

**TRAFFICKING OF CAMBODIAN WOMEN AND CHILDREN**  
**Report of the Fact-Finding in Malaysia**

Cambodian Women's Crisis Centre (CWCC)  
With support of Dan Church Aid

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# **TRAFFICKING OF CAMBODIAN WOMEN AND CHILDREN**

## **Report of the Fact-Finding Mission in Malaysia**

### **1. Purpose and scope**

This report is based on the information compiled during the fact-finding mission in Malaysia (and Singapore). The Dan Church Aid (DCA) has provided support to the mission initiated by the Cambodian Women's Crisis Centre (CWCC). The original purposes of the fact-finding mission are to assess the conditions and magnitude of regional trafficking rings forcing Cambodian women and girls in the situation akin to white slavery in Malaysia; and to explore the venue for concrete cooperation between agencies in Malaysia and Cambodia for the social/legal redress and duly repatriation of Cambodian trafficked women and children that might develop into the bilateral memorandum of understanding.

Mr. Suon Visal from the Cambodian Defenders Project, and Ms. Siriporn Skrobanek conducted the fact-finding mission during mid March and early April 2005. Apart from Malaysia, the fact-finding mission was extended to Singapore, which is also a major destination country in ASEAN (Association of Southeast Asian Nations) for labour migration and migration for sex related work including trafficking of women and girls. It was assumed there might be Cambodian women and girls working in Singapore in the situation akin to slavery, therefore it was worthwhile to explore the situation and pattern of trafficking of women and children relating to labour migration and establish contact with local agencies for future collaboration in Singapore. While the prime target group was Cambodian women and children, situation of other nationals was also inquired for comparison of magnitude and plight.

## **2. Method of fact-finding**

The report is based on primary and secondary sources. The primary source is from interviews with 32 Cambodian women and men in a Malaysian detention centre, informal sharing with Indonesian domestic workers in a shelter in Singapore, and with Vietnamese migrant workers in Penang, and also from visiting and sharing views with officers from governmental and non-governmental agencies in Singapore and Malaysia. The secondary source is from literature and newspaper reports. Another source of information is from direct interaction with taxi drivers including an incidental encounter with trafficking recruiting network members in Kuala Lumpur.

## **3. Limitations of the fact-finding mission**

It was intent of the fact-finding mission to visit women in the sex-related entertainment places but due to the crack down policy on undocumented migrant workers of the Malaysian government, which started to operate after the completion of the three-month amnesty period in February 2005, it was not possible to reach Cambodian women at the workplace. The restrictive policy pushed undocumented workers especially those catering in the sex industry into underground for fear of arrest, punishment and deportation. The exposure and night tour in the red light areas and migrant settings both in Malaysia and Singapore was the only method possible to have an overview of the areas where foreign women and girls catering sexual services, on their own and/or under surveillance of trafficking ring members. The information on the working condition was from women detainees in Semenyih detention camp (Kuala Lumpur), Indonesian domestic helpers who took refuge in an NGO's shelter in Singapore, the media reports and the interviews with Cambodian returnees in the crisis centre in Phnom Penh. The interviews could not be done with women in other detention camps because of the restrictive policy of Malaysian Prison Department that limiting access of non-governmental agencies to these premises. The interview with women/men in Semenyih Detention Camp could not cover all the aspects relating to their migration and trafficking due to the limited time and environment in the camp. Further, there were no agencies either in Malaysia or Singapore, which run concrete specific programme/activities on the trafficking of foreign women and girls during the time of fact-finding. The situation reflects the dire need for bilateral cooperation among GOs and NGOs to systematically study the national situation and

establish programme and policy to stop trafficking and provide social services to trafficked persons especially to women and girls.

#### **4. Definition of Trafficking of Women and children**

For the purpose of fact-finding the definition of trafficking of women and children has referred to the definition from the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime (Palermo Convention). The article 3 of the Protocol states that

- (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 of 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.*

According to the Protocol's definition, trafficking in persons must comprise of the following elements 1) the act of recruitment, and moving a person from the origin to destination place 2) the method of moving person which includes force, deception and abuse of authority 3) the purpose of exploitation; and for those who are under 18 (children) only the movement with the purpose of exploitation shall constitute trafficking of children. Further, the Protocol has reiterated that consent of trafficked persons is irrelevant if their movements comprise of those elements.

By adopting this definition, the fact-finding mission, though focusing on the trafficking for the purpose of sexual exploitation and forced prostitution also compiled the information on forced labour of Cambodian women and children in the destination countries.

## 5. General situation of migration and human trafficking in Singapore and Malaysia

Singapore and Malaysia are the most economically advanced members of ASEAN. The growing industry especially in construction and manufactured industry requires overseas labour to replace local workers who refuse to do the dirty, demanding and dangerous work with lower pay. There are about one million and three million migrant workers in Singapore and Malaysia respectively. It is estimated that half of these workers are undocumented migrant workers. There are also a high number of women recruited from the countries of Southeast Asia (Philippines, Indonesia, Thailand and Cambodia) and South Asian (Sri Lanka) to work as domestic helpers. A small number of foreign migrant women work in textile and electronic factory and are paid either by piecemeal or lower daily wage.

The other sector that has developed along with the influx of foreign migrant workers is the sex-related sector including prostitution. The women of foreign nationals are recruited with the promise to work as waitress, hotel receptionist and finally end up in doing sexual services. There are also women who come voluntarily to do sex work and find out that the working conditions and income are not as promised. Further, they are forced to work in order to pay debt incurred from the arrangement of their transportation. Apart from being exploited they are also confined and at the risk of being arrested. Certainly, there are a number of migrant women providing sex service on their will and being able to generate sufficient income during the period that they are permitted to stay on social visit visa in the destination countries. The success story of these women inspires other sisters in their home country to follow the same route. According to the Malaysian Chinese Association (MCA) seventy per cent of foreign women coming to Malaysia with the full knowledge of work that engaging them in prostitution. There are only thirty per cent who can be considered ***innocent victims*** of transnational organised human trafficking<sup>1</sup>. The Malaysian Immigration Department also shares the same views that less than twenty per cent of women arrested by the department are forced into prostitution<sup>2</sup>. This view contrasts to the report of SUHAKAM (Human Rights Commission of Malaysia) on trafficking in women and

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<sup>1</sup> Interview with Datu Micheal Chong 30/3/2005

<sup>2</sup> Malay Mail 29 January 2005

children, which found that twenty-seven out of fifty-four women interviewed in the detention camps would be identified as trafficked victims.<sup>3</sup>

In order to protect their own women from involving in “vice” activities, Singapore and Malaysia develop a flexible policy toward migrant prostitution. The two countries adopt abolitionist approach in dealing with prostitution. By applying the abolitionist approach, the law does not stipulate that prostitution per se is a criminal offence but criminalizes only the third party living on the prostitution of others. Currently, there is no law punishing those who receive sexual services from prostitutes. The women engaged in prostitution will be punished if their **immoral activities** upset public order and morality such as soliciting and loitering in public places. It implies that women can engage in prostitution if it is done discreetly. However, the prostitution of foreign nationals is not allowed. The immigration law of Singapore includes prostitutes as one category of prohibited immigrants.

The reality is much different from the deliberation of the law. The growing entertainment and sex industry in Malaysia and Singapore reflects that the criminal sanction on the third party in the Penal Code and the prohibition of foreign nationals who engaged in prostitution to enter the country stipulating in the immigration law cannot stop the cross border recruiting, transporting and catering women and girls of other nationals for sexual services. Due to the high profit that the sex industry generating from their bodies it is worthwhile for the operators to risk and violate the law. They can find legal loopholes to bring in women and girls of all nationals to work in the sex industry in Malaysia and Singapore.

Foreign women can travel to work in entertainment places if they have labour contract with local employers who arrange for their labour work permit to get employment visa. The labour work permit is for working in restaurant; massage parlour, and newly mushrooming spa. However, after arrival in Malaysia and Singapore they are forced to engage in prostitution. In Singapore there are women of different nationals working on Geylang Street. The majority of foreign women enter the country on social visit visa, which does not allow them to work. They are vulnerable to being arrested, imprisoned and detained for a long period of time. Since neither Singapore nor Malaysia has specific legislation against human trafficking and yet deny the growing magnitude of this problem in their countries, all women who are arrested will be charged for working without work permit, involving in

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<sup>3</sup> SUHAKAM 2004 Report on Trafficking in Women and Children

prostitution and overstaying their visa. There is no process to identify trafficked victim from illegal migrants in order to consider them as victims of crime who are entitled to remedy and redress. There is no shelter for trafficked victims, women and children escaping from the situation akin to sexual slavery and seeking assistance from state authorities are also detained in the detention camps like any illegal migrants while awaiting to give testimony in the court. Apart from lacking remedial services the trafficked victims can be charged for illegal entry, overstay, fraudulent travel documents etc.

The trafficking of women and children does not limit only for the purpose of labour and sexual exploitation, Malaysia and Singapore are also destination countries of baby smuggling and trafficking. The baby and small children are kidnapped and/or sold by their impoverished parents for adoption in these countries. According to the media report there are syndicates involved in destination and source countries.

*The babies, a two-month-old boy and a two-week-old infant, were ferried from Batam in a styrofoam container usually used to store fish. Police intercepted the "package" and arrested the courier at the banks of Sungai Rengit. Three men and two women aged between 19 and 40 were arrested. They were said to be naïve and illiterate and were used by the syndicate. They face up to 15 years in jail if convicted of smuggling the babies.*

*(Malay Mail 29 September 2003)*

In Malaysia trafficking of women and children came into attention when a women's organisation -Tenaganita - organised the first seminar on -Trafficking in Women a Growing Phenomenon in Malaysia, in 1995. The seminar initiated a discussion and debate on the issue among representatives of governmental and non-governmental agencies including law enforcers. It captured trafficking of Malaysian and other nationals and called for political will and law reform to combat trafficking of women. It took nearly a decade until the National Human Rights Commission – SUHAKAM- took up the issue by surveying situation of women and children in detention camps and organizing national consultation to raising awareness of Malaysian authority and public on the current situation of human trafficking (for the purpose of sexual exploitation) in Malaysia in 2004. In Singapore, there is no explicit state concern and action on the issue only recently, UNIFEM organised the regional conference (in April 2005) to tackle the demand side of sexual exploitation of children.



## **6. Discriminatory and Discrepancy Practices against Migrant Workers in Malaysia and Singapore**

The labour force particularly for menial work in Singapore and Malaysia depends highly on the workers recruited from other countries. The crack down on illegal migrant workers in Malaysia in early 2005 that resulting to the dramatic mass deportation of migrant workers especially from Indonesia has brought about the undesirable situation to the employers. There were numerous media report on the labour shortage which is affected in particular the construction sector and plantation work where Indonesian workers comprise of 90 and 60 per cent of the labour force respectively. The outcry from the employers on the labour shortage and the delay in issuing documents for deported workers for their orderly departure of the Indonesian authority prompted the Malaysian government to recruit 100,000 workers from a South Asian country to replace the vacuum of the labour force.

In spite of the crucial demand for foreign migrant workers, the labour laws for the protection of migrant workers in the two countries are not adequately enforced on the employers. The remuneration of foreign workers is not standardized for the same kind of work. For instance for domestic work in Malaysia, Filipino domestic workers receive a monthly salary of RM500-RM750. The domestic workers from Sri

Lanka get RM500 and those from Cambodia receive RM350-RM400.<sup>4</sup> There are many complaints against employers for inhumane treatment and undue payment. But the process of enquiry and prosecution cases is time consuming. Further, the workers who run away from their abusive employers will be charged and punished by the immigration law. Such practice of authority, according to Women's Aid Organisation (WAO) and Teneganita, discourages foreign workers to seek justice and/or run away from their abusive employers.

Moreover, the laws and rules governing the rights of foreign workers are discriminated against waged workers in Malaysia and Singapore. For instance, the foreign waged workers or those who earn a monthly salary less than S\$ 10,000 cannot marry Singaporean national. On contrarily, professional foreigners who earn a salary more than S\$ 10,000 can marry local citizens and have the right to live with their

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<sup>4</sup> Teneganita Access Denied

partners in the country.<sup>5</sup> In Malaysia (undocumented) male migrant workers are not allowed to marry local women even though they live together and have children. Apart from denying women's freedom of choice in selecting their marriage partner, such rule also violates the rights of the child to have nationality and other basic entitlement.<sup>6</sup>

## **7. Laws Relating to Human Trafficking in Malaysia and Singapore**

Malaysia and Singapore do not have specific laws governing human trafficking and prostitution. Nevertheless, the Penal Code in the two countries criminalizes the slave trade and the exploitation of prostitution of others. The Penal Code of Singapore prohibits selling, buying, or obtaining possession of any woman or girl for the purpose of prostitution either inside or outside the country. Punishment for the offense is a fine and imprisonment of up to five years. Section 141 of the Penal Code explicitly prohibits "traffic in women and girls." It provides that any person, who buys, sells, procures, traffics in, or brings into or takes out of Singapore a woman or girl for the purpose of prostitution is to be punished by a fine and imprisonment for up to five years. Section 142 of the Code also prohibits importation of women and girls for the purpose of prostitution by false pretense, false representation, or fraudulent or deceitful means.

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<sup>5</sup> From the discussion on 16 March 2005 with the members of the Thai Community Group and Thai residents in Singapore

<sup>6</sup> Information from a Malaysian woman (providing outreach services for street workers) who has lived with South Asian migrant worker and having two children but unable to marry and legally register her children.

The Federal Constitution of Malaysia stipulates that all forms of forced labour are prohibited. The Penal Code, Section 371 makes the habitual dealing in slaves an offence. According to the SUHAKAM's Report on Trafficking in Women and Children *the aim of the provision is to criminalise on the one hand the involuntary placing or holding in prostitution, and on the other hand profiting from this*. It means that the Penal Code includes (involuntary) prostitution as one form of slave trading. However the Penal Code does not deliberate that prostitution per se is criminal offence. The criminal offences that are punishable according to section 371 are running of and living on prostitution. Such deliberation is in line with the Convention for the Suppression of Traffic in Persons and Exploitation of Prostitution of Others (1949 Convention) aiming at abolishing prostitution and conflating prostitution with human trafficking.

The 1949 Convention states that prostitution is incompatible with human dignity but does not prohibit prostitution per se. It requires states parties to abolish the legalization of prostitution by not regulating but punishing the third party that live their lives on the exploitation of prostitution of others. It implies that by abolishing prostitution the human trafficking especially of women and girls will be diminished. The Convention, currently, has about seventy states parties but many non-states parties follow its deliberation by abolishing regulation system and criminalizing third party and/or punishing women engaged in prostitution who upset the public order and morality in their countries.

The Section 3 of the Malaysian Penal Code provides for the punishment of offences committed in Malaysia and beyond, but the law may be tried in Malaysia. The application of the Penal Code to extra territorial offences has stipulated in the Section 4. The provisions in the Section 3 and 4 provide for the punishment of criminal offences committed within Malaysia and other places. Any person involves in the cross border trafficking either committed in Malaysia or in other countries can be prosecuted under the Penal Code.

Moreover, Malaysia has enacted the Child Act 2001 after ratifying the U.N. Convention on the Rights of the Child (CRC) in 1995. The Child Act incorporates some of the principles of the CRC and covers the trafficking and abduction of children. It stipulates heavy penalty for procuring a child for the purpose of prostitution and for sexual intercourse with any person either within or outside Malaysia. The penalty for such criminal offence is fifty thousand ringgit or imprisonment for a term not exceeding fifteen years or both. Acting as intermediary on behalf of a child or exercising control or influence over the movements of a child to provide sexual services, is not only liable to a fine not exceeding fifty thousand ringgit and to imprisonment of a term not less than three years but not more than fifteen years, but also be punished by whipping of not more than six strokes. The Child Act does not cover other purposes of trafficking of children but focuses only on the purpose sexual exploitation of trafficked children.

The law, though, claims to protect children does not have specific provisions to protect and assist the child victims particularly the children of other nationals who are trafficked for (forced) prostitution. Since there is no process to identify trafficked victims from undocumented workers, the trafficked victims are liable to be punished as prohibited immigrants according to the Immigration Act 1959 (Revised 1963) for irregular entry, entry without valid documents or engaging in (forced) prostitution. They are thus detained and deported without access to justice and assistance.

Such practices reflect the discrepancies between the rule and deliberation of the law and the enforcement of the law. In order to tackle the trafficking of persons especially of women and children more effectively, SUHAKAM has proposed that Malaysia should ratify the (2000) U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Supplementing the U.N. Convention against Transnational Organised Crime) and promulgate a comprehensive anti-trafficking legislation that include the protection of trafficked victims.

As trafficking of women and children of other nationals to Malaysia is not confined only for the purpose of sexual exploitation but includes bonded labour and slavery-like conditions, the proposed anti-trafficking legislation must define trafficking according to the internationally adopted definition in the U.N. Trafficking Protocol that incorporates all forms and purposes of trafficking and provides protection for trafficked victims regardless of their age, work sites and personal background.

## **8. Trafficking of Cambodian Women and Children to Malaysia**

## **and Singapore**

The intra-regional trafficking of Cambodian women and girls is not a newly emerged problem as it has been reported for over a decade of trafficking cases in particular of the cross-border trafficking from Cambodia to Thailand. The purposes of trafficking of Cambodian women and girls into Thailand are mainly for forced labour, domestic work, and begging. Labour migration and trafficking of Cambodian women and children to Malaysia and Singapore is a growing phenomenon in the past few years as reported in the media and the agencies providing assistance to trafficked women and children.

During the fact-finding in Singapore there was no direct contact with Cambodian women but the Thai Embassy revealed a case of Cambodian national who came to Singapore with the Thai passport. The woman was involved in prostitution and became pregnant. She contacted the embassy to seeking assistance for return to her hometown at the Cambodian-Thai border. However her request was turned down, as she was not a Thai national. Another account from a 15-year-old Thai girl who was trafficked from Thailand to Singapore disclosed that women and children from different nationals are forced to provide sex to migrant workers in mobile camps and in forests near Malay border. Since many Cambodian women and girls are forced in to prostitution in Johor Baru (bordering town to Singapore) it can be assumed that these trafficked victims will be shifted and or smuggled across the border to provide sexual services to foreign and local male workers in Singapore.

According to the local organisations and Thai community in Singapore Cambodian women are also recruited to work as domestic workers in Singapore. The access to the Cambodian domestic workers is difficult due to the nature of work that confined them into the private domain of employers, and language difficulty. The shelter in Singapore run by HOME accommodates a high number of domestic helpers from Indonesia and the Philippines who were abused physically and sexually by their employers but never has a case of Cambodian domestic workers. There might be cases of Cambodian domestic workers who fall into such abusive situation and yet are unknown of available assistance where they can take refuge and assistance.

The Cambodian Embassy in Singapore is yet unaware of such situation. The Embassy never provides any assistance to any Cambodians who are victims of trafficking and/or forced labour. Therefore, the Embassy's staff firmly believes there is no trafficking of Cambodian nationals to Singapore. Such belief cannot be verified

during the fact finding since the visit and interview Cambodian detainees in prison and/or detention centre in Singapore was not feasible due to the lack of facilitation from the Cambodian authority. Thereby the situation in Singapore requires closer cooperation between organisations in Cambodia and Singapore to conduct survey of the situation of Cambodian workers in Singapore to ascertain the extent and magnitude of trafficking and labour migration of Cambodian women and children.

Labour migration and trafficking of Cambodian women and children to Malaysia has been recorded in the past few years. They are recruited from Cambodia with deception to work in factory and/or restaurant and are forced to work and receive customers in karaoke bars to pay back the debt. Most of the media in Malaysia focus the report on the police raid and numbers including nationalities of women engaged in prostitution. There is no further investigation on how these women and girls have arrived in such places whether they work on their own will or forced into such situation. All women and girls caught in prostitution are treated as – prohibited migrants- to be punished and deported.

According to SUHAKAM's report, 125 Cambodian women were arrested and deported on charge of prostitution in 2002; four out of six women taken from a spa centre in 2003 were Cambodians. During November 2003 – March 2004, 52 Cambodian women got arrested due to their involvement in prostitution. The women are punished and imprisoned. According to the Prison department's report on 28/10/2003, there were 1485 foreign women prisoners and seventy-five were Cambodians. Among the total number of foreign prisoners, 274 were below eighteen years old. According to the U.N. Trafficking Protocol these young women would be considered as trafficked victims and should not be treated as illegal immigrants. From SUHAKAM's statistic on foreign women prisoners in 2003, Cambodian women were at the fourth rank of foreign nationals detained in prison.

**Table 1: Number of Foreign Women Prisoners**

<b>Country</b>	<b>Number</b>
Indonesia	939
Republic of China	250
Thailand	137
Cambodia	75
Vietnam	27
Myanmar	22

Philippines	16
Uzbekistan	9
India	4
Bangladesh	1
Iran	1
Colombia	1
Africa	1
Nigeria	1
<b>Total</b>	<b>1485</b>

(SUHAKAM: Report of Prison Department 28/10/2003)

Based on this official information, one can see the growing number of women and girls recruited from Cambodia for forced prostitution in Malaysia. The women and girls rescued or fled from their workplace always told horrifying situation of their work but surprisingly their abhorring accounts have not led Malaysian authority to investigate the situation of forced prostitution of foreign women and girls in the Malaysian sex industry.

Apart from forcing to work in prostitution, Cambodian women and girls are recruited by local agents to work in factory and domestic work. The lack of monitoring mechanism on the working conditions of documented and undocumented migrant workers is opportune for their recruiters and employers to exploit unscrupulously their labour. Since the Immigration Act gives employers the right to terminate and cancel the work permit and does not allow migrant workers whose employment has been terminated and/or run away from their employer to stay in the country, the foreign workers are put in a vulnerable situation of being abused and exploited. Though there is no systematic report on the labour exploitation akin to slavery of Cambodian migrants (women and men) but information from the Cambodian detainees has revealed the mal practices of their employers including a long period of work without any payment. From their accounts there are elements of recruitment from Cambodia with deception and false promise in order to exploit their labour in Malaysia, according to the definition of trafficking in the U.N. Trafficking Protocol, these Cambodian migrant workers should be considered as trafficked persons. It can be concluded that trafficking to Malaysia is not confined only to forced prostitution but also involves forced and bonded labour of Cambodian women and men.

Hence, anti-trafficking initiatives including prevention must not limit only to the forced prostitution but incorporates other forms of labour exploitation of Cambodian women (and men) and children. It is a challenge for agencies in Cambodia and Malaysia to document systematically all the situations and forms of exploitation of Cambodian women (and men), and girls in the forced prostitution, factory and domestic work in order to demand accountability of Malaysian government to the migrants (bused by their employers) and trafficked victims from Cambodia.

## **9. Place of Origin, Recruitment and Purposes**

During the fact-finding visit in Semenyih Detention Camp, there were thirty-two detainees (twenty-four women and eight men. Four women were recruited to work in prostitution; two women came with the promise to get married and sixteen women ended in unpaid work in electronic factory. All the eight women recruited for (forced) prostitution and false marriage traveled without any legal documents and was smuggled into the country by trafficking syndicate. The women coming for factory work had passports and some of them got work permit. The women recruited for factory work were mostly in their 20s and 30s. Two of the women lured into prostitution were at the age of eighteen. One agent recruited eight Cambodian men for doing work in a factory. Their age varied from eighteen to twenty five.

Fifteen women from different age groups came from Kampong Cham Province. A Malay-Cambodian man recruited them for factory work. Only one eighteen- year- old girl from Kampong Cham came with a Malaysian man for marriage. She accompanied another woman from Banteay Mean Chay whom she claimed her relative. The pseudo relative met a Malaysian man in Cambodia who promised to marry both of them in Malaysia. After staying with him in a hotel in Kuala Lumpur for a month the police arrested all the three. While the man was scot-free the two women were sent to court and imprisoned for three months.

**Table 2: Purposes of labour migration and trafficking of women and children**

<b>Purpose</b>	<b>15-18</b>	<b>19-28</b>	<b>29-38</b>	<b>39-48</b>	<b>Total</b>
<b>Karaoke and prostitution</b>	<b>1</b>	<b>2</b>			<b>3</b>
<b>False marriage</b>	<b>1</b>	<b>1</b>			<b>2</b>
<b>Street work (boyfriend)</b>		<b>1</b>			<b>1</b>
<b>Factory work</b>	<b>2</b>	<b>10</b>	<b>5</b>	<b>1</b>	<b>18</b>
<b>Total</b>	<b>4</b>	<b>14</b>	<b>5</b>	<b>1</b>	<b>24</b>



Information from women detainees shows that agents mostly local Cambodians recruit women from each province with a promise to find them a highly paid employment in Thailand and in Malaysia. Women at all age groups are at risk of being potential victims. While the older age might be promised with work in factory where they work without or little paid, the younger ones are promised with employment in service sector in Thailand and finally end up in forced prostitution in Malaysia.

All the eight men (six from Kampong Cham, two from Phnom Penh and Kampong Thom) were recruited by Mr. Duong a native of Kampong Cham who took from each of them RM100 for brokerage fee to finding factory work in Malaysia and arranging for their passports.

**Table 3: Age group and place of origin of women**

<b>Place of origin</b>	<b>15-18</b>	<b>19-28</b>	<b>29-38</b>	<b>39-48</b>	<b>Total</b>
<b>Banteay Mean Chay</b>		<b>1</b>			<b>1</b>
<b>Battambang</b>		<b>3</b>	<b>1</b>		<b>4</b>
<b>Kampong Cham</b>	<b>3</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>15</b>
<b>Kandal</b>		<b>1</b>			<b>1</b>
<b>Kratie</b>		<b>1</b>			<b>1</b>
<b>Pursat</b>		<b>1</b>			<b>1</b>
<b>Phnom Penh</b>	<b>1</b>				<b>1</b>
<b>Total</b>	<b>4</b>	<b>14</b>	<b>5</b>	<b>1</b>	<b>24</b>

They traveled to Malaysia in a group of 20 via Poipet through Thailand. After arrival in Malaysia in December 2004 they were put to work in a factory in Kelang Keng Selak Tinke Sapang with a promise to earn a daily wage of RM40. They worked for nearly three months without earning a ringgit and were arrested in March 2005. They believed the factory owner informed the police to avoid their overdue payment.

**Table 4: Age group and place of origin of men**

<b>Place of origin of men</b>	<b>15-18</b>	<b>19-28</b>	<b>Total</b>
<b>Kampong Chan</b>	<b>1</b>	<b>5</b>	<b>6</b>
<b>Kampong Thom</b>		<b>1</b>	<b>1</b>
<b>Phnom Penh</b>		<b>1</b>	<b>1</b>
<b>Total</b>	<b>1</b>	<b>7</b>	<b>8</b>

Mr. Duong also recruited four women joining the group of eight men to work in the same factory in December 2004. The women were promised the wage of RM30 but after working for nearly three months without receiving any salary, they were all arrested in March 2005. The women working in the electronic factory in Johor Baru seven of them came with their relatives who used to work in Malaysia, one came with friend (name and address unknown), two were recruited by Mr. M a Cambodian -Malaysian man, the other two by Mr. T a Cambodian national. One woman came to live with her husband who worked in the factory. Most of the women had worked in the factory for a period of 1-2 years and nearly all of them had their wages withheld for about six months.

The route of transportation is not different between sex trafficking and labour exploitation. The women were brought to Poipet and crossed the border to Thailand. They traveled either in a big group of twenty or small group of three persons. They were accompanied by recruiter/trafficker. It might be easier for recruiter to transport women to do factory work as all of them had legal travel documents that enabling them to get social visit visa and/or employment visa for entry and work legally in Malaysia for a period of time. But for sex trafficking the potential victims had to stay for a few days in Thailand to arrange for the illegal entry and/or smuggling into Malaysia since they did not have any travel documents and mostly were deceived about the worksite and destination country.

**Table 5: Recruiters, Purposes and Number of Victims**

<b>Recruiter</b>	<b>prostitution</b>	<b>False marriage</b>	<b>Factory work</b>	<b>Men for factory work</b>	<b>Total</b>
Cambodians	1		7	8	16
Malaysians	2	2			4
Cambodian-Malaysian			2		2
Relatives			7		7
Acquaintances	1		1		2

Family member (husband)			1 (Live together)		1
<b>Total</b>	<b>4</b>	<b>2</b>	<b>18</b>	<b>8</b>	<b>32</b>

The women paid different prices for brokerage fee. The women who were deceived on the nature of work and later placed in forced prostitution paid little fee to the agent who would receive exorbitant price from selling them to karaoke and hotel where they were forced to receive many customers a day to pay back the debt incurred from the transaction of their bodies. A girl who was trafficked to Malaysia at the age of fifteen paid US\$ 100 to a man she met in Phnom Penh and later forced to pay a debt of US\$ 3500 to her Malaysian boss. She spent three years of her childhood to pay the debt until she could escape with assistance from one of her clients.

According to a Cambodian trafficked woman who had returned home<sup>7</sup>, women were divided into small groups and they had to walk in forest at night to enter Thailand then took a van to continue their trip to Hat Yai district in Songkla the Thai border province to Malaysia. In Hatyai the traffickers would check their virginity before selling them to Malaysian owners.

*Story of Naka*

*Naka was sold for US\$ 3500 to a Malaysian hotel owner at the age of fifteen. A Cambodian man promised her a job in a factory and took her from Phnom Penh to Poipet and then Malaysia. She paid him US\$ 100 and crossed the Thai border with a group of six persons. She trusted the Cambodian man as he had good connections and sent already many people to work in Thailand. In Kuala Lumpur she was locked up in the room and strictly under surveillance for over half a year. When they trusted her and reduced their control she could manage to escape with assistance of a customer. After that she stayed with her boyfriend until her arrest in March 2005. She was put in a detention centre without court order.*

In the sex trafficking the recruiters paid very little to arranging travel document for their potential victims. None of the six women had passports to legally cross the borders. They traveled in small group and accompanied by men who arranged for their illegal entry by negotiating with border authority and/or smuggling them into

<sup>7</sup> Interview with Pang in CWCC's shelter 23 October 2004

Malaysia. This is different from factory work, which women paid a higher fee to the agent for arranging legal travel document and legally entering Malaysia. But not all women were documented workers with a work permit. All women who were arrested in September 2004 in Johor Baru were charged of over- staying their visa and working without permit. Neither their employer nor recruiter paid attention to renew their work permit and visa to stay therefore the women who might come as documented workers had become illegal workers and susceptible to arrest and deportation.

**Table 6: Expenses of Women**

<b>Expenses of women</b>	<b>Sex work</b>	<b>Factory work</b>	<b>Note</b>
<b>Agent service</b>	-500 Baht (US\$12.5) -US\$ 100	-US\$ 100 -US\$ 180 -US\$ 300 -RM 1200 (US\$300)	<b>A woman who paid 500 Baht was sold to Malaysia and forced into prostitution.</b> <b>A woman who paid 100 US\$ for service had to pay US\$3500 debt.</b>
<b>Debt</b>	-RM 3300 (US\$829) -US\$3500	<b>Deduct from their salary RM 300 (US\$75) per month</b>	<b>Workers with passport and work permit had to pay US\$420 for passport and RM1350 (US\$336) for work permit. This was deducted from their salary to give to agent.</b>

The story of two young Cambodian women who claimed they were relatives lived in different provinces and yet came to Malaysia with the same Malaysian man who promised to marry both of them, reveals another tricks of traffickers to using marriage as camouflage to lure women out of their country.

<b><i>Marriage as camouflage</i></b>
<i>Rath 18 years old from Kampong Chan came to Malaysia in December 2004 without passport. Her relative Roth (23 years old) from Banteay Mean Chay also joined in the trip. Mr. K a Malaysian man who came to Cambodia promised to marry each of them. He took both of them to stay with him in a hotel in Kuala Lumpur. Three of them were arrested in January 2005 when police raided the hotel. The man was released but the court sentenced Rath and Roth for 3 months imprisonment. While staying there nobody came to visit them.</i>

The cross border cooperation of trafficking was confirmed by the incidental encounter with trafficking syndicate during the fact-finding mission in Malaysia. This encounter confirms that human trafficking particularly trafficking of women and girls is a lucrative transnational organised crime. It involves actors from different countries that have a good network and efficient flow of information. Further it reveals the

indiscreet and pro-active approach of the traffickers. The question worthy to raise here is how such international organised crime can be operated openly without the interception of law enforcers if there is no involvement of corrupt officials.

*The hotel where we stayed in Kuala Lumpur is located in Chow Kit area, which is the heart of low class prostitution. During the late night there are women and transvestites working on the street to solicit their customers. Women and transvestites working on the street are both nationals and foreigners. Two women and one man who were fluent in Khmer, Thai, Chinese and Malay languages came to meet one of the fact finders in the hotel. They were patient to wait on that day from afternoon until late night to meet the person whom in their view might be their potential accomplice. While having meeting they received at least two long-distance telephone calls, one from the Thai-Cambodian border and another from the Thai-Malaysian border. Both calls were to informing them that their potential victims have crossed successfully the national borders and soon would arrive in the destination place. In the meeting they proposed a commission of RM2500 (US \$ 625) for each woman recruiting from Cambodia to Malaysia. They said goodbye after midnight. We assumed they came to know about our stay via a taxi driver who drove one of us to the Royal Cambodian Embassy.*

A case in point that reflecting the involvement of officials was the raid of a brothel by the State Criminal Investigation Department in Petaling Jaya (suburb of Kula Lumpur) on February 24, 2004. The police found in the premise a secret tunnels where 46 foreign women from China, Uzbekistan, Russia, India, Indonesia, Vietnam, Thailand and Cambodia were confined. According to the police a former policeman who always traveled with six bodyguards was linked to the operation of the raided brothel, which might operate as mini casino.

#### ***Call Girls Nabbed In Secret Tunnels***

*An ex-police expert on secret societies, who even wrote a manual on the subject, is now wanted by the cops over his alleged involvement in one of the country's largest prostitution rings. He resigned from the police force three years ago after clocking in 20 years service, most of it in the Secret Society branch of the Criminal Investigation Department (CID). He told his colleagues in the police force then that he was going into business.*

*He was considered the foremost authority on gambling and triads in the police force. He was so well versed in both subjects that he had been called to testify as an expert witness, especially in gambling cases. His expertise was so well known that he had been invited by the Singapore Police to give a lecture on the subject. He had also penned a manual on gambling and triads, which is still being used by the police to train police officers on how to investigate the cases.*

*(The Malay Mail 24 February 2004)*

The raid of February 2004 and the encounter with trafficking network members in the hotel in March 2005 reaffirm that various people ranging from local recruiters, taxi drivers, sex operators, and law enforcers have vested interest and gain benefit from the prostitution and trafficking of foreign women and girls. The victims of sexual exploitation are not limited to women and girls from ASEAN countries but also from the other sub - regions. The occasional police raid without strong political will, national policy and monitoring mechanism cannot effectively stop the syndicate from recruiting and catering women and children of other nationals in the sex industry in Malaysia. The syndicate continues to operate their unlawful business by involving more people in the source country to recruit new potential victims.

The involvement of law enforcers does not limit to trafficking for sexual exploitation. Corrupt officials also take part in the smuggling and trafficking of baby from other countries as reported for instance in the local newspaper.

**On August 22, Kota Tinggi police rescued two infants, a two-week-old girl and two-month boy who were transported from Batam in a Styrofoam box usually used to store fish. The syndicate reportedly used the code "anak monyet" (baby monkey) to alert countries to take delivery of the babies. The former police corporal arrested on August 31 and identified, as the mastermind has been further remanded until Wednesday.**  
(The Malay Mail 9 September 2003)

## **10. Conditions of Work**

Based on the information from the detainees in Semenyih detention camp there are two categories of work that Cambodian women have involved in Malaysia, which are 1) factory work 2) forced prostitution (sex- related work). Cambodian women, though not found in the interview in Semenyih DC, are also recruited for domestic work. This form of work requires further investigation to learn more about the terms of contract, and conditions of work.

### **a. Factory work**

***I thought I would have a good life in Malaysia so I came with my uncle who used to work here. It was***

***not as I thought. The factory paid very little wage and irregularly. They asked us to work very hard and gave no chance to say what was right or wrong. They promised to give us RM30 a day but we never received any money. After a few months of work without payment all of us were arrested. It was the worst workplace I ever experienced. We have kept here over six months and nobody comes to see us.***

***(Daka aged 18 from Kampong Cham)***

Women and men from Cambodia were recruited to work in Malaysia mostly in electronic factory. The workers mentioned two sites of their factory: Johor Baru and Keng Selak Tinke Sapang. They entered the country legally but many worked without work permit. The Cambodian migrant women (and men) who were recruited to work in factory had to pay the agent's service varied from US\$100-300 with a promise of getting RM30 (US\$8) for women and RM40 (US\$10) for men or monthly salary of RM800-1000 (US\$200-250). None of the women and men received the promised wage. The women who received RM600-1000 (US\$125-250) had RM300 (US\$75) deducted from their monthly salary for unknown reason. The workers believed that the deduction amount went to the agent who recruited them from Cambodia. Some women had not received any payment for over six months. All of the workers in the electronic factory arrested in September 2004 were charged on working without permit and overstay their visa.

Male workers who came to Malaysia in December 2004 with other four women to work in Keng Selak Tinker Sapang had worked since their arrival without any payment and all of them were arrested in March 2005 for overstay and illegal work. Both women and men shared the same view that their employers informed the police to arrest them to avoid paying their overdue wages. By informing the police to arrest Cambodian illegal workers the employers had double benefits i.e. to use free labour of foreign workers and prevent themselves from state punishment after the amnesty period for undocumented workers had terminated. The Cambodian workers after the summary arrest could not complain against their employers to reclaim their unpaid wage, as they did not know any organisation that can provide them assistance. Moreover they were denied to collect their property including their passports.

The situation shared by the detainees shows that the authorities are concerned more on the illegality of their status in the country than the unjust and exploitation from their Malaysian employers. The Deputy Prime Minister Najib Razak of Malaysia reacted to the news that some unpaid migrant workers had engaged lawyers to take action against their employers that **“I am surprised that illegal people want to take action against their employers<sup>8</sup>.”** Such attitude makes workers live in double jeopardy either accept the unjust and abusive conditions of work or face arrest. Currently, there is no option for foreign workers to reclaim the rights they are entitled to unless the state takes the matter of labour rights, particularly of foreign workers, seriously and indiscriminately.

### Profiles of Cambodian Workers

Sati	Sara	Nop
<p>Sati from Battambang was 17 years old when she came to work in Malaysia in 2003. She had passport and came with a group of three Cambodians. Her recruiter took RM1200 (USA\$300) with the promise for high paid job. She worked in the electronic factory in Johor Baru and got salary of RM 600 (US\$150) the promise was not respected, as she never received the salary. She was arrested in September 2004. Police maltreated her while she was in custody for 12 days. The court found her guilty and sentenced her for 4 months imprisonment. Her sentence was complete but she did not have any ticket to return home. She has stayed in DC for over 6 months and no one came to visit her.</p>	<p>Sara aged 30 from Kampong Cham was recruited by a Cambodian Malay man to work in a factory in Johor Baru in 2004. She paid him US \$180. She was paid RM800-1000 (US\$200-250) per month but RM300 (US\$75) was deducted from her salary for unknown reason. She worked without any payment for five months before her arrest in January 2005. She felt that the factory owner informed the police to arrest foreign workers whose salary had not been paid for many months. She came with a passport but police did not allow any workers to collect their belongings. She did not know whether there was any court proceeding against her and how long she had to stay in the detention camp.</p>	<p>Nop from Kampong Cham was 18 when he came with a group of twenty Cambodians to Malaysia in December 2004. Each of them paid Mr. US\$100 for working in a factory where they would earn RM40 (US\$10) a day. After two months of working he and his friends had not received a single RM. All of them were arrested in March 2005. They believed the factory owner in Keng Selak Tinke Sapang informed the police to arrest them. He did not know the reason of his arrest and whether there was court proceeding on his case. He had passport to return home but nobody came to his assistance.</p>

<sup>8</sup> Bangkok Post 14 January 2005



## **b. Forced prostitution**

The sex industry in Malaysia, manifesting in various forms (from karaoke cum brothel to luxurious hotel), has been supplied by foreign women who are recruited in their home country with the promise of well- paid job in service and entertainment sectors. After arrival the women from other lands find themselves locked up in a room of high-rise building and forced to provide sexual service. They have no other choice than complying the demand of their unscrupulous captors. The most common place to cater foreign women for sexual services is karaoke cum brothel. Cambodian women particularly the young ones are sold to karaoke and hotel by their recruiters. They are confined and forced to receive many customers a day to speedy pay back the bonded debt.

According to women in Semenyih camp they had to receive many customers and got RM50-100 (US\$ 13-25) for each service. Their boss took away half of the earning and the remains half was to pay back the debt. Women who paid off the debt would keep another half for themselves but they had to pay for food and lodging. Young women whose status akin to bonded sexual slaves had to provide sexual services under surveillance to prevent their escape.

Some of the premises where women, including Cambodians, provide sexual services as reported in newspapers have tunnel for hiding and fleeing women when police raid. The labyrinth style of buildings makes it more difficult in rescuing and liberating women from sexual slavery.

The Cambodian returnees also confirmed they worked under guard in Ali Ba Ba Karaoke located in Johor Baru.<sup>9</sup> The building divided in 3 sections: karaoke on the first floor, discotheque on the second and on the third floor were rooms to provide customers sexual service. The women were forced to take at least 3 customers per night otherwise they would not receive food. The customers were required to use condom if they refused the guards would force them. Women were also doped with amphetamines and hallucination drugs, which cost RM50 (US\$ 13) per tablet. Some women had become drug addicts and inclined to self -immolation.

Apart from taking care of their food and accommodation, women had to bear the cost of medical check up. They would receive advanced money from their boss to pay the medical cost. Such expense forced them to stay longer to pay back the accumulating debt. Women did

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<sup>9</sup> Interview with returnees in CWCC's shelter 23 October 2004

not receive cash unless customers gave them tip after the service. But with that meager money the boss and pimps might take it away from them to prevent their escape. The trafficked women and girls have to move around the country to provide a sexual service, which makes it more difficult to trace and rescue them.

## **11. Situation in Detention Camps**

There are about 10 detention camps under the Prison Department of Malaysia. The following are the list of detention camps in each state of Malaysia:

- |                 |                 |
|-----------------|-----------------|
| 1. Ajil         | Terengganu      |
| 2. Tenah Merah  | Kelantan        |
| 3. Belantik     | Kedah           |
| 4. Juru         | Pulay Pinang    |
| 5. Semuja       | Sarawak         |
| 6. Langkap      | Perak           |
| 7. Semenyih     | Selangor        |
| 8. Pekan Nenas  | Johor           |
| 9. Machap Umboo | Melaka          |
| 10.Lenggeng     | Negeri Sembilan |

Apart from the detention camps there is also a women prison –Kajang where many trafficked victims and undocumented workers are detained to serve the court verdict. The access to detention camps and prison is quite restrictive. There are very few humanitarian organisations that having a permit to visit and provide social/medical assistance to detainees on regular basis. Some of these organisations are UNHCR (U.N. High Commission for Refugees), NOHD (National Office for Human Development). The embassies are entitled to visit their nationals to facilitate their repatriation. The restrictive access to detainees provides a loophole for arbitrary treatment and abuse of power against the detainees. Men and women of different nationals have reported the inhumane treatment they have received while being detained. According to MCA three Chinese women who were kept for testifying against their traffickers wrote a letter to complain their

situation in the detention camp and signed the letter with their own blood.<sup>10</sup>

All Cambodian women and men in Semenyih complained about the harsh living condition where they were kept in a crowded small room and slept on the dirty floor. They have to pray five times for 15 minutes each day regardless of their religious belief. There is no special unit for reproductive care of pregnant and lactating women. Some detainees have problems with skin disease and insomnia. The detainees also lived in psychological distress, as they do not know when they could return home. None of them received visit from the embassy. Those who had finished their sentence were kept in the detention camp since nobody came to prepare document and arrange for their safe return.

**Table 7: Detention Period in Semenyih Detention Camp**

Work sites	Have Court Verdict	No Court Verdict	Detention period			Have Lawyer/ Translat or	Visit from Embassy
			1-3 M	4-6 M	Over stay verdict		
Sex-related work	5	1*	4	2		-	-
Factory work women	13	5**	6		12	-	-
Factory work men	-	8***	8		-	-	-
<b>Total</b>	<b>32</b>	<b>18</b>	<b>18</b>	<b>2</b>	<b>12</b>	<b>-</b>	<b>-</b>

\* arrest in March 2005

\*\* arrest in January/March 2005

\*\*\* arrest in March 2005

All the detainees stayed temporarily after their arrest at the police station for 3-12 days before sending to Semenyih Detention Camp. Among the thirty-two women and men detainees, eighteen were sent by the court verdict to serve imprisonment term. The women involving in prostitution were imprisoned from 3-5 months and those factory workers were sentenced 4 months for overstay and work without permit. There were twelve women workers arrested in September 2004 from the factory in Johor Baru who had finished their term of imprisonment but still kept in the detention camp, as there was no preparation for their deportation. All the women came with the passports but police did not allow them to collect their belongings after

<sup>10</sup> Interview with Datu' Micheal Chong 30 March 2005

the arrest. They had to wait for their embassy to arrange for each of them emergency passport to obtaining special pass from Malaysian Immigration Department to leave the country. These women have stayed for over six months in the DC and no official from the embassy visited them until the time of fact-finding. One woman aged twenty-two who came to Malaysia with her husband was pregnant and approaching her due delivery. The camp authority does not have special policy or concern for the reproductive health care of women detainees. Pregnant detainee has to deliver and take care of her baby in the crowded, unhygienic room with other women detainees.

The other fourteen (six women eight men) who were arrested in January and March 2005 did not know how long they would appear in court and be able to return home. Two of them were at age of eighteen. One was the victim of sex trafficking another of labour exploitation. It was not sure whether the former was detained in order to testify against her trafficker in court or waiting to be charged for involving in prostitution. In principle all the detainees should have competent translator and lawyer to make them understand their situation and represent them when they are charged and/or appear in court but in practice this is non-existent. All the eighteen women did not have lawyer or translator when they went to court. And the remaining fourteen awaiting for the court decision never received visit from any authority.

Since there is no due process or guidelines for the treatment of detainees it seems that the detainees live their lives in isolation and depending on the level of mercy and compassion of their wardens. It was a surprisingly delight when the chief warden took a decision during the fact-finding intervention for a case of the pregnant woman, to grant humanitarian assistance to all Cambodian detainees by providing them gratuitous airplane tickets to Phnom Penh. One of the fact finders, on behalf of the embassy, had to interview all the detainees and fill in the official forms as it was a requisite to enable them getting emergency passport and special pass.

Another issue of concern is the re-victimization or re-trafficking of trafficked women. This can happen because the camp authority allows persons from trafficking ring visiting and bailing women who used to work with them. They claim to be relatives or work on behalf of their guardians. According to Cambodian and Thai women returnees, after bailing the women from the detention camps the employers force them to work again in prostitution or sell them to another place.

Due to the communication problem and lacking of national policy to tackle human trafficking no officials are interested in finding whether any detainees are victims of cross border trafficking. This is different from the practice in Singapore. According to the Singapore Home Affairs Ministry all foreign women caught in the police raid are screened and questioned whether they were forced into prostitution.<sup>11</sup>

## **12. Attitudes and Concerns of Malaysian Public and Organisations**

Malaysia is a country where population is highly educated and economically better off than many other countries in Southeast Asia. However the movement of civil society and the number of civic organisations are still restricted. The right- based perspective in dealing on the issue of migration and human trafficking is still in the small circle. It is therefore wholeheartedly welcome when SUHAKAM (the National Human Rights Commission of Malaysia) has taken up the issue of human trafficking by preparing the report and organizing national forum on Trafficking in Women and Children –A Cross Border and Regional Perspective in 2004. The forum generated the debate and discussion on trafficking of women and children for the purpose of sexual exploitation that growing in magnitude and victimizing women and children from near and afar in the Malaysian sex industry. SUHAKAM also urged the Malaysian government to ratify the U.N. Trafficking Protocol and drafting a national legislation against human trafficking in line with the Protocol. SUHAKAM recommends that any measures to combat trafficking must take into account the securing and promoting human rights of trafficked persons. The report "***will pave the way for future action and collaboration in restoring the rights and dignity of these innocent children and women, and prevent the escalation of such heinous and inhumane crime.***" The uphill task to achieve this is how to sensitise the authorities concerned and the general public. More importantly is the provision of immediate assistance to trafficked women and children. Currently, there are a small numbers of organisations that provide ad hoc social services such as temporary shelter to victims and collaborating with the embassies of origin countries for their safe return. These agencies include Tenaganita, Women's Aid Organisation (WAO), WAKE and MCA. The other women's organisations are concerned more on the

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<sup>11</sup> Interview with Datu' Micheal Chong 30 March 2005

local issues such as violence in the family and sexual harassment. The available services are not in proportion with the increasing number of trafficked women and children.

The general public does not make distinction between women doing sex work and women forced into prostitution. The abolitionist view on prostitution is prevailing and denying any move to protect women in prostitution either by forced or by their own decision. A letter responding to the newspaper article that proposing view on legalizing prostitution in Malaysia held an opinion that **"prostitution is a great sin. It is humiliating and degrading for women, and highly dishonourable for a man. It can also be dangerous to (your) health and life. No woman with self-esteem would sell her body for money for the pain that selling your soul causes you is greater than anything else you may imagine."**<sup>12</sup> In 2003 a two-page memorandum on vice involving foreign women and rising crime was handed to the police by seventeen women's associations and divisions in one district. The memorandum cited **"we think immoral activities in places like entertainment outlets, karaoke centres and certain premises will surely damage the family institution and create many social problems"**<sup>13</sup> The memorandum urged the police to alert the Immigration Department to blacklist women detained for vice barring them from re-entering Malaysia. The public response particularly from women's organisations reflects the moral sanction against prostitution particularly on foreign women who according to them are the cause of family dysfunctional and degrading public morality. Such reaction allows other parties (brothel owners and customers) scot-free. Such attitude not only denies that women and children can be victims of trafficking; but jeopardizes the vulnerable situation of trafficked women and children by abandoning them to the arbitrary control of traffickers and law enforcers and making them target of prejudices that might arrive to hate crime.

Fortunately, not all members in Malaysian society share the same view. The foreign trafficked victims still report of assistance for their flight to freedom from local people either their customers or people on the street. Some of Cambodian women and children forced to do sex work against their will have been rescued by their customers and received support from Malaysian organisations for safe shelter and repatriation.

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<sup>12</sup> The Star 4 April 2003

<sup>13</sup> The Malay Mail 17 December 2003

The organisations in Johor Baru such as the Asia Pacific Family Association, and Family Development Forum are willing to take up the issue more seriously if there is concrete information on trafficking cases that end up in Johor Baru. The Law Society of Malaysia expressed their willingness in visiting and identifying victims in prisons including defending the trafficked victims in court. SUARAM the human rights organisation can partake in advocacy campaign to sensitise the public and promote the rights of trafficked persons. Tenaganita will work with IOM (International Organisation for Migration) with the support of the U.S. Embassy in Kuala Lumpur by running a shelter for trafficked victims.

The growing awareness of these organisations and their willingness to partake in the fight against human trafficking are the source of future collaboration for Cambodian agencies in assisting Cambodian women/men and children.

### **13 Conclusion and Recommendations**

Malaysia and Singapore are the destination countries for labour migration and trafficking of Cambodian women and men. The problem is growing in magnitude and not limited only to the trafficking for forced prostitution but includes also other purposes outlined in the U.N. Trafficking Protocol. The problem deserves the attention and political commitment of the governments in the two states that have been classified in the tier 2 of the United States' Trafficking Report. The two countries are in position to tackle effectively this modern form of slavery as they have adequate resources to assist the victims and prosecuting the syndicate. The foremost step is to accept the reality that women, men and children of other nationals are being exploited in the sex industry, factory and household in their countries; and they need comprehensive law to criminalise traffickers and protecting the rights of victims. As ASEAN members they have signed many declarations and plans of actions to eliminate this modern form of slavery therefore they should put them into concrete and concerted action. They need to collaborate with organisations in Cambodia to assisting victims and prosecuting perpetrators. The Cambodian non-governmental agencies can share their experience in providing assistance to trafficked women and girls and prosecuting wrongdoers within and outside the country with organisations in Malaysia and Singapore that are implementing programme for trafficked persons and migrant workers. The assistance programmes should respond to the needs of the victims and respect their human rights.

The prime group of concern for the fact finding in Malaysia and Singapore is women and children who have been trafficked from Cambodia for the purpose of sexual exploitation. However, the information from the Cambodian detainees disclosed that trafficking of Cambodian women and girls particularly to Malaysia is not only for the purpose of sexual exploitation. The deception and exploitation of Cambodian migrant workers is rampant and leading them into the situation akin to bonded labour vulnerable to abusive treatment from their employers and authority. Hence, it is necessary to extend assistance and protection to this group that growing in numbers and who might be as well identified as trafficked victims.

The far and foremost action is to return without delay the Cambodian detainees who have overstayed their sentence to live a normal life in their homeland. In order to achieve this the Cambodian Embassy needs to pay regular visit to the prison and detention camps where Cambodians are detained. They need to cooperate with the local authority to identify trafficked victims and prepare necessary document for their speedy repatriation. It is necessary to cooperate with local agencies to reclaim the unpaid wage and compensation for physical and emotional damage for migrant workers and trafficked victims. The immediate needs of detainees especially the reproductive health of women and girls should be provided. Pregnant and lactating women with their babies should be removed from detention camp and sheltered in a more appropriate home. The quality of interpretation and translation is needed to help detainees understand their situation and the legal proceeding. The repatriation of Cambodian migrants particularly of those who have completed their court sentence should be organised without delay. In order to organise affordable means for the return en masse of Cambodian nationals, the Cambodian and Malaysian authority should seek cooperation from the Thai Embassy for the return by land via Thailand.

For the long-term solution the Cambodian government as country of origin for migrant workers and trafficked victims must initiate MOU with the Malaysia and Singapore governments for the protection of labour rights of Cambodian workers and assisting trafficked persons particularly of women and children in forced prostitution, and forced labour that includes abusive work in factory and domestic work. The process of making MOU must be transparency with participation of civil society and non-governmental agencies.

The ASEAN Declarations notably the Hanoi Declaration can be used as framework to enforce the cooperation and accountability of the two destination countries.



Based on the findings the following specific recommendations are proposed to relevant agencies in Malaysia and Cambodia:

### **A. Malaysia**

All the recommendations proposed in SUHAKAM's report particularly on putting human rights of trafficked persons in the centre of all actions should be put into practice in due time. The foremost action is to set up guidelines identifying trafficked victims from illegal migrants so that the trafficked victims will not be charged and detained for their illegal entry and (forced) prostitution. The legislation on human trafficking must include all forms and purposes of human trafficking in order that the victims of other purposes of trafficking such as forced labour shall be entitled to the same protection and assistance.

- SUHAKAM should formulate a guideline identifying trafficked victims from illegal migrants and a procedure facilitating their access to remedy and compensation.
- Competent translator and lawyer must be provided to detainees as stipulated in the law in order to make them understand their situation and the legal proceeding.
- Malaysian authority and NGOs should set up shelter so that the identified trafficked victims will not stay in jail or detention camp.
- Trafficked victims who want to testify in court should have safe accommodation with services enabling them to start a new life in their country.
- Advocacy and IEC materials should be produced by GOs and NGOs to sensitise the public and authorities on trafficking and the plight of victims.
- Police should collaborate with law enforcers in Cambodia to investigate and prosecute traffickers.
- Immigration Department should work with Cambodian and Thai Embassy for the road transportation of detainees.
- The Bar Council should work with the Cambodian Bar Association in documenting evidence to prosecute trafficking cases.
- NGOs should develop materials in different languages informing foreign nationals about the available services and assistances.
- An exposure trip should be organised for agencies in Malaysia to broaden the understanding on human trafficking and learning the situation in Cambodia.

## **B. Cambodia**

Due to the limited staff in the Cambodia Embassy the visit to prison and detention camps is delayed. The delayed visit has resulted to, on one hand, the long stay of women, men and children in the undesirable condition in detention camp. Another is the gap in compiling due information from detainees for further action including claiming their rights and investigating the syndicate that involved in trafficking and labour exploitation. There is a need for more pro-active approach from the Cambodian authority to tackle more effectively the trafficking of Cambodian women (men) and children. Within the framework of MOU for the Mekong Sub-Region, the governmental agencies should work closely with the non-governmental agencies to suppress and prevent trafficking including provide support to the victims. The followings are recommended for effective and efficient actions to stop trafficking of Cambodian nationals particularly of women and children to Malaysia.

- Ministry of Foreign Affairs should have policy on human trafficking for their diplomatic corps that includes the guideline for cooperation with non-state agencies in providing assistance to trafficked persons and claiming their rights.
- Cambodian Embassy should seek collaboration from the Thai authority to organise road transportation for massive repatriation of Cambodian detainees via Thailand.
- Cambodian governmental agencies should collaborate with and promote the participation of non-governmental agencies in assisting trafficked victims by facilitating their access to detention camps and prisons to meet the detainees in destination countries.
- The Labour Ministry should compile the list of traffickers and recruiters for further legal action against them.
- The governments of Cambodia, Malaysia and Singapore should develop MOU to protect migrant workers and trafficked victims from Cambodia.
- Anti-trafficking NGOs should send staff member to work with the embassy for the due process of repatriation of trafficked victims.
- CWCC should cooperate with organisations in Malaysia to investigating and prosecuting trafficking cases.
- CWCC and concerned agencies should launch nation-wide advocacy campaign particularly in the mostly affected provinces to inform people on labour migration and trafficking of Cambodians to Malaysia.

- CWCC and state agencies should organise national forum where trafficked victims (men and women) can share their experience as lessons learnt to potential migrants.
  - The Cambodian agencies should organise exposure trip for journalists from Malaysia and Singapore to report on the trafficking of Cambodians to their countries.
  - CWCC should organise exchange programme with H.O.M.E. for in-depth survey of the trafficking of Cambodian women in Singapore.
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## **Appendices**

### **Appendix A: Reference**

- 1. Bangkok Post 14 January 2005**
- 2. Convention for the Suppression of Traffic in Persons and the Exploitation of Prostitution of Others**
- 3. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Supplementing the United Nations Convention against Transnational Organised Crime)**
- 4. Malay Mail 9 September 2003; 17 December 2003; 24 February 2004**
- 5. Malaysia Child Act**
- 6. Malaysia Penal Code**
- 7. Malaysia Immigration Act**
- 8. SUHAKAM, Report on Trafficking of Women and Children, 2004**
- 9. Singapore Immigration Act**
- 10. Tenaganita, Access Denied Report on Migrant Workers**
- 11. The Star 4 April 2003**

## **Appendix B: Laws Relating to Human Trafficking in Malaysia**

Malaysia does not specifically have the law on trafficking in person. However, there are provisions of Malaysian existing laws that may be used to prosecute criminal who commits the offense of trafficking in person. These provisions are stated in the Malaysian Penal Code (ACT 574) published in December 1st, 2004 and The Child Act 2001 ( ACT 611).

The following are the offences that exist during the crime of trafficking in person committed and may be prosecuted by the existing laws:

### **1. Wrongful Confinement for the purpose of extorting property of constraining to an illegal act ( Art. 347)**

*" Whoever wrongfully confine any person for the purpose of extorting from the person confined , or from any person interested in the person confined, any property or valuable security , or of the constraining the person confined, or any person interested in such person, to do any thing illegal or to give any information which may facilitate the commission of an offense, shall be punished with imprisonment for a term of which may extend to three years and shall also be liable to fine. "*

### **2. Kidnapping or abducting a woman to compel her marriage, etc. (Art. 366)**

*" Whoever kidnaps or abducts any woman with intent that she may be compelled , or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse or to a life of prostitution, or knowing it to be likely that she will be forced or seduced to illicit intercourse , or to a life of prostitution, shall be punished with imprisonment for a term which may be extend to ten years, and shall also be liable to fine. "*

### **3. Buying or disposing of any person as a slave (Art 370)**

*" Whoever imports or removes, buys, sells, or dispose of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term of which may extend to seven years, and shall also be liable to fine.*

### **4. Exploiting any person for the purpose of prostitution (Art. 372)**

*Any person who, inside or outside Malaysia, imports and exports a person in the purpose of prostitution shall be constituted as a offence and subjected to punish with imprisonment for a term which may extend to fifteen years with whipping, and shall also be liable to fine.*

### **5. Person living on or trading in prostitution (Art. 372a)**

*" Whoever knowingly lives wholly or in part on earning s of the prostitution of another person shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to fine. "*

**6. Unlawful compulsory labour (Art. 374)**

*" Whoever compels any person to labour against the will of that person , shall be punished with imprisonment for a term which may extend to one year, or fine or both."*

**7. Trafficking of children " CHILD ACT 2001" (" ACT 611)**

**Part VII: Importation of child by false pretences (Art. 49)**

*" Any person who\_  
(a) by or under any false pretence or representation made; or  
(b) by fraudulent or deceitful mean used, either within or outside Malaysia ,  
brings or assists in bringing a child into Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand Ringgit or to imprisonment for a term not exceeding five years or to both. "*

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## **Appendix C: List of Organisations**

### **a. Singapore**

1. The Royal Cambodian Embassy
2. The Royal Thai Embassy
3. The Royal Thai Labour Office
4. UNIFEM
5. H.O.M.E (Humanitarian Organisation for Migration Economics)
6. Shelter for Migrant Workers
7. Friends of Migrant Workers
8. Church of St. Peter and St. Paul (Carmelite Order)
9. Christian Outreach Centre
10. Christian Care Centre

### **b. Malaysia**

1. The Royal Cambodian Embassy
2. The Royal Thai Embassy and the Labour Office
3. The Embassy of Uzbekistan
4. The Embassy of United States
5. SUHAKAM (National Commission on Human Rights)
6. National Bar Council
7. Asia Pacific Family Association (Jahor Baru)
8. IWRAW
9. Malaysian Chinese Association (MAC)
10. National Office for Human Development (NOHD)
11. Penang Office for Human Development
12. Tenaganita
13. Semeniyh Detention Centre
14. SUARAM (Human Rights Organisation)
15. WAKE
16. Women's Aid Organisation (WAO)
17. Women's Collective for Change (WCC)
18. Women's Development Collective (WDC)

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