trafficking investigations and prosecutions have been unsuccessful to date.

VII.C.3.a. Challenges Identified by Law Enforcement and Judicial Officials

The authorities, including international police, consider East Timor's current laws regarding trafficking to be inadequate. The officials are quick to say that trafficking cases are too difficult to prove under the Indonesian Penal Code resulting in failed prosecutions. No authority has yet to bring a case under the Immigration and Asylum Act's trafficking provision, which some, such as the Prosecutor General, criticized as also insufficient.⁸⁹

Prosecutors sometimes blame the police for not collecting enough evidence to build strong cases. Some defense attorneys consider the lack of convictions due to the judges' and prosecutors' failure to understand the law. Others blame the possible trafficking victims for not cooperating

⁸⁶ See Appendix E Appellate Court Decision 48/03.

⁸⁷ Prosecutor's opposition to interlocutory appeal, August 6, 2003.

⁸⁸ Interview with Longhinos Monteiro, Prosecutor General of East Timor, March 31, 2004.

⁸⁹ Ibid.

and providing strong evidence against their traffickers. Finally, a few cite the lack of institutional (financial and human) resources to combat the crime as the principal challenge.

VII.C.3.b. Legal Irregularities in Anti-trafficking Efforts

It is important to highlight the legal irregularities of the anti-trafficking operations in order to prevent them from occurring again. Ultimately, the violation of rights, through the misuse of the laws, weakens the cases further contributing to the lack of successful prosecutions.

From a legal perspective, Operation Teki stands out as the most problematic of the anti-trafficking efforts. As discussed above, the premise of the arrest, criminalizing sex workers, was a misuse of the law. Several of the women were arrested during an undercover operation which directly solicited the sexual services, a legal act in East Timor. Moreover, it was certainly unethical, if not illegal, for the undercover agents to engage in sexual intercourse as part of the undercover operation. Usually, soliciting the service is sufficient to prove a prostitution charge. Additionally, the agents never paid for the legal sex, possibly a labor violation.

Most, if not all, of the Operation Teki raids were filmed. Several of the women had specifically requested that they dress themselves before the undercover agent allowed the arrest to commence by opening the door to the rented room where they had engaged in sexual intercourse. These requests were uniformly ignored, calling into question whether the undercover officers intentionally wanted the women to be naked when the cameras entered the room. The filming violates the women's right to privacy.

In all three raids, arrest warrants were requested the day following the arrest. Under East Timor's Transitional Rules of Criminal Procedure, the police can arrest a person without an arrest warrant when the person is: caught in the act, an immediate flight risk, or being pursued after committing a crime, "hot pursuit."⁹⁰ Possibly an arrest warrant was not necessary for the women arrested during the sting operation. However, other women claim to have been sleeping or simply on the premises when arrested. If the facts are correct, they were likely subjected to illegal arrests.

In one of the "Teki" cases, the women were initially detained at the Police Academy, an irregular detention venue. The reason to hold these women at the police academy instead of the Caicoli facility, the usual detention venue, is uncertain. During the detention some of the women alleged that they were subject to sexual harassment by police officers. One of the specific allegations is that a police officer took one of the women from the Police Academy and raped her. It is uncertain whether these accusations have been investigated.

⁹⁰ UNTAET regulation 2000/30, as amended 2001/25, section 19A.4 in its entirety states: "The police may arrest a suspect without a warrant when, in the course of ordinary law enforcement activities, (a) the suspect is found in the act of committing a crime; or (b) there are reasonable grounds to believe that the suspect has committed a crime and that there is an immediate likelihood that before a warrant could be obtained the suspect will flee or destroy, falsify or taint evidence, or endanger public safety or the integrity of the victims or witnesses; or (c) the police are in hot pursuit of a suspect immediately after commission of a crime and evidence of the suspect's participation in the crime is found in the suspect's possession."

According to several sources, during the initial interrogations, the women were not informed of their right to legal counsel and were questioned outside the presence of legal counsel.⁹¹ Moreover, the Indonesian Embassy was not contacted immediately upon the arrest of the Indonesian women in violation of the right to consular notification.⁹²

Criminal procedure requires a detention review hearing within 72 hours of arrest. During the hearing, the investigating judge's sole function is "to review the lawfulness of the arrest and detention of the suspect."⁹³ Until the appellate court ruled that the investigating judge was overstepping his judicial authority, the investigating judge converted the detention review hearings into quasi-trials on the merits, not just in Operation Teki but for many cases during 2003.⁹⁴ Not only did the investigating judge issue deportation orders, for which he had no judicial authority (this is the jurisdiction of the Migration Department), he also required suspects to appear before him whom were not detained. The investigating judge then ordered the suspects to be conditionally released and set bail despite the fact that they were not even in detention. Not a single case under Operation Teki, or the UNPOL led operations, resulted in a trial.

VII.C.3.c. Other Factors Contributing to the Lack of Successful Prosecutions

There are several other factors that contributed to the lack of successful prosecutions for trafficking-related crimes in East Timor. Apparently, none of the women implicated in the cases were willing to testify against their potential traffickers or prostitution facilitators. After analyzing the conditions and treatment these women experienced, it is evident that the situation was not conducive for the women to feel safe or encouraged to support the prosecutions.

Translation was frequently inadequate for the Chinese, Thai, and Filipina women. Neither UNPOL nor PNTL have fulltime translators, rather they rely on UNPOL officials. These voluntary interpreters are not professional translators or trained in interviewing trafficking victims, which hampers law enforcement's ability to obtain quality evidence. The downsizing of the United Nations mission means that there are even fewer translators available. For example, in an UNPOL raid in March 2004 on a suspected brothel, the police relied on one of the potential Thai trafficking victims to serve as a translator for the rest of the women. Through their co-worker interpreter, the women denied being forced into prostitution and ultimately East Timorese immigration authorities noticed them to leave the country. In a different case, the defense attorney never had the benefit of any translator at all when trying to represent his Thai clients accused of a prostitution charge; they were eventually deported.⁹⁵

Even if language was not an issue, in almost all of the cases the women were interviewed by the police and attorneys as a group, making it difficult, if not impossible, for a woman to speak contrary to the collective testimony. Moreover, female accomplices may have been present in the group reporting the women's statements back to the traffickers.

⁹¹ This violates UNTAET regulation 2000/30, as amended 2001/25, sections 6.2.(c),(f).

⁹² UNTAET regulation 2000/30, as amended 2001/25, section 6.2(g).

⁹³ UNTAET regulation 2000/30, as amended 2001/25, section 20.

⁹⁴ Judicial System Monitoring Programme (2003). "Dili District Court Final Report 2003" 37. Retrieved on April 5, 2004 from www.jsmp.minihub.org.

⁹⁵ Interview with Benevides Correia Baros, attorney, May 14, 2004.

Furthermore, the women are not being offered a safe alternative to their actual accommodations, which for most of them is the same place where they work. After questioning the Thai women during the first UNPOL raid on a brothel, the women returned to the suspected brothel because there was simply nowhere else to go. Once the women had returned to Thailand, they pressed charges claiming that they had been trafficked to East Timor from Thailand.⁹⁶ Without some assurance of security it is not surprising that the Thai women waited until they left the country before speaking more openly about their experience.

Even if the women chose to remain in East Timor pending legal proceedings, there are currently no resources to support them. For example, a defense attorney explained the dilemma of whether to appeal his Thai clients' deportation orders. Despite the strong chances of prevailing on appeal, he simply did not know where the women would stay or who would support them pending the outcome.⁹⁷ Similarly, a group of seven Indonesian women chose to return to West Timor, in a large part, due to the lack of financial support while waiting for the ruling on the appeal of their deportation orders.⁹⁸ The absence of support played a critical factor in cutting short appeals or cooperation with law enforcement in the prostitution related crimes.

For most of the women, the first interaction with law enforcement was during a sting operation or a raid on their work place. From this first overwhelming interaction, the women have been placed in a defensive position resulting in examples of humiliation (filmed), confusion (lack of adequate translation), harassment (sexual abuse), or deportation. The anti-trafficking tactics thus far have not proven to be an effective way to secure cooperation from these women in order to successfully convict their possible traffickers.

Finally, there was no bilateral law enforcement cooperation in the trafficking cases involving foreign nationals. Trafficking is a transnational crime and unless law enforcement utilizes a multinational approach to evidence gathering, investigations will continue to be unnecessarily hampered.

VII.C.4. Corruption and Trafficking

Accusations of official corruption abound, which may also be contributing to the failure to focus law enforcement operations on the traffickers and the prostitution operators.⁹⁹ Sources, who chose to remain anonymous, explained the basic forms of corruption: police extorting establishments suspected of serving doubly as brothels, and establishments bribing police officers to serve as informants, alerting them to possible police operations. The same situation allegedly occurs with the sex workers: some officers demand money or free sex in order for the sex worker to avoid problems with the law. Reportedly, youth gangs in Dili are also getting involved as extortionist protectors of establishments suspected of prostitution.

⁹⁶ Appendix F Ngamkham, Wassayos (April 22, 2003) Bangkok Post.

⁹⁷ Interview with Benevides Correia Baros, attorney, May 14, 2004.

⁹⁸ Interview with Mr. Fauzy, Indonesian Embassy representative, April 19, 2004.

⁹⁹ During the team's research the issue of corruption continued to surface. Even though the team did not have the resources to investigate the corruption charges it is mentioned in this report (only when repeated by more than one source) in the hope that law enforcement will investigate the accusations.

Specific cases involving possible sex workers and law enforcement illustrate the complexities of the issue. In one incident an East Timorese sex worker accused police of gang raping her as punishment for refusing to pay her weekly extortion fee. In another case, an 18 year old Indonesian woman was raped by a karaoke client in a local karaoke club. Although the young woman wanted to pursue the charges, some police officers, who were allegedly friends of the accused rapist, began threatening to rape her or have her deported unless she left the country. Despite encouragement from the lawyer assisting her, she abandoned the country out of fear and the rape charges were dropped because the key witness was no longer available to testify.

Allegations against immigration officials also circulate in Dili. These rumors include: allowing organizers to bypass immigration by bringing sex workers through the VIP Lounge at the Dili airport; issuing immigration waivers for unqualified immigrants; and collecting weekly fees from traffickers. At the East/West Timor border, two Indonesian sex worker “suspects” in one of the Operation Teki cases alleged that border officials requested them to have sex in order to have their passports returned to them as they were entering East Timor. As a punishment for refusing to comply, the border officials made the women wait for hours before returning their passports. The incident was reported and at least one immigration official and possibly two police officers were transferred as a result of the internal investigation.¹⁰⁰

VII.C.5. Conclusion

It is important to keep in mind that the legal framework in East Timor is developing, along with the professional capabilities of the judicial system and law enforcement members. The analysis and critiques of the recent prosecutions involving potential traffickers and trafficking victims was not undertaken to condemn but to be able to learn from the past experiences East Timor has had in combating trafficking. Utilizing the lessons learned will save time in formulating new and more effective approaches.

VII.D. Prevention

The East Timorese government has made important preliminary steps toward establishing prevention mechanisms so that traffickers will be impeded from trafficking women to East Timor. In reaction to the brothel raids in 2003, the United Nations initiated the Trafficking Working Group, bringing together governmental representatives, United Nations officials, and international agencies to discuss trafficking issues and formulate governmental action plans.¹⁰¹ By mid 2003, the Ministry of Foreign Affairs and Cooperation assumed the leadership of the Trafficking Working Group. The goal of this instrumental and sole entity dedicated to trafficking issues is to produce a coordinated and uniform governmental strategy to combat trafficking. At this stage, the Trafficking Working Group is very much a work in progress as it formulates its priorities and direction. Up through the research period, civil society

¹⁰⁰ Interview with Mr. Fauzy, Indonesian Embassy representative, April 19, 2004.

¹⁰¹ Membership includes representatives from: (national) Ministry of Foreign Affairs and Cooperation, PNTL, Department of Social Services, Ministry of Justice, Office of the Prosecutor-General, Office for the Promotion of Equality, Advisor to the Prime Minister on Human Rights, (international) UNMISSET-Human Rights Unit, UNMISSET-Gender Unit, UNMISSET-Office of Legal Affairs, UNICEF, UNPOL, UNHCR, and the International Organization of Migration (IOM). Trafficking Working Group Terms of Reference.

representation was excluded. According to the Chair, non-governmental organizations (NGOs) would eventually play an important role in providing services to trafficked women.¹⁰²

Primarily to support the Trafficking Working Group, UNMISSET hired an international anti-trafficking expert for two months in early 2004. After a preliminary assessment of the human trafficking situation, the consultant recommended to the Trafficking Working Group (as well as the Council of Ministers) appropriate measures to sustain effective counter-trafficking activities in East Timor.¹⁰³ Additionally, the consultant conducted trafficking awareness trainings to targeted governmental agencies.¹⁰⁴ The overall positive response to the consultant's recommendations indicates the East Timorese government's increased willingness to prioritize human trafficking issues, an important step in enacting strong preventative measures.

The United Nations has taken positive steps toward reducing its own personnel's participation in the "promotion of trafficking." Prompted by the discovery during the raid of an establishment in March 2003 of several UNPOL officials procuring services, UNMISSET issued several high level internal policy directives to prevent United Nations peacekeeping forces, civilian police, and civilians from attending places frequented by "prostitutes." The directives specifically black listed several establishments and warned of the disciplinary consequence of repatriation for attending massage parlors and other places suspected of prostitution activities. Unclear in their scope, however, the directives do not appear to distinguish between a non-coerced adult sex worker (i.e. a legal sex worker) and a trafficked person or whether procuring sexual services from commercial sex workers, in addition to frequenting places where they work, was also a prohibited activity. At least one UNPOL official was repatriated as a result of the policy.

Although there is ample evidence that United Nations staff are sex industry clients, the team uncovered nothing to implicate United Nations officials in trafficking or in managing the sex industry in East Timor. Even if United Nations personnel were involved in the crime of trafficking, East Timorese officials could not prosecute them because the United Nations has absolute immunity from East Timorese law. Enforcement issues are complicated further by the United Nations' own jurisdictional challenges over its Peace Keeping Forces (PKF). The PKF national contingents are not under the direct command of the general mission. The result is that UNMISSET has no power to discipline a PKF national contingent official and can only recommend to the national contingent commander to take action.¹⁰⁵

To create a uniform policy about sexual exploitation and sexual abuse, the United Nations Secretary General issued a bulletin in October 2003, which included the prohibition of sexual activity with children (defined as under 18) and commercial sex workers. The policy applies to

¹⁰² Interview with Joao Camara, Trafficking Working Group Chair, April 5, 2004. At the time of publication, it was learned that the Trafficking Working Group has opened to NGO participation. This is commendable and critical for the Trafficking Work Group's success. The lack of civil society participation at this nascent stage could have been detrimental for the substance of the policies themselves (NGOs provide a different viewpoint) and the willingness of NGOs to implement policies in which they had had no input.

¹⁰³ Interview with Laurence Hunzinger, UNMISSET Consultant, March 29, 2004.

¹⁰⁴ The trainings were with the Trafficking Working Group, PNTL-Vulnerable Persons Unit, Department of Social Services, and UNMISSET. Interview with Laurence Hunzinger, UNMISSET Consultant, March 29, 2004. At the outset of this study, the consultant met with and shared preliminary findings with the Alola needs assessment team.

¹⁰⁵ Interview with Brigadier Paul Retter United Nations Deputy Force Commander, May 13, 2004.

all United Nations staff plus separately administered United Nations' organs, programs, and United Nations forces (i.e. PKF). The bulletin's impact on UNMISET's jurisdiction over PKF national contingent troops has yet to be seen.¹⁰⁶

Although the final protocols and procedures are not yet in place, an analysis of current national trafficking prevention efforts, mostly concentrated at East Timorese points of entry, is indicative of future official practices. Based on various interviews with international and national immigration officials, it is apparent that the emphasis to prevent trafficking is to "refuse entry" of possible sex workers and also potential trafficking victims. At the port of entry all persons must answer basic questions during the "immigration review" concerning destination, length and purpose of stay. Immigration officials single out women from sending countries as possible "trafficking victims," questioning them further about means of subsistence and statements or documents justifying purpose and conditions for the stay, all legitimate questions under the immigration law.¹⁰⁷ If the women say they are entering East Timor for the purpose of employment, or are suspected as such, immigration officials will "refuse entry" because it is illegal to work on a tourist (Class I) visa, the most common visa issued at the port of entries. Herein lies the quandary: work visas are not issued at port of entries; in fact, according to the Immigration and Asylum Act, they are only issued at East Timor consular offices or at the Ministry of Foreign Affairs.¹⁰⁸ Matters are further complicated for the employment-seeking immigrant because the Ministry of Foreign Affairs, at the time of the study, had yet to establish procedures to issue work permits.

The fact that it is essentially impossible to obtain a work permit before arriving to an East Timorese port of entry has been selectively used to prevent sex workers, especially at the airport, from entering the country. More troubling is that measures are not being taken, if persons are suspected of being sex workers, to seriously screen them as potential trafficking victims. Instead, once suspected as "trafficking victims" (which in practice means all sex workers) they are refused entry and are sent back on the flight on which they arrived.¹⁰⁹ Before they are returned, they are questioned about their "traffickers" for the purpose, as one official explained it, of gathering information to combat trafficking not to assist the victim.

Statistics on females arriving to the Dili airport in 2003 and 2004 reveal that only Asian women have been refused entry into the country. In 2003, five Thai and five Chinese women were denied entry. In January 2004 alone, 14 Thai, 2 Chinese, and 1 Malaysian woman were refused entry.¹¹⁰ All of the women arrived on flights originating in Denpasar, Indonesia.¹¹¹

Several problems exist with the interdiction-type procedures currently in place. First, there is confusion between a non-coerced adult sex worker and a trafficked person. Selectively enforcing the employment visa requirements against women exclusively suspected of being

¹⁰⁶ ST/SGB/2003/13 9 October 2003 "Special Measures for Protection from Sexual Exploitation and Sexual Abuse."

¹⁰⁷ Immigration and Asylum Act, Articles 16-19.

¹⁰⁸ Ibid. Article 39.

¹⁰⁹ If a passenger is refused entry, the air carrier is obligated to return that person to where the flight originated. Immigration and Asylum Act, Article 25.

¹¹⁰ Migration Department (2004) "List of Female Passengers who were refused Entry into East Timor."

¹¹¹ Ibid. During the research period, only two carriers served Dili, one with flights from Darwin, Australia and the other with flights from Denpasar, Indonesia.

involved in the sex industry (which appears to be the practice) is discriminatory. Second, refusing entry to a trafficked person does not prevent trafficking it merely transfers it to another destination.

The lack of training of immigration officials and the public's general unawareness of trafficking issues contributes to the failure to distinguish trafficking victims and address their particular needs. From 2002 through the end of the research period, there were no trafficking trainings of government officials (with the exception of the UNMISSET consultant's trainings) or awareness campaigns targeted at the population at large.

A positive preventive measure is the government's participation in regional anti-trafficking initiatives such as the ongoing "Bali Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transactional Crimes ('Bali Process')." Linking with regional governments in counter-trafficking efforts is an important aspect of preventing the multinational crime. Less effort has been dedicated to involving the embassy representatives in East Timor in counter-trafficking prevention, such as sharing of information. In fact, embassy representatives from three sending countries, China, Indonesia, and Thailand stated that they had never discussed trafficking issues with East Timorese government officials.¹¹²

As the East Timorese government takes steps in developing its prevention policies to combat-trafficking it is important that the policies be human rights based in order to achieve the balance between the needs of law enforcement and the needs of the trafficked women.

VII.E. Protection/Services to Trafficked Persons

Currently, no specialized services exist in East Timor for persons who have been trafficked. A plethora of services are needed to adequately support trafficked persons. The Trafficking Protocol's Article 6(3) specifically highlights the need to provide trafficking victims with "a. Appropriate housing; b. Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking can understand; c. Medical, psychological and material assistance; and d. Employment, educational and training opportunities."¹¹³ As discussed in section V.G. the sex workers also identified these areas as immediate needs.

In terms of legal issues, trafficked persons potentially have a wide array of legal concerns including immigration, labor, civil harm, and criminal. In East Timor, there are no lawyers trained to meet the particular needs of women's legal issues, let alone women who have been trafficked. In March 2004, a local non-governmental organization released a report on the judicial treatment of women related cases, such as sexual violence.¹¹⁴ The difficulties that the victims and advocates encountered during the two-month monitoring period further underscored the fact that East Timor needs legal advocates trained specifically to represent women. The

¹¹² Interviews with Mr. Fauzy, Indonesian Embassy representative, April 19, 2004; Mr. Cheng Shuping, Chinese Embassy representative, April 26, 2004; Ambassador Kulkumut Singhara Na Ayudhaya, Thai Embassy, April 14, 2004.

¹¹³ Although not yet ratified, the Protocol serves as a normative guide for the services needed for trafficked persons.

¹¹⁴ Judicial System Monitoring Programme (2004), "Women in the Formal Justice Sector: Report on the Dili District Court" available at www.jsmp.minihub.org.

findings are consistent with the team's research of prostitution-related cases, mostly outlined in section VII.C.

All of the prostitution-related cases so far have entailed criminal or immigration charges against the potential trafficking victims or voluntary repatriation of women who have been trafficked. There has yet to be a proactive case for a trafficking victim to, for example, remain in East Timor, demand unpaid wages, be compensated for damage suffered, or bring criminal charges against her trafficker.

In the prosecutions examined by the team the women who were criminally charged with being pimps were assigned lawyers to represent them. Surprisingly, during the interviews of one of the persons criminally charged with prostitution and two non-legal advocates who had supported the women in separate cases, it was clear that the "suspects" had not realized that they had had legal representation. Despite interaction with the attorneys, the "suspects" did not understand that these legal advocates actually represented them. In light of the lack of training and the pervasive confusion within the legal sector about prostitution and trafficking, the lawyers seemed to provide the best representation they could under the circumstances.

Any shelter provided to potential trafficked persons to date has consisted of non-governmental organizations providing ad hoc accommodations usually as a personal favor to the police officers involved in the case. Three East Timorese non-governmental organizations (in addition to the Alola Foundation) have expressed interest in becoming involved in providing some form of service for trafficked persons and sex workers: East Timorese Women Against Violence (ETWAVE), Hari'i Au Metan Foundation, and Fokupers. Each of these organizations has had limited experience assisting sex workers, but not with persons identified as trafficking victims. No single East Timorese organization is currently prepared to run a shelter with the minimum services stipulated in the Trafficking Protocol.

Voluntary repatriation and the right of a trafficked person to remain temporarily or permanently in the destination country are addressed in the Trafficking Protocol's Articles 7 and 8. Thus far the voluntary repatriation processes have been ad hoc and implemented by international entities. Three "sending" countries, which have embassies in East Timor (China, Indonesia, and Thailand) have also assisted their nationals to return to their home countries in various, not always voluntary, ways.

Chinese nationals who were potentially trafficked have been "noticed to abandon"¹¹⁵ East Timor and apparently left the country without the embassy's assistance. In fact, a Chinese embassy representative commented that he would be surprised if Chinese women in East Timor would ever seek the embassy's assistance if in trouble. The embassy has emergency funds to repatriate Chinese nationals. The funds, however, are not readily available and the strict guidelines require proof that the person is indeed a victim. There are purportedly no negative consequences for the

¹¹⁵ "Notice to Abandon" is when the Migration Department orders a foreigner to leave the national territory within a specific time frame. Immigration and Asylum Act, Article 64. It is different than deportation or expulsion and has distinct future immigration consequences.

person who is a recipient of the emergency funds. In East Timor no occasion has presented itself yet necessitating the use of the funds.¹¹⁶

Most Indonesian women who were possible trafficking victims have received deportation notices and a few were released from detention on bail pending trials which never occurred. An Indonesian embassy representative explained that they have assisted some of these women return to the East/West Timor border but other times were not involved because the embassy was not even notified of the arrests. He further explained that the embassy does not want to interfere with East Timor's internal affairs so does not get involved in pushing for investigations of traffickers. The embassy's duty, he explained, is to guarantee that the Indonesians' rights are respected.¹¹⁷

Thai women who have likely been trafficked have been deported, "noticed to abandon," voluntarily repatriated, with the lead support of international organizations, or simply sent home by the embassy itself. The Thai Ambassador explained the process he followed when sending back to Thailand, on separate occasions, two Thai women working in the sex industry in East Timor who were likely trafficking victims. He confiscated and cancelled their Thai passports and issued them a Certificate of Identity which serves as a diplomatic one way pass to Thailand. A report was then filed with immigration authorities in Thailand explaining "what they did while in East Timor." Upon arrival to Thailand, they would have been interrogated by immigration authorities, further explained the Ambassador, and then the social welfare department would have informed the Thai women that they would have to reimburse the Thai government for the accommodation arranged by the Thai embassy in East Timor and the airfare. If either woman wanted to leave Thailand again they would have to apply for a new passport which would be difficult to obtain because the authorities would know "what she had done in East Timor." At no point did the Ambassador ask the women what they wanted.¹¹⁸

Even though the Thai Ambassador has supported Thai government efforts to pursue Thai persons suspected of trafficking their nationals to East Timor, he chose not to become involved with investigations of those same cases in East Timor. In fact, the Thai Ambassador had little direct contact with East Timorese officials, preferring instead to liaise with United Nations officials.¹¹⁹

In none of the cases was an effort made by the foreign embassies or East Timorese officials to connect the women with services in their countries of origin. Instead, the women were sent out of the country with little regard of their welfare beyond East Timor's borders.¹²⁰

To date services for trafficking victims have been uncoordinated, scarce, and ad hoc. There is a general recognition in East Timor from church officials to police that trafficked persons need and deserve support. Although the Catholic Church is formally against prostitution, it considers assisting trafficking victims as a means to protecting women's morality and health.¹²¹ Securing

¹¹⁶ Interview with Mr. Cheng Shuping, Chinese Embassy representative, April 26, 2004.

¹¹⁷ Interview with Mr. Fauzy, Indonesian Embassy representative, April 19, 2004.

¹¹⁸ Interview with Ambassador Kulkumut Singhara Na Ayudhaya, Thai Embassy, April 14, 2004.

¹¹⁹ Ibid.

¹²⁰ In other cases when international agencies assisted in the voluntary repatriation, the women were put in contact with origin-country services.

¹²¹ Interview with Bishop Alberto Ricardo da Silva of Dili, June 7, 2004.

the political will and cultural acceptance is the necessary foundation upon which human-rights centered services can be developed. Once the fundamental principles of support are agreed upon, it is only a matter of securing funding and launching the service projects. The necessary coordination, for example with foreign embassy officials, for the full spectrum of support will develop along with the programs.

VIII. Recommendations

Based upon the above study of the sex worker and trafficking victims' expressed needs, and the current prosecution, prevention, and protection efforts to counter trafficking, the team puts forth the following recommendations specific to East Timor today.¹²² These general recommendations should be enacted after a participatory consultative process, which ensures stakeholder involvement in the formulation and execution of the resulting policies and projects.

1. Ratify the Trafficking Protocol

After ratification, the government will have to review and possibly draft new domestic legislation to meet the state's obligations under the Protocol. The domestic laws should go further than the basic guidelines established in the Protocol in at least two points: First, to broaden the scope of trafficking to include all domestic trafficking and all legal persons,¹²³ and second, to provide mandatory, not discretionary, human rights provisions regarding the victims.

2. Draft a human-rights centered law exclusively dedicated to trafficking issues

Concentrating anti-trafficking measures on criminalizing the offenders (as it is currently under the Immigration and Asylum Act and Indonesian Penal Code) does not go far enough to effectively combat trafficking and address the panoply of issues related to the victims' legal and other needs. If the victims have no legal rights, remedies, or protections they are much less likely to cooperate with authorities ultimately impeding the ability to combat trafficking from the criminal standpoint.

3. Open a "safe house" to provide crisis accommodation for both trafficked persons and sex workers, and which also offers legal, social, and economic support

Sex workers and potential trafficking victims identified their need for safe accommodation where they can receive services and support in times of crisis. Without

¹²² For general recommendations on anti-trafficking laws and policies with a human rights focus see: Office of the High Commissioner for Human Rights (2002) "Recommended Principles and Guidelines on Human Rights and Human Trafficking", and Global Alliance Against Trafficking of Women, Foundation Against Trafficking in Women, and International Human Rights Law Group (1999). "Human Rights Standards for the Treatment of Trafficked Persons." Retrieved on October 7, 2003 from www.hrlawgroup.org (now www.globalrights.org).

¹²³ The Trafficking Protocol Article 4 establishes that the Protocol applies to "those offenses [that] are transnational in nature and involve an organized criminal group." Organized criminal group is defined in the United Nations Convention Against Transnational Crime (to which the Trafficking Protocol supplements) Article 2a. as "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes established in the Convention, in order to obtain, directly or indirectly, a financial or other material benefit."

safe housing, sex workers, whether trafficked or victims of another crime, may be further endangering themselves by cooperating with law enforcement actions against their abusers. Secure housing will help empower these women to testify.

4. Develop crisis prevention services especially for victims of rape, single mothers, or widows with children

Most female sex workers interviewed during the research period referred to a traumatic event, rape and abandonment being the most common, as the catalyst to their entrance into sex work as a means of livelihood. Services, such as legal, social, and economic, are needed for women and girls in these circumstances.

5. Develop a “Drop-in Center” where sex workers, the persons with most access to actual trafficking victims, can find information and services on a variety of issues including legal, health, employment, and trafficking

Getting information out to trafficked women about the availability of services is a difficult task; therefore, a multifaceted strategy is necessary. The more educated and supported the sex workers are the greater likelihood that trafficking victims will receive the information and then seek the assistance as well.

6. Create women’s legal services with a specialized trafficking victim unit

The lack of advocates specialized in the complicated legal issues surrounding trafficking has resulted in women being victimized the system. Due to the lack of support, the women have little incentive to provide probative evidence, a fact lamented by the law enforcement community. In addition to individual representation, the trafficking unit should engage in trafficking-related advocacy and legislative work.

7. Increase cooperation with foreign embassies in East Timor to coordinate victim services and anti-trafficking efforts

The foreign embassies in East Timor can be strategic partners in confronting the global crime of trafficking. For example, the embassy personnel can assist in the repatriation process, facilitate prosecutions in East Timor by coordinating with law enforcement initiatives in their native country, and provide information about traffickers.

8. Halt suspected brothel raids as the principal anti-trafficking law enforcement effort

Thus far, the brothel raids have made women in the sex industry, whether voluntary adult sex workers or trafficking victims, fearful of law enforcement, uncooperative and has not produced successful criminal investigations.

9. Cease refusing entry to possible trafficking victims and instead permit temporary entry and referral to safe house, once operational

Trafficking is not only East Timor’s challenge; it is a global one. Refusing trafficking victims entry into East Timor risks further endangering the women because their traffickers may await them at the other end. Not only is it inhumane to not help a person in danger, it is a missed opportunity to stop the traffickers.

10. Ensure that possible trafficking victims returned to their country of origin are provided with appropriate assistance in that country

At anytime, it is important to take all possible measures so that a potential trafficking victim returned to the country of origin for any reason is connected with origin-country services. This is a step toward ensuring that the person will not be re-trafficked or harmed upon return.

11. Grant trafficked persons the right of residence in East Timor

A person who has been trafficked to East Timor should have the option to remain. This entitlement should not be contingent upon cooperation with law enforcement simply because empowering persons to cooperate is, in the long run, more beneficial to the victim and the legal case.

12. Conduct trafficking awareness trainings with law enforcement, legal community, and judicial officials with special emphasis on understanding that trafficked persons are victims and not criminals

Trafficking victims will not begin to receive the protection they deserve until the legal and law enforcement community knows how to identify trafficking victims and what rights they have.

13. Educate the population about trafficking to prevent East Timorese people from becoming trafficking victims

The research uncovered no evidence indicating that persons are trafficked from East Timor for any purpose. At this early stage, awareness campaigns throughout the nation with special emphasis on labor and sexual exploitation may well prevent East Timor from becoming a source country like many of its Asian neighbors.

IX. Conclusion

Trafficking for sexual exploitation is occurring in East Timor, the world's newest nation. Due to conflicting views about prostitution, its legality versus cultural acceptance, there has been confusion between trafficked persons (crime victims), and non-coerced adult sex workers whose commercial sex work is a legal activity in East Timor. The misconceptions have resulted in almost all women and girls suspected of prostitution activities being treated as criminals. Through this period, however, the East Timorese government has made progress toward recognizing the rights of trafficking victims and targeting the traffickers as opposed to legal prostitution activities. Important steps are still ahead including the formulation of a comprehensive anti-trafficking law that addresses the needs of law enforcement as well as trafficked persons, and the coordination of anti-trafficking policies that include civil society as strategic partners. Although trafficking is occurring, it is not so entrenched that effective multi-dimensional measures enacted soon could not dramatically reduce, if not halt, its incidence. Moreover, concerted holistic efforts now may also prevent East Timorese women, girls, men, and boys from being targeted by traffickers in the future. The more trafficking is recognized as a global human rights issue, not just a local law enforcement challenge, the closer East Timor, and the rest of the world, will move toward stopping this affront to human dignity.



APPENDIX A

Alola Foundation Background

The Alola Foundation was established in 2001 by East Timor's First Lady Kirsty Sword Gusmão.

The name "Alola" is the nickname of Juliana dos Santos, a 14 year old Timorese school girl who was brutally kidnapped and raped in the violence of September 1999. She is still held in West Timor by her abductor.

Our initial focus was therefore on raising awareness locally and internationally about the problem of sexual and gender-based violence experienced by the women and girls of East Timor.

The Foundation has grown to respond to the needs of the East Timorese in the field of education, maternal and child health, and economic independence.

The foundation works in direct partnerships with local East Timorese women's groups and promoting the interests of survivors of violence and their families.

Core Function, Vision and Mission Statements of the Alola Foundation

Core Function of the Alola Foundation

To resource and respond to the needs of women and their communities and organizations to enhance their lives.

Vision of the Alola Foundation

To work together with women and their communities toward the fulfillment of their social, economic, political and cultural aspirations.

Programmatic Mission Statements of the Alola Foundation

Economic Empowerment:	To empower women to achieve economic independence.
Advocacy:	To advocate for the advancement of women's aspirations in all areas of their lives.
Education and Literacy:	To support women and their children's access to education.
Maternal and Child Health:	To contribute to a reduction in the maternal and child mortality rates by promoting good health for women and their communities.
Humanitarian Assistance & Referral:	To distribute practical assistance to the most needy women and their families encountering economic hardship.

APPENDIX B

SEX WORKER SURVEY QUESTIONS¹²⁴

A. GENERAL INFORMATION

1. First Name:
2. Contact Information (how could we find the person again?):
3. Nationality:
4. Town of Origin:
5. Languages Currently Speak:
5. Age:
6. Education Level:
7. Gender:
8. Survey Conducted in What Language:
9. Location of work (places they frequent?):
10. Type of sex work (bar, call-in, massage, etc.):
11. How many people and what nationalities do sex work with you?:

B. TRAFFICKING VICTIM?

1. Do you want to be here in Dili doing sex work?
2. How did you first learn about sex work in Dili (who recruited you, etc.)?
3. Who organized your migration to Dili?
4. What were you promised and by whom?
5. Is the employment you found what you expected?
6. Are you in debt? (to whom, for what, how much, since when, etc.)?
7. Do clients pay you directly? If not, how do you receive payment?
8. Are you at liberty to leave your work under your own will (e.g. can you go out in Dili unaccompanied or return to your country of origin, etc.)?
9. Have you been threatened (if so, by whom, etc.)?
10. Do you have control over your identity documents such as passport or registration card?
11. How many days/hours do you work?
12. How old were you when you started doing sex work in Dili?
13. (to be filed out by interviewer) Possible trafficking victim? Yes_____ No_____

If no,

13a. How, why, and when (age) did you start this work?

C. NEEDS

1. Do you suffer from any medical problems presently?

¹²⁴ The surveys were filled out by team members during interviews with the sex workers. The format as shown here is a condensed version for the purpose of publication.

2. Do you know how and where to get medical care?

3. Do you go for medical care? If no, why not?

4. Is it a good idea:

4a. "Yes No"

To have a place that served as a RESOURCE CENTER (a place to go for information) just for sex workers?

4b. Why, Why not?

4c. Would you use it?

4d. Why, Why not?

4e. What specific information/service would you like to have available at a resource center? (get information on alternative employment, condoms, counseling, legal etc?)

5a. "Yes No"

To have a SAFE HOUSE (a confidential place to assist workers who want to leave sex work and/or get assistance to go home)?

5b. Why, Why not?

5c. Would you use it?

5d. Why, Why not?

6a. "Yes No"

Want a free STI/HIV medical check once a month?

6b. Why, Why not?

6c. Would you use it?

6d. Why, Why not?

7a. "Yes No"

Be part of an organization of sex workers that can help you when you need it?

7b. Why, Why not?

8a. What other support/information/services would you like to have available?

(e.g. legal, day care, etc.)

8b. Why?

9. Do you want to leave sex work? If so, what prevents you (e.g. a person or other circumstances)?

10. Do you know people who have been recruited to work outside of East Timor? If so, what type of work and what were the circumstances?

11. Do you want a free medical check up? Yes _____ No _____

12. (to be completed by interviewer) What was the general emotional/physical state of person during interview?

Interviewer/s:

Date/s:

Location/s of Interview

If translated, by whom? Translated from/ _____ to/ _____

APPENDIX C

Subject: JT: East Timorese recalls wartime sex-slave experience

The Japan Times December 14, 2002

East Timorese recalls wartime sex-slave experience

By NAO SHIMOYACHI Staff writer

East Timor, the world's youngest nation, has a long history of hardship. Marta Abu Bere. The island was subjected to more than 400 years of Portuguese colonial rule and a quarter century of Indonesian occupation that is believed to have claimed 200,000 lives.

A period of Japanese military occupation between February 1942 and August 1945 came as no respite — particularly for women forced to serve as sex slaves for Japanese soldiers.

Marta Abu Bere, one such East Timorese, was in Tokyo this week at the invitation of a citizen's group to speak about her experiences as a "comfort woman."

"It was an embarrassing thing to talk about," said Abu Bere, about 70, at a gathering on Thursday evening. She does not remember her exact date of birth.

"I just wish you all to keep my story in your mind, not just in your head, so that such an incident will not occur again," Abu Bere said. According to a 1996 survey by a local group, there are at least 700 East Timorese women like Abu Bere.

Her son and niece, who accompanied her on the three-day visit to Japan, did not know about her experiences until two years ago, when she testified at the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, a citizens' trial held in Tokyo.

Abu Bere was a sex slave for Japanese soldiers for three months in the village of Marobo until she became seriously ill and was released. She said she was lured to the military brothel by an East Timorese man who worked for the Japanese forces.

During the period, she said she served about 10 men a night and was forced into hard labor during the day. She said she was given almost no food. Her brothers delivered cassava, an indigenous root, to her quarters.

Kiyoko Fukusawa, associate professor at the Keisen Jogakuin College who has studied East Timorese affairs for 16 years, said the conditions appeared to be typical of such "comfort stations" in rural villages of East Timor.

Japanese forces lost naval and air control in the region soon after they completed their occupation, Fukusawa said, adding this may have exacerbated conditions in the brothels.

Former comfort women in East Timor have been omitted from all frameworks of redress.

After the war, East Timor came once again under the control of Portugal, which remained neutral during World War II, and the women were covered neither by the 1951 San Francisco Peace Treaty nor by the compensation agreement signed between Japan and Indonesia.

A private fund called the Asian Women's Fund was established in 1995 at the initiative of then Prime Minister Tomiichi Murayama, but no discussions were held on redress for East Timorese.

Even after East Timor obtained independence in May, the former sex slaves in the country, including Abu Bere, have not demanded redress from Japan.

APPENDIX D

Operations, Prosecutions and Investigations involving potential traffickers and trafficking victims between 2002 and June 2003¹²⁵

A. UNPOL OPERATIONS			
1. Location: How Hwa Fitness Center March 2003		Law Enforcement: UNPOL-Dili District (UNPOL-NID back up support)	Prosecutor: Zelia Trinidad
Facts: In March 2003, UNPOL executed a covert operation on the How Hwa Fitness Center. Twenty two Thai women (including three minors) were found on the premises and considered possible trafficking victims.			
<u>The Women:</u> Twenty two Thai women (including three minor girls of 15 and 17 years).		<u>The Operators:</u> One Thai woman and one Singaporean man suspected of operating brothel.	
Attorney:	None	Attorney:	Jose Angelito Soares
Detention:	UNPOL questioned the women with a Thai UNPOL serving as translator and then released back to the suspected brothel.	Detention:	None
Charges:	None	Charges:	IPC ¹²⁶ 296, 297
DRH: ¹²⁷	None	DRH:	US\$4,000 bail set and received conditional release for six months reporting once a week to prosecutor's office.
Indictments:	None	Indictments:	None
Current Status:	15 voluntarily repatriated to Thailand and 7 remained in Dili (whereabouts currently unknown).	Current Status:	Case closed June 24, 2004
<p>Trafficking Victims: Most likely.</p> <p>According to various sources, the women were most likely trafficking victims. They were recruited in Thailand to come to work as masseurs in Dili. The women were in debt to the operators for the transportation expenses and visas. Information varies as to whether the operators directly forced them into sex work, pressured the women into it, or whether the women felt they had no alternative to earn sufficient money to pay off the debts. Upon returning to Thailand, all 15 filed trafficking charges against their Thai recruiter.¹²⁸ There was no cooperation or coordination between East Timorese and Thai authorities in the trafficking investigations.</p>			

¹²⁵ Although the team attempted to provide an exhaustive list of cases involving potential traffickers and trafficking victims there may have been some cases overlooked. As explained in section VII.C., the case details were compiled from interviews, when willing and available, with international and local police, prosecutors, defense attorneys, court officials, sex workers, and other interested parties in each case.

¹²⁶ Indonesian Penal Code (IPC).

¹²⁷ Detention Review Hearing. See section VII.C.3. for an explanation of a Detention Review Hearing.

¹²⁸ See Appendix F.

A. UNPOL OPERATIONS			
2. Location: Futo Hotel - April 2003		Law Enforcement: : UNPOL-Dili District	Prosecutor: Zelia Trinidad
Facts: Approximately 5 Indonesian women arrested for suspected involvement in prostitution. Details of arrest unknown.			
<u>The Women:</u> 5 Indonesian women		<u>The Operators:</u> The two men suspected as operators were questioned and released by police.	
Attorney:	Estaquio Guterres	Attorney:	None
Detention:	Unknown	Detention:	None
Charges:	IPC 296, 297	Charges:	None
DRH:	Deportation ordered for the 5 Indonesian women.	DRH:	None
Indictments:	None	Indictments:	None
Current Status:	Case Closed	Outcome:	Unknown
Trafficking Victims: Not likely. The women had arrived from West Timor in August 2002 and had traveled between the two countries several times since then.			

A. UNPOL OPERATIONS			
3. Location: Hotel Dili 2001 - May 2003		Law Enforcement: UNPOL-Dili District (UNPOL-NID back up support)	Prosecutor: Zelia Trinidad
Facts: An UNPOL covert operation. One Chinese man brought 18 year-old Chinese girl to Hotel Dili 2001 to provide sexual services to an undercover UNPOL officer.			
<u>The Woman:</u> 18 year-old Chinese woman.		<u>The Operator:</u> One Chinese man arrested.	
Attorney:	None	Attorney:	Unknown
Detention:	None. Woman questioned and released.	Detention:	None
Charges:	None	Charges:	IPC 296, 297
DRH:	None	DRH:	US\$1,500 bail set and received conditional release for six months, reporting conditions unknown.
Indictments:	None	Indictments:	None
Outcome:	Woman's status unknown	Current Status:	Case closed in October 2003
Trafficking Victim: Unknown. At the detention review hearing, the girl denied being a sex worker stating that the UNPOL officer was her lover and that the Chinese man was not her pimp.			

A. UNPOL OPERATIONS			
4. Location: Wisma Cendana- October 2003		Law Enforcement: : UNPOL-NID	Prosecutor: Unknown
Facts: Five Thai women arrested in an undercover operation at Wisma Cendana hotel for suspected involvement in prostitution.			
<u>The Women:</u> Three Thai women ages 25-30 years old.		<u>The Operators:</u> Unknown	
Attorney:	Benevides Correia Baros	Attorney:	None
Detention:	Detained until detention review hearing. Location of detention unknown.	Detention:	None
Charges:	“prostitution,” specific charges unknown.	Charges:	None
DRH:	Three women received deportation orders.	DRH:	None
Indictments:	None	Indictments:	None
Appeal:	The defense attorney discussed with the Thai women the option of appealing the deportation order, however, he did not see how it was feasible for the women to support themselves pending the outcome of the appeal. For that reason, he counseled them to see the Thai ambassador for assistance. He never saw the women again.		
Current Status:	Unknown	Current Status:	Unknown
Trafficking Victims: Most likely. The defense attorney did not have Thai translator so the interviews were conducted in English limiting the attorney's ability to evaluate their situation. The three Thai women were recruited in Thailand to work in massage in East Timor. Once in Dili, they began working as sex workers. The impetus for the transition is unclear. While at Wisma Cendana, the women were not allowed to leave the establishment without permission and they were not in control of their passports.			

A. UNPOL OPERATIONS			
5. Location: Hotel Dili 2001 – February 2004		Law Enforcement: UNPOL-NID supported by PNTL-NID	Prosecutor: None
Facts: NID led raid to investigate possible trafficking. Three Thai women and one Chinese woman questioned and released.			
<u>The Women:</u> Three Thai women and one Chinese woman		<u>The Operators:</u> Unknown	
Attorney:	None	Attorney:	None

Detention:	None	Detention:	None
Charges:	Working on tourist visas.	Charges:	Employing foreign national without proper employment visas
DRH:	None	DRH:	None
Indictments:	None	Indictments:	None
Current Status:	Migration Department fined women (\$250 each) for working without the proper employment visas and noticed them to abandon country. The women's employer paid the immigration fines on their behalf and the women left the country.	Current Status:	Migration Department fined employer (\$500 for each worker) because the women were working on tourist visas.
Trafficking Victims: Unknown			

A. UNPOL OPERATIONS			
6. Location: Starlight Bar/Hillview Hotel - March 2004		Law Enforcement: UNPOL-NID and PNTL-NID, with UNPOL and PNTL Migration support.	Prosecutor: None
<p>Facts: NID led raid to investigate possible trafficking. Questioned 12 Thai and 3 Filipina women found on premises. The women denied being sex workers. An UNPOL Filipino officer translated for the Filipina women. There was no Thai interpreter, so the Thai women were interviewed in a group with one of the Thai women serving as the translator. All were in possession of their passports.</p>			
<u>The Women:</u> 12 Thai and 3 Filipina women		<u>The Operators:</u> One Singaporean-Chinese female, one Singaporean male, and one Nepalese male.	
Attorney:	None	Attorney:	None
Detention:	None	Detention:	None
Charges:	Working on tourist visas.	Charges:	Employing foreign nationals without proper employment visas
DRH:	None	DRH:	None
Indictments:	None	Indictments:	None
Current Status:	Migration Department fined women (\$250 each) for working without the proper employment visas and noticed them to abandon country. The women's employer paid the immigration fines on their behalf and the women left the country.	Current Status:	Migration Department fined employer (\$500 for each worker) because the women were working on tourist visas.
<p>Trafficking Victims: Unknown. The three Filipina women had been denied entry at the Dili airport in February but then successfully crossed West /East Timor land border one week later.</p>			

B. PNTL OPERATIONS -“OPERATION TEKI”			
1. Location: Timor Lodge Hotel, plus - July 2003		Law Enforcement: PNTL-NID	Prosecutor: Remizia da Silva
<p>Facts:</p> <p>Seven Indonesian women and one East Timorese man arrested for alleged involvement in prostitution. Three women were arrested at the Timor Lodge Hotel. Allegedly, one woman was caught in the act with a client while the other two were simply present at the hotel, however, further details of the arrest are unknown. The police then went to the women's home in Beto Barat and arrested an additional five women who were purportedly sleeping.</p>			
<p><u>The Women:</u></p> <p>Five of the Indonesian women were from Kupang or Atambua, West Timor; one of them was a widow with five children in Kupang under the age of 21. Two of the women were East Timorese refugees from Suai and Ermera. They held Indonesian passports and their families were still in West Timor.</p>		<p><u>The Operators:</u></p> <p>One East Timorese man.</p>	
Attorney:	Estaquio Guterres	Attorney:	None
Arrest Warrants:	Requested subsequent to arrests.	Arrest Warrants:	None
Detention:	<p>All seven women were detained in the police academy. Usually suspects are detained in the Caicoli police station pending the detention review hearing. The motive for this irregular detention venue is unclear. There are several accusations of police abuse during the custody period. Purportedly, police officers requested the women to provide them sexual services while detained in the police academy. At least one woman claimed that she was taken from detention and driven to a remote part of Dili and forced to have sex with an officer. No charges were ever filed against the officers and it is unclear if there was even an investigation into the allegations.</p>	Detention:	None. Just questioned and released.
Charges:	IPC 296, 506	Charges:	None
DRH:	<p>All seven women were ordered deported to Indonesia. The investigating judge purportedly asked the two East Timorese women which country they wanted to return to and they replied Indonesia. On that basis, the investigating judge issued</p>	DRH:	None

	deportation orders against them as well even though they were East Timorese citizens. All seven women appealed.		
Detention post DRH	<p>One woman was detained in prison pending the outcome of the appeal. In September, she was conditionally released from the prison with no bail set and ordered to report once a week to prosecutor's office until the appeal's conclusion.</p> <p>The other six women were transferred to Hari'i Au Metan, a local women's non-governmental organization that agreed to house them under the conditions set forth in an agreement between the prosecutor, police, defense attorney, and the NGO leader.¹²⁹ It is not clear whether this arrangement was a form of detention. While there was no court decision ordering their continued detention, the women were not allowed to leave the NGO premises or receive visitors without permission from the prosecutor and defense attorney, a strong indication that this was indeed detention and if so, an illegal one.</p> <p>With the exception of the Department of Social Services donating food, the state did not provide the NGO with any means to support the women while in this quasi-detention. Furthermore, the NGO did not have adequate facilities to house the women. A variety of sources including the Indonesian embassy and local NGOs donated money to the NGO to provide the women with food and other basic necessities.</p> <p>Security was also a concern. The police prevailed in providing security (the NGO did not feel it was necessary, in fact, believed it would be more of a security risk for the women). However, the women continued to be harassed by one particular officer.</p> <p>After nine days in the NGO, all six women voluntarily repatriated to Indonesian with the Indonesian embassy's assistance. Sources vary on the women's reason for leaving East Timor and not waiting for the outcome of the appeal (which ultimately was in their favor).¹³⁰ A few things are clear, however. The women were under substantial pressure: no one knew when the appellate court would rule, the women had families to support in West Timor (they usually returned every few months to see their children and leave money), the NGO could not support them indefinitely, and the accommodation, although well intentioned, was not physically comfortable or particularly secure. After their initial determination to wait for appellate ruling, the women changed their minds and left. The particular reason may never be known.</p>		
Appeal:	In November 2003 the appellate court ruled in the women's favor. The appellate court held that there was no basis for the detention (illegal detention)		

¹²⁹ Attached as Appendix G.

¹³⁰ An Indonesian consulate representative counseled the women to return to Indonesia for four reasons: the appeal process would be too long, they had already confessed to the "crime" of prostitution, they might have problems reentering East Timor if they were actually deported, and finally, the lack of financial support while they waited. Interview with Mr. Fauzy, Indonesian Embassy representative, April 19, 2004.

	because prostitution was not illegal in East Timor, and that the investigating judge had no legal authority to issue deportation orders. ¹³¹		
Indictments:	None	Indictments:	None
Current Status:	Women prevailed on appeal, however, six women had already returned to West Timor. The location of the seventh woman is unknown.	Current Status:	Unknown
<p>Trafficking Victims: Unknown.</p> <p>The women were never interviewed individually or thoroughly about how they became involved in prostitution in East Timor.</p>			

B. PNTL OPERATIONS -"OPERATION TEKI"			
2. Location: Bairo Pite - Private Residence – July 2003		Law Enforcement: PNTL- NID	Prosecutor: Remizia da Silva
<p>Facts:</p> <p>Four East Timorese women and one man arrested for suspected involvement in prostitution as a result of a PNTL-NID undercover operation. Two officers solicited and engaged in sexual services while another two officers remained in the front part of the house negotiating for services when six uniformed officers entered the residence and caught the two officers engaged in sex with the two women in a back room. The raid was filmed and later aired on the local television station. While executing the arrest the police were verbally abusive to the women. The officers did not pay for the sexual services.</p>			
<p><u>The Women:</u></p> <p>Several of the East Timorese women had been in sex work for many years. They paid the owner of the house a portion of their earnings in order to use his house for prostitution. All four women were middle aged widows with children to support.</p>		<p><u>The Operators:</u></p> <p>One Timorese man suspected as operator questioned by police.</p>	
Attorney:	Pedro Aparicio	Attorney:	Pedro Aparicio
Arrest Warrants:	Requested after the arrest.	Arrest Warrant:	None
Detention:	None. Police allegedly verbally harassed the women during interrogation.	Detention:	None
Charges:	IPC 296	Charges:	IPC 296
DRH:	No bail set. Conditionally released for three months reporting to the prosecutor's office three times per week.	DRH:	No bail set. Conditionally released for three months reporting to the prosecutor's office

¹³¹ Appellate Court Decision 48/03 is attached as Appendix E. For an analysis of the investigating judge's abuse of judicial power during this time period see Judicial System Monitoring Programme (2003). "Dili District Court Final Report 2003" 37. Retrieved on April 5, 2004 from www.jsmp.minihub.org.

			three times per week.
Indictments:	None	Indictments:	None
Current Status:	Case still open as of April 2004	Current Status	Case still open as of April 2004
<p>Trafficking Victims: Not likely. However, the women were apparently never screened as trafficking victims, rather just questioned to determine if they were sex workers who worked through a pimp.</p>			

B. PNTL OPERATIONS -“OPERATION TEKI”			
3. Location: Wisma Cendana, plus - July 2003		Law Enforcement: PNTL-NID	Prosecutor: Zelia Trinidad
<p>Facts: Five Indonesian women arrested for alleged involvement in prostitution as a result of an undercover “sting” operation at Wisma Cendana, Timor Lodge Hotel, and a private residence in Comoro on the same night. According to the recorded testimony of three of the women, they were arrested in a similar manner: an undercover agent called them directly (not through a pimp) to arrange for sexual services. The women were suspicious but agreed and met the potential clients at the agreed upon locations. After sexual intercourse, there was a knock on the door. All three women stressed that they told their “client” that they wanted to get dressed before the door was opened but were ignored. When the door was opened police officers entered with video recorders rolling. One woman said she pleaded with the police officers to allow her to clothe herself, but the police ignored her and continued to film. None of the undercover officers paid for the sexual services. All three women said they were humiliated by the experience. The operation was later aired on the local television station. The other two women were also arrested by undercover police but the circumstances are not unknown.</p>			
The Women: The women came from various parts of Indonesia and were between 27 to 40 years old.		The Operators: No suspects questioned or arrested	
Attorney:	Olga B. Nunes	Attorney:	None
Detention:	Uncertain. After being questioned at the Police Academy, the police brought the women to ETWAVE, a local NGO where they remained until the detention review hearing, apparently as a personal favor between a police officer and the NGO director. Apparently, the women were not in detention-like conditions and there was no formal arrangement between the police and the NGO.	Detention:	None
Charges:	IPC 296	Charges:	None
DRH:	Three women deported and two ordered conditionally released for four months reporting twice weekly to the police. No bail set.	DRH:	None
Indictments:	None	Indictments:	None
Appeal:	None. The defense attorney said the women wanted to return to Indonesia so she did not discuss appealing the deportation order. The NGO advocate stated that they women did not want to leave the country but did not know they had the option to appeal.		

Current Status:	Case closed.	Current Status:	Unknown
Trafficking Victims: Not likely. However, the women were never screened as potential trafficking victims.			

C. INCIDENTS INVOLVING POTENTIAL TRAFFICKING VICTIMS THAT WERE NOT A RESULT OF POLICE OPERATIONS		
1. Location: Sea View restaurant- July 2003	Law Enforcement: UNPOL	Prosecutor: None
<p>Facts:</p> <p>An 18 year old Vietnamese girl was recruited by a relative to work as a waitress at the Sea View restaurant. Once in Dili, she was forced to work as a prostitute. She had to forfeit her US\$150 per month wages to pay the US\$1,500 debt for transportation and visa expenses. The United Nations and IOM, an international NGO, assisted her repatriation to Vietnam. No legal case was initiated. The operators were Australian citizens of Asian origin.</p>		
Trafficking Victim: Very Likely		

C. INCIDENTS INVOLVING POTENTIAL TRAFFICKING VICTIMS THAT WERE NOT A RESULT OF POLICE OPERATIONS		
2. Location: Wisma Cendana – 2003 (month unknown)	Law Enforcement: None	Prosecutor: None
<p>Facts:</p> <p>A Thai woman approximately 30 years old left Wisma Cendana because she was being pressured into sex work (she was working as an escort and masseur). She wanted to leave the country but was prevented due to the massive debt she accumulated for airfare and accommodation. She searched for assistance and the owner of an Australian accommodation agreed to assist her. A person from Wisma Cendana, accompanied by a gang of local youth, arrived looking for the Thai woman demanding that she return to Wisma Cendana or that he pay off her debt, which the Australian man refused to do. The next day the Thai woman went to the Thai Embassy. With the assistance of the Thai Ambassador or the Australian man (conflicting accounts), the woman returned to Thailand the following day.</p>		
Trafficking Victim: Very Likely		

C. INCIDENTS INVOLVING POTENTIAL TRAFFICKING VICTIMS THAT WERE NOT A RESULT OF POLICE OPERATIONS		
3. Location: Starlight Bar/Hillview Hotel – January 2004	Law Enforcement: UNPOL	Prosecutor: None
<p>Facts:</p> <p>One Thai woman informed a Thai UNPOL said she was forced into prostitution at the Starlight Bar/Hillview Hotel. Until she served 50 clients her earnings were forfeited to pay for the travel expenses from Thailand. After 50 customers she could keep 50% of the payments. With the assistance of IOM, an international NGO, and possibly the Thai Embassy, the woman was repatriated to Thailand.</p>		
Trafficking Victim: Very Likely		

D. MISCELLANEOUS			
1. Location: Unknown Hotel - April 2002		Law Enforcement: Unknown	Prosecutor: Zelia Trinidad
<p>Facts: Police officers arranged through a taxi driver to meet with two East Timorese sex workers. The police officers then engaged in intercourse with the women before alerting other officers who then executed their arrest. The taxi driver was also arrested as a suspected pimp.</p>			
<u>The Women:</u> Two East Timorese women approximately 20 years old from Dili.		<u>The Operators:</u> Arrested taxi driver for possible pimp activities.	
Attorney:	Olga B. Nunes	Attorney:	Unknown
Detention:	Unknown	Detention:	Unknown
Charges:	IPC 297	Charges:	Unknown
DRH:	Conditional release with reporting twice a week. Length of conditional release unknown. No bail set.	DRH:	Unknown
Indictments:	None	Indictments:	Unknown
Current Status	One of the women was picked up again at Wisma Cendana in May 2002 for prostitution. Outcome of the second case unknown.	Current Status:	Unknown
<p>Trafficking Victims: Unlikely. Not screened as potential trafficking victims. The two women engaged in prostitution to support themselves.</p>			

APPENDIX E

APPELLATE COURT

Case number 48/03
Dili District Court
Report no. 17 C.A.

This Court has reached the following decision.

[Names omitted for privacy], identified on page 152, appeared before the court, based on the provision in section 23.1 of UNTAET (UNITED NATIONS TRANSITIONAL ADMINISTRATION IN EAST TIMOR) Regulation no. 25/2001, to file an appeal against the court order handed down on 08/04/2003, which ordered, based on a provision in the Constitution of the Democratic Republic of East Timor and Regulations numbers 1/1999, 3/1999 and 25/2001, that the appellants be freed, ordering their immediate deportation to their country of origin, in this case Indonesia (Order on page 33, translated on pages 152 and 153).

In the order appealed herein, the Honorable Sentencing Judge demanded that their deportation take place as quickly as possible, as he suspected that the appellants were prostitutes.

Fundamentally, the appellants insist that the judgment was not entirely legal, since they were arrested in their own home, and there were no grounds for said arrest.

Hence the Sentencing Judge cannot order the deportation of the appellants, since they entered the country on tourist visas and they did nothing illegal.

Therefore they request that the decision of the Investigatory Judge, dated August 4, 2003 be overturned.

The Justice Department presented its written response, which is translated on pages 159/162, wherein it defends that the decision made by the Sentencing Judge should be upheld.

A hearing was held, as established in section 23 of 30/200, with amendments provided through UNTAET Regulation 25/2001, where arguments were only presented by the Justice Department representative, since the defense attorney for the appellants did not attend.

We decide the following:

As stated above, the appellants were detained as part of an investigation into charges of prostitution. They were arrested in or near their homes. Later, all or nearly all of the defendants confessed, confirming that they were prostitutes.

The Sentencing Judge heard the case and ordered the detainees' release, but insisted that they be immediately deported to their country of origin (Indonesia), since he feared that should they remain they would continue to work as prostitutes. These facts, according to the legal decision, supported the conclusion that the crime of prostitution had been committed.

We don't agree.

Neither in Portuguese Law nor Indonesian Law is it a crime for a woman to receive payment for maintaining sexual relations with another person. In other words, prostitution is not a crime according to either Portuguese or Indonesian Law.

In light of this fact, the decision of the Sentencing Judge should be nullified and the appellants should be freed without subjecting them to any coercive measures.

Article 19 of UNTAET Regulation 30/2000 states that a person may be officially detained "*When there is a reasonable belief that the suspect has committed a crime...*".

In order for any coercive measures to be taken against the defendant, as set forth in sections 19 and 21 of Regulation 30/2000, with alterations provided by UNTAET Regulation 25/2001, it is necessary and essential that there be a reasonable indication that the defendant has committed a crime.

Actually, in the case in question, the defendants (appellants herein) were sentenced on August 4, 2003 to deportation, when in the main case there were and are indications that the defendants had worked as prostitutes, and currently the simple act of prostitution is not considered a crime.

In fact, as we stated above, section 20.7, al. a) of Regulation 30/2000, with the alterations provided by UNTAET Regulation 25/2001, states that the primary requirement for applying coercive measures is the existence of "*...a reasonable belief that a crime has been committed*".

In light of the foregoing, and considering the facts stated, and pursuant to sections 20.7, 20.8 and 21 of REG 30/2000, with the alterations provided by UNTAET Regulation 25/2001, we are entirely of the belief that the sentence handed down by the Sentencing Judge on August 4, 2003 was illegal, since none of the requirements established in the aforementioned sections were met, because there was no sufficient evidence in the case to justify the application of any coercive measure against the defendants (appellants herein), because there is no indication that any crime was committed.

In light of these facts, we must accept this appeal.

Furthermore, we must also add that even if the facts that the defendants/appellants are charged with actually amounted to any crime, even so, the sentencing judge could not order their deportation.

Actually, the Sentencing Judge is endowed with the powers set forth in sections 9, 19A, 20, 21 and 22 of REG.30/2000, with the alterations presented through UNTAET Regulation 25.2001.

Hence the Sentencing Judge has no authority to apply punishment on the defendants. This is because any and all defendants are presumed innocent until a definitive legal verdict is proffered (section 34, no. 1 of the East Timor Constitution). No one may be punished or enjoined until the official sentence is rendered (section 31 of the East Timor Constitution).

Thus, when the Sentencing Judge handed down his decision against the defendants, he did so before he knew, and still does not know, if they are guilty or innocent; at that point, all he had were indications that the defendants had practiced acts that might be classified as a crime. Furthermore, if in the end the defendants (appellants herein) are eventually found guilty and condemned to serve prison time, then that punishment could not be carried out if the defendants end up being deported, like the Sentencing Judge is ordering.

In light of all of these doubts, we have no reason to change the appealed decision that ordered the deportation of the defendants (appellants herein), instead we are declaring it null and ineffective, so that the defendants may remain in East Timor if they are in the country legally; that is to say, that nothing related to this case should prevent them from remaining in East Timor.

As such, and considering the provision established in section 23.7, al. c) of REG.30/2000, with alterations provided by UNTAET Regulation 25.2001, the defendants (appellants herein) should not be subject to any coercive measures, because the acts practiced by them are not classified as the practice of any crime.

Therefore, this appeal is hereby granted, and consequently the sentence proffered is annulled, that is to say, the decision of the Investigative Judge is annulled, on page 33 (dated August 4, 2003), with respect to the part that orders the deportation of the defendants, substituting that decision with this one, ordering the defendants to await later legal proceedings free on their own recognizance (sections 30 and 31, numbers 1 and 2 of the East Timor Constitution), without being subject to any coercive measures.

No charges.

Dili, November 11, 2003

Appellant Court Judges

Signed:

Cláudio de Jesus Ximenes
Jose Maria Calvário Antunes (Reporting Judge)
Jacinta Correia da Costa

APPENDIX F

Bangkok Post

Tuesday 22 April 2003

Wassayos Ngamkham

Fifteen of 21 Thai women rescued from a massage parlour-cum-brothel in East Timor have sought legal action against a Thai couple who allegedly lured them into the sex trade.

The women, aged 14-18, yesterday filed complaints with the Crime Suppression Division against Chatchapat Siritrakarnkul and his wife Chinda, saying the couple had lured them into prostitution at the Hava Fitness Thai massage parlour in East Timor's capital Dili.

They claimed Mr Chatchapat had recruited many women from northern Thailand to go to Dili to work at the massage parlour run by his wife and a Singaporean man called David Ho.

They said Mr Chatchapat demanded a travel fare of 60,000 baht from each of the recruits, who were also forced to work without pay at the massage parlour to pay off another 60,000-baht debt per head. The couple and Mr Ho were arrested on March 27 by UN forces. They were later sentenced to four months' imprisonment for running a brothel.

Fifteen of the women were sent back to Thailand by the Thai embassy on April 19, while the other six remained in Dili as witnesses.

Pol Maj-Gen Chatchawal Suksomjit, head of the centre for women's rights protection, has ordered an investigation to find out how three women under 18 could leave the country to find work overseas, which was against the law.

[Photograph Omitted]
Three women hide their faces while at the Crime Suppression Division headquarters. They were part of the 15 Thai women who yesterday lodged a complaint with the CSD that they had been lured into prostitution in East Timor. — Boonnarong Bhudhipanya

APPENIDX G

AN OFFICIAL AGREEMENT REGARDING THE TRANSFER OF RESPONSIBILITY OF THE 6 SUSPECTS TO THE LOCAL NGO – FUNDASAUN HARI'I AU METAN (FHAM)

Based on the agreement hereon reached between The Office of Prosecutor General of Timor Leste on this day, 8 August 2003, with the local NGO FUNDASAUN HARI'I AUMETAN (FHAM), regarding the transfer of responsibility for suspects ([women's names omitted to protect their privacy]) in Timor Leste.

FUNDASAUN HARI'I AUMETAN hereby accepts the 6 suspects to stay temporarily at FHAM premises for the duration it takes for the court appeal process to take place.

FUNDASAUN HARI'I AUMETAN agrees to provide protection and security while the persons herein are in Timor Leste.

FUNDASAUN HARI'I AUMETAN agrees to guarantee the persons herein while at FHAM premises and will not allow their exit/accept any party without stated consent from the Prosecutor's Office or the Attorneys.

Thus, this official agreement has been made and may be used as appropriate.

Dili, 8 August 2003

Released by,

(signed)

Dili District Prosecutor
Remizia de Fatima da Silva

Accepted by,

(signed)

Coordinator of Hari'i Aumetan Foundation
Maria Fatima Pinto

PNTL, Marcos Sequera Nunes (signed)

Witness: Defense Attorney (signed)
Estaque Guteres