



Sex workers of Empower gather to propose solution to State violence and exploitation of sex workers: Decriminalise Now!

International Day to End Violence against Sex Workers Day, 17 December 2016

Photo credit: Empower

THAILAND

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“Empower is Us”

Started in 1985, Empower Foundation is a community organisation owned and managed by sex workers. Empower uses a human rights framework to meet the needs of the sex worker community today and to move toward a future in which sex work is accepted as work and sex workers can work safely, free from stigma and criminalisation. Empower’s activities include educational programmes, outreach, and counselling as well as individual and country-wide legal advocacy to improve the working conditions and lives of sex workers.

While working conditions in the sex industry have improved significantly in the past few decades to the point that force, coercion, and deception as seen in the early 1990s are nearly unheard of, sex work remains criminalised and sex workers continue to confront an array of challenges including near universal labour rights violations and the often more acute threats posed by raid and rescue operations executed under authority of anti-trafficking law. These operations, aimed at rescuing victims of trafficking, have been linked to frequent human rights violations including entrapment operations which manipulate sexual consent, the publication of photographs of raids in national news outlets, and forced detention in government facilities with restricted access to education and work and no access to labour or criminal compensation. The disruption and stress caused by raid and rescue practices ends days, months, or years after a workplace raid, upon women’s release from jail, government care, or immigration detention when they are allowed to go home, often rushing back to work to make up for lost income.

In the aftermath of these raids, as in the days, months, and years leading up to them, it is Empower that centres the needs and interests of sex workers, amplifying their voices as they advocate for themselves and each another. In 2015, Empower counted 53 entertainment place raids in Thailand resulting in the arrest, fining, detention, and/or deportation of sex workers. Although the sex workers involved in this research had no experience with forced labour, debt bondage, or trafficking in the sex industry, their understanding of the risks they face *as a result of efforts to combat trafficking* was universal.

This chapter seeks to highlight the voices and experiences of women working in the sex industry in Thailand by focussing on their relationship to the trafficking discourse, the impact that corresponding anti-trafficking policies and practices have on them, as well as the work that they are doing to address exploitation in the industry and to contribute to the empowerment of their community. The women whose insights make up this chapter are members of Empower, which, in its thirty-two years of existence, has become the foremost representative of sex workers' voices across the country.

Introduction

A Brief Political History

The only country in Southeast Asia to avoid colonisation, Thailand is often cited as a development success story, its economy surging in World Bank categorisation from 'low-income' to 'upper middle income' in less than a generation, with poverty rates plunging from 67% in 1986 to 7.2% in 2015,¹ 6.3% lower than the US poverty rate the same year.² Thailand is granted 'high human development' status by the United Nations Development Programme with respect to general human development as well as gender development, health outcomes, and education achievements.³ Still, a statement given by a coalition of women representing Thai civil society organisations at the 67th session of CEDAW in 2017 observed the slow pace of progress toward ending discrimination against women, citing significant obstacles to women's equality and increased difficulty under the current regime due to restrictions of freedoms.⁴

In 1932, a revolution led to the establishment of Thailand's first constitution and the first constraints on the absolute power of the monarchy. Since then, Thailand has seen a near continuous power struggle between civilian and military factions, with twelve political interventions by the military in less than a century. Repression by the ruling military reached a breaking point in 1973 when pro-democracy student demonstrations, met with deadly military force, ultimately succeeded in toppling the dictatorship. The following years saw a brief period of democratic rule before the military took power again in 1976. The government has since changed hands over a dozen times, most recently in 2014 when the National Council for Peace and Order (NCPO)⁵ took power. The NCPO's human rights track record has drawn strong criticism from international human rights organisations⁶ and local human rights defenders alike,⁷ who cite arbitrary

¹ The World Bank, *The World Bank in Thailand*, 2017, <http://www.worldbank.org/en/country/thailand/overview>.

² B D Proctor, J L Semega and M A Kollar, *Income and Poverty in the United States: 2015: Current Population Reports*, US Department of Commerce United States Census Bureau, Issue September 2016, p. 12.

³ United Nations Development Programme, *Human Development Report 2016*, New York, 2016, pp. 199, 211, 227, 231.

⁴ Women of Thailand Coalition, *Statement by Women of Thailand Coalition for 67th CEDAW Session*, Geneva, 2017, <http://protectioninternational.org/2017/07/04/statement-women-thailand-coalition-67th-cedaw-session/>.

⁵ BBC News, *Thailand Country Profile*, 2017, <http://www.bbc.com/news/world-asia-15581957>.

⁶ Amnesty International, *Thailand*, 2017, <https://www.amnesty.org/en/countries/asia-and-the-pacific/thailand/report-thailand/>.

⁷ Human Rights Watch, 'Thailand: Activist Unjustly Jailed for "Insulting Monarchy"', 22 January 2017, <https://www.hrw.org/news/2017/01/22/thailand-activist-unjustly-jailed-insulting-monarchy>.

restrictions on the exercise of human rights, including the criminalisation of peaceful political dissent, which has been widely implemented and is prosecuted in military court. Human Rights Watch describes the current situation as a 'deepening rights crisis', noting bans on political activity, enforced censorship, and arbitrary arrest of activists and dissidents.⁸ The years since the NCPO came to power have seen an economic faltering as well as an increase in moral policing, with a spike in the passage and enforcement of laws around alcohol and entertainment.⁹ In August 2016 a constitutional referendum was criticised by international onlookers for the repressive climate in which it took place, in which opposition campaigning was banned and independent observer groups were denied requests to monitor the vote.¹⁰

'Amazing Thailand': Sex work and globalisation

Thailand's sex industry has a long history of attracting an international clientele, beginning with the arrival of foreign dignitaries and Chinese traders in the seventeenth century. The establishment of Japanese military bases in Thailand during World War II marked the beginning of the ever-deepening imprint of modern globalisation. The sex industry saw a huge expansion during the US war in Vietnam when US troops converged on Thailand's entertainment places for rest and recreation breaks from combat in neighbouring Vietnam, Lao PDR, and Cambodia.¹¹ During this period, Thailand's first bars, cafes, and soapy massage parlours¹² opened and between 1966 and 1968, American GIs spent between USD 6.8 and USD 10.8 million in Thailand annually.¹³ Tourism and the sex industry continued to grow in the following years, with advertising programmes like 'Amazing Thailand' and tours bringing busloads of visitors directly to entertainment districts like Patpong in Bangkok. In 1998, the International Labour Organization (ILO) reported that sex workers transferred nearly USD 300 million in remittances to families in rural areas annually, 'a sum that in many cases exceed[ed] the budgets of government-funded development programmes'.¹⁴ In

⁸ Human Rights Watch, *Thailand*, 2017, <https://www.hrw.org/asia/thailand>.

⁹ A Macleod, 'Is Thailand's economy undergoing "juntification"?', *Global Risk Insights*, 20 May 2017, <http://globalriskinsights.com/2017/05/juntification-in-thailand/>.

¹⁰ BBC News, 'Thai referendum: Military-written constitution approved', 7 August 2016, <http://www.bbc.com/news/world-asia-36972396>.

¹¹ J Pollock, 'Thailand' in GAATW, *Collateral Damage: The impact of anti-trafficking measures on human rights around the world*, GAATW, Bangkok, 2007, p. 174.

¹² Businesses where customers can pay for bathing, massage, and sex.

¹³ P Ouyyanont, 'The Vietnam War and Tourism in Bangkok's Development, 1960-70', *Southeast Asian Studies*, vol. 39, no. 2, 2001, pp. 164–165.

¹⁴ LL Lim, *The Sex Sector: The economic and social bases of prostitution in Southeast Asia*, International Labour Organization, Geneva, 1998, p. 21.

2016, travel and tourism as a whole contributed nearly 10% of Thailand's GDP¹⁵ and Thailand's Ministry of Tourism reported a record 32.6 million foreign visitors, bringing in USD 45.9 billion.¹⁶ A 1998 examination of the Thai sex industry suggested that between 65% and 85% of foreign tourists were men traveling alone.¹⁷ Thailand Law Forum cites an estimated USD 4.3 billion per year in earnings in the sex industry.¹⁸

While laws targeting sex workers for prosecution abound, legal protections often remain inaccessible because of the criminalised status of sex work and sex workers are therefore left unprotected by the usual mechanisms for labour oversight.

Prosecution or Protection: Sex work and the law

Like many sex workers around the world, sex workers in Thailand work in a legal environment which views their workplaces and day-to-day activities as criminal. The history of sex work in Thailand, however, is a long one, the vast majority of which transpired without the enactment of legislation criminalising it. The earliest records of sex work in Thailand date back to the seventeenth century when a civil servant of the Kingdom helped to manage an elite brothel in Ayutthaya housing around 600 women. The industry continued without legal oversight until the mid-twentieth century.

Thailand's first law criminalising sex work was passed in 1960 during a government campaign for social purification which made sex workers scapegoats for the 'erosion of social orderliness'. Following Field Marshal Sarit Thanarat's order, sex workers were arrested, fined, and detained in newly opened facilities intended for their 'moral rehabilitation'.¹⁹ *Ban Kret Trakan* remains open today and functions as a mandatory care centre, with a majority of its residents girls and women identified as victims of trafficking. In 1996, the law was amended to shift the primary focus onto child prostitution, but, influenced by the moral lobby, maintained penalties for adult sex workers.²⁰ The Prostitution Act of 1996 criminalises solicitation for the purpose of prostitution if it is done in 'an open

¹⁵ R Turner and E Freiermuth, 'Travel and Tourism Economic Impact 2017 Thailand', *World Travel and Tourism Council*, London, 2017, p. 3.

¹⁶ P Tempchairojana, 'Thailand tourist numbers rise nearly nine percent in 2016', *Reuters*, 5 January 2017.

¹⁷ R Bishop and L S Robinson, *Night Market: Sexual cultures and the Thai economic miracle*, Routledge, London, 1998, p. 67.

¹⁸ J Fox, 'Sex Laws in Thailand Part 2: Laws regulating commercial sex and entertainment places', *Thailand Law Forum*, 30 June 2009, <http://www.thailawforum.com/sex-crimes-in-thailand-part2-2.html>.

¹⁹ M C Nussbaum, *Sex and Social Justice*, Oxford University Press, Oxford, 1999, p. 381.

²⁰ Pollock, p. 179.

and shameless manner or causes nuisance to the public’, as well as the advertising of prostitution, recruitment for the purpose of prostitution, involvement of minors in prostitution, and association in a ‘prostitution establishment’. Importantly, the term ‘prostitution establishment’ is left undefined, effectively creating a blanket criminalisation of the gathering of sex workers in any place where sex is or could be sold.²¹ In addition to the Prostitution Act of 1996, the Immigration Act of 1979, the Alien Working Act of 2008, the Entertainment Place Act of 1966, and the Anti-Trafficking in Persons Act of 2008 are all used to fine, detain, prosecute, and deport sex workers in Thailand for crimes ranging from temporarily holding a friend’s earnings to working in a place where sex is sold. While laws targeting sex workers for prosecution abound, legal protections often remain inaccessible because of the criminalised status of sex work and sex workers are therefore left unprotected by the usual mechanisms for labour oversight. Workers who experience unfair treatment or exploitation and wish to access labour protection risk arrest, humiliation, and, in the case of migrants, deportation. In cases of violence committed by customers, even the Thai penal code can remain out of reach as sex workers must gauge the risks associated with being identified by the police as a sex worker.

A Region on the Move

Starting in the 1970s, Thailand saw a surge in internal and cross-border migration, with hundreds of thousands of workers moving from rural areas to rapidly developing urban centres for better wages, greater chances of upward mobility for themselves and their families, and in some cases, for safety or survival. As Thailand’s entertainment and export industries expanded, so did opportunities for work in places like bars, hotels, and factories. Ethnic minority groups from Myanmar/Burma fleeing violence joined troves of workers from Lao PDR, Cambodia, Vietnam, and China as well as workers from Thailand’s more remote provinces.

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²¹ Kingdom of Thailand, *Prevention and Suppression of Prostitution Act, B.E. 2539 (1996), Translation*, Section 6, <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46403/65063/E96THA01.htm>.

entertainment. Today, many women have spent time in several of these sectors before choosing to do sex work. For a vast number of migrants without ready access to legal documentation, this journey means relying on local services and expertise, crossing unmarked borders, and arriving to work in Thailand without passports, work permits, or access to labour protection mechanisms. Development of infrastructure in Myanmar/Burma over the past 15 or so years has meant greater ease in crossing the border and less need of exploitative agents. Still, estimates place the number of workers without documentation in Thailand somewhere between half and equal to the number of those working legally.²²

Sex Work Today

Estimates of the number of sex workers in Thailand vary widely and actual figures likely change from day to day. Thailand's National AIDS committee estimated that there were over 140,000 sex workers in Thailand in 2014.²³ Empower estimates approximately double that figure, at 300,000.²⁴ The majority of sex workers in Thailand work in bars, karaokes, massage shops, a-go-go venues and soapy massage businesses. A small number of sex workers work in brothels or in public spaces like parks, beaches, and on the street. The vast majority of sex workers in Thailand are women. About 80% are cisgender women, a majority of whom are mothers,²⁵ and the remainder are trans women, identifying varyingly as 'another kind of woman' or '*katuey*', with a relatively small number of cisgender men. Sex workers come from all parts of Thailand, as well as Myanmar/Burma, China, Lao PDR, Vietnam, and Cambodia, among other countries, and represent a variety of ethnic groups. Sex workers' incomes tend to range between double and ten times the national minimum wage, which is currently THB 310 (approximately USD 8.50) per day, depending on the venue in which they are working; most receive the majority of their incomes from customers directly, rather than through intermediaries.²⁶

Anti-Trafficking Model

²² International Organization for Migration, *Thailand Migration Profile*, Bangkok, 2016, <http://thailand.iom.int/sites/default/files/Infosheets/IOM%20Infosheet%20-%20Labour%20Migration%20Trends%20in%20Thailand.pdf>.

²³ *Thailand Ending AIDS: Thailand AIDS response progress report*, National AIDS Committee, Thailand, 2015, p. 46, http://www.unaids.org/sites/default/files/country/documents/THA_narrative_report_2015.pdf.

²⁴ Empower Foundation, *Moving Toward Decent Sex Work: Sex worker community research decent work and exploitation in Thailand*, Empower University Press, Nonthaburi, 2016, p. 86.

²⁵ Interview, Liz, Chiang Mai, 1 February 2017.

²⁶ *Ibid.*

Despite years of criticism by sex workers representing the full spectrum of working conditions, including those identified as having experienced trafficking, 'raid and rescue' continues to be the primary model of anti-trafficking work used to target women in the sex industry in Thailand. This model often involves entrapment operations in which Thai police or representatives of anti-trafficking NGOs pose as customers, requesting and, in some cases obtaining, sexual services from teenagers and women who are suspected of being trafficked or violating prostitution law. When evidence is deemed sufficient, parties including representatives from an array of government branches, police, heavily armed members of the military, and NGO workers, accompanied by members of the press raid the venue, 'rescuing' workers who are determined to be under 18, who are then identified as trafficking victims on the basis of their age, and workers over 18 who identify themselves as having experienced trafficking. Those identified as victims of trafficking are forcibly placed in government care for a period of up to two years before being sent home. Workers who are over 18 or who do not identify as having been trafficked experience a range of outcomes depending on citizenship and documentation, including arrest, detention, fines, deportation, and in some cases government blacklisting, their passports stamped to identify them as having violated prostitution law.²⁷ In July 2017, at the 67th session of CEDAW, a representative of the Office of Police Strategy acknowledged that the Royal Thai Police have no policy sanctioning the entrapment of sex workers, but on the ground in Thailand, the practice continues.²⁸

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The aim of the present study was to explore these and other rights violations that sex workers in Thailand experience, their interaction with the anti-trafficking framework and the ways in which Empower supports them in claiming their rights and resisting abuse and exploitation by various actors.

²⁷ Empower Foundation, *Hit and Run: Sex Worker's Research on Anti Trafficking in Thailand*, Chiang Mai, 2012.

²⁸ Empower Foundation, *Sex workers remind the Thai government to abide by the CEDAW Convention*, Chiang Mai, 22 August 2017.

Methodology

Design

In keeping with the spirit of the project and the core values of Empower, this research was undertaken using a methodology that was both participatory and feminist in nature, in which the research ‘subjects’ were active leaders from design to implementation. Empower cites a long and frustrating relationship with researchers and journalists, where community members have often felt misrepresented, insulted, and exploited for their time, experience, and expertise in service of the advancement of careers and agendas that have no bearing on the community.²⁹ It was, therefore, important to Empower that this project not be another such instance of exploitation, a clinical extraction of information without regard for the real value of sex worker contributions or respect for their guidance and leadership. For this reason, the organisation recommended a volunteer English teacher with Empower rather than an outside researcher because of her role as a trusted friend of the community with a basic understanding of the interests, concerns, and goals of sex workers organising in Thailand.

Fieldwork

The fieldwork plan was designed consultatively, largely led by representatives of Empower, with the aim of centring the interests of sex workers in the community throughout. In addition to three traditional interviews with members of Empower, fieldwork included four community-centred, participatory focus group discussions structured around sex workers’ experiences and interests. The first two of these took place in Empower’s community centre in the northern city of Chiang Mai where the organisation currently has the most active community. These discussions were conducted in Empower’s newly opened Legal Club where sex workers come together to share knowledge from their lives, work, experiences with the police, and understanding of the law. Because of the principal concerns of sex workers in the community around police and arrest, these focus groups integrated the research questions into a format that provided participants an opportunity to learn about the law as it applies to the entertainment industry with and from one another. The first Legal Club meeting included thirteen sex workers representing a variety of ethnic groups including Thai, Shan, Lisu, and Akka and ranging in age from their early 20s to mid-30s. The second Legal Club meeting included ten women, four of whom were participating

²⁹ Empower Foundation, *Bad Girls Dictionary*, Second Edition, Empower University Press, Nonthaburi, 2017, p. 22, pp. 114–117.

for the first time, representing the same ethnic groups and age range. The format for the meetings was discussion, exchange, and participatory activity around the law, support mechanisms, and exploitation in the workplace.

The second two focus groups took place in the central city of Mahachai, a seaside suburb of Bangkok and one of the many locations across the country where Empower maintains a long-standing connection with members of the community. These sessions included three and five women, respectively, all of whom were ethnic Thai and ranged in age from mid-20s to mid-30s. The discussions took place at their respective workplaces—open air bars in the entertainment district. Of the twenty-five women who participated in focus groups, all had a prior relationship with Empower and/or with other participants; most were also familiar with the research consultant. Empower members were present and active in making introductions and facilitating discussions. Fieldwork also included an interview with Ben Svasti of *Focus*, a local anti-trafficking organisation chosen on the basis of its roots in Thailand as well as its unique role as an anti-trafficking organisation, as it has reached out to Empower and publicly acknowledged the failure of raid and rescue policies and their harmful impact on sex workers.

Strengths, Limitations and 'Objectivity'

The interviews and focus groups that comprised this fieldwork were possible because of the strength of the community that Empower has created and the trust and respect attached to that name. Participants in focus groups were not strangers who agreed to be research subjects, but rather 'sisters' who make up the Empower community. The majority of participants were women who have known the organisation for months or years and have made it their classroom, kitchen, and home; they are women who identify as family. Without these relationships, fieldwork of this depth would not have been possible, and perhaps more importantly, would not have been the positive experience that it was for those who participated. Women were willing to participate in this project because they felt confident that their trust would not be betrayed, that they would not be compelled to give personal information to strangers, stereotyped, or reduced to their job or the worst parts of it, as so many sex workers at Empower have been in their experiences with journalists and researchers. That trust and respect were held as sacrosanct and protected to the greatest degree possible throughout the research process. For this reason, the research approach consisted of semi-formal interviews in which not all predefined questions were asked of all participants. Questions, for example, regarding experiences of force were not posited to women who had a shorter history with Empower.

The issue of trafficking is a delicate subject, in part because of the frequency with which it is assumed by outsiders to be relevant, compared to the distinct rarity of actual occurrences. In addition to being perceived as imposing a narrative that research subjects interpret as irrelevant,³⁰ the use of the language and framework of ‘trafficking’ in research conducted with sex workers can serve to undermine and attack their agency and character, reiterating a popular discriminatory view of sex workers, particularly Southeast Asian women sex workers, and their work as ‘sad’ or ‘bad’, rather than being worthy of respect. The impact of this approach is to perpetuate the harmful narrative that ‘no one would *choose* to do sex work’ or that someone who does has made a questionable decision, therefore reproducing discrimination and reinforcing the stigmatised status of sex work even in the fieldwork process. In order to be respectful of participants and to reduce the harms inflicted, questions were framed in a manner that encouraged participants to bring to the table the issues that were of concern to *them*, using language that was *theirs*, with the understanding that women would share what they felt comfortable sharing and what they found to be relevant. This approach is in following with contemporary intersectional feminist research methods which interrogate the notion of objectivity and reject the notion of neutrality, seeking instead to employ a reflexive approach which acknowledges the self and prioritises the upholding of the dignity of research participants.³¹ This project recognises as a strength a process which centres the perspectives, frameworks, and languages put forward by sex workers.

To that end, members of Empower expressed regret that time and resources did not allow for a research project which they themselves could oversee without the hiring of a consultant. The arrangement chosen thus represents somewhat of a compromise, with the selection of a consultant who volunteered in the community, but did not come from it, who could work in English in the allotted timeline, but also facilitate a project that prioritised respect for the integrity of the Empower community. As a consultant/English teacher, there could be no discreet allocation of roles; Empower English students were among those interviewed, which no doubt impacted the way in which information was shared, if not the content itself. The advantages of engaging in research within a framework of trusting, close, and mutual relationships were apparent in the openness with which participants shared and the underlying tone of playfulness, humour, and comfort throughout the process. The limitations of working within

³⁰ ‘Trafficking has nothing to do with our work. We choose to do this job.’ – Nam, interview, Chiang Mai, 3 March 2017.

³¹ S Harding, ‘“Strong Objectivity”: A response to the new objectivity question’, *Synthese*, vol. 104, no. 3, 1995, pp. 331–349; S Kreiger, *Social Science and the Self: Personal essays on an art form*, Rutgers University Press, New Brunswick, 1991.

already established relationships, while inevitable, cannot be known in their specificity. Interviews took place in English and Thai, sometimes alternating between the two, according to what was possible given levels of ability in any given setting.

Findings

On Empower

Empower was founded in 1985 by Thai activist Chantawipa Apisuk, better known as P' Noi, and a group of sex workers and activists in the Patpong bar district of Bangkok. The organisation began without any pre-determined agenda, but rather developed from the premise that sex workers were entitled to the same human rights as women everywhere. As of 2012, over 50,000 sex workers had joined Empower as students and volunteers and Empower estimates that it reaches approximately 20,000 sex workers annually. Members of Empower represent a range of ethnic groups, coming from all parts of Thailand as well as neighbouring countries in the Mekong region. Empower's work is primarily with cisgender women who are the majority of sex workers in Thailand, but have historically been the recipients of a small proportion of funding and advocacy efforts.³² Empower is a community space for sex workers to come together to assert their rights to education, health, access to justice, and political participation. Members use Empower as a gathering place for language classes, a degree programme, legal education and advocacy, counselling, theatre, cooking, eating, drinking, and hanging out.

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At the time of Empower's founding, its focus was largely on English proficiency—a tool which allowed sex workers in Patpong to communicate with customers in an increasingly international and English-reliant climate. At that time and to this day, Empower's English classroom aims to cultivate agency and empowerment by building students' confidence in expressing themselves in English. Founder P' Noi reflected, 'I myself have learnt that when people start to say “yes” and “no” they can minimise exploitation.' She elaborated, a woman who can communicate 'I like'; 'I don't like'; 'I go'; 'I don't go'; and 'I use condom' with her customer is better placed to work safely. Empower member and English student Tangmo explained that the knowledge and community she has found at Empower has allowed her to feel safer and more confident at work. Another student, Soda, laughed and joked, 'A few weeks ago, I was so shy I couldn't talk!' At Empower, sex workers create a space centred around their interests, experiences, and lives, without the discrimination they can expect to experience elsewhere because of

³² Interview, Liz, Chiang Mai, 1 February 2017.

the work they do. 'At other language schools, they look down on us', Aea shared. Indeed, one Empower member was told that she was not allowed to use the bathroom at another language school because she was a sex worker.³³

Central to the work Empower does are weekly outreach visits to Chiang Mai's bars, karaokes, massage shops, a-go-gos, brothels, and women working on the street, during which current Empower members get up-to-date on the situation at Chiang Mai's hundreds of entertainment places, maintain long-standing relationships, and build new ones. Women who are a part of the Empower 'family' introduce fellow sex workers to the community and the activities available within it, as well as distribute condoms and resources like a newly developed High Heeled Lawyer legal handbook, outlining sex workers' rights and offering guidance on what to expect in the event of a workplace raid. Empower's outreach is designed to include time for current Empower members and women who are unfamiliar with Empower to sit, talk, and drink together, allowing for the opportunity to ask questions and share experiences.

The majority of Empower members are introduced to the organisation either through outreach or word of mouth, and start as language students, studying Thai literacy, English, Chinese, or Japanese. From there, women often go on to join other activities, including Empower's high school diploma programme, its newly developed theatre programme, its Legal Club, or the Can Do Bar—a collective bar opened by members of Empower in 2006 as an example of the safe and fair working conditions sex workers would like to see in all workplaces. Through these programmes, women begin to take leadership roles in the community, planning activities, contributing to ongoing projects, and acting as mentors for newer members. For Tangmo, language classes were an introduction to the larger community. They led her to participate in Empower's annual 'camp'—an opportunity for women to spend a few days together in order to get to know each other and discuss in greater depth their shared experiences, concerns, and hopes for the future of sex work as well as strategies for advocacy. It was at the camp that Tangmo had her first opportunity to spend time with Empower friends outside of the English classroom. On her return, her relationship to the community deepened as she employed Empower's legal counselling in preparing to apply for her first passport, joined the Legal Club, and began working toward her high school diploma. She later referred a younger friend from work to Empower's English classes. Women like Tangmo often give as much as or more than they gain as they become leaders and sources of support for other members of the community.

³³ Interview, Liz, Chiang Mai, 1 February 2017.

On Trafficking: 'It's just an excuse to arrest us'

Perhaps not dissimilarly to some of their fellow sex workers around the world, the sex workers who participated in this research were much more familiar with the story of trafficking than the reality. In each of the interviews, the mention of the term 'trafficking' elicited reflections on a narrative coming from outside of the sex industry—from the government, the police, or the news; all of the women who talked about trafficking spoke to a sense that in Thailand today, trafficking is primarily an issue projected upon the sex industry from outside of it. 'I think there used to be trafficking [in the industry] before, but there isn't anymore. People don't accept us [sex workers], so they see it as trafficking', said Tangmo. When asked where she first heard about trafficking, Nam explained that she saw something about it on the news. 'It's just an excuse for the police use to arrest us', she said. Discussing a video promoted by an anti-trafficking organisation in Thailand which portrays teenage girls from the countryside being tricked into working in the bars, Mai noted, 'I've seen so many videos like this, but I have yet to see it in real life'. She ventured, 'I think they just make it from their own ideas of what they imagine sex work must be like'. Oa explained that in her seven years with Empower, 'I have never seen the kind of trafficking that [the government, journalists, and anti-trafficking organisations] see... People who don't know sex workers show up [to workplaces] and they're surprised at what they see. They see the man selling alcohol outside or the tuk-tuk driver and assume he's exploiting the women inside'. Even the terminology of trafficking is externally imposed, as Liz explained: 'In Thai, there is "took advantage of", "tricked", "cheated", and "in debt"; there is "trade in drugs" and "trade in things" but "trade in humans" [the Thai translation of trafficking] is a term that never existed before'. Empower founder P' Noi equated the terminology with the legal approach propagated by the US, speaking to the relative newness of the notion of trafficking and its foreign origins, 'Trafficking only came from the Taksin government in 2006... The new law is not only [about] Thailand; it's [to protect] big countries like the US...' She emphasised, 'I never met anyone who [came] to Empower and [told] me, "Please help me, I am trafficked".'

'I think there used to be trafficking [in the industry] before, but there isn't anymore. People don't accept us [sex workers], so they see it as trafficking'.

Interviews confirmed what Empower has long asserted: while human trafficking does exist in Thailand, the sex industry is not a primary site for trafficking and has not been for many years. While trafficking terminology had not yet arrived on the

scene, until 1997-98, experiences that fit the UN Trafficking Protocol's definition of human trafficking³⁴—women doing sex work under threat or use of force, coercion, or deception—were commonplace in Thailand. The term 'modern slavery' first cropped up in descriptions of the working conditions of Burmese women in Thai brothels in the early 1990's.³⁵ A range of factors, however, including the proliferation of entertainment places with improved working conditions, led to formerly locked brothels opening their doors and women gaining access to a greater variety of workplaces and conditions within the sex industry. In Empower's 2012 report *Hit and Run*, the organisation stressed that 'Human trafficking has been steadily disappearing from the sex industry in Thailand over the last 15 years...' The same report detailed, 'Our research found that women apprehended in raids since 2008 have overwhelmingly stated they came independently to Thailand and are working voluntarily in work they have chosen to do. They do not experience their work as exploitation'.³⁶

A Continuum of Working Conditions

While working conditions have improved drastically over the past few decades, like all industries, Empower asserts, the sex industry has its share of poor working conditions. The criminalisation of sex work, however, restricts sex workers' ability to access the legal oversight available to workers in other sectors to address these conditions. Empower and its members recognise a spectrum of working conditions that range from decent work, as defined by the ILO,³⁷ to substandard, unacceptable forms of work, including indications of forced labour and indications of debt bondage, and finally human trafficking, a category which, according to law, includes workers under 18 years of age.³⁸ **Empower argues that because of the criminalisation of sex work, no sex workers in Thailand are currently employed in decent work conditions.** According to Empower, the vast majority of sex workers in Thailand, 87.2% or an estimated 261,600 workers, work in a second category they refer to as substandard working conditions, meaning they face decent work deficits, working in conditions which are below labour law standards, but do not display indications of forced labour, debt bondage, or trafficking.³⁹

³⁴ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, 15 November 2000, Article 3(a).

³⁵ Asia Watch, *A Modern Form of Slavery: Trafficking of Burmese women and girls into brothels in Thailand*, Asia Watch, 1993.

³⁶ Empower Foundation, *Hit and Run*, pp. vi, xi.

³⁷ International Labour Organization, *ILO Thesaurus*, 2017.

³⁸ Empower Foundation, *Moving Toward Decent Sex Work*, p. 87.

³⁹ *Ibid.*

Because their work is criminalised, these workers are unable to access protections available through the Office of Labour Protection and Welfare, the Department of Employment, the Department of Social Security, and the Ombudsman; they therefore have no legal recourse for violations of dignity and physical integrity, meaning employers are free to impose exploitative policies with impunity. The result is a climate in which entertainment places almost universally impose ‘bar rules’ which violate Thai labour law and present obstacles to decent work principles of freedom, equity, security, and dignity.⁴⁰ Rules establishing alcohol and customer quotas are commonplace, as well as policies penalising employees for being late, wearing the wrong colour uniform, being over a maximum allowed weight, failing to show proof of regular STI testing (in some cases as frequently as three times a month), or meeting with a customer outside of working hours, all enforced through salary cuts.

While none of the women interviewed found themselves in situations of forced labour, debt bondage, or trafficking, all described working conditions which violated labour law standards. At all of the workplaces discussed in focus groups, the standard allotted time off was two days per month—half the number of days required by Thai labour law, with any extra days missed punished with salary cuts of THB 700 to 1000 (approximately USD 20-30) per day. At one entertainment place, salary cuts were so excessive that out of four women interviewed, one of whom had been a regular employee for seven years, none had ever received her full salary. Women described a climate in which, in order to avoid salary cuts, it is not uncommon for workers to use dangerous weight-loss drugs and to drink more than they feel is healthy or safe. One woman had lost her job due to being over the allowed weight. Another was in a motorbike accident resulting from enforced drink quotas. Several women stressed that of all the bar rules, the policy requiring them to pay employers when they met with customers outside of working hours was the most exploitative. This rule, they emphasised, interfered unfairly with their individual autonomy, giving entertainment place owners undue control over their leisure time and personal interactions as well as a disproportionate share of earnings. Participants also highlighted the negative impact on their health of rules which

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⁴⁰ International Labour Organization, *The ILO at a Glance*, International Labour Office, Geneva, 2007, p. 1.

punish them for not drinking enough, with one woman noting that she finds herself sick much more frequently since starting work at the a-go-go.

Empower estimates that 9% of workers nationally work in conditions which ‘threaten a wider scope of human rights’, referred to by the ILO as ‘unacceptable forms of work’—work which exhibits indicators which have been correlated to the presence of forced labour or debt bondage, including restrictions on movement, withholding of salary or travel documents, or services as security for debts to employers.⁴¹ Empower emphasises that ‘These conditions do not in themselves meet the definition of forced labour or debt bondage; rather the conditions exist that could allow forced labour or debt bondage to occur.’⁴² In this research, no participant identified as working in situations of forced labour or debt bondage.

Finally, Empower members cited a United Nations Inter-Agency Program (UNIAP) estimate of 3.8% of sex workers or 11,400 sex workers nationally who work in situations meeting criteria for human trafficking and/or child labour, including those who choose to work in the entertainment industry, but are under 18 years of age.⁴³ The experiences of members of Empower indicate that the vast majority of those considered by law to be ‘trafficked’ are, in fact, classified as such solely on the basis that they are teenagers. Within focus groups, there was unanimous recognition that, although a small minority, there are minors working in the industry and that entertainment places are not appropriate workplaces for them. Women did, however, bring an empathetic perspective to the discussion of minors, given a near universal experience of having contributed to their families’ income from a very early age (typically from the age of 8-11), working in agriculture, factories, and as domestic workers, in many cases travelling for work, living independently, and supporting themselves and other family members before they were of age to work legally at a bar.

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During a discussion on minors doing sex work, participants recognised the multiplicity of factors leading minors to seek out work in the entertainment

⁴¹ International Labour Office, *Unacceptable Forms of Work*, International Labour Organization, Geneva, 2015, retrieved 25 August 2017, http://www.ilo.org/global/publications/WCMS_436165/lang--en/index.htm.

⁴² Empower Foundation, *Moving Toward Decent Sex Work*, p. 8.

⁴³ *Ibid.*

industry, as well as the underlying social inequality which compels them to do so. The women interviewed identified entertainment place owners as the primary persons responsible for hiring minors, and expressed regret that employers do not adhere to the legal standard in hiring practices. Empower members suggested that the removal of criminal law might allow the same legal oversight that keeps minors out of other age-inappropriate workplaces to be enforced in the entertainment industry. They posited that, in a decriminalised environment, not only would entertainment places be subject to the same labour inspections as other workplaces, but that decriminalised workers would have the freedom to file labour complaints as well as organise in order to proactively petition for safe and healthy work environments.⁴⁴

“Those “victims” we get are so-called “victims” just because of their age. They’re not slaves in any sense of the word. I think we’re wasting our time looking for human trafficking in bars. That’s not to say it could never happen [but]... I think there are other priorities.”

Participants’ lack of exposure to force or coercion in sex work should not, in fact, come as a surprise to those who work in or around the entertainment, or anti-trafficking industries in Thailand. The near absence of instances of trafficking, outside of minors working in the industry, has been acknowledged for years by a variety of parties involved in anti-trafficking work. Empower quotes a statement from a police officer in an Anti-Human Trafficking Unit: ‘Women being tricked and locked up in brothels is very old-fashioned thinking. All we have nowadays are a few teenagers where they shouldn’t be’.⁴⁵ In an interview, Ben Svasti of the anti-trafficking organisation Focus reiterated that trafficking in the sex industry has become ‘less and less severe’ since the early 2000s to the point that, ‘those “victims” we get are so-called “victims” just because of their age. They’re not slaves in any sense of the word.’ He went on to say, ‘I think we’re wasting our time looking for human trafficking in bars. That’s not to say it could never happen [but]... I think there are other priorities.’

Challenges in the Industry: Police, discrimination, and stigma

While the women interviewed expressed frustration with near universal violations of labour law in the industry, the focus consistently returned to even greater obstacles related to the criminalisation of their work. Liz observed, ‘The key issues for sex workers in Thailand are abuses by police, discrimination under the law, and social stigma.’ These challenges combine to rank workplace raids

⁴⁴ Interview, Liz, Chiang Mai, 1 February 2017; Interview, Oa, Chiang Mai, 14 February 2017.

⁴⁵ Empower Foundation, *Hit and Run*, p. 29.

highest as a source of anxiety and fear for the sex workers who participated in this research. Speaking to the stigmatised status of sex work, Neena observed, 'The real problem is that our work is illegal, so it makes people pity us... People look down on us and think we must be trafficked.' Evidence of trafficking is often the rationalisation for entertainment place raids, which, one woman observed, are executed under the authority of the trafficking law, but frequently end up using the prostitution law to make arrests.⁴⁶

Raids, 'Rescue', and 'Rehabilitation': The impact of anti-trafficking policies

Despite the relative absence of what Svasti referred to as 'true victims' of trafficking in the entertainment industry—especially as compared to other sectors like the fisheries⁴⁷—police, NGOs, and government departments continue to garner media attention and international recognition for entertainment place 'raid and rescue' operations. Accompanying images of women struggling to cover their faces and bodies, headlines congratulate NGOs and government bureaus, declaring, 'Underage sex workers freed';⁴⁸ but stories told by members of Empower indicate a wholly different experience. They explain that even for the individuals these operations purport to help, the consequences are dire. In addition to having their images published in national media, teenagers working at entertainment places are subjected to mandatory medical testing and forcible detention in government care facilities like Ban Kret Trakan, the rehabilitation centre opened in the social purification campaign of the 1950s. Detention can last for months or years, during which detainees have severely restricted access to their families and work; at the end of their detention, they are given no labour or criminal compensation before being sent home or deported.

'If two sixteen-year-olds are rescued—one from a hell factory and one from a brothel—the help they receive is not the same. The kid from the factory is treated with respect and given compensation. The girl rescued from the brothel may receive the same services, but she is discriminated against and nobody calls for her labour compensation.'

⁴⁶ Focus Group, Empower Legal Club, Chiang Mai, 17 February 2017.

⁴⁷ K Hodal, 'Slavery and trafficking continue in Thai fishing industry, claim activists', *The Guardian*, 25 February 2016, retrieved 1 August 2017, <https://www.theguardian.com/global-development/2016/feb/25/slavery-trafficking-thai-fishing-industry-environmental-justice-foundation>.

⁴⁸ P Thepgumpanat, 'Fifteen underage sex workers freed in Bangkok brothel raid', *Thomson Reuters Foundation*, 10 June 2016.

Empower member of over ten years Ping Pong illustrated, ‘If two sixteen-year-olds are rescued—one from a hell factory⁴⁹ and one from a brothel—the help they receive is not the same. The kid from the factory is treated with respect and given compensation. The girl rescued from the brothel may receive the same services, but she is discriminated against and nobody calls for her labour compensation.’ Empower members know of no cases in which sex workers detained in Ban Kret Trakan were granted any financial compensation. Empower cites a report by the National Human Rights Commission (NHRC) of Thailand asserting, ‘These girls are deprived of opportunities to voluntary education and of their right to work, despite the government’s permission in principle.’⁵⁰ ‘They’re not allowed to use their phones to contact family’, noted Mori; ‘And when they do talk on the phone they have someone sitting next to them listening to everything they say’, Neena added. According to Empower member Oa, women placed in government care seldom have legal processes explained to them by authorities and often perceive that they are being punished for their work. Historically, Empower members note, those identified as ‘sex trafficking victims’ detained at Ban Kret Trakan were made to wear different coloured uniforms so that they could be distinguished from the mainstream population.

For women who are not identified as victims of trafficking the consequences vary from arrest, fine, and release to prolonged detention, deportation, and government blacklisting. Some are compelled to act as witnesses in trafficking cases, without adequate protection or compensation.

For women who are not identified as victims of trafficking—typically a large majority of those detained in any given workplace raid—the consequences vary from arrest, fine, and release to prolonged detention, deportation, and government blacklisting. Some are compelled to act as witnesses in trafficking cases, without adequate protection or compensation. Empower asserts, ‘The more there are rescues, the worse our lives become...’⁵¹ ‘Despite 16 years and millions of dollars in trafficking prevention and advocacy’, Liz said, ‘sex workers in Thailand do not know of the Palermo Protocol; they only know that the final result is detention and deportation.’ When women were asked whom they would contact for support in the event of their arrest in an entertainment place raid,

⁴⁹ Common term for exploitative factories in Thailand.

⁵⁰ National Human Rights Commission of Thailand, *Alternative Report on Thailand’s Implementation in Compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, 2017, p. 7, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/THA/INT_CEDAW_IFN_TH_A_27198_E.pdf.

⁵¹ Empower Foundation website, <http://www.empowerfoundation.org/>.

establishment owners—the very individuals commonly portrayed as their abusers and traffickers—emerged among the first answers, followed closely by Empower. One woman joked, ‘Who can we call? We’re all there together!’ In a discussion in Mahachai, long-time Empower member Wan nodded toward the road as a police motorcycle made its fifth lap in under two hours, observing, ‘It’s like this every night.’ Another woman, hesitant to accept the condoms Empower provided explained, ‘We’re not allowed to keep condoms in our purses because if the police come they’ll use them as a reason to arrest us.’ Several of the women who participated in focus groups experienced workplace raids while this research was ongoing; one woman was arrested. In contact with members of Empower throughout her detention, she was fortunate to be subjected only to two nights in jail for violating immigration law before paying a fine and returning to work the next week.

The most egregious offense, according to Empower, is the entrapment of sex workers by representatives of NGOs and police in order to gain evidence of prostitution and/or trafficking related crimes. These operations are a violation of the human rights of impacted workers, as well as ineffective in gathering sound evidence. In addition to the manipulation of sexual consent, which violates women’s physical integrity and human dignity, Empower members point to two instances where women who had never before engaged in sex work decided to do so for the first time as a result of urging by ‘customers’ who later detained and deported them for their crime. ‘It’s not uncommon for us to see police officers as customers’, Pueng explained. Another woman put her hands on her chest as she emphasised, ‘It’s our bodies they’re using as evidence.’ The use of entrapment in the sex industry was first criticised by the NHRC in 2003, which noted a link to frequent human rights violations.⁵² Women agreed that a better approach would be for minors to be removed from workplaces and other workers allowed to continue with their lives.

Nataree Massage

While the women who participated in this research managed to walk away from police raids with relatively minimal harm, for the women affected by the raid of Nataree, a soapy massage business in Bangkok, the consequences were further reaching. On 7 June 2016, after a three-month-long entrapment operation conducted by a foreign NGO, Nataree, a 40-year-old business which employed approximately 400 women and was commonly believed to offer sexual services in addition to bathing and massage, was the target of a raid and rescue operation

⁵² Empower Foundation, *Hit and Run*, p. viii.

which resulted in the detention of 121 women. The raid, conducted by over 100 police, military, and government officials and accompanied by representatives of the media, identified 15 workers under 18 years of age who were therefore classified as victims of trafficking and forcibly placed in the care of the Department of Social Welfare at Ban Kret Trakan. The last of these minors was released after 281 days and given compensation of THB 3000 (approximately USD 88), almost all of which was used for her transportation to her home province in Thailand. Women identified as victims of trafficking who were migrants were deported. Women who were not identified as victims of trafficking were fined for violations of prostitution and/or immigration law, detained, and, in the cases of the 73 migrant women, deported. A local news source reported that ‘justice was served’ when seven low-level staff members, including a bartender, doorman, and floor manager, were convicted of trafficking related crimes and sentenced to between eight and twelve years imprisonment.⁵³ Nataree’s owner and manager were never located.

Of note in this raid was the unlawful detention of some twenty-one women as witnesses to trafficking related crimes and Empower’s role in successfully advocating for their transfer to appropriate accommodation. On 1 July 2016, after following the case closely for three weeks, visiting women in detention, and acting as liaisons to families across the country and internationally, a role which none of the parties to the raid had apparently planned for or filled, Empower submitted an open letter to the Prime Minister of Thailand urging the government to comply with the Witness Protection Act protocol. Empower also helped the women to procure a lawyer, at their own expense, to facilitate their timely release and make a formal request for the investigation of their case by the NHRC. Three days later, National Human Rights Commissioner Ankana Neelapajit visited the women, who were being held at an immigration detention centre, and made a public statement that the women were being detained without legal authority.⁵⁴

⁵³ Coconuts Bangkok, ‘Seven sentences in Nataree Massage human trafficking and child prostitution case’, *Coconuts*, 20 April 2017.

⁵⁴ As quoted in ‘Sex Workers and the Thai Entertainment Industry’, submission by Empower Foundation to the Committee on the Elimination of Discrimination against Women, Sixty-seventh Session, 3-21 July 2017, retrieved 3 October 2017, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/THA/INT_CEDAW_NGO_THA_27511_E.pdf.

After 34 days in unlawful detention, the women were moved to a hotel before being brought to court, whereupon only three of them were asked to testify. After answering questions about how they came to Thailand and whether they had been forced to work, the women were asked to identify the defendants, explain their roles at Nataree, and answer whether they had ever been told to give any of the defendants any money. According to members of Empower who attended the court hearing, the three women answered similarly: they had come to Thailand and worked at Nataree of their own volition, they knew the defendants from their time working together (one of them was known to the women as ‘Uncle’), and had never been compelled to give them money.

It was Empower that served as the link between the affected women and their families, keeping track of where each woman was detained, when she was moved from one place to another, and making sure that no one would slip through the cracks of a process that, despite taking three months to start, had not included arrangements for the detention of over one hundred people.

Following the court proceedings, women who were migrants were transferred to immigration detention before being deported. Throughout this time and afterward, it was Empower that served as the link between the affected women and their families, keeping track of where each woman was detained, when she was moved from one place to another, and making sure that no one would slip through the cracks of a process that, despite taking three months to start, had not included arrangements for the detention of over one hundred people. Empower has continued to advocate for the affected women in hearings with the NHRC and members of the government. In February 2017 Empower member Oa estimated that to date Empower had spent from two to two and a half months of full time work cumulatively responding to the incident. Empower spent over THB 100,000 Baht (approximately USD 3000) which had not been budgeted, but had to be found.⁵⁵

According to Empower’s documentation, dozens of raids and rescues take place every year, peaking at 53 in 2015, the year after the National Council for Peace and Order took control of the government and Thailand was downgraded to Tier 3 in the US State Department’s annual *Trafficking in Persons* Report. The resulting prosecutions for violations of prostitution and immigration law, as well as the Anti-Trafficking in Persons Act, are then cited in reports about government efforts

⁵⁵ Follow-up Interview, Liz, Chiang Mai, 12 August 2017.

to combat trafficking in Thailand and recognised as successes internationally, including in the *TIP Report*, which granted Thailand an upgrade in 2016, citing increased prosecutions of trafficking related crimes.⁵⁶

On Collaboration with the Anti-Trafficking Network

Despite a fundamental disagreement on the practice of raid and rescue, Empower has taken strides to work together with anti-trafficking organisations. Liz remembers, ‘When funding available for anti-trafficking work exploded around 2001 [the number of anti-trafficking organisations working in Thailand] expanded to include many newcomers’. At that time, Empower joined an MOU with a regional anti-trafficking network in hopes of minimising harms inflicted by high budget international organisations like International Justice Mission which, operating on an annual budget of USD 22 million, was ‘a force to be reckoned with.’ But key clauses of the MOU were broken during a raid in 2003 when members of Empower were ‘rescued’ without any consultation with Empower or the Shan Women’s Action Network (SWAN). Both organisations were asked to provide translation services in the aftermath; the raid also resulted in one woman’s identity being publicly exposed. Liz explains, ‘It was the first raid where we had strong prior relationships with the women so we knew exactly what they wanted and what the conditions were. We’ve got a picture of them upstairs at the swimming pool with us the day before.’ As a result of the MOU violations, Empower and SWAN both withdrew from the anti-trafficking network in protest. They have continued to work together since.

Working Together for Empowered Solutions

While Empower has seen little in the way of trafficking in the past fifteen years, one woman’s experience is indicative of the organisation’s unique role in addressing sex workers’ needs consultatively, holistically, and in a way that serves to empower. Around 2012, Som⁵⁷ found herself in a situation of trafficking as defined by the UN Trafficking Protocol. She had severely restricted movement, prohibited from

With Empower’s community-based support, Som reached an outcome that addressed her basic needs and left her in a situation that was better than the one she was in when she arrived. Som’s relationship with Empower continues to this day.

⁵⁶ US Department of State, *Trafficking in Persons Report*, 2016, pp. 363–365.

⁵⁷ Name changed to protect privacy.

travelling independently until she was able to pay off a debt to her employer, incurred for travel expenses from Myanmar/Burma. While she had no issue with the work, i.e. sex work, or in dealing with her customers, she knew the amount customers were paying her employer and felt that she was not receiving a fair share for her labour. Allowed to leave work only for two hours Monday to Friday to attend Thai literacy classes at Empower, Som felt confident enough in the organisation after a few weeks to share her dilemma and seek support. Thai literacy classes quickly switched to brainstorming sessions about how to move forward. Som discussed the possibility of disguising herself and running away to another town or workplace. The agent, however, knew where her family lived and had threatened their safety if she ever ran away. Empower explained her options available under Thai law. One was to identify herself to the police as a trafficking victim, whereupon she would be placed in mandatory government care until the court case finished, then deported; another was to identify herself to immigration police as having violated immigration law and face detention in an immigration facility before being deported. Neither of these options would allow her to continue working in Thailand or protect her family in Myanmar/Burma in the event that the agent or business owner sought retaliation. Confident that she was not in immediate danger, Som and Empower continued discussion. One of the women at Empower who had previously worked in the same place suggested another option: the women went together to the entertainment place owner to negotiate a new arrangement—Som would continue to make regular payments until her debt was cleared, but she would work at a different establishment with better working conditions, free to move as she liked, with the understanding that she could be contacted by her old employer at her new place of work. This was the only option available to her that ensured her safety and the safety of her family and which allowed her to continue working to repay her debt and provide income for herself and her family. With Empower's community-based support, Som reached an outcome that addressed her basic needs and left her in a situation that was better than the one she was in when she arrived. Som's relationship with Empower continues to this day.⁵⁸

⁵⁸ Follow-up Interview, Liz, Chiang Mai, 31 March 2017.

Conclusions and Recommendations

While working conditions which meet the criteria for human trafficking have all but vanished, sex workers in Thailand continue to face rights violations due to the criminalisation of their work, not least of which are anti-trafficking initiatives which target the sex industry with raid and rescue practices. Empower's experiences indicate that even for the people these raids purport to serve, they consistently lead only to detention and deportation.

'Empower is Us'

In a climate that criminalises sex workers' everyday activities, poses a constant threat of arrest, detention, and deportation, and imposes legal penalties at every turn without corresponding protections, an organisation like Empower becomes a critical support and sanctuary of belonging. In addition to the emergency response work conducted in situations like the Nataree raid, where Empower provided necessary amenities to women in detention like sanitary napkins, a nominal sum of money for making calls to family, and spare clothing,⁵⁹ Empower is unique in its role as both a community and a space that belongs entirely to sex workers. When members of Empower are asked to reflect on the organisation as distinct from themselves and the other people who make it up, they emphasise, again and again, the opportunities Empower has opened up for them to study, to work more safely, and to connect with the community. Graduate of Empower's high school diploma programme and long-time community member Nutjang explained, 'It's like in school when you fail an exam. Most teachers don't let you take it again. Empower is like the teacher that does.' Inevitably, though, members of Empower return to discussing Empower as the women who make it up, and the women who make it up as Empower. On each occasion when a group of Empower community members was asked 'What is Empower?', someone in the group inevitably answered, 'Empower is us'. In response to the follow-up question, 'Who are we?' the answer emerged, 'We are Empower!' Nutjang emphasised, 'Empower doesn't *help* us... Empower *is* us.'

'It's like in school when you fail an exam. Most teachers don't let you take it again. Empower is like the teacher that does.'

⁵⁹ Entertainment workers who are detained are often forced to spend the duration of jail time in the clothing they were wearing when arrested.

When members of Empower were asked about their hopes for the future of sex work, they were quick to answer, 'to work safely' and 'to work legally', with an older 'sister' Pueng, clarifying, 'We don't want legalisation. That will just add more things we're forced to do. We want decriminalisation—to get rid of the prostitution law so our work is safe.'

When asked how the response to trafficking needed to improve in Thailand, Empower founder P' Noi answered immediately, 'Don't give funding [to groups engaged in anti-trafficking work in the sex industry.]' She elaborated, 'I don't feel happy with their activities that [bring] more stigma on top of [sex workers].' Despite massive budgets and decades of work, P' Noi explained, 'They only catch victims and... [don't] show that the money they use... they use for [a] better life' for the people they claim to serve. In an analysis of the legal climate, Empower member Liz offered the analogy, 'When the only tool is a hammer, everything is dealt with like a nail.' The employment of criminal law as a tool to combat exploitation of women in sex work, she argues, has 'spectacularly failed'. What is more useful to sex workers, the findings of this research indicate, is the day-to-day work that Empower does in providing opportunities, responding to articulated needs, and empowering women in the sex industry to advocate for themselves and one another.

What is more useful to sex workers is the day-to-day work that Empower does in providing opportunities, responding to articulated needs, and empowering women in the sex industry to advocate for themselves and one another.

An Alternative Model

In contrast to an anti-trafficking model which denies sex workers agency over their lives and violates their human dignity, the work that Empower does expands opportunities, cultivates empowerment and moves sex workers closer to the actualisation of human rights. From a bad hangover to a bad boss, from Nataree to the forthcoming amendment of Thailand's Prostitution Act, Empower is unique in centring sex workers in the conversation about their jobs, their hurdles, and their dreams. While a far-away trafficking discourse carries on with little space for the voices of those it most deeply affects, one community of sex workers has created an alternative model. Rather than assuming that sex workers of Thailand need Empower, Empower functions on the appreciation that it is dependent on the community of sex workers. Articulating what so many community members know to be true, 'big sister' Ping Pong highlights where the organisation's work diverges farthest from anti-trafficking efforts: 'If Empower didn't have us, Empower couldn't exist... Good or bad, I don't know, but I know we fight together.'

Recommendations

With respect to anti-trafficking initiatives in the sex industry, Empower makes the following recommendations:

To the Thai government:

1. Abandon the practice of entrapment and raid in accordance with CEDAW concluding observation 27d from the combined sixth and seventh periodic reports of Thailand;⁶⁰
2. Comply with its legal obligations under the UN Convention on the Rights of the Child and all other national laws in its treatment of victims and witnesses;
3. Investigate and act on human rights abuses against women and girls working in the sex industry by anti-trafficking organisations, both state and non-state;
4. Convene an *ad hoc* committee to review the legal and policy environment in the entertainment industry that includes at least one-third sex worker representatives.

To anti-trafficking organisations:

1. End all involvement in law enforcement work;
2. Allocate funding and resources to services for youth and women, particularly mothers;
3. Provide financial assistance, resources, and other support to girls and women regardless of their work or immigration status;
4. Cease the current practice of proselytising to women and girls as part of their recovery.

To donors:

1. Make long-term investments in sex worker led and managed organisations that work to address the issue of trafficking as part of a wider aim to improve the lives of women whether or not they remain in the sex industry;
2. Take measures to demand evidence of claims made about anti-trafficking and anti-trafficking practices;

⁶⁰ Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on the combined sixth and seventh periodic reports of Thailand*, CEDAW 21 July 2017, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FTHA%2FCO%2F6-7&Lang=en.

3. Be rigorous in investigating potential grantees and local context before determining where and how much to invest;
4. Avoid supporting any practices that increase stigma or result in human rights violations;
5. Ensure that all potential grantees demonstrate plans and progress toward having formerly trafficked or migrant women in key positions of leadership and management.

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