

# Survey Report on

## Situation and Anti-Trafficking Mechanism in Malaysia for the Protection of Foreign Victims

---

Report by Alliance Anti Trafic (AAT)

Based on the field operations and technical support of Friends of Women Foundation (FOW) and Alliance Anti Trafic (AAT) Regional Thailand, in collaboration with Tenaganita



# Survey Report on

## Situation and Anti-Trafficking Mechanism in Malaysia for the Protection of Foreign Victims

---

Report by Alliance Anti Trafic (AAT)

Based on the field operations and technical support of Friends of Women Foundation (FOW) and Alliance Anti Trafic (AAT) Regional Thailand, in collaboration with Tenaganita

# ACKNOWLEDGEMENTS

**W**e would like to express our sincere thanks to the focused group of experts; Mr. Sanphasit Koompraphant, a member of Thailand National Anti-Trafficking In Persons Committee; Ms. Thanawadee Thajeen, Director of Friends of Women Foundation (FOW); Ms. Aegile Fernandez, Coordinator of Tenaganita; Ms. Warangkana Mutumol, Thailand Advocacy Coordinator and Mr. Chakkrid Chansang, Regional Cross-Border Advocacy Coordinator of Save the Children UK, for their active participation in the survey, their constructive comments as well as their invaluable inputs to the mechanism analysis, observations and recommendations.

We are also grateful to Ms. Panadda Changmanee, former UNIAP Thailand National Project Coordinator, for her participatory writing and suggestions in this report.

Furthermore, we would like to express our special thanks to Tenaganita, Think Center and Friends of Women Foundation for their participation, cooperation and fruitful information.

We deeply thank AFESIP Cambodia for substantially sharing with us their invaluable information.

We would also like to express our gratitude to Ms. Sunee Sakaorat for her assistance in editing and proofreading this report.

We would like to express our special thanks to Ms. Michelle Alexander for her valuable corrections in this report.

**Alliance Anti Traffic (AAT)**



Anti Trafficking in Persons

# DEDICATION

This survey is dedicated to the memories of

Ms. Irene Fernandez, Co-Founder and Director of Tenaganita and



Mr. Pattana Kitiarsa, Researcher and Associate Professor at the University of Singapore

for their commitment to perpetual social action throughout their lives.

Images credit: [nationalmedia.com](http://nationalmedia.com) and [rightlivelihood.org](http://rightlivelihood.org)

# TABLE OF CONTENT

<b>Forward</b>	<b>7</b>
<b>Introduction</b>	<b>8</b>
<b>Situation Overview</b>	<b>14</b>
<b>Case Study Findings:</b>	
<b>From case studies</b>	<b>26</b>
<b>From field visits</b>	<b>40</b>
<b>National Policies, Human Trafficking and Related Laws, and International Instruments</b>	<b>43</b>
<b>Analysis of Different Channels for Victim Protection and Return</b>	<b>62</b>
<b>Conclusion</b>	<b>97</b>
<b>Observations</b>	<b>100</b>
<b>Recommendations</b>	<b>104</b>
<b>Appendixes</b>	<b>111</b>
<b>Glossary</b>	<b>115</b>
<b>Annexes</b>	<b>117</b>

# FORWARD

This survey was realized by a spirit of enhancing collaboration with the aim to curb Trafficking in Persons in the ASEAN nations.

In the light of such spirit, we are pleased to submit a number of recommendations, which are enumerated on **Page 104** of this report. These recommendations emanated from an analytical discussion of our focused group of experts comprising Mr. Sanphasit Koompraphant, a member of Thailand National Anti-Trafficking In Persons Committee; Ms. Thanawadee Thajeen, Director of Friends of Women Foundation (FOW) and a member of Thailand National Anti-Trafficking In Persons Sub-Committee; Ms. Aegile Fernandez, Coordinator of Tenaganita; Ms. Warangkana Mutumol, Thailand Advocacy Coordinator; Mr. Chakkrid Chansang, Regional Cross-Border Advocacy Coordinator of Save the Children UK; and Alliance Anti Trafic (AAT). In particular, all recommendations are based upon the analysis of the survey findings along with the working experience of the aforementioned experts.

Mainly, the information contained in this survey report was obtained from the interviews conducted with the victims and the cases that we dealt with, in combination with our observations during the field visits.

Malaysia has shown its commitment and growing development to fight human trafficking expediently by enacting the Anti-Trafficking in Persons Act that came into force in February 2008. This Act reflects the country's commitment, which will result in the reform of the situation. Most of the information in the survey was based on the information obtained prior to the promulgation of the Anti-Trafficking in Persons Act. However, some information was obtained after the Act became effective. Therefore, we studied the differences by comparing the situation and mechanisms before and after the enforcement of the Act. Furthermore, the Malaysian Government enacted the Amendments to the Anti-Trafficking in Persons Act, which entered into force on 15 November 2010. Since the Amendments took effect after the survey; they were not addressed in this document.

The recommendations in the survey can be useful for further implementing the Act and joining forces to combat trafficking as well as further strengthening mechanisms for better protection of foreign women.

Lastly, AAT Regional Thailand worked jointly with Tenaganita on 2 cases in 2014 and 2015, respectively. Based on the results of these cases, the findings and recommendation presented in this survey are confirmed as being relevant and useful. The work conducted on those recent cases proved to be similar situations and results.

**AAT Regional Thailand worked jointly with Tenaganita on 2 cases in 2014 and 2015, respectively. In 2014, we assisted 1 case with 5 women. Of this number, 3 of them are Thai; 1 is Vietnamese and 1 is Laotian. In 2015, we assisted on 2 cases, of which all 4 are Thais (2 people on each case). Based on the results of these cases, the findings and recommendation presented in this survey are confirmed as being relevant and useful. The work conducted on those recent cases proved to be similar situations and results.**

# INTRODUCTION

**We** deemed it necessary to study the causes of human trafficking in Malaysia and the existing mechanisms against it upon discovering a large number of foreign women and girls in Thailand who arrived from Malaysia. They were previously trafficked to Malaysia, and were found at the Thai border. A better understanding of the situation is thus required to enact a proper response.



In 2004, when we started working on the protection of women and children from human trafficking in Thailand, we discovered that several of our cases were in fact related to the trafficking to Malaysia or Singapore. We found these victims in Thailand on their way back to the countries of origin. At the time, Trafficking in Persons was not recognized (the Anti-Trafficking in Persons Act of Malaysia was effective in 2008) in both Malaysia and Singapore.

We thus deemed it necessary to study the situation to find a response. First, we developed a project called **Save Our Daughters (SOD)** in collaboration with the **Friends of Women Foundation (FOW)** and established our connections and operations in Malaysia. We discovered that there were a large number of women being trafficked from their original countries to Malaysia and Singapore and returning through Thailand.

**Image 1 (left): Thai-Malaysia Border, connecting cities area Credit: [phukhao.com](http://phukhao.com)**

Some of them were deported from Malaysia after they had served their time at the immigration depots whereas some others had escaped from brothels or their procurers.

In November 2005, in order to provide protection for women and children and establish a proper channel to repatriate women and children to their home countries, we decided to create the Anti-Trafficking Task Force.

With our first action plan under the Task Force, we decided in March 2006 to study the situation and the existing mechanisms as the groundwork for development of appropriate programs.

Once this report is published, it can serve as the first step to develop collaboration among the countries of origin and Malaysia in creating a protection plan that provides safe repatriation for victims of trafficking.



# BACKGROUND

**Thailand is the only country in the Greater Mekong Sub-Region (GMS) that borders to Malaysia. Apart from travelling by plane or boat, people from other GMS countries have to travel through Thailand in order to enter Malaysia and Singapore or vice versa.**

Malaysia and Singapore are one of the main destination countries in the region for migrants. A large number of foreign migrants are working in Malaysia to provide their families back home a better life. For this reason, a great number of foreign women and girls have entered into Malaysia to work. In addition to that, there are also a large number of undocumented migrant workers many of whom are arrested by Malaysian officials each year.

In this survey, we focus on women and girls in commercial sexual exploitation who are considered most vulnerable. Women and especially girls in sexual exploitation or trafficking for similar purpose are the victims mostly deprived of human rights and dignity. They become sex objects and are mentally and physically abused and mistreated. They face many harsh difficulties and have no freedom. Some women are forced to become drug addicts. Most of them are traumatized and some have died. The majority of them cannot find a way to escape but, when they can, the police arrest them and send them to a prison or directly to an immigration depot awaiting deportation from the country.

In 2006, an Anti-Trafficking Task Force was established in collaboration with independent organizations and NGOs from Malaysia, Singapore, Vietnam and Thailand to fight against human trafficking. We decided then to conduct a survey in order to study the existing system and mechanisms in Malaysia and Singapore, using information from the cases of 58 victims who had been trafficked to these countries and handled by the Friends of Women Foundation (FOW), TRAFCORD, Tenaganita and Alliance Anti Traffic.(AAT). Subsequently in early 2008, Malaysia enforced the Anti-Trafficking in Persons Act and the situation has since changed because of this Act. As a result, we expanded the study to include 79 more victims who we (Tenaganita, FOW, AAT) worked with after the implementation of the Act.

This additional information has provided us with the overview of the situation before and after the Act was introduced.

## About Save Our Daughters (SOD)

SOD is a project created by the Friends of Women Foundation (FOW) and Alliance Anti Traffic (AAT) Regional Thailand (formerly AFESIP Thailand) to provide direct assistance and protection to women and girls on a case-by-case basis and to develop mechanisms and policies to protect and assist vulnerable women and children from human trafficking and other forms of exploitation.

The Friends of Women Foundation (FOW) assists Thai women and children who are exploited or trafficked in their country and overseas. On the other hand, Alliance Anti Traffic (AAT) aids foreign women and girls (especially Vietnamese, Laotian, Cambodian and Myanmar) who are exploited and trafficked abroad. In the light of our work, we are therefore interested in the observation and protection mechanisms of foreign women in this region.

## SURVEY RESEARCH

In order to gain a true understanding of the situation of women and children who are trafficked into Malaysia, SOD initiated a survey to look at the situation of migrants and trafficked persons, particularly from the Greater Mekong Sub-Region (GMS), who were exploited in Malaysia and Singapore, especially for sexual purposes. The key objective of the survey was to:

*Study the protection system of Malaysia in order to develop collaboration between the countries of origin and Malaysia in the protection and repatriation of victims.*

## RATIONALE

Based on the preliminary information gathered by SOD and its network, many women and children from the GMS countries (China, Thailand, Myanmar, Vietnam, Cambodia and Lao PDR) are trafficked into Malaysia and Singapore and often later are deported at the Thai-Malaysian Border. In order to provide effective protection to the victims, SOD needs to have a clear understanding of the situation and existing victim protection mechanisms in Malaysia.

## TARGET GROUPS

Foreign women and children from the GMS who face adversity in Malaysia, especially from sexual exploitation and prostitution.

## METHODOLOGY

Literature review of:

- National policies and related laws on human trafficking in Malaysia and international legal instruments
- Case reports
- Situational analysis field reports
- News articles
- Meeting minutes
- Internet research
- Data collection and review of the 58 cases of rescued women and girls from Thailand, Lao PDR, Cambodia and Vietnam, who were trafficked to Malaysia for sexual exploitation.
- Data collection and review of the cases that AAT was involved including 79 women and young girls from Thailand, Myanmar and ethnic minorities who were trafficked to Malaysia for sexual exploitation
- Survey of/and field visit to workplaces (bars, brothels, karaoke bars, etc.) in Kuala Lumpur, Penang and Johor Bahru
- Field visit to local NGO shelters in Malaysia
- Meeting with the Royal Malaysian Police and the Criminal Investigation Division (CID) - Department 7 (D7)
- Interview of the victims who were deported from Malaysia and Singapore, found in Thailand and provided with assistance by SOD
- Consultation with the Royal Malaysian police, the Royal Thai police and the Department of Special Investigations (DSI) as well as NGO networks
- Interview with experienced people\* who attended the analysis meeting
- Survey discussion and analysis meeting on 8 September 2009

\* 5 experts: Mr. Sanphasit Koompraphant, member of the National Anti Trafficking In Persons Committee; Ms. Thanawadee Thajeen, Director of Friends of Women Foundation; Ms. Aegile Fernandez, Coordinator of Tenaganita; Ms. Warangkana Mutumol, Thailand Advocacy Coordinator and Mr. Chakkrid Chansang, Regional Cross-Border Programme Advocacy Coordinator of Save the Children UK, together with a team of AAT

## SURVEY TIMEFRAME

The survey timeframe was from 1 May 2006 to 30 September 2010.

### Preparation Phase (May-June 2006)

#### MAY 2006

- Action plan meeting with the Taskforce (survey concept was initiated in this meeting)
- Visiting the Thai Embassy in Kuala Lumpur, Malaysia to discuss issues faced by women and children who were trafficked for the purpose of sexual exploitation and exploring the possibilities of supporting mechanism to the target group. Also, a short field visit to Kuala Lumpur was conducted to assess the overall situation.

#### June 2006

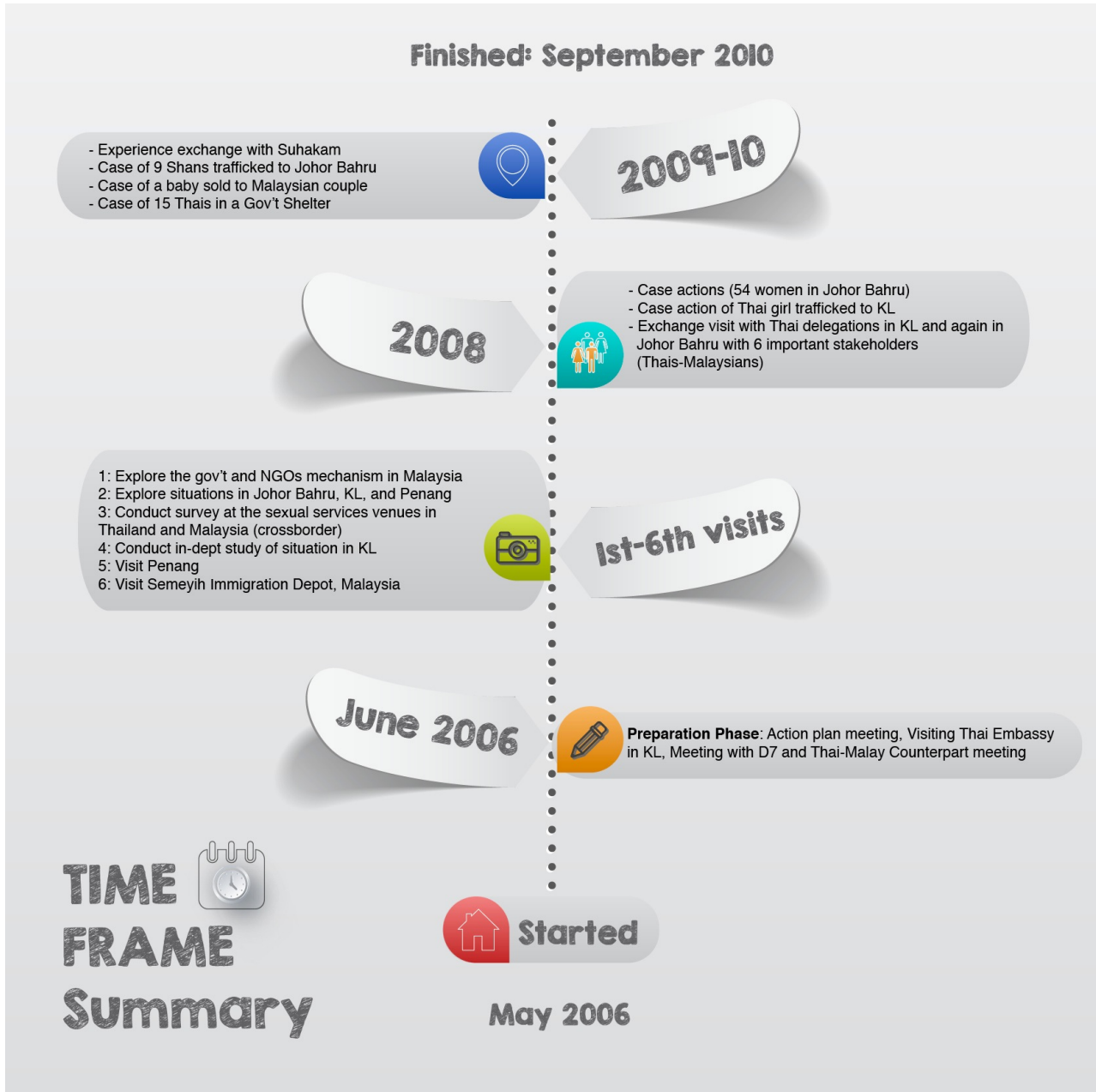
- Meeting with the staff of the Royal Malaysian Police - Department 7 (D7) at the Federal Police Headquarters, Bukit Aman, Kuala Lumpur.
- Meeting conducted among Thai and Malaysian counterparts, SOD and the D7 police hosted by Thailand's Department of Special Investigation (DSI). Case studies and possible protection and repatriation mechanisms for victims were discussed.

### Survey Conduct Phase (July 2006- April 2010)

#### 1<sup>st</sup> to 6<sup>th</sup> Field Visits

#### 2008-2009

- First field visit: Conducting survey of existing government and NGO mechanisms in Malaysia
- Second field visit: Conducting survey of the situation faced by women and children who were trafficked for sexual exploitation in three main locations: Johor Bahru, Kuala Lumpur and Penang
- Third field visit: Conducting survey at the venues that provide sexual services in the cross-border area between Thailand and Malaysia, as in Songkhla and Yala provinces of the former and in Kalantan State of the latter
- Fourth field visit: Conducting an in-depth study of the situation faced by women and children in the entertainment venues in Kuala Lumpur.
- Fifth field visit: Penang.
- Sixth field visit: Semeyih Immigration Depot in Malaysia.
- Case actions (54 women in Johor Bahru) from March to May 2008.
- Case action of one Thai girl trafficked to Kuala Lumpur between August to December 2008.
- Exchange visit with the Thai delegation in Kuala Lumpur and Johor Bahru (meeting with the D7 police, the Bar Council, Suhakam, Tenaganita, the Thai Embassy and the Immigration Department of Malaysia) in May 2008.
- Experience exchange with Suhakam on mechanisms in Thailand - June 2009.
- Case of 9 Shan people trafficked to Johor Bahru and found in Sadao (2009).
- Case of a baby sold to a Malaysian couple (2009).
- Case of 15 Thai citizens in a government shelter (until April 2010)



## LIMITATION & DIFFICULTIES

- Language barrier: Most locals spoke only Malay and information was in Malay language.
- Lack of access to women and children detained in prisons and immigration depots prevented us from obtaining current and firsthand information. Therefore, the survey team had to rely on previous cases of the persons who had already returned to Thailand. Often, these persons could not remember all details of their experiences.
- Difficulties in meeting with and speaking to women and children working in entertainment venues because they were in controlled of pimps or guards. Also, it was dangerous and difficult to find these venues as they were hidden out of sight.
- Insufficient time to adequately assess the human trafficking situation of women and girls who were trafficked into Singapore for sexual exploitation, and the mechanisms for their assistance and protection. Owing to this reason, the focus of this report is on Malaysia.
- This is the first step survey. We studied the situation from the cases that we came across. As we are interested in the protection system in Malaysia, this could be valuable for further survey of relevant matter.

# SITUATION OVERVIEW



# SITUATION OVERVIEW

Malaysia is one of the largest importers of migrant workers in Asia with an estimated workforce of 12 millions in 2006, of which 20% (2.4 million) are foreign migrants employed primarily in construction business, palm oil plantations and domestic services. While 1.9 million foreign migrants are legal, it is estimated that another 1 million are working illegally without valid documents.<sup>1</sup> Another recent estimate has quoted the number of illegal foreign workers in Malaysia to be as high as 2 millions.<sup>2</sup>

In terms of Gross Domestic Product (GDP) per capita in 2007, Malaysia ranks third among the ASEAN countries, just after Singapore and Brunei.<sup>3</sup> This is a significantly attractive factor for potential migrants from the comparatively poorer countries in the region, which if combined with the motivation factor of wanting to earn more money quickly, attracts many migrants to Malaysia and creates the opportunity for some of these migrants to be trafficked.<sup>4</sup> Coupled with this is the fact that travel to Malaysia within Southeast Asia is not only relatively easy and inexpensive, but is also facilitated by the ASEAN measures that allow travel between some ASEAN countries without a visa.<sup>5</sup>

Along with the influx of foreign migrant workers into Malaysia, the sector related to sexual industry, including prostitution, has also developed.<sup>6</sup> According to a conservative estimate from UNESCO research, there are over 250,000 women and girls in prostitution in Malaysia.<sup>7</sup> With some estimates ranging between 20 and 50 percent of foreign women and girls working in the sex industry who are trafficked persons,<sup>8</sup> there is an acknowledged lack of concrete and comprehensive statistical data on the magnitude of the issue.<sup>9</sup>

According to the 2007 Trafficking in Persons (TIP) report, "Malaysia is a destination country, and to a lesser extent, a source and transit country for women and children trafficked for the purpose of sexual exploitation. It is a destination for men, women, and children who migrate voluntarily to Malaysia seeking employment but who are later subject to conditions of forced labor as domestic workers or in the agricultural, construction or industrial sectors. Foreign victims of sexual trafficking in Malaysia, mainly women and girls, from Indonesia, Thailand, the Philippines, Cambodia, Vietnam, Myanmar, and the People's Republic of China, are frequently recruited with the promise of a job as domestic worker, food server or factory worker."

---

<sup>1</sup> FES/MFA Regional Informal Workshop on "Labor Migration in Southeast Asia: What role for Parliaments?", 21-23 September 2007, Manila, Philippines <<http://www.fes.org.ph/2007%20conferences/eading%20and%20presentations/M%20Kula%20Paper.pdf>>

<sup>2</sup> Radio Free Asia, "Human Traffickers Get Free Rein with Burmese Migrants in Malaysia," 8 February 2008 <[http://www.rfa.org/english/burmese/2008/02/08/burma\\_malaysia/](http://www.rfa.org/english/burmese/2008/02/08/burma_malaysia/)>

<sup>3</sup> "List of Asian Countries by GDP per capita," 2008 <[http://en.wikipedia.org/wiki/List\\_of\\_Asian\\_countries\\_by\\_GDP\\_per\\_capita](http://en.wikipedia.org/wiki/List_of_Asian_countries_by_GDP_per_capita)>

<sup>4</sup> Tenaganita, *National Conference: Stop Trafficking in Persons, A Transborder Crime in the Region*, 21 September 2006 (Kuala Lumpur: Tenaganita, 2007) 48.

<sup>5</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>6</sup> Cambodian Women's Crisis Centre (CWCC), *Trafficking of Cambodian Women and Children: Report of the Fact-Finding in Malaysia*, (Phnom Penh: CWCC, August 2005) 6

<sup>7</sup> Tenaganita 18.

<sup>8</sup> Cambodian Women's Crisis Centre (CWCC) 6.

<sup>9</sup> Tenaganita\_57

Beside the migrants from the aforementioned countries, both children and adults from India, Nepal, Bangladesh and Pakistan also work in the agricultural, construction and domestic service industries in Malaysia where they may face various levels of exploitative conditions, which at their most extreme amount to involuntary servitude.<sup>10</sup> In conclusion, in 2007, Malaysia was placed in Tier 3. In February 2008, Malaysia promulgated the Anti-Trafficking in Persons Act and in the same year was ranked Tier 2 (Watch List). However, in 2009, Malaysia was returned to Tier 3 despite the mechanisms in place at the time. After completion of the present survey, Malaysia enacted the Amendments to the Anti-Trafficking in Persons Act, which were effective in November 2010.

There have also been reports of children, mostly babies, who have been trafficked from neighboring countries for sale to childless couples in Malaysia with lighter skinned babies being sold for a higher price.<sup>11</sup> In 2003, child trafficking for the sale of human organs also came to light, but it is unclear about the extent of this phenomenon.<sup>12</sup> According to the Malaysian NGO, Tenaganita, 65% of trafficked persons in Malaysia are trafficked for forced labor.<sup>13</sup> For those engaged in and benefiting from human trafficking business, the profit is high with an estimated USD 500 earned per each trafficked person.<sup>14</sup>

Furthermore, Johor Bahru (of Malaysia which is on the border between Malaysia and Singapore) (See Image 1 for the map) is a center for catering trafficked persons mostly to Singaporean customers. Every day, Singaporean men easily cross into Malaysia for sex trade. Sex industry in Johor Bahru has been developed upon the demand by its neighbor and many foreign victims are trafficked to this town due to this reason. Because most sexual activities of Singaporean men occur in Malaysia and Singapore has legalized prostitution, the Government thus

constantly denies the problem of human trafficking, regardless of the situation of prostitution in the woodland area near the border of Malaysia.<sup>15</sup>



**Image 2:** Johor Bahru (of Malaysia which is on the border between Malaysia and Singapore)  
 Credit image: [worldguide.com](http://worldguide.com)

In its status as a source country, the Malaysian Ministry of Foreign Affairs and NGOs estimate that fewer than 100 Malaysian women were trafficked abroad in 2006 and the number has declined in recent years. Malaysian women and children, mainly of Chinese ethnicity, are trafficked for sexual exploitation in Singapore, Macau, Hong Kong, Taiwan, Japan, Australia, Canada, and the United States.<sup>16</sup> In 2008, AAT received information from Association les Amis du Bus Des Femmes, a French NGO, that there were 4 Malaysian women being exploited in France. Tenaganita has highlighted the importance of recognizing Malaysia as a source country, especially in light of the recent rescue of 19 Malaysian women in London by the UK Metropolitan Police.<sup>17</sup> Apart from being a source country, Malaysia also serves as a transit point for trafficked persons who are travelling from Thailand and the Philippines

<sup>10</sup> United States Department of State, Trafficking in Persons Report 2007, June 2007 <<http://www.state.gov/g/tip/rls/tiprpt/2007/82806.htm>>

<sup>11</sup> Tenaganita\_50

<sup>12</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>13</sup> Academy for Educational Development, "Malaysia," 2006 <<http://www.humantrafficking.org/countries/malaysia>>

<sup>14</sup> Radio Free Asia, "Human Traffickers Get Free Rein with Burmese Migrants in Malaysia," 8 February 2008 <[http://www.rfa.org/english/burmese/2008/02/08/burma\\_malaysia/](http://www.rfa.org/english/burmese/2008/02/08/burma_malaysia/)>

<sup>15</sup> See the news article in Annex 1 pag 119

<sup>16</sup> Academy for Educational Development, "Malaysia," 2006 <<http://www.humantrafficking.org/countries/malaysia>>

<sup>17</sup> Tenaganita\_42



to the countries of destination such as Japan, Korea and the United States.<sup>18</sup> As regards Singapore, due to its extreme proximity to Malaysia, it will be briefly discussed in the later part of this section within the context of a destination point for trafficked persons.

In keeping with the rationale and objectives of the survey, the remainder of this section will focus primarily on trafficking of women and children from the GMS countries into Malaysia, and to a lesser extent Singapore, for the purpose of sexual exploitation.

### **Places, Conditions and Control Methods Used by Traffickers**

Sex industry in Malaysia exists in different venues such as brothels, karaoke bar cum brothels, hotels, bars, pubs, and restaurants. The industry is supplied with foreign women and girls who are recruited in their home countries and often deceived with promises of well-paid jobs in the service and entertainment sectors. Upon arrival in Malaysia, the women and girls are confined in rooms in high-rise buildings and houses and forced to provide the sexual service. The most common venue where foreign trafficked women and girls are forced to provide sexual services is the karaoke bar cum brothel. Some of the buildings where the women and girls are kept have secret tunnels where they are forced to hide during a police raid. Some are locked up in a room with many others. The pimps will send them to the hotels on the instruction of clients. The pimps will then wait downstairs to take them back to their rooms. Though, it is uncommon for women and girls to be sold several times to other brothels.

During the survey period, the analysis was based on the cases that had been documented. It revealed that the issue of forced prostitution is worsening. The victims continued facing various forms of abuses especially debt bondage. Many were forced to undergo aesthetic surgery, learn the Chinese language and take drugs. They were forced to provide sexual service to customers several times a day. When they fell ill, they either were not taken to a doctor or were afraid to go, as it would mean an increase in their debts. Some women claimed that they still had to perform sexual activity several times a day while being pregnant thus resulting in miscarriage. Any woman or young girl who refused to have sex with a customer would be beaten with a stick or knee or be shocked by electricity. The victims were even searched to find out whether they were hiding money. In one particular case, a young girl who tried to escape was caught. She was stripped naked, hung upside down and her toes were pushed into the electrical socket. This was done to frighten and to warn the other girls of the consequence of

their attempt to escape.

Another form of trafficking is through the marriage. Women and young girls are told that they can stay in Malaysia and live a good life if married to Malaysian men. After arriving in Malaysia with the Entry Permit of 30 days, they have to get married. They are forced to marry men not of their choices due to the fact that their stay is dependent on the husbands. From the cases of SOD, the women and young girls said that they had to do all the household chores like slaves. In some cases, they were forced into prostitution to earn money for their husbands. There exist several marriage agencies and usually the wives are from the source countries of trafficking victims. Traffickers control victims by giving them mobile phones with GPS (navigation system). With this method, they can locate the victims even after they have returned home. This also permits women and girls to go to decent places and be there on time when they have appointments with clients. Moreover, traffickers can warn the victims when the police arrive. When it happens, the traffickers have a standby van and the girls are pushed into the van to escape police raid.<sup>19</sup>

The women and girls are typically in a debt bondage situation whereby half of their earnings are taken to pay off their debts, while the bar/brothel owners keep the other half. Often they are confined and forced to service many customers in order to facilitate quicker payment of their debts. Those who have paid off their debts are afterwards allowed to keep their earnings but must pay for their own food, housing, and medical cost. Reports vary as how much clients pay for a sexual service session. According to women in a Malaysian detention center, they received between RM 50-100 (US\$ 13-25/ €11- €20.32) per session of sexual service.<sup>20</sup> While Tenaganita reports that on average a client is charged between RM 100-350 (US\$25 – 88 / €20.32 – €71.54) per session, Alliance Anti Traffic reports that clients are asked to pay 80 – 100 RM (US\$ 20 – 25 / €16 - €20) per session in Little India in Kuala Lumpur where low-income people

<sup>18</sup> Information acquired from <http://www.humantrafficking.org>

<sup>19</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>20</sup> Cambodian Women's Crisis Centre (CWCC) 24-25.

live. They also note an increased demand for kinky sex and virgins, with young children being preferred by traffickers because they are easier to control.<sup>21</sup>

In addition to surveillance cameras, guards and watchdogs to prevent them from escaping, women and girls are shifted from place to place. Among the methods used by traffickers to control women and girls are food deprivation and drugging them with amphetamines and hallucinogenic drugs.<sup>22</sup> Other methods include:

- Confiscation of personal and travel

- documents
- Isolation of a woman/child from friends, family, and colleagues including solitary confinement, permanent surveillance or constant accompaniment
- Instilling fear of the police or justice system
- Blackmail
- Mistreatment including beating, rape, intimidation, electric shock, violence and threat of violence
- Threat of violence against the woman/child's family
- Lock up

### Effects of Trafficking for Sex Exploitation on Victims

Trafficking for the purpose of sexual exploitation has severe and often lasting effects on the physical, mental and emotional health of those who have been forced to endure the experience. These effects include:

- Loss of self-esteem and confidence including feeling ashamed, dirty or unwanted
- Post-traumatic stress<sup>23</sup>
- Fear of the police or other authorities which can, among other things, cause them to lie about their nationalities and delay in the recovery and return process, or fear that the traffickers will commit revenge on them or their families<sup>24</sup>
- Sexually transmitted infections such as HIV/AIDS
- Suicidal tendency
- Substance abuse problem or addiction
- Pregnancy, abortion and complications arising from the botched abortion
- Pelvic damage and pain, especially in children<sup>25</sup>
- Sex addiction

- Nightmare
- Worry/paranoid
- Family hatred
- Self-harm
- Change in living patterns (work at night and sleep during the day time)
- Mental torture, cannot live in the society

In addition to facing the effects of their trafficking experience, trafficking victims can be further victimized by the media who sometimes portray a negative image of them.<sup>26</sup> It can also have an effect on their families and countries as the media usually present/explain the situation in a negative and wrong dimension. Importantly, the victims can be in danger as their environments are unsafe and insecure. Once a woman becomes a victim, she and her family will not be completely free from the traffickers. Victims are always at risk as the traffickers always extort money from their families and some families are beaten or threatened.<sup>27</sup>

### Trafficking Process

In practice, the trafficking process is usually composed of three parts: recruitment, transport, and exploitation, carried out by different persons. The process is also frequently in a slow pace whereby a

woman or child is pushed into prostitution gradually.

Recruitment can take place in various ways but is usually done through words of mouth, friends or

<sup>21</sup> Tenaganita\_41

<sup>22</sup> Cambodian Women's Crisis Centre (CWCC) 25

<sup>23</sup> Tenaganita\_41

<sup>24</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>25</sup> Tenaganita\_41

<sup>26</sup> Tenaganita\_28

<sup>27</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007).

acquaintances, or personal recruitment. The recruitment offers typically consists of a false promise of an opportunity to study or be employed abroad in which the recruiter may lie about the type, condition, and salary associated with the job.<sup>28</sup> When recruited, some women and girls are given false promises of working as a waitress, hotel receptionist, etc. but finally end up in involuntary prostitution. Other women and girls who willingly agree to be recruited for the sex industry may encounter upon arrival the bad working conditions, extremely long hours, debt bondage and reduced income, as well as other restrictions that deviate from the conditions originally promised. However, all does not encounter this situation.<sup>29</sup>

There have been cases of cross-border trafficking syndicates and corrupt officials involved in the trafficking of women and children for prostitution in Malaysia. One such example was exposed during a brothel raid in February 2004 where 46 foreign women and girls from China, Uzbekistan, Russia, India, Indonesia, Vietnam, Thailand, and Cambodia were found hidden in the secret tunnels. A former policeman was linked to the brothel.<sup>30</sup> In addition, there were cases from Tenaganita that the law enforcement officers released the victims to traffickers. This implicates that when the law enforcement officer arrests and places a woman in a detention premise, the trafficker will negotiate with the

officer thereby repeatedly putting the woman under control of the trafficker. Recently, a Malaysian legislator, who was campaigning for increased legal protection of foreign migrant workers, claimed that in one way or another all trafficking agents are politically connected and all people involved reap large profits from the human trafficking business<sup>31</sup> AAT had a similar experience at the Thai-Malaysian border which was used as transit hub.

Southern Thailand acts as a hub for further trafficking. We discovered that brothels in the South (Su-ngai Kolok, Yala, Sadao) that served customers in Thailand (mostly Malaysians) also served as the place for recruitment of women into prostitution or marriage on the Malaysian side. They are also the place from which Malaysian men will take women for an overnight sex in Malaysia and return them to Thailand on the next day. Malaysians normally own such establishments.

In addition, human trafficking is a highly organized crime which utilizes the latest technology to advertise for women and children forced into prostitution through websites and catalogues of mail order brides, commercial sex tours, and live strip shows, to name a few. Traffickers may maintain close contacts with certain hotels, karaoke bars, clubs, or golf resorts.<sup>32</sup>

### Entry Points and Routes into Malaysia

Based on Tenaganita's documentation of hundreds of trafficked women and girls in Malaysia, the following entry points into Malaysia has been identified:

- 1) Thai-Malaysian Border, which contains 5 km strip of the "no man's land." In addition to the women and children who are trafficked for sex services, many other migrants are trafficked for other types of work via this entry point.

---

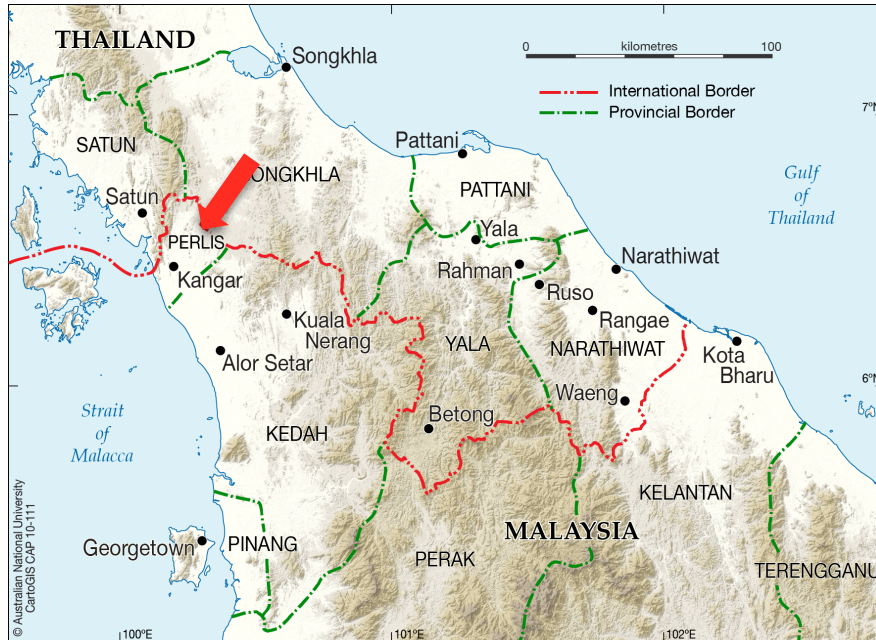
<sup>28</sup> Tenaganita\_52-54 and information acquired from Alliance Anti Traffic Regional Thailand field survey (2006 – 2007).

<sup>29</sup> Cambodian Women's Crisis Centre (CWCC) 6.

<sup>30</sup> Tenaganita\_20-21

<sup>31</sup> Radio Free Asia, "Human Traffickers Get Free Rein with Burmese Migrants in Malaysia," 8 February 2008 <[http://www.rfa.org/english/burmese/2008/02/08/burma\\_malaysia/](http://www.rfa.org/english/burmese/2008/02/08/burma_malaysia/)>

<sup>32</sup> Tenaganita 40-41 and 57



**Image 3: Thai-Malaysian Border**

Credit: asiapacific.anu.edu.au

- 2) Singapore-Johor Causeway (Malaysia). The ASEAN visa waiving facilitates easy entry from one ASEAN country to another.



**Image 3: Singapore-Johor Causeway (Malaysia)**

Credit: the3triathletes.com

- 3) Batam (Indonesia)-Singapore-Johor.

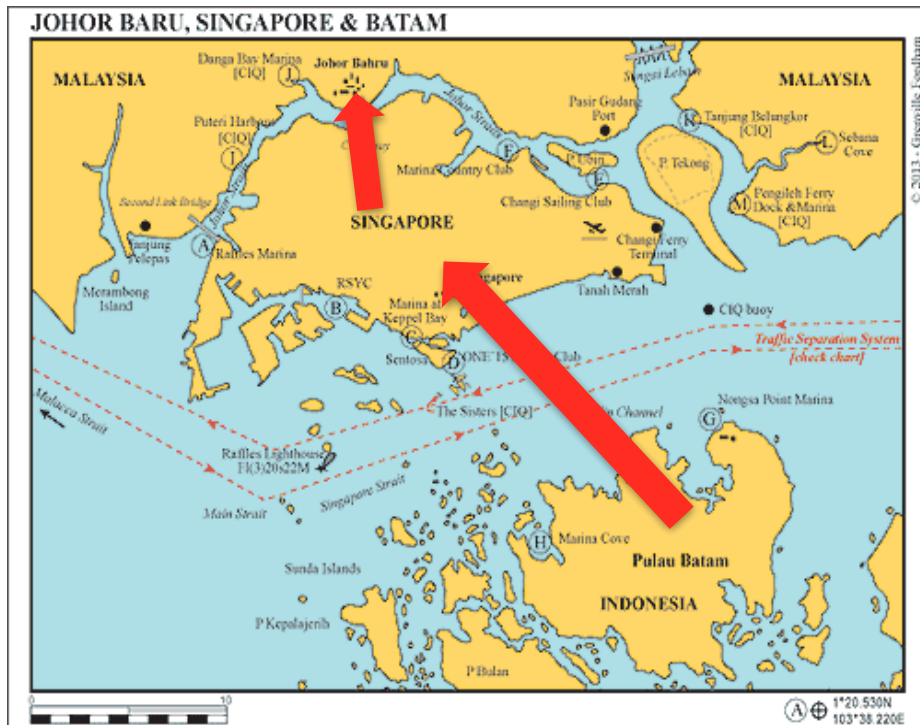


Image 4: Map of Indonesia-Malaysia


Credit: [southeastasiapilot.com](http://southeastasiapilot.com)



Image 5: Map with illustration of Indonesia (Medan) and Malaysia (Penang)

Credit: [weather-forecast.com](http://weather-forecast.com)

- 4) From Indonesia by boat to Teluk Intan (Malaysia).
- 5) Through the Kuala Lumpur International Airport and the Penang Airport. Many women and girls from Medan (Indonesia) enter Malaysia through Penang.

- 6) From China into Sarawak (East Malaysia) and continue to Kuala Lumpur. (See image 5 below with  )

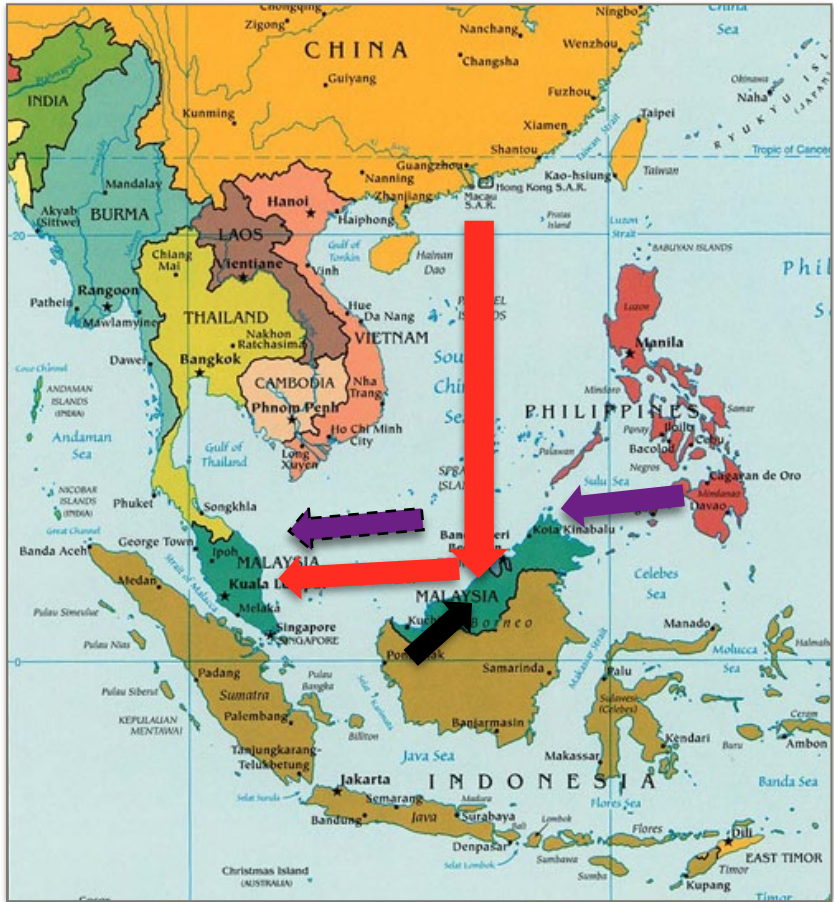




Image 6: Map of Southeast Asia: showing route (6), (7) and (8), Credit image: lib.utexas.edu

- 7) From Kalimantan (Indonesia) to Sarawak (East Malaysia). Many Indonesian women and girls are trafficked for prostitution through this route, and their babies are sold for a large amount of money. (See image 5 above with  )
- 8) From the Philippines (especially Dawao) by boat to Labuan, then to Kota Kinabalu and finally to Kuala Lumpur.<sup>33</sup> (See image 5 above with  )

For women and children travelling through Thailand to Malaysia by cars or vans, they may sometimes have to change vehicles over ten times during their journey. One trafficking agent transports between two and seven women/children per trip. Upon reaching Malaysia, the women and children are placed in a hotel awaiting transfer to another agent or a brothel in Kuala Lumpur. After working for a certain period in Kuala Lumpur, they may be sold to another agent and end up in prostitution in Johor Bahru.<sup>34</sup>

While many of the routes into Malaysia focus on Kuala Lumpur and Johor Bahru as the key destinations, it is important to note that trafficking in women and children is not limited to West Malaysia but does exist in East Malaysia, Sabah and Sarawak.<sup>35</sup>

<sup>33</sup> Tenaganita\_39

<sup>34</sup> Information acquired from Alliance Anti Traffic Regional Thailand field surveys (2006-2007)

<sup>35</sup> Tenaganita 51



In addition of Tenaganita's information, AAT has discovered some other routes:

#### From the interviews

*From Myanmar by boat to Malaysia:*

AAT interviewed some Arakan refugee groups in Malaysia and found that some of them had travelled from Myanmar by boat directly to Malaysia.

*From the cases*

**Border of Thailand and Malaysia: Su-ngai Kolok, Betong, Pedang Besaar and Sadao**

**Image 7 (left): Map shows a possible direct route from Myanmar to Malaysia on boat**

Credit image: the Economist

## Trends in the GMS

As of 2005, there were many reported cases of Vietnamese women and girls who had been bought into Malaysia for marriage. In many cases, they were exploited and some ended up in prostitution. Some were forced into domestic work in various houses. They were severely abused and, following the marriage, forced to pay RM 400-500/month to their husbands. Many of those rescued were under 18 years old and some carried a fake passport containing false name, age and nationality.<sup>36</sup>

From our cases, some victims who were married to Malaysian men were violently abused and forced to work as slaves. For example, one victim tried to escape several times from the violent acts of her husband.<sup>37</sup>

Another case in 2005 concerned a Laotian woman who was lured into Malaysia. She was locked up in a building room with other women from Lao PDR, Vietnam and Thailand when she first arrived in

Malaysia. Thereafter, Malaysian men came to check on the women in that room and selected them for marriage before making the payments to the trafficked agents.

Some women and girls in prostitution decided to marry Malaysian men as a means to get out of it and make a better life. Similarly, some women who had returned to their countries of origin came back to Malaysia to find husbands.<sup>38</sup>

Generally, Thai women and girls migrate on their own to pursue a job as masseurs. However, some are later pressured or threatened by their agents to engage in prostitution against their wills.

They typically enter Malaysia from Thailand with assistance from Thai agents and are received by Malaysian agents who place them in apartments or condominiums. Then, the local agents will take them to hotels and other entertainment venues where they are forced to entertain men without pay.<sup>39</sup> There are

<sup>36</sup> Tenaganita\_38

<sup>37</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>38</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>39</sup> Tenaganita 50-51.

additionally reported cases of Thai women being re-trafficked to Malaysia.<sup>40</sup>

Regularly, ethnic minority women and girls from Thailand and Myanmar are initially deceived into prostitution in a Thai city/town along the Malaysian border where they may work in clubs, pubs, bars, massage venues, or karaoke bars for a period of time. Afterwards, they will be moved across the border to Malaysia where they are forced to prostitution.<sup>41</sup> The increase number, in recent years, of migrant women and girls from different ethnic minority groups in Myanmar (e.g. Shan and Karen) in Malaysia has been at least partially attributed to their desire to flee the conflict in Myanmar. Some of the women and girls are refugees and highly vulnerable to trafficking.<sup>42</sup>

Some Malaysian men come to the towns along the Thai-Malaysian Border to buy women or girls to be their partners in Malaysia. Once they are bored with these women or girls, they will sell them into prostitution in karaoke bars, massage parlors, brothels, etc. Likewise, the owners of brothels in the towns along the border sell women and girls to Malaysian/Singaporean agents to be prostitutes in their respective countries.<sup>43</sup>

Laotian women and girls normally travel to Malaysia through Thailand. They frequently claim that they are of Thai nationality if they encounter any problem while traveling or going home.<sup>44</sup> Some of them even possess Thai passports.

Reports from the media and the agencies providing assistance to trafficked persons have noted the increase over the past several years in labor migration and trafficking of Cambodian women and children to Malaysia.<sup>45</sup> Like their Vietnamese counterparts, some

Cambodian women and girls who enter Malaysia for the purpose of marriage find themselves in a debt bondage situation where they are abused and forced into prostitution.<sup>46</sup>

Similar to the experience of women and children from other GMS countries, trafficked Cambodian women and children were falsely recruited in their home country to work in factories or restaurants and later forced to service customers in karaoke bars in a debt bondage situation.<sup>47</sup> Based on the information obtained from the Cambodian women detained at Semenyih Detention Camp, agents who were mostly local Cambodians would recruit women and girls from provinces with a promise to find them the highly paid employment in Malaysia. Nevertheless, while older women tend to be promised of the factory job, younger women/girls are on the contrary promised of employment in the service sector in Thailand but ultimately end up in forced prostitution in Malaysia.<sup>48</sup> A considerable number of Cambodian women and children who are forced into prostitution end up in Johor Bahru, which is on the Malaysian border with Singapore.<sup>49</sup> Regardless of whether the women and girls are trafficked for prostitution or labor, the transportation routes from Cambodia to Malaysia are the same. They travel either in a big group of about twenty persons or a small group of three, accompanied by the recruiters. At first, they are brought to Poipet before crossing the border into Thailand and travelling towards Malaysia. Furthermore, Cambodian women detainees at Semenyih Detention Camp reported that it was easier to transport women to the factory work as all of them had legal travel documents that allowed them to get a social visit or an employment visa, whilst the women and girls transported for prostitution had to stay in Thailand for a few days pending the arrangement of

<sup>40</sup> Save our Daughters, Summary report of the meeting to establish collaboration between organizations to combat trafficking in women and children held in Bangkok on 29 November 2005 (Bangkok: Save our Daughters) 2.

<sup>41</sup> Information acquired from AAT Regional Thailand field surveys (2006-2007)

<sup>42</sup> Tenaganita\_40

<sup>43</sup> Information acquired from AAT Regional Thailand case interview (2006-2007)

<sup>44</sup> Information acquired from AAT Regional Thailand case interview (2006-2007)

<sup>45</sup> Cambodian Women's Crisis Centre (CWCC) 12

<sup>46</sup> Tenaganita\_38

<sup>47</sup> Cambodian Women's Crisis Centre (CWCC) 13

<sup>48</sup> Cambodian Women's Crisis Centre (CWCC) 16

<sup>49</sup> Cambodian Women's Crisis Centre (CWCC) 13



their illegal entry and/or smuggling into Malaysia owing to the absence of any travel document.<sup>50</sup>

With regard to Chinese women and girls, they arrive in Malaysia from China through a number of different channels. Some of them are lured by a false promise of employment in the service sector but force into prostitution voluntarily on the tourist visa to meet their Malaysian “boyfriends”, mainly businessmen, whom they met in China. These “boyfriends” pay for their airfares, buy them nice things, accommodate them in houses or apartments and promise to marry them. Each couple upon their arrival in Malaysia. According to media reports, there were cases of Chinese girls who came to Malaysia as ‘students’ but were actually trafficked by the syndicate who used them as prostitutes. Another scenario is about the Chinese women or girls who fly to Kuala Lumpur voluntarily on the tourist visa to meet their Malaysian “boyfriends”, mainly businessmen, whom they met in China. These

“boyfriends” pay for their airfares, buy them nice things, accommodate them in houses or apartments and promise to marry them. Each couple lives together for a short period until the woman’s visa expires and the “boyfriend” will disappear. The women under such circumstances will be arrested for non-possessing documents or over-staying and at times are penalized under the law. One field study conducted by AAT Regional Thailand during the years 2006-2007 found that, of the trafficked Chinese women it dealt with in Malaysia, the majority came from Yunnan province and had first crossed into Thailand through the northern border before being transferred to Malaysia. (As illustrated in the map of

**Image 8** on the next page-following the red arrow ) Some were sent further to Singapore.



**Image 8:** Route that Chinese women and girls, who were lured into prostitution, used for traveling to Malaysia from China, especially from Yunan province.  
Credit: [lib.utexas.edu](http://lib.utexas.edu)

<sup>50</sup> Cambodian Women’s Crisis Centre (CWCC) 17-18

# CASE STUDY FINDINGS



# CASE STUDY FINDINGS

## FROM CASE STUDIES

The cases have been separated into 2 categories as (1) pre-ATIP Act and (2) post-ATIP Act.

As part of its field research for this report, and prior to the application of the Anti-Trafficking in Persons Act 670, SOD gathered information from our team (AAT Regional Thailand, FOW, TRAFCORD and IJM) concerning 58 women and girls trafficked to Malaysia and Singapore for sexual exploitation during 2004-2007. Much of the findings corroborate with the general situation of trafficking victims of sexual exploitation as described in the preceding section. These cases were provided by the aforementioned organizations so SOD was able to conduct the in-depth interview with the cases (the victims). For more details concerning their stories and the protection measures that they received, please refer to the analysis of working channels 1, 2 and 3 on **page 73, 76, and 79** respectively.

Additionally, our team collected the information concerning our 4 cases that were victimized in Malaysia after the Anti-Trafficking in Persons Act 670 had been put into force. These cases involved 79 women and children. In such cases, we focused on the protection process that the cases underwent in Malaysia. Unfortunately, we do not have any detail of the trafficking routes. For more details concerning their stories and the protection measures they experienced, please refer to the analysis of working channel 4 on **page 89**.

### Case Overviews

#### (1) Pre-Anti-Trafficking in Persons Act 670

Of all the 58 victims, there were 19 Vietnamese, 15 Thais, 15 Laotians, 8 Cambodians and 1 Shan. The age breakdowns according to the nationality are shown in *Table 1*.

*Table 1: Age Breakdowns According to Nationality*

Nationality	Ages 14-18	Ages 19-23	Ages 24-28	Ages 29-33	Ages 34-38	Ages 39-43
Vietnamese		10	8			1
Thai	1	5	3	2	3	1
Laotian	5	8	1	1		
Cambodian	4	1	3			
Shan (Myanmar)				1		
	10	24	15	4	3	2

There were 54 women and girls identified as victims of trafficking; 42 of whom were identified in Malaysia, 3 were identified in Singapore and 9 were re-trafficked to Malaysia. The remaining 4 cases, which were the first cases of Vietnamese deported before AAT intervention (see channel 1 case 1.1 and 1.2 on **page 64-65**, they could not be actually identified as victims of trafficking due to their expulsion which abolished AAT's ability to locate them. Nevertheless, they were part of the same network as the 4 other Vietnamese identified as victims by the Thai

Government officials. Therefore, we considered them victims of trafficking.

Most of the cases were identified as victims of trafficking jointly with several government agencies (see the analysis of different channels on **page 63**). Although the women and girls were firstly found by NGOs, their identification process involved the immigration, the police, several NGOs, the Bureau of Anti Trafficking in Women and Children and embassies, and they were placed by the Thai Government in government protection shelters for victims of trafficking. Of the 58 victims, those who were identified as victims by only AAT and not by the other organizations, were later considered as victims by the governments of their countries of origin. The 4 deported cases were considered victims by AAT alone (without interview and without intervention from other organizations) based on the rationale that they were part of the journey made by the group containing 4 others who were clearly identified as victims.

*Table 2: Victim Identification under SOD Services*

Victims trafficked to Malaysia	44
Victims firstly trafficked to Malaysia and then to Singapore	3
Victims trafficked to Malaysia and re-trafficked into Malaysia	9
Victims trafficked to Malaysia and re-trafficked into Singapore	2
<b>Total</b>	<b>58</b>

*Table 3: Nationality Breakdowns According to the Places Where Victims Were Trafficked*

Nationality	Victims trafficked to Malaysia/re-trafficked into Malaysia	Victims trafficked to Malaysia and then to Singapore	Victims trafficked to Malaysia and re-trafficked into Singapore
<b>Vietnamese</b>	18		1
<b>Thai</b>	15	-	-
<b>Laotian</b>	11	3	1
<b>Cambodian</b>	8	-	-
<b>Shan</b>	1	-	-
<b>Total</b>	<b>53</b>	<b>3</b>	<b>2</b>

*Table 4: Methods of Deception Used by Traffickers*

Methods of Deception	Number of trafficked women
<b>Invitation to visit Southern Thailand</b>	3
<b>Promise of a job (in general)</b>	17
<b>Promise of a job in a clothing shop</b>	3
<b>Promise of a job in a karaoke bar</b>	10

<b>Promise of a job in a massage parlor or restaurant</b>	2
<b>Promise of a job in a beauty salon</b>	2
<b>Promise of a job as domestic worker</b>	3
<b>Arranged marriage</b>	3
<b>Promise of a job as a prostitute</b>	4
<b>No information</b>	11
<b>Total</b>	58

Similar to the findings of SUHAKAM and Tenaganita, in most cases (37 out of 58), the women or girls were promised a job of some kind, including working in a retail stores, restaurants, karaoke bars, massage parlors, beauty salons and domestic services. As shown on *Table 4*, only 4 agreed to go to Malaysia for prostitutions. For the rest, 3 came to Malaysia as part of an arranged marriage scheme, 3 were invited to visit Southern Thailand, and the remaining 11 migrated to Malaysia for other reasons meaning that the women did not state the reason for migration. Most of the victims were contacted and made aware of the opportunity to go to Malaysia by neighbors, friends or local agents. The agents involved in these cases were Thai, Laotian, Vietnamese and Cambodian.

Another significant trend revealed from the review of these cases is that almost all 58 women and young girls came from the rural areas in their respective countries. Before travelling to Malaysia or Singapore, most had a broker or agent who arranged for them the passports and other necessary travel documents. Upon their arrival at the destinations, almost all suffered some form of abuse or exploitation including confinement, beating, torture, infectious diseases such as STDs, debt and lack of payment for their labors. Some were even forced to marry Malaysians or take drugs.

## (2) Post-Anti-Trafficking in Persons Act 670

Among the 79 women, it was not clear under Case 1 of Channel 4 (54 women) on how many were actually victims of trafficking (*Detail as shown in Table 5-9*). The Malaysian authorities informed us that some were genuine victims but did not provide us with the exact number. Furthermore, apart from the Malaysian authorities, no other organization could be in contact with them (the victims). However, regarding Cases 2, 3, and 4, of Channel 4, they were all victims of trafficking as identified by the Thai and/or Malaysian authorities and NGOs.

*Table 5: Nationality Breakdowns*

<b>Case No.</b>	<b>Nationality</b>	<b>Number of persons</b>	<b>Location found</b>	<b>Problem</b>
<b>1</b>	Tai Lue	17	Johor Barhu	Nowhere to be found
	Thai	37		
<b>2</b>	Thai	1	Kuala Lumpur	Detained in immigration depot
<b>3</b>	Shan	9	Johor Bahru	Sentenced to imprisonment and detained in immigration depots
<b>4</b>	Thai	15	Kuala Lumpur	Protected in government shelters

Table 6: Age Breakdowns

Nationality	Ages 14-18	Ages 19-23	Ages 24-28	Ages 29-33	Ages 34-38	Ages 39-43	Unknown	Total
<b>Shan</b>	1	7		1				<b>9</b>
<b>Tai Lue</b>							17	<b>17</b>
<b>Thai</b>	2	3	6	5			37	<b>53</b>
<b>Total</b>	<b>3</b>	<b>10</b>	<b>6</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>54</b>	<b>79</b>

Table 7: Victim Identification under AAT Services

Victims (or suspected-to-be victims) trafficked in Malaysia	79
Victims firstly trafficked in Malaysia and later in Singapore	0
Victims trafficked to Malaysia and re-trafficked into Malaysia	0
Others	0
<b>Total</b>	<b>79</b>

Table 8: Nationality Breakdowns According to the Places Where Victims Were Trafficked

Nationality	Trafficking victims (or suspected-to-be victims) Identified in Malaysia	Trafficking victims Identified in Singapore	Re-trafficking to Malaysia
<b>Shan</b>	9	0	0
<b>Tai Lue</b>	17	0	0
<b>Thai</b>	53	0	0
<b>Total</b>	<b>79</b>	<b>0</b>	<b>0</b>

Table 9: Methods of Deception Used by Traffickers

Methods of Deception	Number of trafficked women	Methods of Deception	Number of trafficked women
Invitation to visit Southern Thailand	0	Invitation to visit Southern Thailand	0
Promise of a job	1	Promise of a job	1
Promise of a job in a clothing shop	0	Promise of a job in a clothing shop	0

Promise of a job in a karaoke bar	2	Promise of a job in a karaoke bar	2
Promise of a job in a massage parlor or restaurant	5	Promise of a job in a massage parlor or restaurant	5
Promise of a job in a beauty salon	0	Promise of a job in a beauty salon	0
Promise of a job as domestic worker	0	Promise of a job as domestic worker	0
Arranged marriage	0	Arranged marriage	0
Promise of a job as a prostitute	17	Promise of a job as a prostitute	17
No information	54	No information	54
<b>Total</b>	<b>79</b>	<b>Total</b>	<b>79</b>

**Trafficking Routes from the Study of Cases (Pre-ATIP Act)**


The routes used to traffic persons to Malaysia are varies according to the country of origin and the situation in different areas of Thailand that often act as transit points.

**Means of Transportation:**

- > By land (bus and van) 
- > By plane 

**From Thailand**

Original Country/Border Point	Transit Country/Border Point	Destination Country
Thailand	Sadao (Songkhla province), Betong or Su-ngai Kolok	Malaysia



The routes can be identified as follows:

- > Through Sadao checkpoint in Songkhla province, Southern Thailand, into Malaysia by road (bus or van)
- > From Bangkok to Songkhla province and then into Malaysia by road (bus or van)
- > From Angthong province, Central Thailand, to Songkhla province, and then into Malaysia by road (bus or van)
- > From Kanchanaburi province, Western Thailand, to Songkhla province, and then into Malaysia by road (bus or van)

- From Udonthani province, Northeastern Thailand, to Songkhla province, and then into Malaysia by road (bus or van)
- From Thailand, through Betong, into Malaysia by road (bus or van)
- From Thailand, through Su-ngai Kolok, into Malaysia by road (bus or van)

**From Vietnam**

Original Country/ Border Point	Transit Country/Border Point		Destination Country
Vietnam/ Chau Doc	Cambodia/ Phnom Penh - Poipet	Thailand/ Kolok Su-ngai	Malaysia
Vietnam/ HN HCMC CD	Cambodia/ Phnom Penh - Poipet	Thailand/ Pattani	Malaysia
Vietnam			Malaysia
Vietnam/ Chau Doc	Cambodia		Malaysia
Vietnam/ Chau Doc	Cambodia	Thailand/ Sadao	Malaysia

Several routes were identified as follows:

- From Vietnam, through Cambodia by road or boat, to Poipet Border by road, then passing through Thailand into Malaysia by road
- From Hanoi (HN) to Ho Chi Minh City (HCMC) through Cambodia to Poipet Border, passing through Bangkok to Pattani province (Southern Thailand), then into Malaysia by road
- From Vietnam to Malaysia by plane
- From Vietnam to Phnom Penh by road or boat and into Johor Bahru (Malaysia) by plane
- From Ho Chi Minh City to Chau Doc (CD), to Cambodia by road or boat, then into Malaysia by plane
- From Vietnam to Cambodia by road or boat, from Phnom Penh (Cambodia) to Bangkok (Thailand) by plane, from Bangkok to Had Yai through Sadao by road (car or bus), then into Malaysia by road (bus or van)
- From Hanoi to Ho Chi Minh City through Cambodia by road or boat, from Phnom Penh (Cambodia) to Bangkok (Thailand) by plane, from Bangkok to Had Yai through Sadao by road (car), then into Malaysia by road (bus or van)



**From Cambodia**

Origin Country/Border Point	Transit Country/Border Point	Destination Country
Cambodia/ Poipet	Thailand/ Su-ngai Kolok	Malaysia
Cambodia		Malaysia
Cambodia	Thailand/ Sadao	Malaysia

The routes were identified as follows:

- From Cambodia to Poipet (Cambodia), to Sakaeo province (Thailand) by road, to Su-ngai Kolok (Thai border city), then into Malaysia by road (bus or van)
- From Cambodia directly to Malaysia by plane
- From Cambodia to Thailand by plane, then pass Sadao checkpoint (Songkhla) into Malaysia by road (bus, car or van)

**From Myanmar**

Origin Country/Border Point	Transit Country/Border Point	Destination Country
Myanmar/ Ta Keelek	Thailand/ Sadao	Malaysia/ Johor Bahru
		Singapore

There was only one route identified:

From Myanmar to Bangkok, to Sadao checkpoint, then into Malaysia, and passing Johor Bahru checkpoint (Malaysia – Singapore Causeway) into Singapore by road

From Lao PDR

Original Country/ Border Point	Transit Country/Border Point		Destination Country
Lao PDR	Nong Khai	Malaysia/ Johor Bahru	Singapore
	Southern Thailand		
Lao PDR	Nong Khai	Betong/ Su-ngai Kolok	Malaysia

The routes were identified as follows:

- From Lao PDR, passing Tah Bor checkpoint in Nongkhai province (Northeastern Thailand), to Southern Thailand, then into Malaysia, and passing Johor Bahru checkpoint into Singapore by road
- From Lao PDR to Nongkhai province, passing Betong (Southern Thailand) into Malaysia by road
- From Lao PDR to Nongkhai province, passing Su-ngai Kolok (Southern Thailand) into Malaysia by road

**Analysis of measures implemented for victims' protection**



**Image 9:** The routes taken by girls and women who get trafficked to Malaysia and Singapore from the countries of Myanmar, Laos, Cambodia and Vietnam respectively. If from Myanmar and Lao PDR, it is usually ground transportation through Thailand. If from Cambodia or Vietnam, it is usually by air.

The details of stories and protection measures applied to both the 58 and the 79 victims are related to the analysis of working channels 1, 2, 3 and 4 on **pages 73, 76, 79, and 89** respectively. The 58 victims were grouped into 8 cases and the 79 victims were grouped into 4 cases.

### **For the cases of 58 victims (Pre-Act)**

All 58 victims were found before the ATIP Acts of both Malaysia and Thailand were put in effect.

After the enforcement of the ATIP Act, some changes have occurred. See the conclusion of the 79 cases below and the analysis of working channel 4 in *Analysis of Different Channels for Victim Protection* on **page 89**.

Based on the field observations and experiences of SOD regarding the 58 victims<sup>51</sup>, Thailand is the receiving, transit and original country for victims trafficked for sexual exploitation and forced labor in Malaysia and Singapore.

### **Protection measures**

None of the 58 victims would have received any protection neither in Malaysia nor in Thailand without the intervention of NGOs.

#### Victim identification and protection:

Among the 58 victims, those arrested by the Malaysian authorities were considered and treated as offenders. They were sent to prisons or immigration depots.

Among the 58 victims, those arrested by the Thai authorities were considered and treated as offenders. They were sent to prisons or immigration detention centers.

Only the intervention of NGOs by informing the Malaysian authorities (“on statement” see channel 3 on **page 76** or by direct intervention in the identification process in Thailand could ensure some of these victims the protection.

#### Sheltering and care providing:

Among the 58 victims, those directly found and arrested by either the Malaysian or the Thai authorities were sent to prisons or immigration depots. In Malaysia, there was no place to receive them besides local NGOs and some Embassies (in safe houses). The few victims who could access proper shelters in Malaysia were the cases that

NGOs got involved in the rescue process. As for the cases in Thailand, they could access appropriate government shelters because of the intervention by NGOs.

#### Return to home:

Among 58 victims, those directly arrested by the Malaysian authorities were deported at the no-man’s land on the border area. Some others who escaped by themselves also passed through the Thai-Malaysian Border. All faced the risk of re-trafficking due to the presence of traffickers at the no man’s land. Only the victims who had been assisted by NGOs or embassies could return home safely.

As for the Thai side, the women identified as victims of trafficking could be repatriated safely through the local (or bilateral) system in place.

Suppression and Compensation: Nothing happened on both sides.

### **Protection initiatives**

Before our interventions, the Thai Embassy in Malaysia had some measure of sheltering Thai victims in coordination with a local NGO (Tenaganita) and of repatriation of Thai nationals. Presently, with the enforcement of the Anti-Trafficking in Persons Act of Thailand, every person residing in Thailand who becomes a victim outside the country will be repatriated back to Thailand. The Thai Government additionally sends the Thai Liaison Police Officer to assist the cases of victims of trafficking.

Tenaganita was the main player in direct case actions and protection as well as advocacy concerning trafficking in persons. Suhakam also assumed an important role in advocacy work.

With the intervention of SOD, we could set up a temporary protection channel together with NGOs, the Thai Embassy, the Thai Liaison Police, the Southern Region Police of Thailand and the D7 Police of Malaysia, for the purpose of protecting and repatriating victims “on statement”<sup>52</sup>. (See analysis of working channel 3 in the *Analysis of Different Channels for Victim Protection and Repatriation* on **page 79**).

<sup>51</sup> See ‘Analysis of Different Channels for Victim Protection and Repatriation’

<sup>52</sup> The D7 police told us in 2006 that they would protect and repatriate women and children on the list handed over by the Thai authorities and NGOs

Generally, we can deduce that none of the 58 victims gained access to any protection, except for the cases intervened by NGOs. Even worse, some victims were treated as offenders and detained in both Malaysia and Thailand. Particularly, they were arrested in Malaysia, sent to immigration depots and deported into the no-man's land regardless of their nationalities and conditions. Some escaped by themselves. Others were arranged for transportation by traffickers. All who returned by that means were arrested on the Thai soil and sent to prisons or detention.<sup>53</sup>

In Malaysia, victims of trafficking could receive assistance with the intervention of NGOs while in Thailand there already exists a system whereby the persons identified as victims will remain under the care of the Government until their safe repatriation. However, there was neither suppression nor compensation for victims.

### **For the cases of 79 victims (Post-Act)**

All 79 victims were found after the enforcement of the Anti-Trafficking in Persons Act of Malaysia.

### **Protection measures**

According to our experience with these 79 victims, the mechanisms of Malaysia failed to provide protection and adequate assistance while sheltering foreign women and children who were victims of trafficking. Worst, currently even with the intervention of NGOs or upon the request of the governments of the countries of origin, victims of trafficking remain unprotected.

#### Victim identification and protection:

Among the 4 cases of 79 victims, only 1 case (Case 4) involving 15 rescued Thai women, was recognized and identified as victims and protected by the Malaysian authorities. All other 3 cases received no protection.

For victims referred by agencies in the countries of origin were not protected but were imprisoned and deported from Malaysia:

- Women (37 supposedly Thai and 17 supposedly Tai Lue (an ethnic group)) were reported to the Malaysian authorities by NGOs in 2008 - AAT and Tenaganita informed the D7 police about the victims of trafficking in Johor Bahru. The police raided the entertainment venues and arrested 54 foreign women.

After 2-month coordination with several Malaysian

organizations and authorities and even after bringing in the Thai delegation of officials, we still could not obtain any clear information concerning these women. We did not know who were identified as victims. However, during our investigation, we were informed by the Malaysian authorities and the network that some of them were victims of trafficking. We obtained the authorization from the Malaysian Immigration Office to visit them. However, the Malaysian immigration officer informed us later that the girls had been deported to the Thai-Malaysian Border shortly before our arrival.

Despite our attempts and our network at the Sadao Border Point, we were unable to find or contact any of these women.

- One Thai girl (of 13 years old) referred to the Malaysian authorities by a Thai government agency (Bureau of Anti Trafficking in Women and Children (BATWC)) and an NGO in 2008 - Both BATWC and AAT coordinated with the Malaysian authorities via the Thai Embassy and Tenaganita to rescue a Thai girl trafficked for sexual exploitation in Kuala Lumpur.
- Three months later, we learned from the grandmother of the victim that the girl was in an immigration detention depot in Malaysia. The girl was not protected by the Malaysian authorities despite our notification and her young age. We can assume that, without the information from the grandmother, she would have been deported to the Thai-Malaysian Border becoming at risk for re-trafficking.

For victims found by the Malaysian authorities were jailed and deported:

- Eight young women from Shan states, who were trafficked to Johor Bahru, got arrested by the Malaysian authorities and were deported at the Thai-Malaysian Border in 2009 (among the young women, 6 came from Myanmar).

AAT together with the immigration officers of Southern Thailand found 8 Shan women, who had been trafficked to Johor Bahru, trying to cross the border into Thailand. After the interview with the multi-disciplinary team, we learned that the Malaysian authorities had raided the brothel and these women were arrested, imprisoned and sent to immigration detention depots. After being detained by the Malaysian authorities, they were transferred to the no man's land at the Thai-Malaysian Border.

When the women were interviewed with the multi-

<sup>53</sup> Since 2009, under the initiative of AAT, the immigration of Sadao now plays a role in the identification and protection of potential victims coming from Malaysia and vulnerable groups that intend to enter Malaysia. They refer them to Thai government protection shelters or local NGOs for further identification, prevention and protection services.

disciplinary team, they were identified as victims of trafficking in Malaysia and were referred to protection shelters in Thailand.

For a case of one victim escaped from Johor Bahru and crossed the Thai Border:

- AAT, together with the immigration officers of Thailand, found a case of one Shan woman (from Myanmar) in 2009 at the Thai immigration checkpoint. She was in fact trafficked to Johor Bahru and escaped from the condo wherein she was locked up. She was travelling to her home. After interviewing her, we found that she was a victim of trafficking within the same trafficking ring as the other 8 Shans (See above).

#### Sheltering and care providing:

Out of the 79 women, only the case of 15 Thai women found and rescued by the Malaysian authorities were provided with shelters. All women in the other cases, which were referred by Governments and NGOs of the countries of origin, were arrested and detained by the Malaysian authorities instead of sheltering.

Furthermore, apart from the rescue of 15 Thai women, all other victims found by the Malaysian authorities after raiding the entertainment venues were jailed instead of being sheltered.

Sheltered victims did not receive adequate care – In the cases of 15 Thai women sheltered in the Malaysian center, there was a lack of collaboration, coordination and information exchange between the Malaysian and Thai Governments. Furthermore, in the numerous phone calls the victims made to AAT during their stay in the shelter in Malaysia, they described their conditions in the center, their worries concerning the time they would have to spend there and when they would be able to return home. They complained about the center inconvenience and requested assistance from our side. They thought they were in a juvenile delinquency center.

The aforementioned shows that the victims did not understand where they were (government protection shelter instead of detention) or the reason why they were there or when they would be repatriated. This indicates the lack of proper orientation for the victims of trafficking that subsequently affected their mental conditions. The victims thought that they were in a prison and called AAT regularly requesting our assistance in accelerating the process. The women spent 5 months in the shelter.

#### Return to home:

Among 79 victims, the Malaysian authorities provided coordination in the repatriation of only 15 Thai women under their protection. All the other cases, irrespective of coordination by AAT/ the Thai Government or not, were not provided with safe

repatriation by the Malaysian authorities. However, among these 79 victims, a Thai girl could be repatriated safely through the actions of the Thai Government and NGO, in spite of the fact that she was detained in an immigration depot.

- All the women who were referred to the Malaysian authorities by the Government of Thailand or NGOs were sent to the immigration and deported at the no man's land with a high risk of being re-trafficked. Only one girl could be safely repatriated under the actions of the Government of Thailand and NGOs.
- All victims released from a raid conducted solely by the Malaysian authorities (except for the 15 Thai victims) were jailed and sent to immigration depots. Thereafter, they were deported to the no-man's land at the Thai-Malaysian Border (regardless of their nationalities) which placed them at risk of being re-trafficked by the human traffickers operating in the area.
- One victim escaped by herself and arrived at the no man's land. She managed to cross the border by herself and was found at the Thai immigration checkpoint.
- Only in Case 4 that the 15 Thai victims were protected by the Malaysian authorities, repatriated to Thailand and received by the Thai Bureau of Anti Trafficking in Women and Children. However, we have no information concerning the safety measure and the coordination procedure undertaken to ensure safe repatriation.

#### Suppression and Compensation:

We have no information concerning suppression and victim compensation as well as bilateral collaboration regarding the 79 victims.

### **Protection initiatives**

After the enforcement of the Anti-Trafficking in Persons Act of Malaysia, the protection measures were orchestrated under the National Council with law enforcement agencies being the main actors. Through these cases, we can see that the system excludes the intervention of the main anti-trafficking, local NGOs and active collaboration from the countries of origin in the identification, protection and assistance processes. Therefore, the temporary system that was in place before the Act is no longer applicable. Presently, Tenaganita has no direct role in the trafficking cases and so do the countries of origin, except to notify the cases to the Malaysian authorities. All social organizations are excluded from the circle of protection leaving the victims identification role to the law enforcement agencies alone. Actors of the original countries can no longer intervene and identification and protection actions are fully under the discretion of the Malaysian authorities.

Overall, through the experience with these 137 foreign women, we may conclude that, even after the enforcement of the Anti-Trafficking in Persons Act,

there still lack protective measures available for foreign victims of trafficking in Malaysia. There was some form of measure prior to the ATIP Act therein we had a venue for information sharing and collaboration with the Malaysian authorities as so-called the “temporary system” we had jointly developed. We somehow realised that it is not so now. The actual protection actions after the enforcement of the ATIP Act are less efficient than the temporary system we previously employed. Before the ATIP Act, the victims whom we referred to the Malaysian authorities could receive protection. After the enforcement of the Act, it is no longer the case. Children and girls as young as 13 are not protected but on the contrary are arrested and detained with adults. The Malaysian authorities arrest and detain the victims found in the raid and send them to the Thai-Malaysian Border. The Malaysian authorities fail to identify them as trafficking victims. Finally, the assistance provided to victims inside the shelters are still not adapted.

Moreover, it is clearly reflected by the cases surveyed that the Malaysian authorities did not coordinate with the countries of origin or NGOs of the countries of origin regarding the operational stages of protection in assisting the cases. As for the case of the women who were rescued and “sheltered”, they thought they were in prison. They did not understand that they were under the protection as victims of trafficking and were in the process of repatriation.

This is, therefore, the organizations (governmental, NGOs, Embassy) of the country of origin could not get involved in the investigation of the origins of the victims or participate in the protection, victim identification and assistance (no direct participation other than administration matters). All decisions concerning the fate of foreign women totally remain in the hands of Malaysian law enforcement officers. Apparently, it is the main cause of failure of the protection system in Malaysia.

## From Field Visits

### *Field Visit to Johor Bahru*



**Image 10: Map of Johor Bahru (connecting with Singapore)**

*Credit: hotelonania.com*

Johor Bahru is located in the State of Johor of Malaysia. Singapore and Malaysia are connected by a 1,056 meter long Johor-Singapore Causeway with an immigration check point that is open 24 hours a day.<sup>54</sup>

Johor Bahru has become a center for trafficking catering to mostly Singaporean customers. Every day, Singaporeans cross the Causeway to Malaysia for sex trade and Johor Bahru has been developed for the demand of the neighboring country. Many foreign victims are trafficked to this place based on such reason.

There are many modes of travel from Thailand to Johor Bahru and into Singapore as bus, van, train or plane. However, the most common and easiest way to travel to Malaysia illegally is by bus from Had Yai in Thailand, which costs 650 baht (US\$ 21.5/ €16.25) and takes about 13 hours to Johor Bahru and another 15 minutes to Singapore.

Most entertainment venues in Johor Bahru are operated by Singaporean Chinese and Malay Chinese. There are three main entertainment areas that provide sexual services. They are located in Johor Bahru Town also known as City Square, the Apollo Hotel, and Taman Sentosa.

### ***Johor Bahru Town (City Square)***

This area has more low-end establishments and caters to lower income individuals. The types of establishments include karaoke bar, restaurant, nightclub, bar, coffee shop, massage parlor, beauty and hair salon and food stall. Totally, there are

22 entertainment venues located in two building blocks of 600 meters long each. Most places are officially open every day including holidays from 08:00-23:30 hrs, but in reality they remain open until 3:30 hrs in the morning. The venues are mostly located in buildings similar to town houses and are operated from the second floor up to the sixth floor. Venues that offer prostitution services can be identified by checking the back of the building where there is a staircase leading to the second floor. The pimps are usually waiting on the second floor and may offer “sex packages” which include condoms and sexually stimulating medicines to potential customers.

Chinese women and girls constitute the largest group of prostitutes with Shan as the second largest followed by Indonesian. Each venue has between 8 and 15 women with ages ranging from 17 to 30 years old. While police officers patrol these venues regularly, they do not appear to take any action. Most

<sup>54</sup> “Johor-Singapore Causeway,” 2008 <[http://en.wikipedia.org/wiki/Johor-Singapore\\_Causeway](http://en.wikipedia.org/wiki/Johor-Singapore_Causeway)>



venues have also installed surveillance cameras.

**Apollo Hotel area**

The area around the Apollo Hotel is one of the most famous in Johor Bahru and is historically known as a red-light district. One entertainment venue called the Apollo Pub, also known as WATO Pub and Lounge, has much more women and girls in prostitution than the other venues. It is located on the first floor. Apollo Pub was raided and charged by the authorities and therefore it had to change the name. Nearby is the Kedai Makanan, where the women and girls working at the WATO Pub and Lounge reside. The women and girls typically work from 18:00-04:00 hrs.

Around the Apollo Hotel area, there are five other hotels and most people who visit this area are either staying at one of the hotels or looking for sexual services.

In each entertainment venue, there are about 50 women and most of them are Shan who can speak Thai. The second largest group is Thai and Laotian while the third is Indonesian and Filipina. Their ages range is between 15 and 28 years.

**Taman Sentosa**



**Image 11: Taman Sentosa area**  
Credit: Google Data, 2015

Similar to the Apollo Hotel area, Taman Sentosa is a middle-class housing establishment. However, it has a lot more entertainment outlets, the majority of which are located around the shopping mall of the housing estate. The types of outlets include, among others, bar, karaoke bar, restaurant, lounge, coffee shop, barber shop and spa. In total, there are 18 venues offering sexual services. Most places operate quite openly from 10.00 to 03.00 hrs. The majority of women and girls are from China and Northern and Northeastern Thailand. The second largest group is women from Indonesia and the Philippines, and the third largest is from Cambodia and Lao PDR. The ages of the women and girls are from 15 to 30 years old.

**Johor Bahru Analysis:** (See photos in Annex 2)

During the field visit to Singapore, we spoke with a taxi driver, who often takes Singaporeans to Johor Bahru and brings them back, about the reason why a lot of Singaporean men come to Johor Bahru. He explained that the cost of living and procuring prostitute women and girls are much cheaper than in Singapore. He further told us that Singaporeans who go to prostitutes in Johor Bahru will not be identified and thus there will be no embarrassment. Since Malaysia is not their country, they do not have to worry that someone they know may see them. The price of a prostitute can range from RM40 to RM200 (est. US\$13 – US\$63 or €8.25 – €41) per session which, when comparing to Singapore, the price starts from 80 SGD (est. US\$60 or €40) or 5 times more. Furthermore, it is very close, easy and convenient to access Malaysia from Singapore as it is a border city.

**Penang**



**Image 12: Map of Penang Island and the Mainland**  
Credit: skyscrapercity.com

As one of the earliest, most established urban centers in Malaysia, the island of Penang is a unique mixture of modernization and tradition influenced by European culture intermingled with Eastern customs. Chinese influence has always been more evident in urban areas due to their superior numbers while the Malays, until recent times, have largely resided in the rural areas. The 21st century Penang remains a thriving commercial and now industrial center with a relatively high standard of living. However, in terms of development, it has been overtaken in recent years by the Klang Valley which is the political and economic heart of modern Malaysia. The slower rate

of development in Penang has left much of its cultural and architectural heritage intact, making it an attractive tourist destination.<sup>55</sup>

The majority of tourists who visit Penang include Korean, Singaporean, Japanese and Westerners. Penang has all types of entertainment outlets such as pubs, bars, massage parlors, hotels, etc. Most of these outlets are open from 22:00 to 03:00 hrs daily and have between 8 to 30 women and girls. Women and girls from China constitute 65% of Penang's entire prostitutes, with Chinese Malaysians constituting 25% and Indonesians 10%. The ages of the women and girls range between 15 and 30 years old.

As Penang Island is also a tourist attraction and being situated close to the Thai-Malaysian Border, it becomes an easy access for traffickers to supply the girls to the sex industry via the border of the Island. The market is not only for tourists, but also for the locals and the migrant labor community.



### **Kuala Lumpur**

**Image 13: Kuala Lumpur's Night Skyslines by JonDoyou, on Flickr** *Credit: skyscrapercity.com*

Kuala Lumpur is the capital city of Malaysia and is situated in Selangor state. It is the economic center and fast-growing metropolitan city.

The sexual business can be divided into 3 types: (1) Club and karaoke, (2) Delivery services by phone, car and taxi and (3) Brothels.

#### **Club and karaoke**

This type of sexual business is catered to middle to high-class people. They are located in New Town zone where 10 – 15 entertainments venues are found. We surveyed the 3 main clubs:

- **Sabai Thai (with Thai characters)** (See photos in Annex 2)  
This is a 2-storey building. Live music plays until midnight and after that the floor is open for

dancing till 3:00 hrs. There are approximately 450 – 500 women prostitutes of various nationalities such as Thai, Laotian, Shan and Indonesian. Their ages range from 16 – 30 years old. The going price is from RM 300 to RM500 (US\$90.90 – US \$151.51/ €73.62 – €122.72).

#### ➤ **Zouk Club**

It is owned by a Malaysian politician. There are 3 zones which are (a) the front bar, (b) a club on the 1<sup>st</sup> floor and (c) a club on the 2<sup>nd</sup> floor. The entrance fees vary by zone. It is free entry for the front bar as it is also used as waiting area for friends of the customers. The entrance fee for the 1<sup>st</sup> Floor is RM100 (US\$30.30/ €24.54) and RM 150 (US\$45.45/ €36.81) for the 2<sup>nd</sup> floor.

This place is in a higher end for sexual business. About 80 women are from China, Thailand and Korea. They sit and wait for their customers to approach. Range of price is from 300 RM to 1,000 RM (US\$90.90 – US\$303 / €73.62 – €245.43). Customers mostly are businessmen, politicians and rich people.

#### ➤ **Beach club**

This club is located opposite to Sabai Thai club in the same area and is usually called 'Beach club'. A lot of westerners hang out at this club. The place consists of a ground floor for live music and bar and the basement is used as a discotheque. We have estimated that there are about 300 women from Thailand, Russia, Uzbekistan, Vietnam, Philippines and China at any one time. The women are in groups and they approach customers individually.

#### **(1) Delivery services**

There is no exact location for this form of services arrangement. Traffickers or pimps use telephone to contact the customers asking their preference and the women are delivered to them. On the streets, targeted customers are shown with catalogues of various women for selection or the women are brought in a taxi for customers to choose. The women have numbers written on their shoulders and the customers choose the number of preference. Cars or taxis are used to bring the women to a hotel or secret location where the customers are waiting.

#### **(2) Brothels**

This is the favorite among customers from low income groups. There are 3 main areas namely Old Town, Jalan Imbi and KL Sentral. The nationalities of women are Thai, Chinese, Indian, Indonesian, Laotian and Bangladeshi. The price range starts from 40 RM – 60 RM (US\$12.12 – US\$18.18/ €9.81 – €14.72)

<sup>55</sup> "Penang," 2008 <<http://en.wikipedia.org/wiki/Penang>>



# **National Policies, Human Trafficking and Related Laws, and International Instruments**

# National Policies, Human Trafficking, Related Laws, and International Instruments

## NATIONAL POLICY

Following the entry into force of the Anti-Trafficking in Persons Act (ATIP) in February 2008, Malaysia has formulated a National Plan of Action (2010 – 2015). Furthermore, after the period of our survey, the Amendments to the ATIP Act were enforced in November 2010. The Anti-Trafficking in Persons Act 670 will be deliberated in a later section of this report.

Within the context of its social policies on employment and foreign workers, Malaysia addresses certain issues related to human trafficking. In connection with the employment and the large influx of foreign workers especially from the neighboring countries, Malaysia has passed the laws “to regulate and facilitate their legitimacy.” These laws permit foreign workers to work in only specific sectors and industries. Furthermore, the Malaysian Government has granted amnesty to illegal foreign workers in 1999, 2000, 2002 thereby allowing them to return to their home countries without being charged.<sup>56</sup>

The remarkable influx of foreign migrant workers is, however, cited as one key factor that has affected the social policy progress in Malaysia. In particular, according to the Malaysian Government, the large

number of foreign workers has strained the resources of social services and health facilities resulting in the housing shortage for the low-income which in turn has created illegal settlements. Consequently, there has evident an increase in minor crimes and incidences of communicable diseases.<sup>57</sup>

Malaysia is not a State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention).<sup>58</sup> Whereas it is clear that, under the social policies of Malaysia, employers have specific obligations for legal foreign migrant workers and certain social benefits and resources should be made available to them. Except for the health care, these benefits are not extended to cover illegal foreign migrant workers, including those who have been trafficked. As such, the underlying key principle of the Convention in respect of non-discrimination based on the legal status of a migrant, which mandates a minimum international standards of treatment and protection for foreign migrant workers and their families, will need to be adequately reflected in the Malaysian social policies.

<sup>56</sup> United Nations, *Social Policies in Malaysia*, Economic and Social Commission For Western Asia, Social Policy Series, No. 4 (New York: United Nations, 2003) 33.

<sup>57</sup> United Nations, *Social Policies in Malaysia*, Economic and Social Commission For Western Asia, Social Policy Series, No. 4 (New York: United Nations, 2003) 50

<sup>58</sup> UNESCO, “Present state of ratifications and signatures of the UN Migrants’ Convention,” 2007 <[http://portal.unesco.org/shs/en/ev.phpURL\\_ID=3693&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/shs/en/ev.phpURL_ID=3693&URL_DO=DO_TOPIC&URL_SECTION=201.html)>

## 2007 ANTI-TRAFFICKING IN PERSONS ACT (ACT 670)

The 2007 Anti-Trafficking in Persons Act of Malaysia was adopted by the Parliament on 26 July 2007 and has been enforced since February 2008. After our survey, however, the Act has been amended. The definition of human trafficking in the Act is consistent with that in the Trafficking in Persons Protocol. Owing to the fact that Malaysia, on 29 February 2009, signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>59</sup> it therefore criminalizes all persons who willingly and knowingly participate in the process of trafficking including those who produce, sell, give, or possess fraudulent travel or identity documents for the purpose of facilitating trafficking, recruiters, those who provide facilities or services in support of trafficking in persons, or harbors any of the persons in the aforementioned categories. Malaysia has moved onwards by granting immunity to the trafficked persons from any criminal prosecution on the ground of illegal entry into Malaysia, unlawful residence in Malaysia, and procurement or possession of fraudulent identity or travel documents.

Another significant element of the Act is that it establishes a National Council for Anti-Trafficking in Persons. This body of multi-ministerial and high-level in nature is composed of 7 Ministries, the Attorney General, the Inspector General of the Police, the Director-General of Immigration, the Director-General of Customs, and the Director-General of Malaysian Maritime Enforcement and NGOs or other relevant organizations with expertise on human trafficking issues. Among many other things, the Council is responsible for formulating and overseeing the implementation of a National Plan of Action on Human Trafficking, providing recommendations to the Ministers, coordinating in the formulation of policies on trafficking as well as monitoring their implementation, cooperating and coordinating with international bodies on human trafficking issues including provision of support and protection to victims, and collecting and collating data in relation to human trafficking.

An interesting point to note is that the 3 identified NGOs or relevant organizations represented in the National Council come from the Education Institute of Malaysian and International Studies, the National Council of Women's Organization and SUHAKAM

(the Human Rights Commission of Malaysia) all of which are independent.

In term of the enforcement, the Act empowers police officers, immigration officers, customs officers, or officers of the Maritime Enforcement to act as enforcement officers who are authorized the power to investigate, arrest, search and confiscate if they have a reasonable cause to suspect that an offence has been committed under this Act.

With respect to the care and protection of trafficked persons, the Minister may designate shelters and protection officers of the Social Welfare Office or other concerned government offices. The protection officers have the control over and the responsibility for the care and protection of the trafficked persons at the shelters, and carry out an enquiry regarding the cases of trafficked persons.

Once an enforcement officer has found or rescued a person suspected to be victim of trafficking, the officer may take such person into temporary custody within 24 hours where a Magistrate may issue an Interim Protection Order for the person to be placed in a shelter for 14 days while an investigation of the case is underway. The only exception to this procedure is that the person who is suspected of being trafficked and requires medical treatment shall be brought before the Magistrate by the enforcement officer only upon receipt of medical treatment.

On the matter of investigation, the enforcement officer will determine whether the person is a victim of trafficking based on the circumstances of the case and the protection officer will make an enquiry regarding the background of the person. Upon completion of the investigation, a report is prepared and submitted to the Magistrate. If it has been determined that the person is indeed a trafficking victim, the Magistrate may issue a Protection Order. In the case of a foreigner, this Protection Order places her/him in a shelter for a period not longer than 3 months after which she/he will be released to an immigration officer for safe and timely repatriation to the home country. At any time during the period of the Protection Order, the Magistrate may summon the trafficked person for documentation of evidence of which the process must be completed within 7 days.<sup>60</sup> If a foreigner has not been determined as a trafficking victim, she/he will be released to an

<sup>59</sup> UNTC, "Chapter XVIII Penal Matters/ a Protocol to Prevent, Suppress and Punish Trafficking In Persons Especially Women and Children Organized Crime ," 2000 <[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12 a&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12 a&chapter=18&lang=en)>

<sup>60</sup> Malaysian Government, "Anti-Trafficking in Persons Act 2007 (Act 670)," 2007 <[http://www.parlimen.gov.my/billindexbi/pdf/DR%20072007E.pdf](http://www.parlimen.gov.my/billindexbi/pdf/DR%20072007E.pdfhttp://www.parlimen.gov.my/billindexbi/pdf/DR%20072007E.pdf)>

immigration officer for all necessary actions under the provisions of the Immigration Act 1959/63.

Here are different perspectives of 3 experts towards the Anti-Trafficking Act of Malaysia;

- (1) Ms. Panadda Changmanee, a professional who has long experienced dealing with the anti-trafficking issues. She used to work for the United Nations Inter-Agency Project On Human Trafficking (UNIAP)
- (2) Mr. Sanphasit Koompraphant, a lawyer and a representative from the National Anti-Trafficking in Persons Committee of Thailand and the National Child Rights Protection Committee of Thailand, and the President of ISPCAN (International Society for Prevention of Child Abuse and Neglect) as well as the Director of the Center for the Protection of Child Rights.
- (3) AAT Team

From the analysis, we can divide the aforementioned experts' perspectives into 3 main issues: Identification and Protection Mechanisms, Assistance Mechanisms and Repatriation Mechanisms.

#### ➤ Identification and Protection Mechanisms

Concerning the victim identification and protection process, Mr. Sanphasit viewed that the 2007 Anti-Trafficking in Persons Act does not contain a clear strategy to cope with the human trafficking issue because it fails to refer to the **Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime** which will enable a strategy to secure the safeguard of victims and their families by working in collaboration with her/him as a witness or an informant in the creation of a database on trafficking rings and organized crimes. This strategy can eliminate the trafficking rings, protect the victims from being re-victimized and prevent them from becoming a network of agents of trafficking rings (data from several researches indicate that many retired victims become agents who recruit new groups of victims).

AAT commented on the 24-hour custody period that there is no provision requiring the enforcement officer during such time to contact/inform the embassies of persons who are suspected to be trafficking victims or any (governmental or non-governmental) organization in the countries of origin or any local NGO in Malaysia which could provide their assistance in the verification of the suspects as trafficking victims.

Additionally, Mr. Sanphasit mentioned that Section 2 of the 2007 Anti-Trafficking in Persons Act defines "trafficked person" as any person who is the victim or

object of an act of trafficking in persons. This means that the Act does not treat the victim in the same manner as a victim of crimes in the Penal Code (Act 574). In spite of its Preamble which states that it is "an Act to provide for the offence of trafficking in persons, the protection and support of trafficked persons", the context of this Act treats the victims in the same way as the persons who commit a petit crime. Therefore, it does not treat the trafficked person as the genuine victim and **lacks special protection measures for women and children who are victims.**

Comparing with the United States "Trafficking Victims Protection Act of 2000" which states clearly that the purposes of this Act are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers and to protect their victims. At the same time, the Preamble of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children declares that **effective action to prevent and combat trafficking in Persons Especially Women and Children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking**, including their internationally recognized human rights.

Moreover, the 2000 U.S. Trafficking Victims Protection Act and Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children have clear mandates to protect the victims such as:

#### U.S. Trafficking Victims Protection Act of 2000

*(1) PROTECTIONS WHILE IN CUSTODY.--Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall--*

*(A) not be detained in facilities inappropriate to their status as crime victims;*

*(B) receive necessary medical care and other assistance;*

*and*

*(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including--*

*(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and*

*(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.*

*(2) ACCESS TO INFORMATION.--Victims of severe forms of trafficking shall have access to information about their rights and translation services.*

**(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES.--Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.**

AAT team has agreed with Mr. Sanphasit and the views that the victim identification system has not been adapted to conform to the ATIP Act. First, as Mr. Sanprasit mentioned, the suspected trafficking victims are treated as offenders. Second, all decisions from the initial stage of the identification to determine whether a person is a trafficking victim (within first 24 hours) and the identification procedure itself (investigation procedure) are under the responsibility of enforcement officers.

Therefore, the decision and the process from the beginning up to the stage of sending women and children to the centers are under the responsibility of enforcement officers and the magistrates. The roles of psychologists, social workers, NGOs and organizations of the countries of origin are not incorporated in the process of victim identification whilst the psychologists, social workers, local NGOs and organizations of the countries of origin could help to encourage women and children to provide their information. Besides, there is no collaboration with the embassies to visit the suspected trafficking victims and for the embassies to contact their families. There is no collaboration with the countries of origin to help or assist the suspected trafficking victims or to assist in the investigation. Accordingly, the investigation is not considered complete.

The suspected trafficking victims are not in the comfortable environment because they are afraid of the police and want to return home. Rather, they would deny that they are victims of trafficking in order for them to be quickly deported from Malaysia. In sum, the process does not support and encourage women and children to willingly collaborate with the officers.

Mr. Sanphasit added that, according to the Act, there are 4 enforcement agencies, namely the Immigration Office, the Police, the Customs and the Maritime Police, that work separately on cases of victims of human trafficking. This is too many and may cause a risk of duplicated work and collaboration problems. Comparing to the US system, there should be only ONE unit, specializing in protection of trafficking

women and children, which works as the law enforcement agency on the ATIP cases and integrates other multi-disciplinary agencies under its law.

In conclusion, the ATIP Act of Malaysia does not place the (potential) victims in a good environment to encourage them to collaborate with the authorities. The victim identification process has not been developed in the most efficient manner to correctly identify victims as victims of human trafficking. Furthermore, there is no collaboration with the countries of origin. The entire victim protection system remains merely under the authority of enforcement officers and Magistrate of Malaysia.

#### ➤ Assistance Mechanisms

Concerning the Assistance Mechanisms, Mr. Sanphasit specified that the ATIP Act of Malaysia is not in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children because the Protocol states in *Article 6, Assistance to and Protection of Victims of Trafficking in Persons*, that

*1. in appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.*

*2. each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:*

- (a) information on relevant court and administrative proceedings;*
- (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defense.*

*3. each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:*

- (a) Appropriate housing;*
- (b) Counseling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;*
- (c) Medical, psychological and material assistance; and*
- (d) Employment, educational and training opportunities.*

*4. each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of*

*children, including appropriate housing, education and care.*

**5. each State Party shall endeavor to provide for the physical safety of victims of trafficking in persons while they are within its territory.**

**6. each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.**

Part 5 of the 2007 Anti-Trafficking in Persons Act, Care and Protection of Trafficked Persons, Section 44, states that an enforcement officer **shall take the suspected-to-be victim into temporary custody** and even if the victim is sent to the hospital for health services, she/he shall remain under the control as it states that “45(1) Where the person taken into temporary custody under subsection 44(1) is hospitalized, **the enforcement officer shall have control over**, and responsibility for, the security and protection of that person.”

Moreover, Section 51(3) states “Where the Magistrate, having read the report produced under subsection (2), is satisfied that the person brought before him -

(a) is a trafficked person and in need of care and protection, the Magistrate may make a Protection Order-”

**which means that the victim’s liberty will be deprived of by the Court Order.** If the victim is Malaysian, she/he shall be placed in a place of refuge (which is declared by the Ministry in charge of the internal security under Section 42) for a period not exceeding two years. In case of a foreigner, she/he shall be placed in a place of refuge for a period not exceeding three months and thereafter released to immigration officer for deportation. Section 53 has confirmed that the Protection Order is a type of confinement as it allows the parent, guardian or relative to submit an application to the Magistrate’s Court to release that person into the custody of parent, guardian or relative, if the victim is Malaysian or a permanent resident of Malaysia.

Section 55 (a) stresses that **any trafficked person who escapes or is removed from a place of refuge without lawful authority –**

**(a) may be taken into custody by any enforcement officer and shall be brought back to the place of refuge.**

No such provision exists in the U.S. law or the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which is hostile to the victims like the Malaysian Law, Section 55 (a).

Section 51 (3) (b) states that if the person is not a

trafficked person, the Magistrate may release the person if she/he is a Malaysian. In the case of a foreigner, she/he will be released to an immigration officer for deportation.

**This implies that the victims of trafficking in persons are treated as offenders of petit crimes which are hostile to the victims. Therefore, no victims will voluntarily request protection from the law enforcement agency. The state thus will not be able to attain any evidences or witnesses including information from the victims to suppress and punish the persons who commit the crime of trafficking in persons, even if the spirit of the Act is to provide the punishment for the offence of trafficking in persons and the protection and support for trafficked persons.**

Empowerment of more authority to the law enforcement by the 2007 Malaysian Anti-Trafficking in Persons Act, without solid evidences and witnesses from the victims, would be ineffective. On the opposite, this Act may strengthen **organized crime or trafficking rings** if a public official accepts directly or indirectly any undue advantage from the **traffickers** in order for the official to refrain from the exercise of his or her official duties.

Furthermore, Ms. Panadda added that the 7-day period is commendable insofar as it provides for expeditious evidence collection from the trafficked person and prevents unnecessary delay of the process and the trafficked person’s stay in the shelter or in Malaysia, especially if she/he wishes to return home as soon as possible. However, it fails to take into account the trafficked person’s willingness or ability to talk about her/his experience, especially if she/he has endured any sort of trauma or abuse. Specifically concerning those who have experienced severe abuses, they may require extensive psychosocial and/or medical treatment before they are willing to talk about their experience in a way that lends itself to credible and detailed evidence. Moreover, the Act does not contain any provision for a “reflection period” during which a trafficked person can decide if she/he wants to be involved in the prosecution process. Indeed, the Act seems to suggest that victims are necessarily obligated to cooperate in this respect. In addition, the Act makes no statement of any legal aid available to victims or compensatory measures (i.e. payment of withheld wages, damages for abuse suffered, etc.) as part of the criminal justice process.

With regard to the three month maximum time period of the Protection Order, while this ensures that those in the shelters are not forced to stay there for an extended period against their will, the Act does not explicitly address the situation of those requiring long-term medical or psychosocial care or other long term services. As a matter of fact, an extension of a Protection Order may only be granted for the “purpose of completing the recording of evidence...or



for any exceptional circumstances as determined by the Magistrate.”

At some point, AAT advised that, during the assistance process, there is no mentioning in the law of the participation of the country of origin. Actually, the embassies (or at least NGOs) should be the primary actor to bring the victims back home as well as collaborating with the countries of origin about education and vocational training to be arranged for the victims under repatriation and reintegration processes. Likewise, participation of the families of the victims could be most profitable for the victims. Concerning rehabilitation and recovery process, there should be participation of specialists such as psychologist, social worker, lawyer, and staff from the embassies as well as NGOs from the countries of origin and Malaysia or at least an interpreter specially trained with the rehabilitation/reintegration skill.

#### ➤ Repatriation mechanisms

AAT is of the opinion that the repatriation of victims of TIP according to the ATIP Act of Malaysia does not guarantee the safe return of victims to their appropriate places. Moreover, the repatriation resembles more the procedure for deportation from Malaysia than the procedure to protect the victims until they have returned homes. Apparently, the Malaysian authorities do not adhere to the concept of safety of the repatriated victims. There are no procedures jointly in place with the countries of origin to ensure that the victims obtain the required assistance guaranteeing that they will be safe and not re-trafficked.

Ms. Panadda mentioned that the Act does not elaborate in detail any procedure, including family tracing and assessment, related to the determination of whether it is safe and appropriate for the victims to return homes. In the case where the victims cannot return home due to the lack of safety or other equally significant reasons, there are no provisions granting them temporary residence permits which is internationally recognized as a best practice in the victim protection program.

AAT agreed with Ms. Pannadda and added that the victims do not have any other option if they do not wish to/cannot return to their communities (countries of origin) due to safety concern. For example, some

cannot return home because of a war/political conflict. Some others cannot go home because their families are traffickers. Therefore, the protection of victims must be taken into account whilst the victims are still in Malaysia.

AAT further added that there is no clear provision in the Act concerning the collaboration with the countries of origin for repatriation of victims. There is no process of handing over the victims to other organizations in the countries of origin. The pre-repatriation arrangement with agencies in the countries of origin for the safe return does not exist. The Act does not even touch upon the collaboration with the embassies of the victims of trafficking in persons who should be the main actor in the victim repatriation process. Importantly, the victim repatriation system does not differ from the illegal immigrant deportation process of the Malaysian Government. Article 51(3)(a)(ii) states that the trafficked persons should be placed in refuge and be released to an immigration officer for necessary actions pursuant to the provisions of the Immigration Act 1959/63 and Article 51(3)(b)(ii). The process of repatriation of the Anti-Trafficking in Persons Act is the same as the deportation procedure of the Immigration Act, except that the persons are not placed in a place of refuge if they have been identified as victims of TIP. This does not encourage victims to collaborate with the Malaysian authorities, as they will be released sooner if they do not declare themselves as victims of TIP.

AAT thinks that the procedure of repatriation should be carried out with the collaboration among the receiving country (Malaysia), the countries of origin and the victims themselves involving multi-disciplinary teams and relevant organizations (psychologist, social worker, healthcare, etc...). There should be a case conference between the receiving country and the victim once the victim has arrived at a place of refuge in order to plan and share the duties in the case management and to schedule safe repatriation at the soonest as well as pre-departure activities.

AAT added that, as for a prevention measure, Malaysia should inform the Thai authorities for any expulsion to the no man's land so that the Thai authorities can take actions to prevent the risk of re-trafficking at the border.

## CONCLUSION

In her concluding remarks, Ms. Panadda stated that even though the Act does provide noteworthy strides to create a systematic framework addressing human trafficking from a more holistic perspective, it remains in lack of some key elements of the genuine victim-centered approach and thus has implications for the

successful recovery of the victims and the effectiveness of the criminal justice response to the trafficking issues.

Mr. Sanphasit lastly summarized that the Act does not contribute to the suppression and punishment of

### Trafficking in Persons.

Similarly, AAT concluded that the Anti-Trafficking in Persons Act of Malaysia does not practically protect victims of trafficking. In particular, there is no coordinating unit specialized in human trafficking. The identification process and the environment where the suspected-to-be trafficking victims are placed in order to conduct an identification process will potentially result in the identification of the suspects as offenders rather than victims (because they are reluctant to collaborate). Furthermore, the lack of information and collaboration with the countries of origin concerning repatriation might place victims in a situation vulnerable to re-trafficking. (For more information see

the proposed model on **page 90**)

We can further assume on the basis of such situation that organizations from the countries of origin will be reluctant to coordinate with the Malaysian authorities in the protection of trafficking victims since they are not certain that the victims will be protected. Specifically, having considered the Malaysian system, these organizations are not confident if Malaysia will treat the victims according to their status and protect and repatriate them safely or on the contrary will identify them as non-victims, place them in detention and deport them to the no man's land to face the risk of being re-trafficked.

## OTHER LAWS USED TO PROSECUTE HUMAN TRAFFICKING CRIME

Prior to the 2007 Anti-Trafficking in Persons Act, the Malaysian Government applied particular sections in several different laws to prosecute human trafficking crime. These laws and their specific provisions are described below. More importantly, the Federal Constitution of Malaysia also prohibits all forms of slavery and forced labor.<sup>61</sup>

### *Penal Code (Act 574)*

The Penal Code was one of the main pieces of legislation used to punish traffickers before the Anti-Trafficking in Persons Act 2007 came into effect. Many of the relevant sections focused on and were used by the Malaysian Government to combat trafficking of women into prostitution. From 2003 – June 2006, 143 pimps were charged under Sections

372 and 373 of the Penal Code.<sup>62</sup>

- Section 212 criminalizes harboring of perpetrators<sup>63</sup>
- Section 371 makes the habitual dealing in slavery an offence and involuntary prostitution included as one form of slavery trade. Furthermore, it criminalizes any person who profits from this activity.<sup>64</sup>
- Section 372 criminalizes exploitation of any person for the purpose of prostitution with punishment of up to 15 year imprisonment, whipping and/or a fine<sup>65</sup>
- Section 372A criminalizes a person who is living on or trading in prostitution with the same penalties as prescribed in Section 372<sup>66</sup>
- Section 372B criminalizes soliciting in any

<sup>61</sup> United States Department of State, Trafficking in Persons Report 2007, June 2007 <<http://www.state.gov/g/tip/rls/tiprpt/2007/82806.htm>>

<sup>62</sup> Tenaganita 28.

<sup>63</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: Human Trafficking in Malaysia

<sup>64</sup> Cambodian Women's Crisis Centre (CWCC) 10.

<sup>65</sup> Tenaganita\_93.

<sup>66</sup> Tenaganita\_93.

places for the purpose of prostitution with punishment of up to 1 year imprisonment and/or a fine<sup>67</sup>

- Section 373 provides for the suppression of brothels<sup>68</sup>
- Section 376 sets out punishment for rape<sup>69</sup>
- Article 347 criminalizes wrongful confinement for the purpose of extorting property or constraining to commit an illegal act.<sup>70</sup>
- Article 366 criminalizes kidnapping or abducting a woman to compel her to a marriage against her will.<sup>71</sup>
- Article 370 criminalizes buying or disposing of any person as a slave.<sup>72</sup>
- Article 374 criminalizes unlawful compulsory labor.<sup>73</sup>

*Immigration Act 1959/63 (Act 155)*

Using the specific sections as cited below, the Immigration Act 1959/63 (Act 155) was another key law used to prosecute the crime of human trafficking. While the Act was applicable to specific aspects of human trafficking offences, it was criticized for further victimizing trafficked persons. For instance, in 2005, 4,600 foreign women were arrested for prostitution and many were charged with the violation of the Immigration Act. Despite the lack of systematic mechanisms to identify trafficked persons, many of those arrested and charged were found to be probable victims of trafficking.<sup>74</sup>

- Section 55A criminalizes the transportation to Malaysia of any person in a manner that violates the Immigration Act 1959/1963 with a penalty of 2-5 year imprisonment and whipping of not more than 6 strokes
- Section 55D criminalizes the forgery or alteration of official documents such as visa, permit, pass,

or certificate with penalties including a fine of 30,000-100,000 RM, imprisonment of not more than 10 years, and/or whipping of not more than 6 strokes.

- Section 56 (1) (d) makes it an offence to harbor a person or persons who have contravened this act, punishable with imprisonment of not less than 6 months and a fine of not more than 50,000 RM as well as whipping of not more than 6 strokes.

*Child Act 2001*

With respect to human trafficking, The 2001 Child Act focuses heavily on criminalizing sex exploitation including prostitution of children, and protecting children from other forms of sexual abuse. As is consistent with the definition within the Convention on the Rights of the Child (CRC), the Act defines a child as “a person under the age of eighteen years.”<sup>75</sup>

- Section 31 criminalizes the act of causing or allowing a child to be sexually abused by the person who has care of the child with a punishment of up to RM 50,000 and up to 10 years imprisonment for both the caretaker and the person who sexually abuses the child, as the case may be.
- Section 43 criminalizes the selling, renting, buying or procuring of a child for
- the purpose of prostitution with a punishment of up to RM 50,000 in fine or a maximum 15 year imprisonment.
- Section 48 criminalizes the unlawful transfer of possession, custody or control of a child with a punishment of up to 5 year imprisonment and/or a maximum fine of RM 10,000.<sup>76</sup>
- Section 49 criminalizes importation of a child under false pretenses

<sup>67</sup> Tenaganita\_94.

<sup>68</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: Human Trafficking in Malaysia

<sup>69</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: Human Trafficking in Malaysia

<sup>70</sup> Cambodian Women’s Crisis Centre (CWCC) 37

<sup>71</sup> Cambodian Women’s Crisis Centre (CWCC) 37

<sup>72</sup> Cambodian Women’s Crisis Centre (CWCC) 37

<sup>73</sup> Cambodian Women’s Crisis Centre (CWCC) 38

<sup>74</sup> Tenaganita 19

<sup>75</sup> Malaysian Government, “Child Protection Act 2001 (Act 611 ),” 2001 <<http://www.parlimen.gov.my/actindexbi/pdf/ACT-611.pdf>>

<sup>76</sup> Tenaganita\_94

- Section 52 criminalizes the taking or sending out of a child without appropriate consent of the person who has lawful custody of the child.<sup>77</sup>

#### *Evidence of Child Witness Bill 2007*

The 2007 Evidence of Child Witness Bill has important implications for the prosecution of traffickers of children. By outlining specific provisions for a more child protection-oriented approach to child testimony, the Bill increases the likeliness that a child will feel safe and comfortable adequately to give accurate and detailed testimony against an alleged trafficker. The key measures of the Bill include:

- A child witness may give evidence by a live link, video recording, or with a screen between her/him and the accused
- Examination of a child witness through a court appointed intermediary is allowed, which in practice could mean an interpreter or perhaps a social worker
- An adult may accompany a child witness as long as the adult does not attempt in any way to influence the testimony of that child. This measure would allow the child to have an adult who she/he trusts accompanying her/him during the court proceedings so that the child feels less fearful or intimidated
- Formal attire may be dispensed with on the part of the judge and court officials so as to create a more child friendly environment for the child witness
- A child witness suffering from mental or physical disability that is unable to provide evidence through one of the three methods above may do so in any other manner that she/he can make it comprehensible.<sup>78</sup>

While the Bill adopts some of the international best practice approaches with regard to the treatment of child witnesses, it is important to note that in this Bill a child is defined as a person below 16 years of age. It is therefore inconsistent with the definition in the 2001 Child Act and the CRC. Furthermore, a child witness, as defined in the Bill, does not include “an accused or a child charged with any offence” who is not covered under its provisions.<sup>79</sup>

In addition, there are currently no comprehensive legal measures such as those detailed in the Evidence of Child Witness Act for witnesses over 16 years of age. Under Section 53 of the 1997 Anti-Corruption Act, the identity of a person who has given information to the Anti-Corruption Agency and all other circumstances relating to the information must remain confidential. However, there is no witness protection program in Malaysia.<sup>80</sup> Although there have been recent talks of an upcoming Witness Protection Bill, no such bill has yet been submitted to the Parliament.<sup>81</sup> Moreover, prior to the passage of 2007 Anti-Trafficking in Persons Act, victims who were testifying in court were detained in a civil prison in Malaysia under Section 396 of the Criminal Procedure Code.<sup>82</sup>

#### *Other Relevant Acts*

Other than the main legislations as mentioned above, some Acts have been employed to a lesser degree to investigate, identify and prosecute traffickers. Under the 2001 Anti-Money Laundering Act, a person engaged in illegal activities including trafficking in persons may have any proceeds from these activities frozen, confiscated, or subject to forfeiture. Executive Actions such as the 1933 Restricted Residence Act, under which the Minister may issue a Restriction Order on a person for crimes of dishonesty, and the

<sup>77</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: Human Trafficking in Malaysia

<sup>78</sup> Malaysian Government, “Evidence of Child Witness Bill 2007,” 2007 <<http://209.85.175.104/search?q=cache:cguUiJPzZhkJ:www.parlimen.gov.my/billindexbi/pdf/DR%2520222007E.pdf+Evidence+of+Child+Witness+Bill+2007+Malaysia&hl=th&ct=clnk&cd=1&gl=th>>

<sup>79</sup> Malaysian Government, “Evidence of Child Witness Bill 2007,” 2007 <<http://209.85.175.104/search?q=cache:cguUiJPzZhkJ:www.parlimen.gov.my/billindexbi/pdf/DR%2520222007E.pdf+Evidence+of+Child+Witness+Bill+2007+Malaysia&hl=th&ct=clnk&cd=1&gl=th>>

<sup>80</sup> Giam Say Khoon, “No Witness Protection Act, says Bar Council, Param,” The Sun, 8 October 2007 <[http://www.malaysianbar.org.my/bar\\_news/berita\\_badan\\_peguam/no\\_witness\\_protection\\_act\\_say\\_bar\\_council\\_param.html](http://www.malaysianbar.org.my/bar_news/berita_badan_peguam/no_witness_protection_act_say_bar_council_param.html)>

<sup>81</sup> Datin Seri Dr. Wan Azizah Wan Ismail, President, People’s Justice Party, Member of Parliament (Permatang Pau), “Press Statement, 8 October 2007, KeADILan welcomes Witness Protection Bill: Maintains urgent need for Royal Commission on Lingam-Fairuz Videotape,” 2007 <<http://elizabethwong.wordpress.com/2007/10/08/the-invisible-witness-protection-act/>>

<sup>82</sup> Tenaganita.82.

1969 Emergency Ordinance Act, by which the Minister may issue a Detention/Restriction Order for a person guilty of involvement in syndicated crime affecting public order; have also been applied by the Royal Malaysian Police. – From 2003 – June 2006, 126 pimps were restricted under the 1933 Residence Act and 18 were detained under the 1969 Emergency Ordinance Act.<sup>83</sup> Finally, under the 1960 Internal Security Act, the Minister may issue a Detention Order/Restriction Order on a person who has been involved in large scale harboring activities.<sup>84</sup>

## International Instruments

Malaysia is engaged with the international community, bilaterally and multilaterally, on the issue on human trafficking through a variety of different mechanisms.

### *Bilateral Instruments*

According to the 2007 Trafficking in Persons (TIP) report, Malaysia had not performed in accordance with its 2006 MOU with Indonesia on the Recruitment and Placement of Indonesian Domestic Workers. Specifically, it failed to prosecute the employers who confiscated passports of their migrant workers and confined them to the workplaces. Although the passport confiscation constitutes a violation of the Passports Act, it is the practice acceptable to the Government to control contract laborers. Furthermore, there was never a prosecution of any employer who refused to pay and withheld wage until completion of the contract.<sup>85</sup> Notwithstanding, Malaysia in addition to the MOU has enforced the Mutual Legal Assistance in Criminal Matters Act to address transnational organized crime including human trafficking.<sup>86</sup>

### *Multilateral Instruments*

At the ASEANAPOL Conference on 25 May 2006, all

ASEAN countries including Malaysia agreed upon four resolutions to combat human trafficking. These include:

- To jointly combat and prevent all stages of the human trafficking spectrum and provide effective protection and support services to victims of trafficking, incorporating a blend of criminal justice and victim care responses.
- To enhance real-time information exchange capabilities amongst member countries on the identities, movements, modus operandi and activities of known transnational criminal organizations involved in human trafficking.<sup>87</sup>
- To encourage member countries to conclude bilateral, multilateral and regional agreements and collaboration in combating human trafficking and enhance cooperation border control management; and
- To encourage member countries to enact national legislation against Trafficking in Persons.<sup>88</sup>

While much work remains to be done in combating human trafficking, to date Malaysia has taken steps to partially or fully implement all four of the above resolutions through various laws, agreements and measures earlier discussed in the above sections.

With regard to international treaties and conventions, as addressed in a previous section, Malaysia was not a State Party to the Trafficking in Persons Protocol at the first stage of this survey. However, Malaysia has ratified such Protocol since 2009, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). It is significant to note that not all Malaysian legislation is in full compliance with the above Conventions, as reflected by particular clauses in the 2007 Evidence of Child Witness Bill. Furthermore, besides those identified as trafficked persons, there is no legislation that protects the rights of foreign women and children staying in Malaysia.<sup>89</sup>

<sup>83</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: [Human Trafficking in Malaysia](#)

<sup>84</sup> Tenaganita\_28.

<sup>85</sup> Sidin Bin Abdul Karim, Senior Assistant Commissioner II, Criminal Investigation Department, Royal Malaysian Police, PowerPoint Presentation: [Human Trafficking in Malaysia](#)

<sup>86</sup> United States Department of State, [Trafficking in Persons Report 2007](#), June 2007 <<http://www.state.gov/g/tip/rls/tiprpt/2007/82806.htm>>

<sup>87</sup> Tenaganita\_28.

<sup>88</sup> Tenaganita\_29.

<sup>89</sup> Tenaganita\_43.

“

AAT concluded that the Anti-Trafficking in Persons Act of Malaysia does not practically protect victims of trafficking. In particular, there is no coordinating unit specialized in human trafficking. The identification process and the environment where the suspected-to-be trafficking victims are placed in order to conduct an identification process will potentially result in the identification of the suspects as offenders rather than victims (because they are reluctant to collaborate). Furthermore, the lack of information and collaboration with the countries of origin concerning repatriation might place victims in a situation vulnerable to re-trafficking. (For more information see the proposed model on **page 90**)

”

## KEY ACTORS IN MALAYSIA AND THEIR MANDATES

### ➔ Malaysian Police Department 7 (D7)

D7 is a police unit created in response to the issues of secret societies, anti-gambling, anti-vice and anti-gangsterism. Its mandates are to rescue and provide necessary support to trafficked persons. The D7 headquarters is situated within the Kuala Lumpur Federal Police Headquarters, which has worked in collaboration with SOD. Notably, all police stations throughout Malaysia have in place at least one representative from the D7.

D7 works under four main legal frameworks namely: 1) the Penal Code Act 574 and 670, 2) the 1959 Immigration Act, 3) the 2001 Child Act and 4) the Anti-Money Laundering Act. Supplementing these four Acts are the 1933 Restricted Residence Act and the Emergency Ordinance 5/69. Also, D7 works under the Anti-Trafficking Act 670.



### ➔ Thai Embassy in Kuala Lumpur

The Thai Embassy is responsible for assisting Thai citizens who have become victims of all forms of human trafficking and labor exploitation. For human trafficking cases, the Thai Embassy has specific responsibilities pursuant to the National Agenda of the Royal Thai Government (RTG) which mandates all Thai Embassies abroad to provide assistance to victims of trafficking. The assistance to be provided includes a safe haven/safe house for victims pending repatriation to Thailand, security and protection of victims while staying in the safe house, and facilitation of repatriation process. Basically, the Embassy contacts the Ministry of Foreign Affairs, which makes loans available for vulnerable Thais should they, wish to return homes. Particularly in the case of victims of trafficking, the Embassy will render full support to them, followed by coordination between the Ministry of Foreign Affairs and the Thai Ministry of Social Development and Human Security (MSDHS) in repatriating the victims and finding the nearest shelter in Thailand for them. This process may also involve both the Malaysian and Thai immigration police. Often, the border crossing points for repatriation of victims are Padang Besar and Sadao.



## ➔ Thai Police Liaison Officer (Intelligence)

The Thai Police Liaison Officer (Intelligence) is posted in the Thai Embassy in Kuala Lumpur, with the responsibility to assist vulnerable women and with the duty to collaborate with the Malaysian police unit in the rescue of Thai citizens. The Officer further works closely with the NGO networks in Thailand and the Thai Ministry of Social Development and Human Security (MSDHS).

## ➔ TENAGANITA

Tenaganita is a Malaysian NGO founded in 1991. It works on 3 major programs as: Anti-Trafficking in Persons (ATIP), Migrant and Refugee Rights (MRRP), and Business Accountability and Social Responsibility (BAR). The Anti-Trafficking in Persons Program was launched in 1993. With the aims to raise awareness and understanding of the issue, the organization organized the first conference in 1995 on human trafficking in Malaysia entitled, "Trafficking in Women, the Growing Phenomenon in Malaysia." It further set up the first shelter in 1996 with the support of IOM and the shelter has since become an independent organization. Tenaganita continues to provide its shelter for trafficked women and child victims. The organization has good cooperation with the D7 and D9 Units of the Federal Police (Bukit Aman) and has a referral system for the rescued victims of trafficking. It also has been actively involved in the set up of five Inter-agency Task Forces on Trafficking in Persons at the regional level and a strong NGO network internationally.



## ➔ SUHAKAM

SUHAKAM is the Human Rights Commission of Malaysia and was established by the Malaysian Parliament under the Human Rights Commission of Malaysia Act 1999, Act 597. With regard to human trafficking issues, SUHAKAM advocates for human rights, undertakes field research in Malaysian detention centers, and conducts dialogues and forums on the related legal and protection mechanisms. SUHAKAM is one of the three NGO members of the Act on National Council of Anti-Trafficking in Persons.





## ➔ Ministry of Home Affairs and Internal Security

90

The Ministry is the combination of Ministry of Home Affairs and Ministry of Internal Security, which was formed on 18 March 2008. Its departments include:

- Royal Malaysian Police Force
- Malaysia Department of Immigration
- Registration Department
- Prison Department
- National Anti-drug Agency
- Registry of Societies
- Department of Civil Defense
- Print Nasional Malaysia Berhad

According to the Anti-Trafficking in Persons Act 670 of Malaysia, the Ministry of Home Affairs and Internal Security is a member of its Council and an agency responsible for the application of this Act.

## ➔ Ministry of Women, Family and Community Development

The establishment of the Ministry of Women, Family and Community Development took place after the 4<sup>th</sup> World Conference on Women in Beijing in 1995.

91

92

Its mission is to integrate the perspectives of women and various attitudes of the society towards mainstream national development and to strengthen the family institution towards increased communal and social harmony. The target groups consist of women, families, disabled persons, children, senior citizens, volunteer welfare organizations, destitute persons and victims of nature disaster.

According to the Anti-Trafficking in Persons Act 2007 (670), the Secretary-General of the Ministry is a member of the Council for Anti-Trafficking in Persons of Malaysia. Social Welfare Officers or any other public official of the Ministry are appointed as Protection Officers.

## ➔ Anti-Trafficking Task Force

This Task Force is composed of the National Human Rights Commission of Thailand, SUHAKAM and NGOs from 4 countries namely Thailand, Singapore, Malaysia and Vietnam. Its objective is to develop protection and repatriation mechanisms and data exchange system. The ultimate goal of the Task Force is that victims of trafficking are safely and quickly rescued, protected and repatriated to their home countries. The Task Force project was initiated by the Friends of Women Foundation (FOW) and the Alliance Anti Traffic (AAT) Regional Thailand (at the time operating under AFESIP Thailand). The reason behind the formation of this Task Force was attributed to the high number of Thai women and children trafficked into Malaysia as well as the growing number of Vietnamese, Cambodians, Laotians and Burmese found in Thailand who had been previously trafficked to Malaysia. The idea of undertaking this survey arose at a Task Force meeting.

<sup>90</sup> Tenaganita\_38, 42.

<sup>91</sup> "Human Rights Commission of Malaysia," 2007 <[http://en.wikipedia.org/wiki/Human\\_Rights\\_Commission\\_of\\_Malaysia](http://en.wikipedia.org/wiki/Human_Rights_Commission_of_Malaysia)>

<sup>92</sup> Tenaganita\_45-68.

## OTHER KEY ACTORS AND THEIR MANDATES

The key agencies which play roles in the development of anti-trafficking mechanisms in Malaysia include:

### ➔ Save Our Daughter (SOD)

For more information on SOD, please refer to the section “About Save Our Daughters (SOD)” in page 8 (Background) of this report. SOD represents the collaboration between Alliance Anti Traffic Regional Thailand and Friends of Women Foundation. SOD had been in place until the set up of the Task Force.



### ➔ The National Human Rights Commission of Thailand (NHRC)

The National Human Rights Commission of Thailand (NHRC) was established under Sections 199 and 200 of the Constitution to act as a mechanism guaranteeing the respect for human rights as stipulated therein. It consists of 11 full-time Commissioners who are elected by the Senate from a short list of 22 candidates with extensive human rights experience, gender balance and pluralistic background. The statutory term of the Commissioners is 6 years and each Commissioner shall serve for only one term.



### ➔ TRAFCORD (Anti-Trafficking Coordination Unit Northern Thailand)

Established in cooperation with the Coordination Center for Protection of Child and Woman Rights Chiang Mai, TRAFCORD acts as a coordination centre between the government and non-government organizations working on human trafficking issues in northern Thailand. TRAFCORD rescues trafficked persons, provides them with shelters and services, assists with prosecution of traffickers, and raises awareness on human trafficking. It often receives reports from families of victims or the victims themselves. TRAFCORD also coordinates with the Royal Thai Police to address the cross border issues. In 2006, TRAFCORD collaborated with the Thai Embassy in rescuing 7 Thai women from Malaysia.



Anti-Trafficking Coordination Unit  
Northern Thailand

## ➔ Friend of Women Foundation (FOW)

This non-governmental organization has worked on women issues for more than 25 years. It assists women and children in difficult circumstances such as sexual abuse, unwanted pregnancy, domestic violence and sexual exploitation. Legal and social consultations are provided by lawyers, social workers and experienced volunteers. The Foundation works in 4 regions of the country through its branch offices as Central (Bangkok), North (Chiang Mai), Northeast (Mukdaharn) and South (Songkhla).

### Services:

- **Mental rehabilitation**  
Group support for women in order that they can be reintegrated in their communities upon return
- **Education and career support including small gathering**  
Financial support for vocational training, savings for the stability of oneself/family/community
- **Legal assistance**  
Submission of complaints to investigation officers at the police stations, pre-court trial preparation, negotiation with other parties
- **Emergency cases**  
Receipt of incident notifications and emergency cases as well as case referrals to government agencies such as children and family house and Once Stop Crisis Center (OSCC)
- **Multi-disciplinary mechanism development for protecting the rights of women and children**  
Case conference and provision of gender training and consultation techniques training to the multi-disciplinary team in various areas



มูลนิธิเพื่อนหญิง  
FRIEND OF WOMEN FOUNDATION

**➔ Alliance Anti Traffic (AAT)**

AAT is a regional organization that protects women and girls from sexual exploitation and abuse. AAT adopts a regional approach to provide direct services to targeted women and girls that cover the overall protection process (protection, assistance, prevention and repatriation). AAT is a member of the Thai Government-established sub-committee on Anti-Trafficking in Persons of Thailand, which focuses especially on Malaysia and Singapore.

Since 2005, AAT has participated in the development of repatriation and protection mechanisms between Malaysia and the countries of origin. Until 2010, there are 146 cases including cases of foreign victims in Malaysia trafficked by means of false marriage from Thailand, Vietnam, Cambodia, Lao PDR and Myanmar.

AAT engages in actions in Malaysia after regularly finding Vietnamese victims in Thailand that were initially trafficked to Malaysia (they have then entered Thailand from Malaysia). AAT engages in actions in Malaysia to prevent trafficking to its country. AAT intervenes by developing collaboration between the home countries and Malaysia and strengthening mechanisms to protect foreign victims. It also undertakes direct actions to protect victims by setting up a temporary channel. Thus, the said actions permit AAT to:

- set up an Anti-Human Trafficking Task Force with agencies from Malaysia, Thailand and Vietnam,
- set up a temporary channel for case notification, protection and repatriation of Southeast Asian victims,
- develop collaboration and a more official system for protection and repatriation of Thai and Vietnamese victims, and
- broaden the network and permit other organizations to work directly in Malaysia on their own cases.

Initially, AAT was created by AFESIP Vietnam and AFESIP Thailand of which programs have been integrated into AAT.



**International Justice Mission (IJM)**



IJM is a US-based Christian non-profit human rights organization that operates in countries all over the world to rescue victims of individual human rights abuse and to combat human trafficking, forced labor slavery, illegal detention, unprosecuted rape, police brutality and illegal land seizure.- Its offices in Southeast Asia (Thailand, Cambodia and the Philippines) focus on casework and work on the frontlines to rescue and assist victims of sexual violence, including trafficked women and children. Specifically, the organization conducts undercover investigation and works with local authorities to rescue trafficked persons and pursue prosecution of the traffickers.-



93  
94

**The Bureau of Anti-Trafficking in Women and Children (BATWC), Ministry of Social Development and Human Security (MSDHS), Thailand and the Reception Shelter, Songkla**



Upon receipt of the notification from the Thai Embassy in Kuala Lumpur about the case of Thai national who will be repatriated to Thailand, the BATWC will coordinate with the nearest shelter in the border area in Songkhla where repatriation will take place in order to prepare temporary accommodation for the returnee who has been identified as a trafficking victim. Furthermore, the victim identification process will be carried out at the border after the returnee has crossed over to the Thai territory. The person identified as victim will be transferred to a shelter and receive any necessary services (medical, counseling, etc) before she/he returns home. If the person has been identified as non-victim, she/he is free to return home so wishes.



<sup>93</sup> “International Justice Mission,” 2007 <[http://en.wikipedia.org/wiki/International\\_Justice\\_Mission](http://en.wikipedia.org/wiki/International_Justice_Mission)>

<sup>94</sup> International Justice Mission, “Where We Work—Southeast Asia,” 2008 <<http://www.ijm.org/ourwork/southeastasia>>



# **Analysis of Different Channels for Victims Protection and Repatriation**

# Analysis of Different Channels for Victims Protection and Repatriation

Based on the information collected by SOD, concerning 58 women and girls trafficked into Malaysia and Singapore for sexual exploitation prior to the promulgation of the Malaysian Anti-Trafficking Act and other 79 cases after the enforcement of the Act, we could identify the means, processes and developments that the victims underwent and group them into 4 specific channels, under which these cases were classified.

The 4 channels are:

- Channel 1: Recognition: No system/mechanism
- Channel 2: First action: Establishing a temporary system
- Channel 3: Building a more “systematic” temporary system
- Channel 4: Official system adopted by the Malaysian Government *after the promulgation of the Anti-Trafficking in Persons Act of Malaysia*

## **CHANNEL 1: RECOGNITION: NO SYSTEM/MECHANISM**

### ***Case 1: First Vietnamese cases of the victims trafficked into Malaysia and found in Thailand***

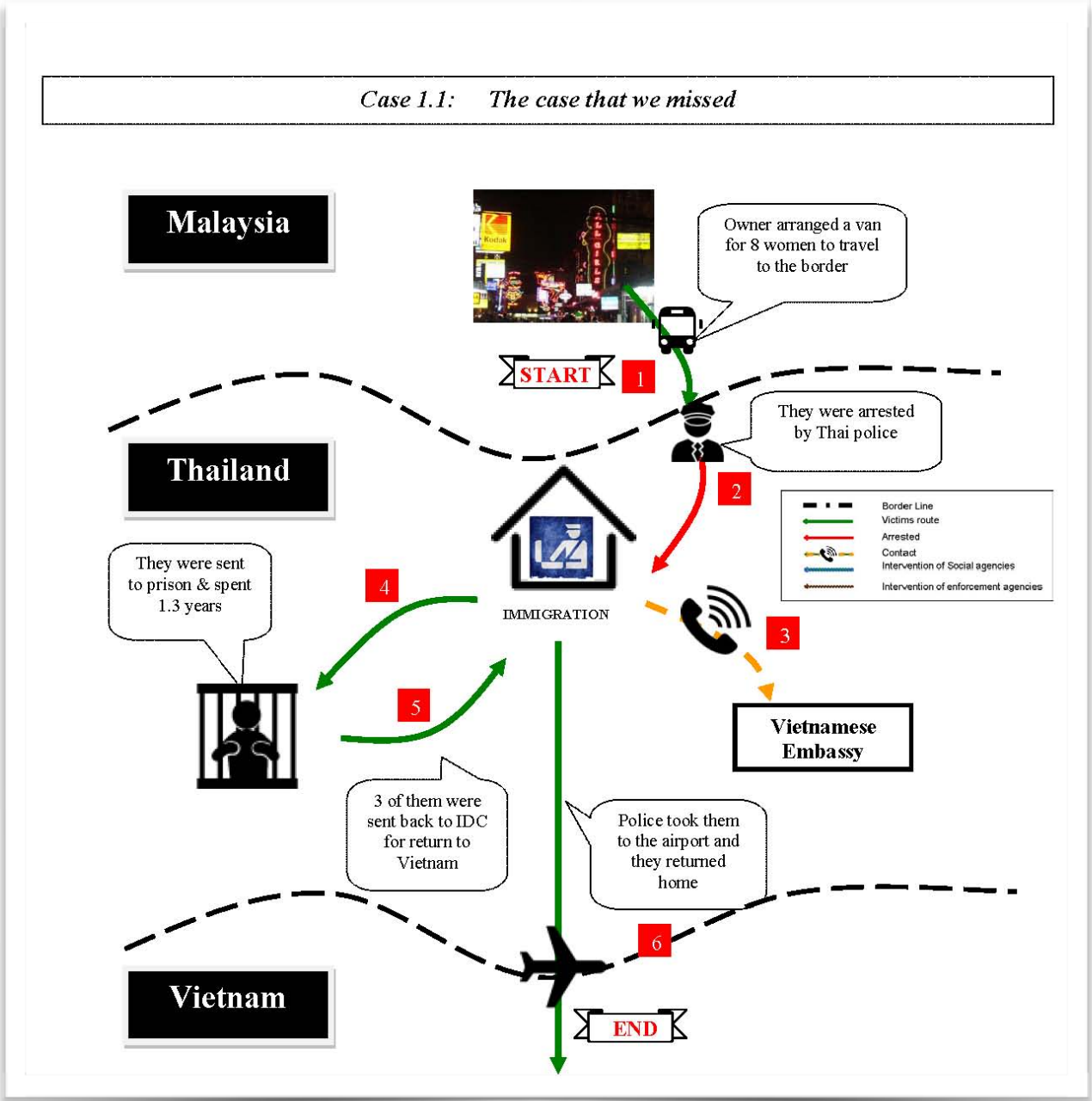
Having paid off their debts, 8 Vietnamese women begged the owner of the brothel in Johor Bahru, Malaysia to allow them to return homes. The owner thus arranged for them a van and a driver but they had to pay the trafficker for this arrangement. The driver took the women to the Thai-Malaysian Border (Su-ngai Kolok).

Upon arrival in Thai soil, the 8 Vietnamese were arrested as illegal immigrants and detained at Su-ngai Kolok immigration detention center (IDC). The immigration officers later contacted the Vietnamese Embassy in Bangkok but received no response. All 8 women then were sentenced to imprisonment of 1 year and 3 months in Songkhla prison.

*Note 1: We were informed by 2 women that there had been a woman visiting them at the immigration detention center in Su-ngai Kolok and the prison in Songkhla. The woman said that she was sent by the trafficker in Phnom Penh who had made fake passports for them and sent them to Malaysia. She offered them advanced money to pay their bails and plane tickets to Vietnam. Based on this experience, we could conclude that the network of traffickers is very well regionally organized. They follow the victims even after their release.*

Case 1.1: The Case we missed

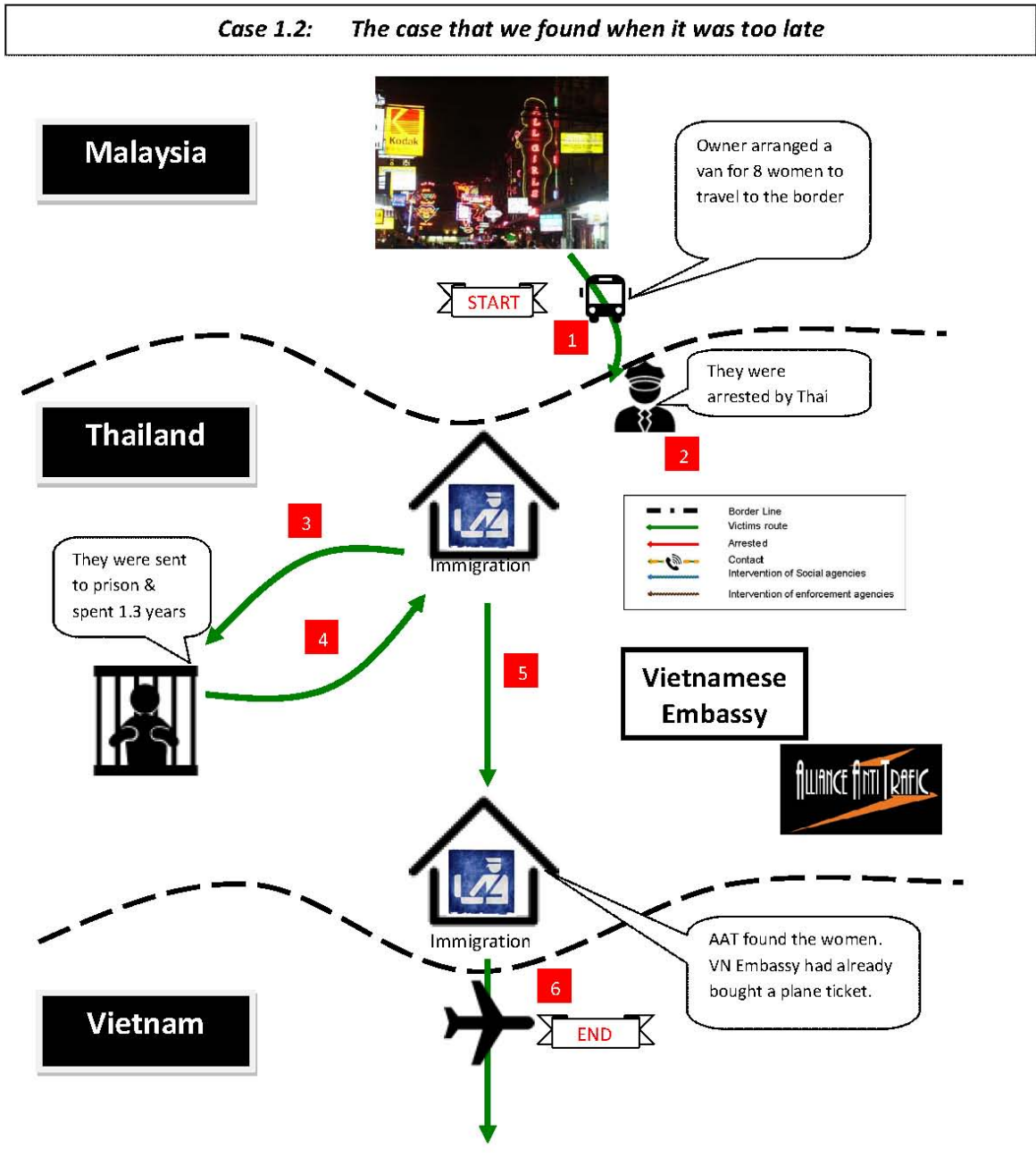
Out of these women, 3 were released (before we reached them) and sent to Su-ngai Kolok immigration detention center. Afterwards, they were transported to the airport for their return to Vietnam.





**Case 1.2: The Case we found when it was too late**

Another Vietnamese woman was released and sent to Su-ngai Kolok immigration office before transferred to the Bangkok Immigration Detention Center (where we found her). As the Embassy of Vietnam had already bought her a plane ticket, she directly flew back to Vietnam. The Vietnamese Embassy contacted AAT to assist the Vietnamese women who were detained in Songkhla women’s prison. AAT thus visited the prison in order to interview the women. We found them all to be victims of trafficking.



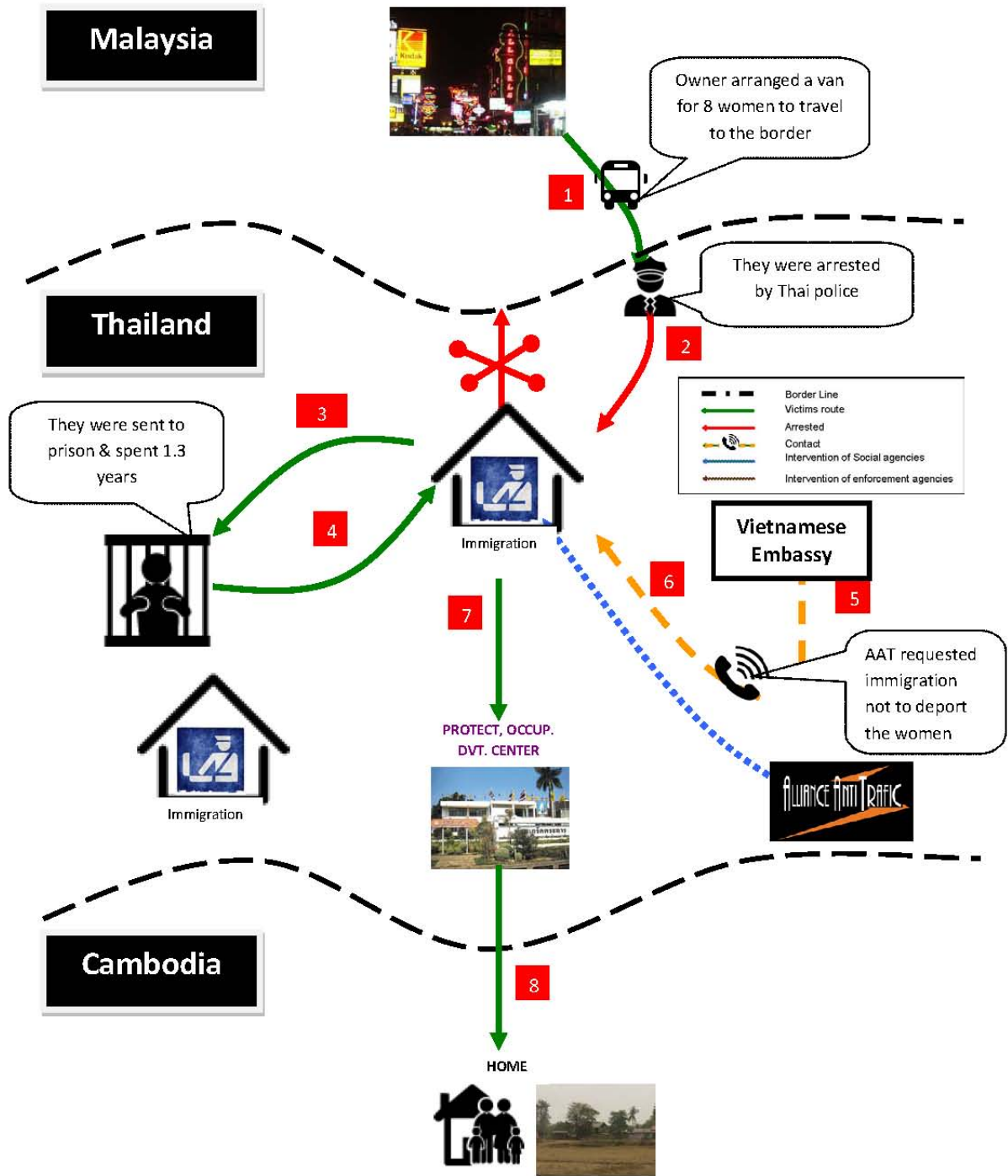
### ***Case 1.3: The emergency case fully under the care of NGOs***

One woman was very soon to be released and sent to the nearest border area (Su-ngai Kolok). Therefore, she could be at high risk of being re-trafficked. On this ground, AAT coordinated with Su-ngai Kolok immigration office and requested that she was not deported. Later on, AAT picked her up at the Su-ngai Kolok immigration office and referred her to Kredtrakarn Protection and Occupational Development Center (KTC).

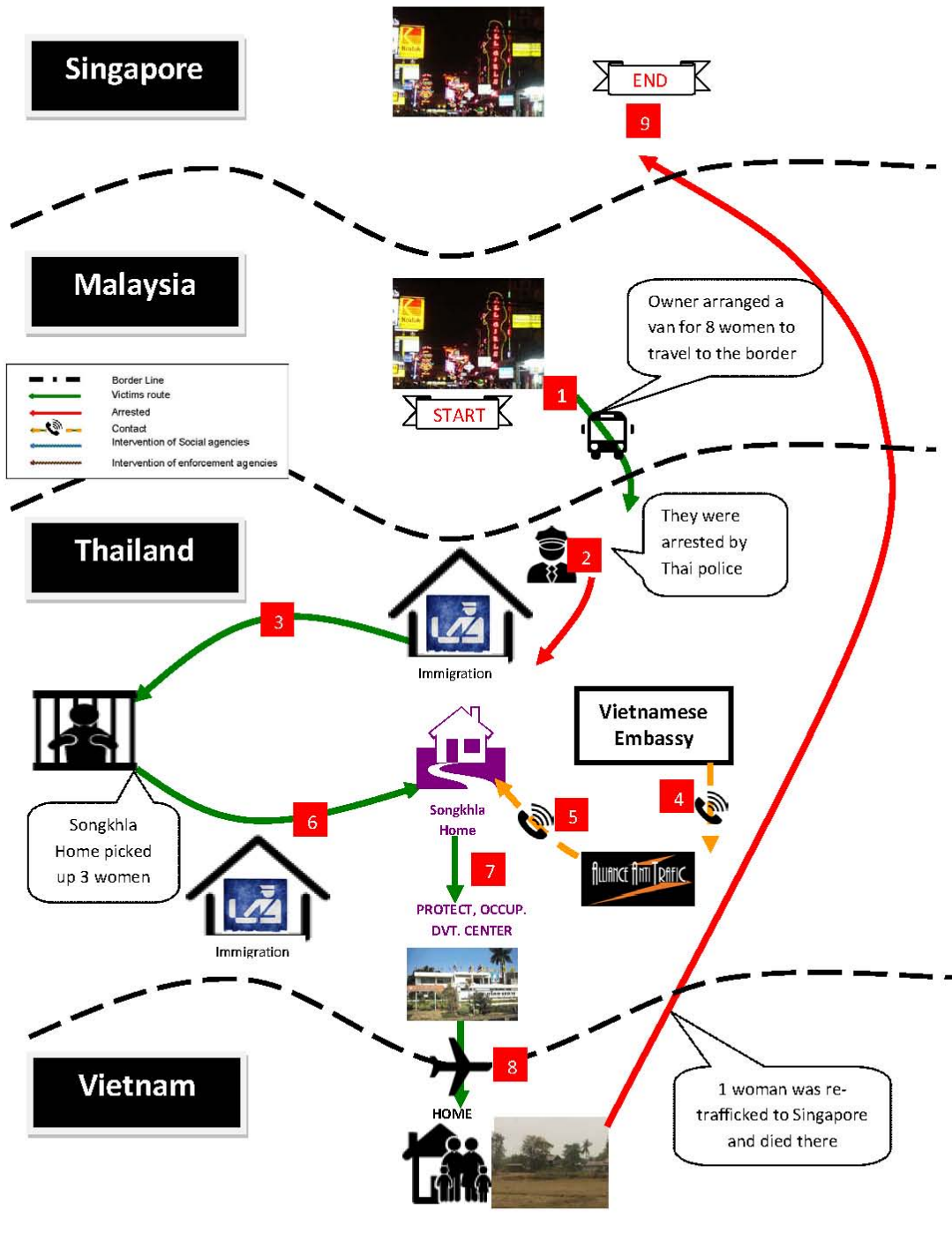
After 3 years in Kredtrakarn Center and with readiness for repatriation, she was repatriated to Cambodia to reunite with her family (she was of Vietnamese origin living in Cambodia).

*Note II: When we contacted her mother regarding repatriation procedure, we were informed that someone had approached her several times for money to pay for her daughter's expenses in Thailand. This reveals that firstly the trafficker was following the situation and location of the victim after her release from the brothel. Secondly, the trafficker took advantage of such situation to request money from the mother.*

**Case 1.3: Emergency case fully under the care of NGO**



**Case 1.4: The case with first participation of relevant government agencies**



### ***Case 1.4: The case with first participation of relevant governmental agencies***

According to the notification from the Vietnamese Embassy, there were 3 Vietnamese women remained in Songkhla prison. AAT was informed about their upcoming release and so contacted the Songkhla Children and Family Home (a government shelter officially responsible for victims of trafficking) to pick them up and place them in the shelter for protection. Afterwards, the victims were transferred to Kredtrakarn Center to proceed for repatriation.

Having spent some time in Kredtrakarn Center, 3 of them were repatriated to Vietnam. Unfortunately, one of them was re-trafficked to Singapore and died. The story was that she returned to prostitution in Singapore and fell off the 11<sup>th</sup> floor of a building in 2006 while she was trying to escape from a customer.

*Note III: During her stay in Thailand, we contacted her mother who told us that someone had come to her house to talk about her daughter's debt and requested her to pay off. The mother was assaulted because she could not afford to pay such high amount of money.*

*Note IV: After her death, we organized a trip for the mother to collect her ashes in Singapore. The mother and AAT Regional Vietnam received a phone threat from Singapore the day before the departure.*

Remark on *the Vietnamese found in Su-ngai Kolok*: With regard to the first case, there absent an intervention from any party (neither the Malaysian nor the Thai side). All victims were considered as illegal immigrants and sent to the prison. The first 4 women (cases 1.1. and 1.2) had to help themselves and were deported to their country without any protection, care and security. Critically, they encountered the risk of being re-trafficked and we have not heard from them since.

As for the fifth woman (case 1.3), owing to NGO intervention, she could access the protection and avoid the deportation at the Malaysian border where she would be at risk of re-trafficking. Additionally, because of NGO action, she was integrated in the protection mechanisms of Thailand. However, there was no intervention from government protection agencies.

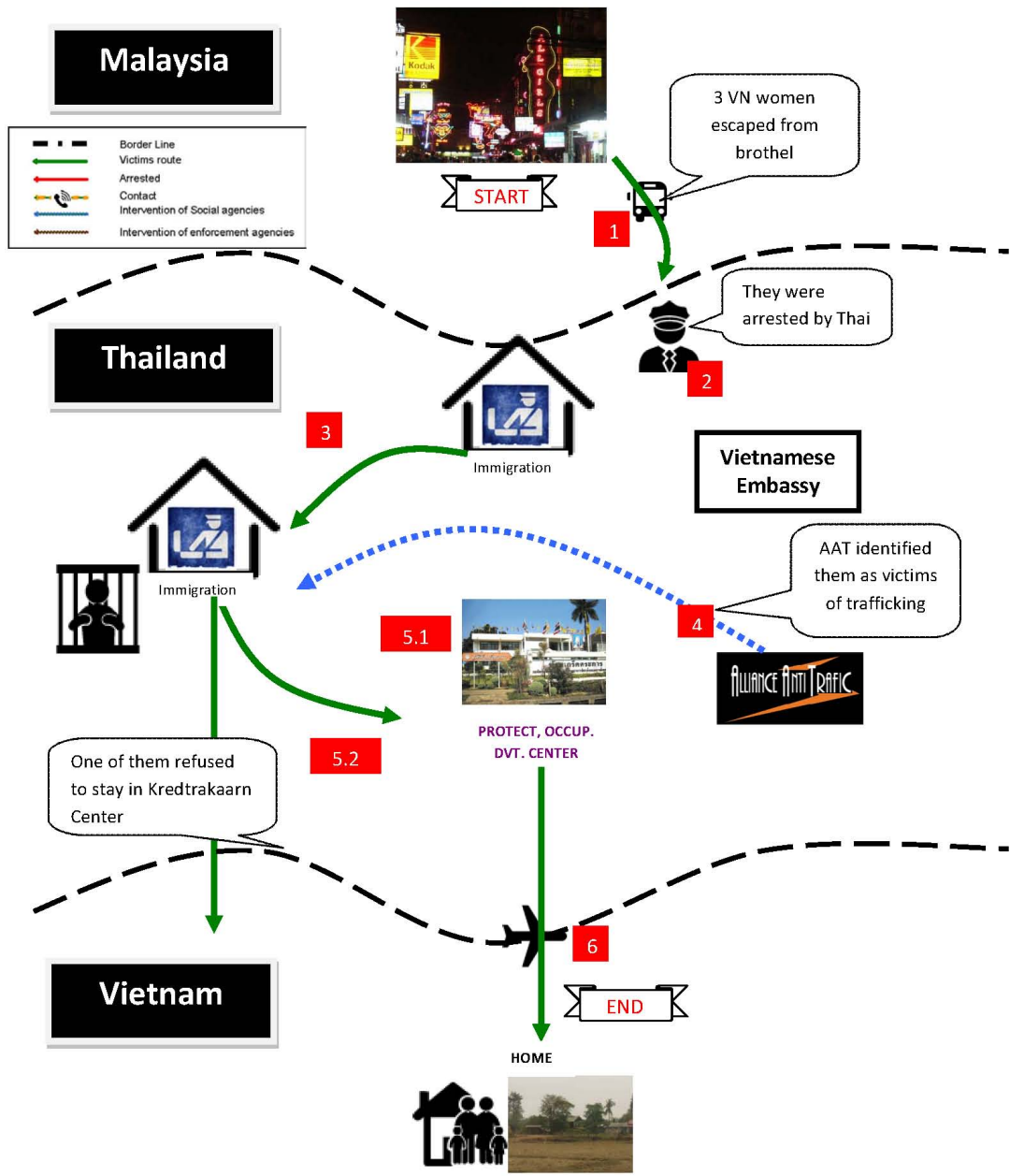
Concerning the last 3 women (case 1.4), again it was due to the action and coordination of an NGO that the victim protection was directly provided by the responsible government agencies upon the release from prison.

By this means of intervention, a mechanism could be initiated for more systematic and sustainable actions. However, the NGO still continued to play the major role by coordinating and linking the responsible organizations to create such mechanism.

**Case 2: Vietnamese fled a brothel to Sadao**

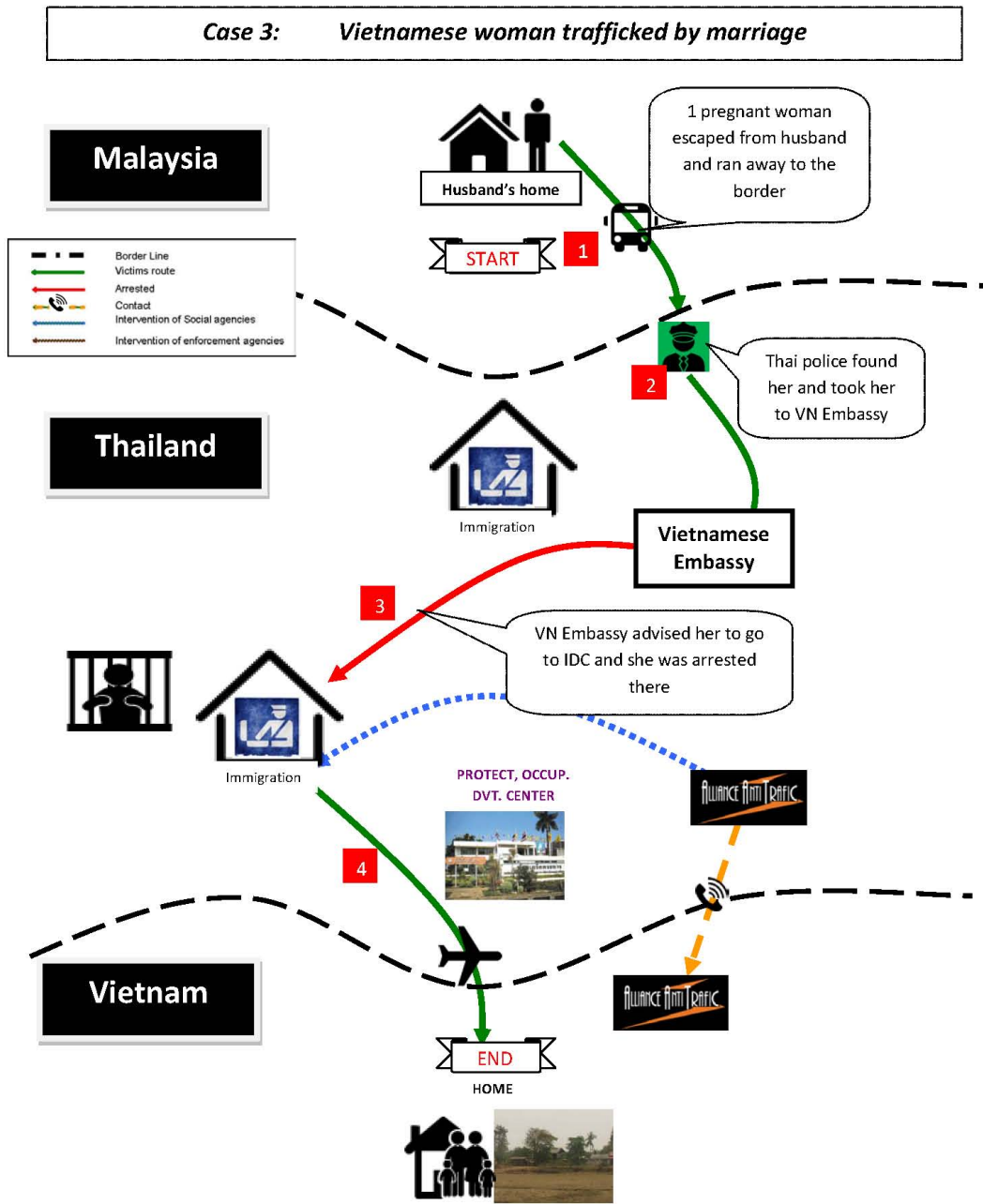
Three Vietnamese women escaped from a brothel in Kuala Lumpur, Malaysia and arrived at the Thai-Malaysian Border in Sadao, Songkhla Province. They were arrested by the Thai police and sent to the immigration detention center. Afterwards, they were transferred to Suan Plu Immigration Detention Center in Bangkok. At the Center, AAT identified the 3 women as victims of trafficking thereafter 2 women were sent to Kredtrakarn Center for protection, rehabilitation and safe repatriation, while the other woman refused to go to the Center and was thus deported.

**Case 2: Vietnamese fled a brothel to Sadao**



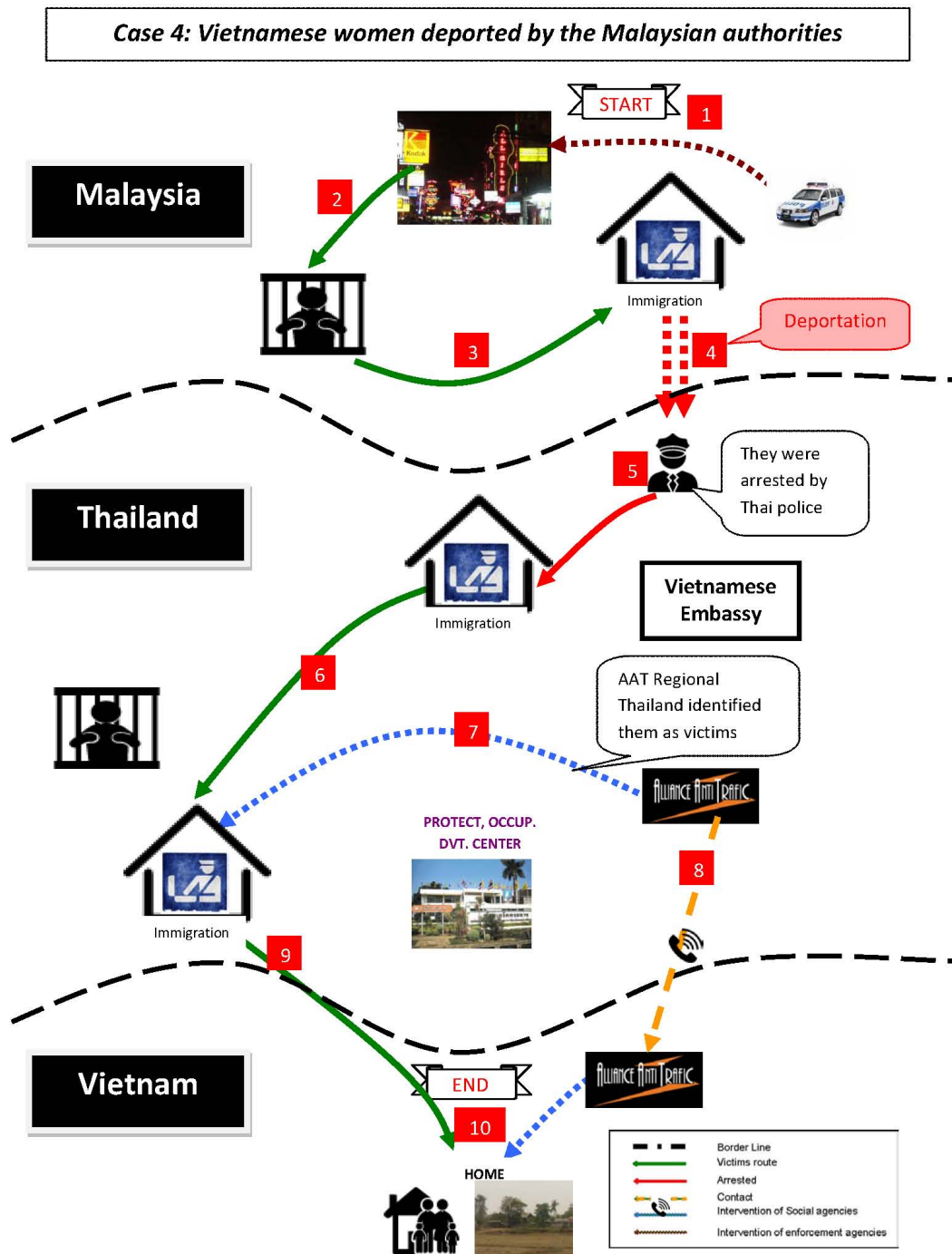
**Case 3:: Vietnamese woman trafficked for marriage**

One Vietnamese pregnant woman married to a Malaysian man escaped from her husband who often assaulted her. She travelled alone to the Thai-Malaysian Border where she was caught by the Thai immigration police in Sadao, Sonkhla Province. Later on, the police drove her to the Vietnamese Embassy in Bangkok which advised her to go to the immigration center in Bangkok. Upon arrival, she however was arrested. AAT with the Thai authorities identified her as a victim of trafficking and assisted her with the return to Vietnam. This was treated as an emergency case due to her pregnancy. In this regard, we coordinated with AAT Regional Vietnam and the Vietnamese authorities to ensure her safe repatriation.



**Case 4: Vietnamese woman deported by the Malaysian Authorities**

The Malaysian police raided a karaoke bar in Malaysia where Vietnamese women were arrested, charged and sentenced to imprisonment. Upon their release from prison, they were delivered to an immigration depot for deportation. The Malaysian immigration officers dropped them off at the Thai-Malaysian Border. When they entered the Thai territory, they were arrested by Sadao immigration police thereafter they were transferred to the immigration detention center in Bangkok. While staying there, AAT intervened by arranging for their repatriation with the collaboration from AAT Regional Vietnam which received them as victims of trafficking.





# Analysis of Working Chanel 1:

Under this channel, there was no protection system/mechanism in Malaysia. Women were not recognized as victims of trafficking and the authorities arrested them as illegal immigrants without any identification. Women had to help themselves, as they were not protected. Safe repatriation did not exist and they were subjected to a high risk of re-trafficking. It should be noted that this was also the case in Thailand where the victims were not recognized and treated as such. In fact, they were treated as offenders and had to stay for a long time in immigration detention centers or jails which are absolutely not the suitable place for victims.

Without NGO interventions to assist the victims, they remain considered as offenders, forsaken and vulnerable to a high risk of re-trafficking.

Channel 1 does not provide victims of trafficking with any protection. Most dreadfully, they are either considered by the authorities of both countries as offenders or not given attention thus causing them vulnerable to a high risk of trafficking. The only protection intervention is initiated by NGO on a case-by-case basis.

General note: We may further see that the networks of traffickers are regional (Vietnam, Cambodia, Thailand, Malaysia and Singapore) and well connected with some authorities. The traffickers usually keep tracks of the victims, including extorting money from their families in exchange of or after their release.

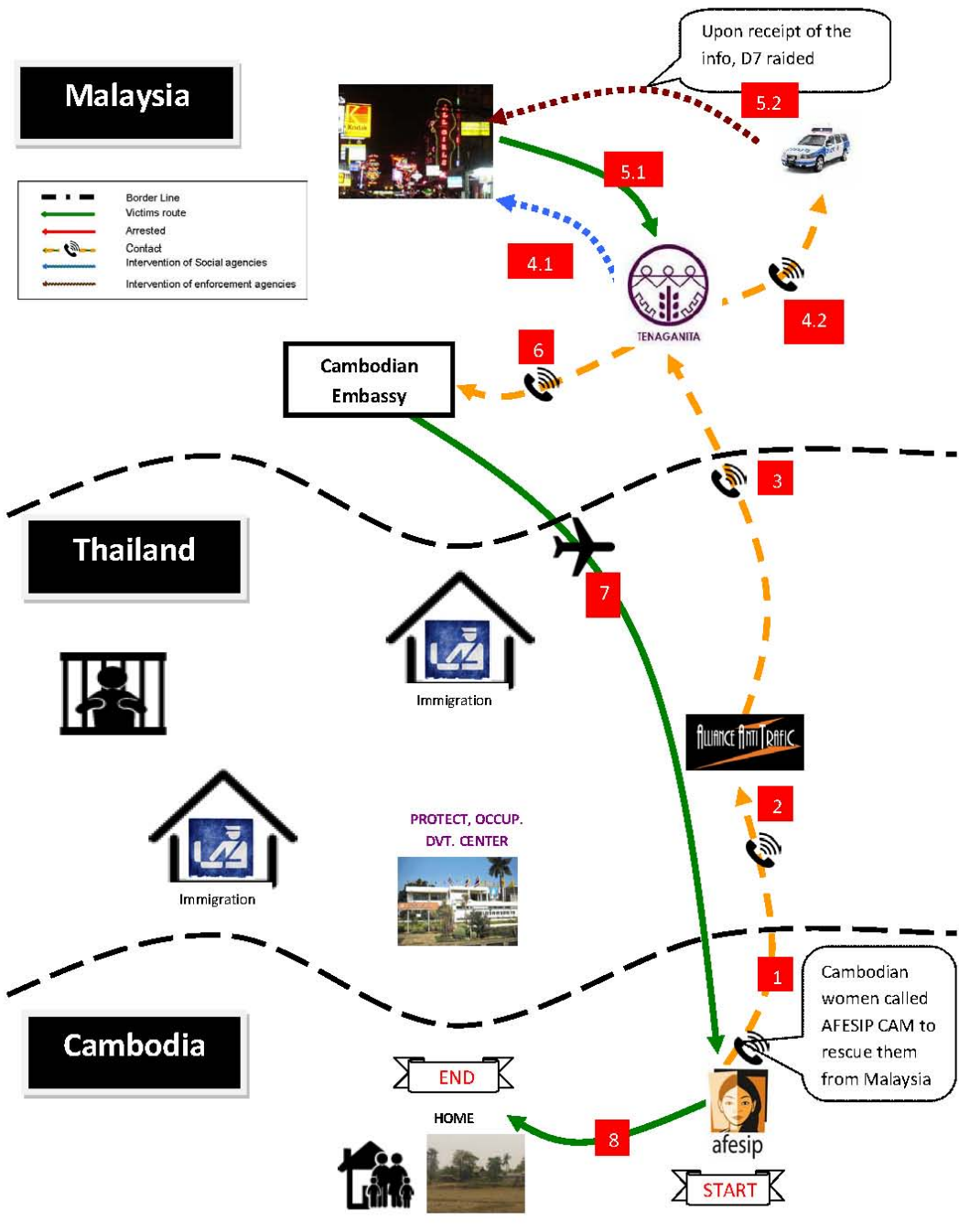
## **CHANNEL 2: RECOGNITION: NO SYSTEM/MECHANISM**

### ***Case 1: Regional NGO collaboration for effective protection of Cambodians***

Two Cambodian women called and asked AFESIP Cambodia to help them out of a brothel in Malaysia. AFESIP Cambodia thus coordinated with AAT which later collaborated with Tenaganita, an NGO in Malaysia, to rescue them. After the rescue, the two women stayed in Tenaganita shelter. The Cambodian Embassy was approached by Tenaganita and arranged for their repatriation in coordination with AFESIP Cambodia.

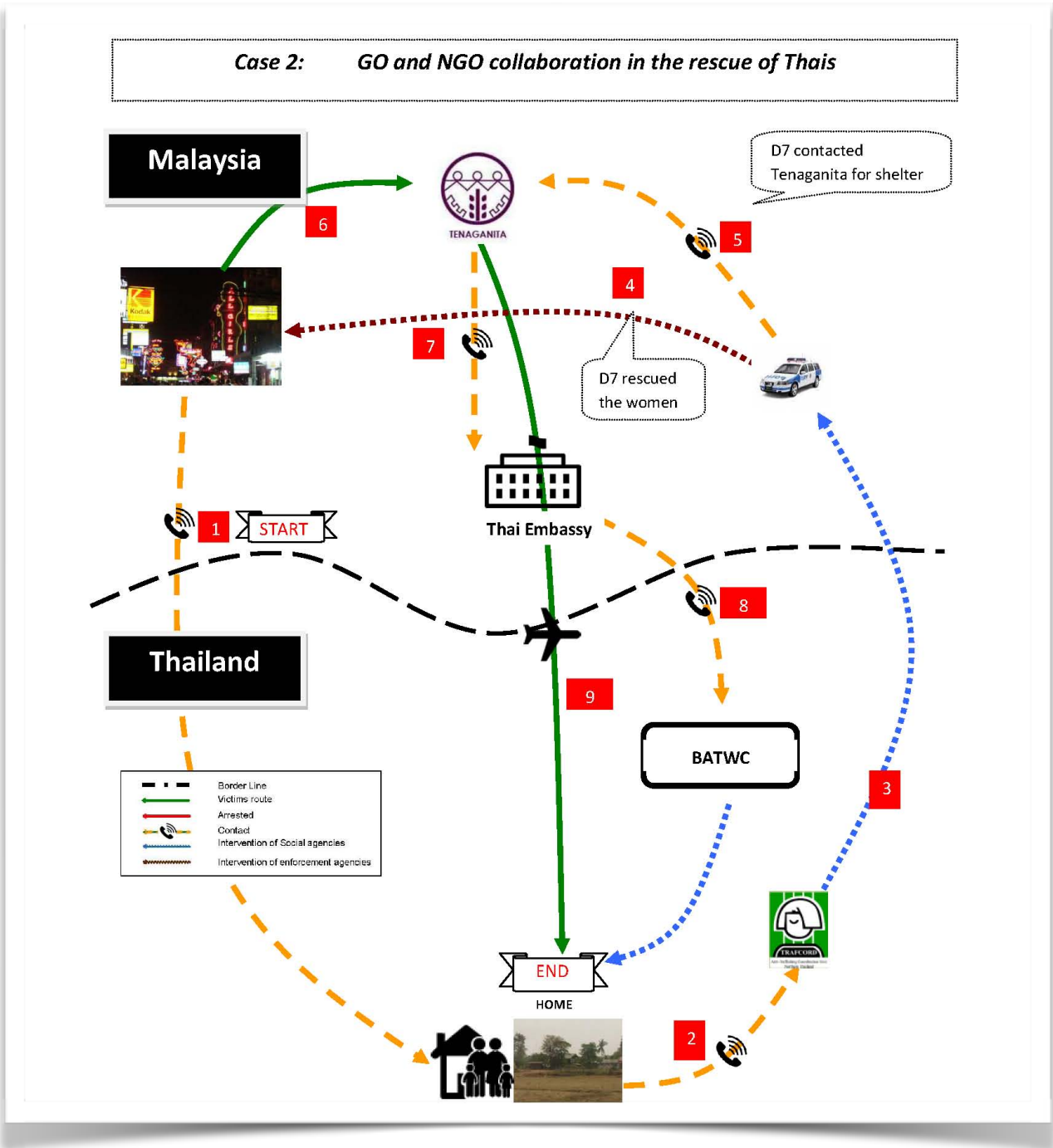
Tenaganita passed on the information regarding the incident to the Royal Malaysian Police D7 (under the Criminal Investigation Division), thereafter the D7 police raided several brothels including the one from which the two Cambodian women had been rescued.

**Case 1: Regional NGO collaboration for effective protection of Cambodians**



**Case 2: GO and NGO collaboration in the rescue of Thais**

A Thai woman who was confined in a brothel in Malaysia called her family in Thailand for help. The family then approached TRAFCORD (Anti-Trafficking Coordination Unit in Northern Thailand) for assistance. Accordingly, TRAFCORD went to Malaysia and requested the D7 police to rescue the 7 women in concern, thereafter the D7 police raided the brothel and successfully rescued them. TRAFCORD further requested the D7 police to contact Tenaganita to provide a shelter for these women. In addition, Tenaganita informed the Thai Embassy which later collaborated with BATWC in the arrangement of repatriation for the 7 women.



## Analysis of Working Chanel 2:

NGOs have gradually created a temporary system to protect foreign victims of trafficking. They have made efforts to engage government agencies in the process as much as possible. As evident, NGOs from the original and transit countries coordinated with a Malaysian NGO in order to protect the victims. Moreover, collaboration with the Malaysian police was undertaken for further protection and suppression operations, thereby leading to successful protection of the victims who were under the care of NGOs. However, due to the lack of recognition of victims of trafficking, officially protective measures as well as victim identification system in Malaysia, we do not know and cannot be certain whether the other foreign victims found together with our victims were similarly considered as victims of trafficking and provided with protection, or whether they were arrested and detained as illegal immigrants. Therefore, when applying this temporary system, we on one hand are able to protect our victims but, on the other hand, we might more likely put other victims in a risky situation as they could be considered illegal immigrants and detained accordingly, followed by deportation at the Thai-Malaysian Border facing the risk to be re-trafficked upon reaching the no man's land.

Compared to Channel 1, some victims were protected by the channel 2 starting from the Malaysian side. Nevertheless, these are very few exceptional cases and again all efforts and actions were initiated by NGOs.

The channel 2 is not sustainable from a long term perspective. The impact is also very limited. In fact, actions can cover a very few number of cases and simultaneously put more cases at risk rather than helping them.

### **CHANNEL 3: Building A More “Systematic” Temporary System**

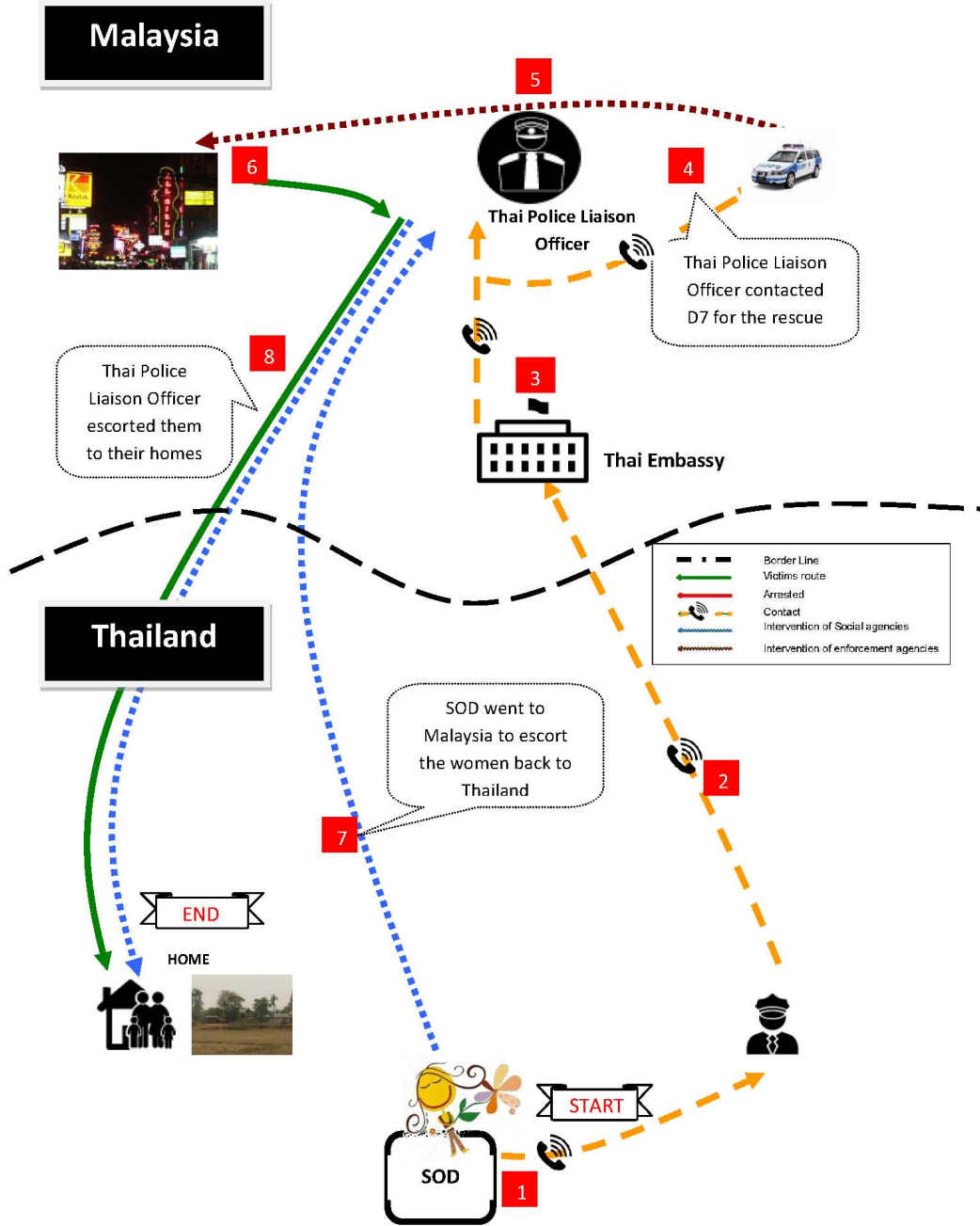
This working channel has emerged, after the formation of the Anti-Trafficking Task Force, with the aim to create a model of protection and repatriation system.

The channel is based on the development of collaboration between the two countries namely Thailand and Malaysia.

#### ***Case 1: Bilateral collaboration of the authorities in rescuing Thai women – I***

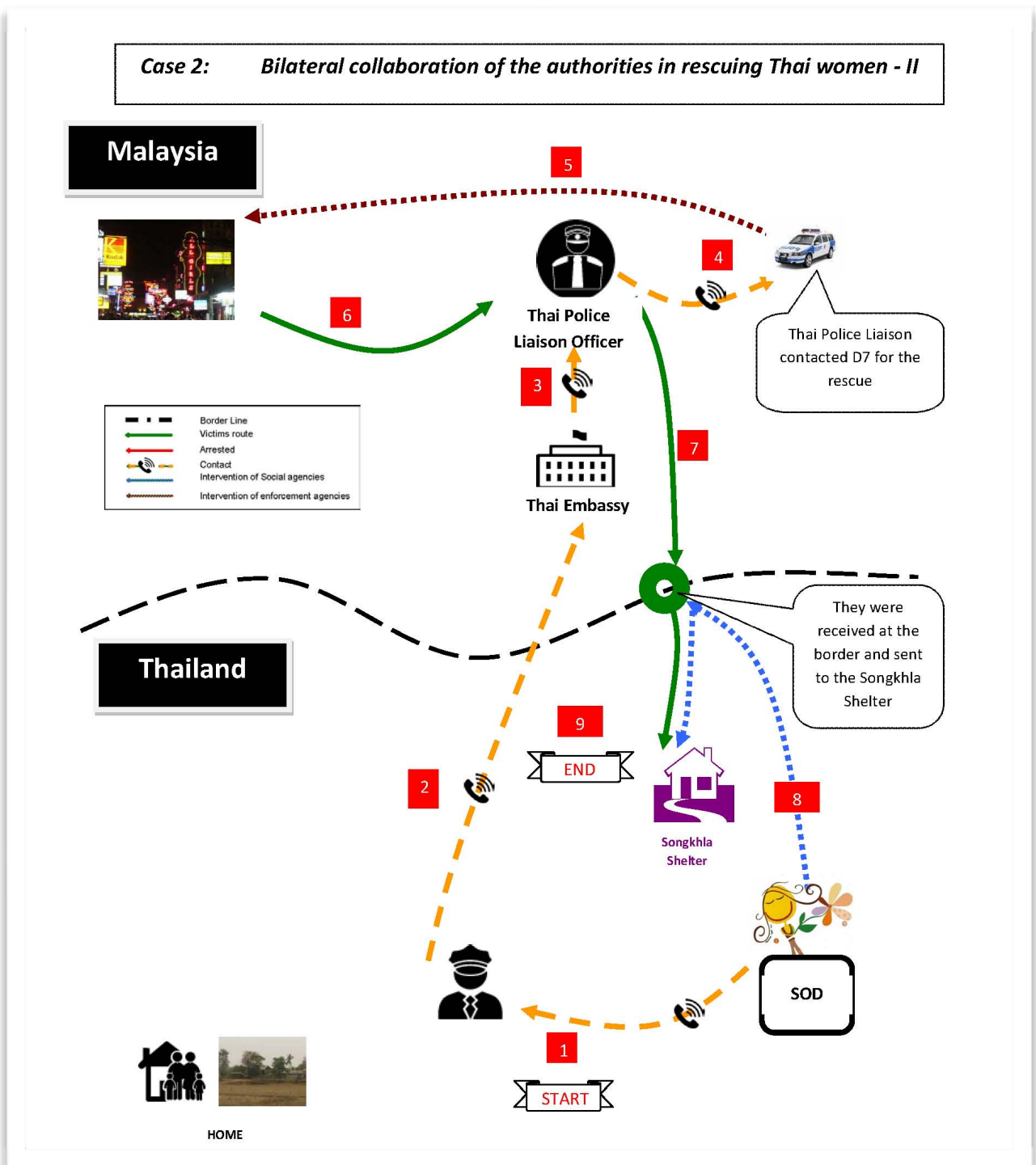
The Royal Thai Police Region 9 (see the Appendix) was requested by Save Our Daughters (SOD) to help Thai women in Malaysia. It thus sought assistance from the Thai Embassy. Afterwards, the Thai Police Liaison Officer in Malaysia was informed by the Embassy and coordinated with the D7 police in planning the rescue process. Upon success of the rescue, the Thai Police Liaison Officer together with the Friends of Women Foundation escorted these women and girls back to Thailand.

**Case 1: Bilateral collaboration of the authorities in rescuing Thai women - I**



**Case 2: Bilateral collaboration of the authorities in rescuing Thai women - II**

The process was similar to case 1. Save Our Daughters (SOD) informed the Royal Thai Police Region 9 about the women being confined in Malaysia, thereafter the Police Region 9 coordinated with the Thai Embassy in Malaysia which subsequently reported to the Thai Police Liaison Officer. The Malaysian D7 police, upon contact by the Thai Police Liaison Officer, rescued the women and handed over the cases to the Thai Police Liaison Officer. Afterwards, SOD was notified by the Thai Police Liaison Officer and, in coordination with other NGOs in Thailand and staff of the Songkhla Family and Children Shelter, arranged for the reception of these women and girls from the Thai Police Liaison Officer at the Thai-Malaysian Border before transferring them to the Shelter. the reception of these women and girls from the Thai Police Liaison Officer at the Thai-Malaysian Border before transferring them to the Shelter.



## Analysis of Working Channel 3:

With the support of NGOs, we have established a higher level “systematic” approach whereby a larger number of victims can be helped with more systematic protection and safer repatriation. For the system to be functional, it requires 3 conditions. First, there must be the understanding and willingness of the D7 police. Despite that the police have no mandates and the Government does not recognize the problem of trafficking, the D7 police were generous enough to take actions. Second, the system works only “on statement”. The Malaysian police requested that we provide a clear statement of the case so that they would be able to rescue and protect the concerned woman as a victim of trafficking. (This means that other foreign cases which might be found in the same brothel with the victim could be considered as illegal immigrants and put in detention.) And third, that implicates that the first action remain from the country of origin side of the victim (Thailand): This implicates that the victim has previously contacted an organization from the country of origin and asked for help.

In the light of the channel 3, there exist gaps due to the fact that the Malaysian authorities remain unofficially engaged in the system, hindering the protection of a higher number of victims. Furthermore, we still work with the process of protecting a certain number of victims that unfortunately puts at risk a higher number who might be arrested and considered as illegal immigrants. Indeed, only the victims whom we have notified the police will be directly considered as victims of trafficking and protected. However, it is unknown whether or not the other foreign victims found together with our victims will also be protected or will be subjected to arrest as illegal immigrants, detained and deported at the Thai-Malaysian Border with the risk of being re-trafficked at the no man’s land.

Lastly, this channel was workable because it merely concerned Thailand and Thai victims and the two countries border on each other. In addition, the Malaysian Government recognized the cases because of the personal relationship that SOD has developed with Malaysian agencies over the past years through a number of meetings, exchange visits and collaboration. Importantly, this channel was effective due to the initiatives and actions carried out by NGOs. On the basis of these certain factors, this channel is not considered either secure or sustainable.

**Remark:** *Supplementary to the channel 3, AAT Regional Vietnam has created a temporary system for the protection and repatriation of Vietnamese victims*

- Case initiated in Malaysia: Tenaganita, a Malaysian NGO, informs AAT Regional Vietnam about a Vietnamese victim having been trafficked to Malaysia.
- Case initiated in Vietnam: Outsider / family / network of Vietnamese communities inform the police who thereafter forward the information to AAT Regional Vietnam

Then:

AAT Regional Vietnam sends the information to the Anti Criminal Division police (C45) of South Vietnam, from which the information is passed on to the immigration police (A18). The immigration verifies the legal status of the victim and returns the case to the Anti Criminal Division which will contact AAT and the Vietnamese Embassy in Malaysia for the purpose of victim protection. Subsequently, AAT informs the Vietnamese Embassy and Tenaganita while at the same time the Embassy officially informs Tenaganita which will coordinate with the D7 police for a rescue. Upon the rescue, the D7 police deliver the victim to Tenaganita which will coordinate with the Vietnamese Embassy regarding the repatriation and notify AAT thereof. Furthermore, Tenaganita confirms the repatriation of the victim with AAT (that will financially support the whole process of repatriation) thereupon AAT will coordinate with the Vietnamese authorities including the local Department of Labor, Invalids and Social Affairs (DOLISA), the Anti Criminal Division and the immigration police as well as the local Women Union in the victim’s community in order to organize her reception. The victim is repatriated by plane with the oversight of the Embassy of Vietnam in Malaysia, AAT, DOLISA, C45 and A18. Once arrives at the airport, the victim is received and sent home by the local Women Union under the supervision of DOLISA.

## **CHANNEL 4: Official System Adopted by the Malaysian Government**

*These cases happened during the time we were conducting this survey, as well as the time after the launch of the Malaysia Anti-Trafficking Act on 28 February 2008.*

### ***Case 1: Disappearance case in Johor Bahru after the intervention***

AAT was informed by Save the Children UK about a case of Chinese women whose whereabouts were unknown but were assumed to be trafficked in Malaysia. AAT contacted Tenaganita in Malaysia which then coordinated with the D7 police.

On 23 March 2008, the D7 police raided an entertainment premise in Johor Bahru. They arrested 57 foreign women, 54 of whom claimed that they were Thais (and 2 others, Indonesian and one Filipina). As such, SOD approached the Police Liaison Officer (Intelligence) at the Thai Embassy in Malaysia regarding the Thai-claimed cases. We however found that there were only 4 women who had genuine Thai passports.

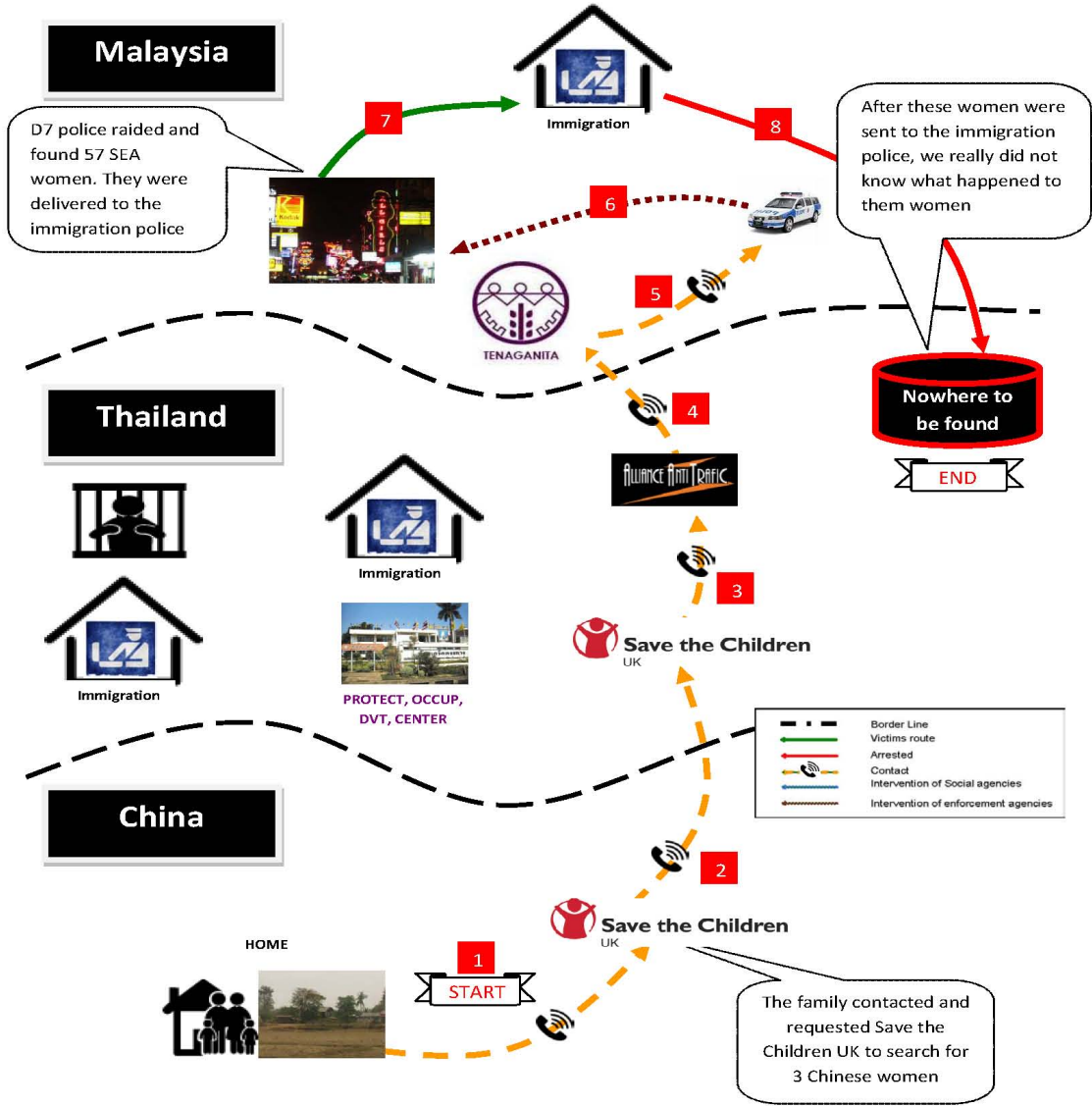
During March and May 2008, we tried to seek precise information from both Thai and Malaysian agencies in Malaysia. We obtained vague answers and, in particular, different information from different Malaysian agencies. SOD hence decided to go to Malaysia to investigate the case and request collaboration from the relevant Thai and Malaysian parties.

On 22 May 2008, SOD visited the D7 and the immigration police headquarters. In the first instance, we were informed that all the women had been sent home. Later on, the immigration police told us that these women were still detained at the Immigration Depot located in Johor Bahru. They further allowed and arranged for us to visit the women at such Immigration Depot.

Nevertheless, the immigration police notified us by phone shortly before the visit that they had deported the women to the Thai-Malaysian Border. Afterwards, we heard no news about these women as we could no longer contact them. Despite the efforts of our network comprising the Thai authorities and NGOs as well as our operations at the Thai-Malaysian Customs and Immigration Depot in Sadao, we were unable to locate the women of concern.



**Case 1: Disappearance case in Johor Bahru after the intervention**



### Case 2: Underage case without proper protection after the coordination

In early September 2008, AAT was requested by BATWC to help a **13-year-old** Thai girl who had been lured into Malaysia for prostitution and was believed to be in Kuala Lumpur. BATWC coordinated with the Thai Embassy in Kuala Lumpur whilst AAT contacted Tenaganita and the Thai Embassy to trace the girl. They also coordinated with the Malaysian police. However, after 3 months investigation, she remained unfound.

On 23 November 2008, the girl called her grandmother in Thailand and said that she was **detained in Semenyih Immigration Depot** near Kuala Lumpur and was **charged of overstaying in the country**. She was detained with adults. She asked for money to buy a plane ticket to Thailand. AAT thus approached the Thai Embassy and BATWC to assist the girl with repatriation. A week later, the Thai Embassy managed to buy a ticket for her to return to Thailand.

On 3 December 2008, BATWC and AAT picked up the girl at the international airport in Thailand and sent her to an appropriate shelter for protection.

#### Remarks:

In this case, we notified the D7 police that we were searching for this girl while in fact she was being detained at an immigration depot of Malaysia. The police failed to inform us in respect of this. More unfortunately, BATWC officially informed the Malaysian authorities (“on statement” as in the channel 3) that this girl (aged 13) was a victim of trafficking and requested for her protection. However, no protection was provided and had there been no call to her grandmother and no intervention by us she would have been dropped off at the Border as general illegal immigrants and placed at high risk of being re-trafficked.

On the basis of such incident, we may establish two scenarios wherein the gaps in the victim identification process and the lack of collaboration among Malaysian authorities are underlined:

#### Scenario 1

The first scenario is that the girl was already in detention at the time the Malaysian authorities were notified of the case by us:

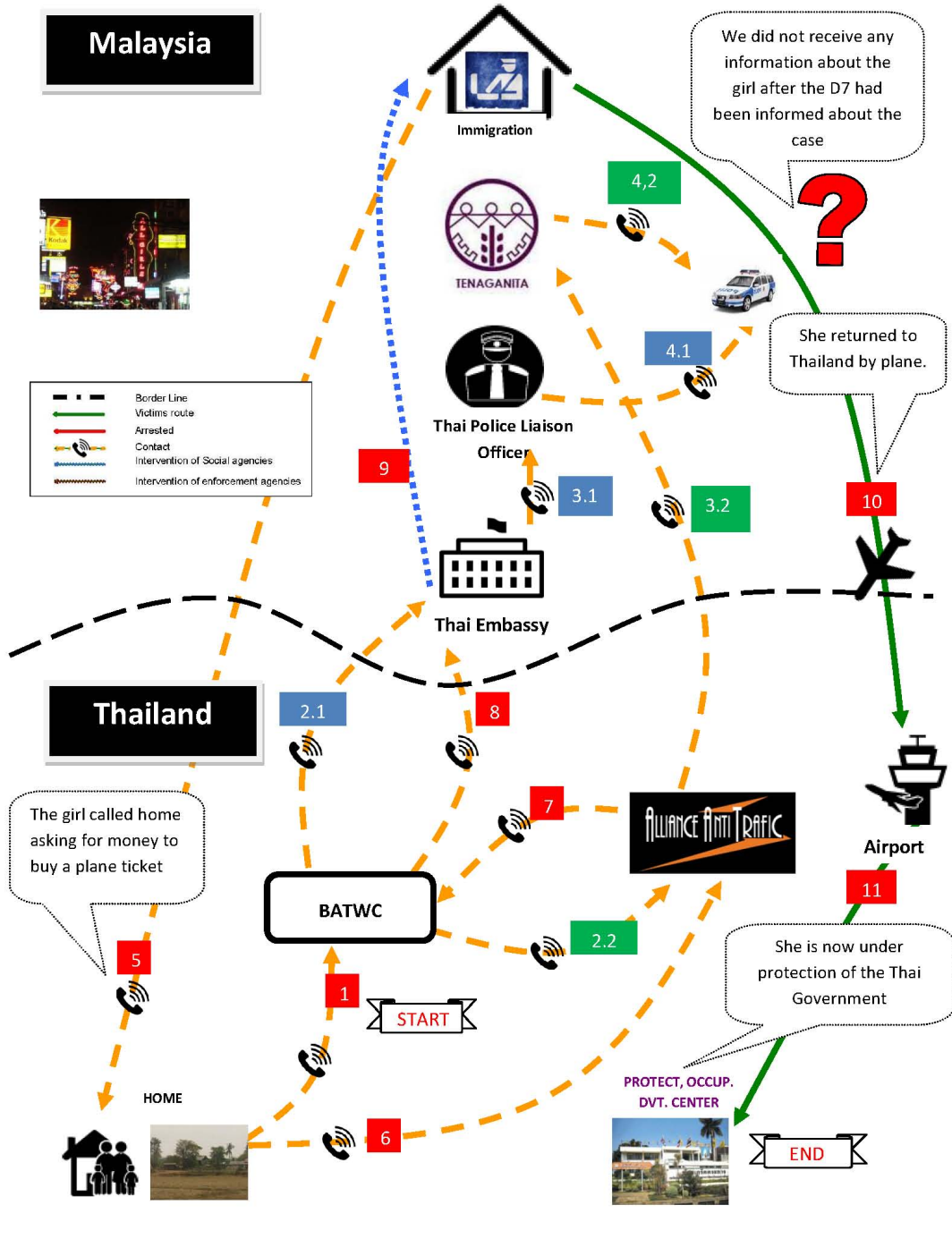
Under such circumstance, the authorities firstly found the girl without knowing that we were looking for her. They conducted the identification process on their own resulting in the determination that she was not a victim in spite of her young age. Regardless of any reason, once the D7 police received our notification, they should have coordinated with all the immigration depots in order to find and protect her from detention.

#### Scenario 2

The second scenario is that the girl was somewhere in Malaysia at the time the Malaysian authorities were notified of the case by us:

Under such circumstance, any law enforcement officer who found the girl should have been aware that we were looking for her. However, whether or not the awareness existed, the officer still failed to determine the girl as a victim despite her young age and the fact that we had notified the Malaysian authorities of her victim status. Remark: the D7 police had been tracing the girl for two months before we informed them that she was being kept in custody at an immigration depot.

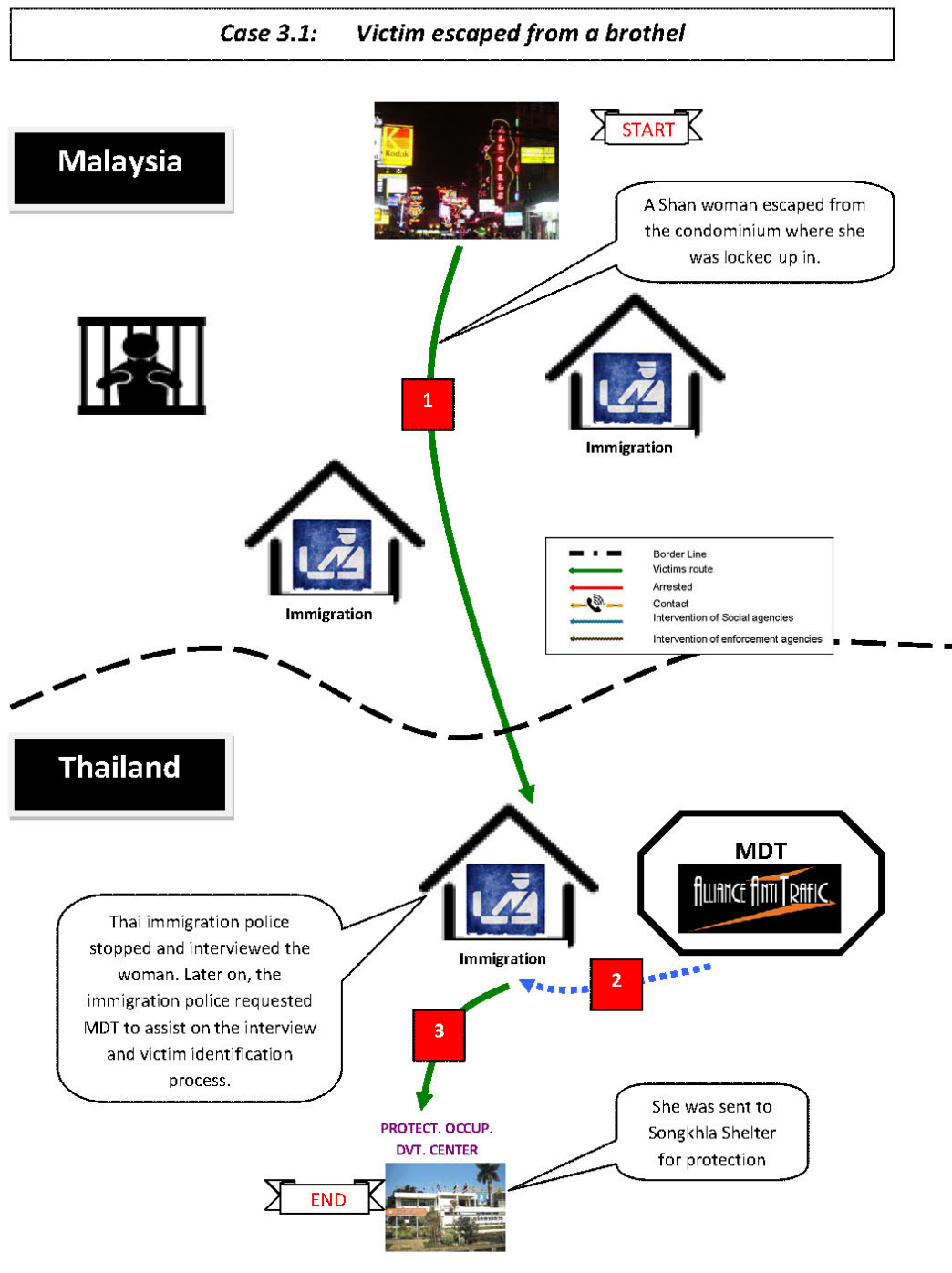
**Case 2: Underage case without proper protection after the coordination**



**Case 3: Unprotected victims**

**Case 3.1: Victim escaped from a brothel**

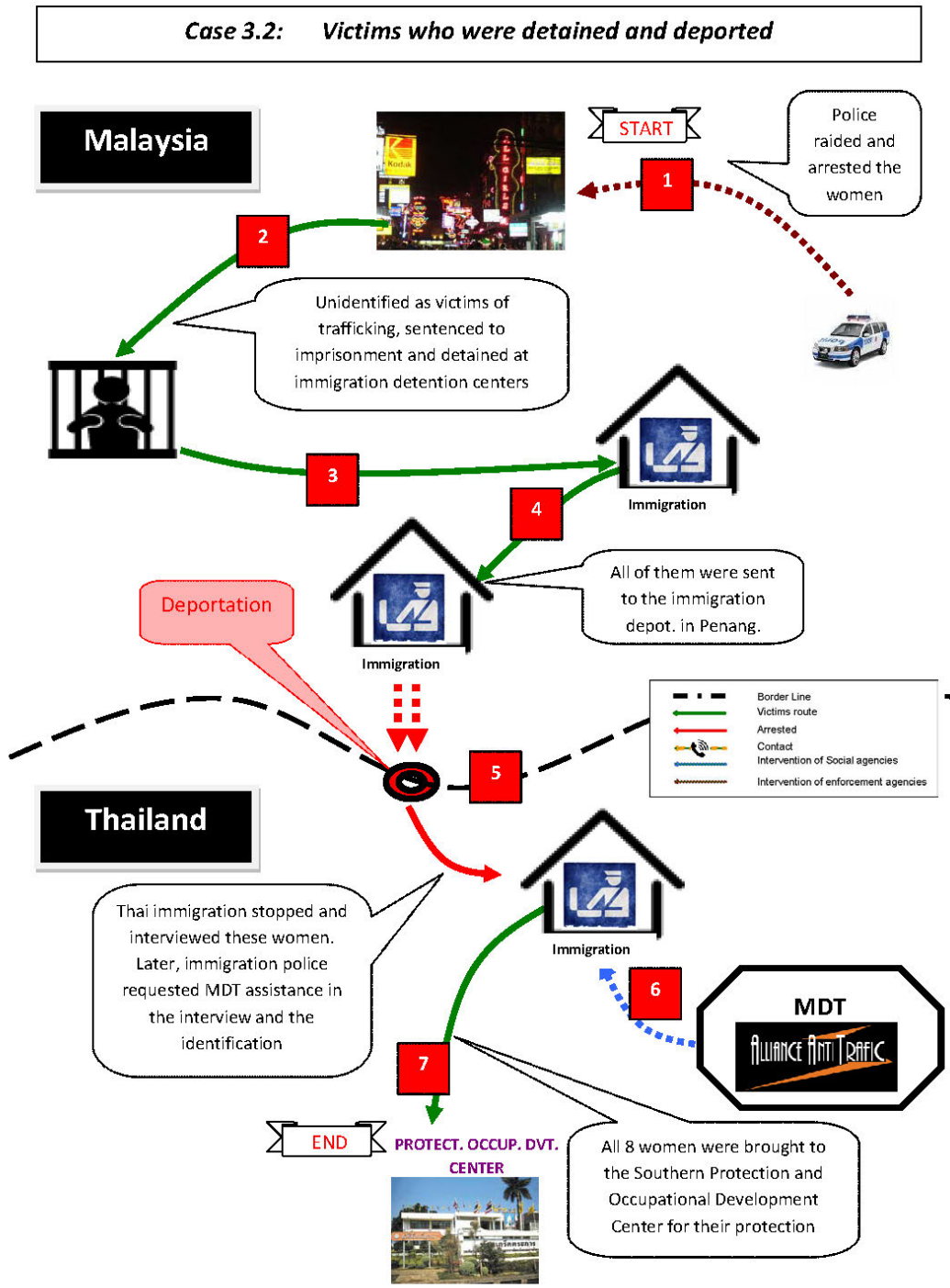
On 29 August 2009, the Thai immigration police at the Thai-Malaysian Border together with AAT and the multi-disciplinary team interviewed a Shan woman (from Myanmar) who was found carrying fake documents at the checkpoint. The team identified this woman as a victim of trafficking (in Malaysia). She escaped from the apartment in Johor Bahru where she had been locked up and managed to travel across Malaysia to the Border. The woman was later transferred to a Thai government-run shelter for further care and repatriation preparation. During the interview, she described her living conditions in a brothel in Johor Bahru as well as providing the information in regard to other girls who remained in confinement in such premise.



*Case 3.2: Victims who were detained and deported*

On 13 November 2009, the Southern Thai immigration police together with the multi-disciplinary team of Songkhla Province interviewed 8 Shan women who had been deported from Malaysia. The team found all of them to be victims of human trafficking (in Malaysia). Upon completion of the interview process, we learned that these 8 Shan victims were in the same trafficking ring as case 3.1.

Among the 8 women, 6 were lured from the Myanmar side of the border between Myanmar and Thailand and sent via Thailand to Johor Bahru in Malaysia. The other 2 women were from the Northern part of Thailand. They were induced to go to work in Malaysia but ended up in forced prostitution in Johor Bahru. According to their statements, the police raided their workplace and arrested them. They somehow were not identified as victims of trafficking. They further stated that they had been prosecuted in a court, without an interpreter and unable to communicate in either Malay or English language. Finally, these women had been sentenced to imprisonment and subsequently detained at an immigration detention depot for approximately 5 months before being transferred to Juru Illegal Immigrants Depot in Penang where they were later released to the Thai immigration. Since the Thai immigration police suspected them to be victims of trafficking, the multi-disciplinary team (MDT) was sought for assistance. All 8 women, identified as trafficking victims (in Malaysia), were sent to a Thai protection shelter for rehabilitation, care and preparation for repatriation.



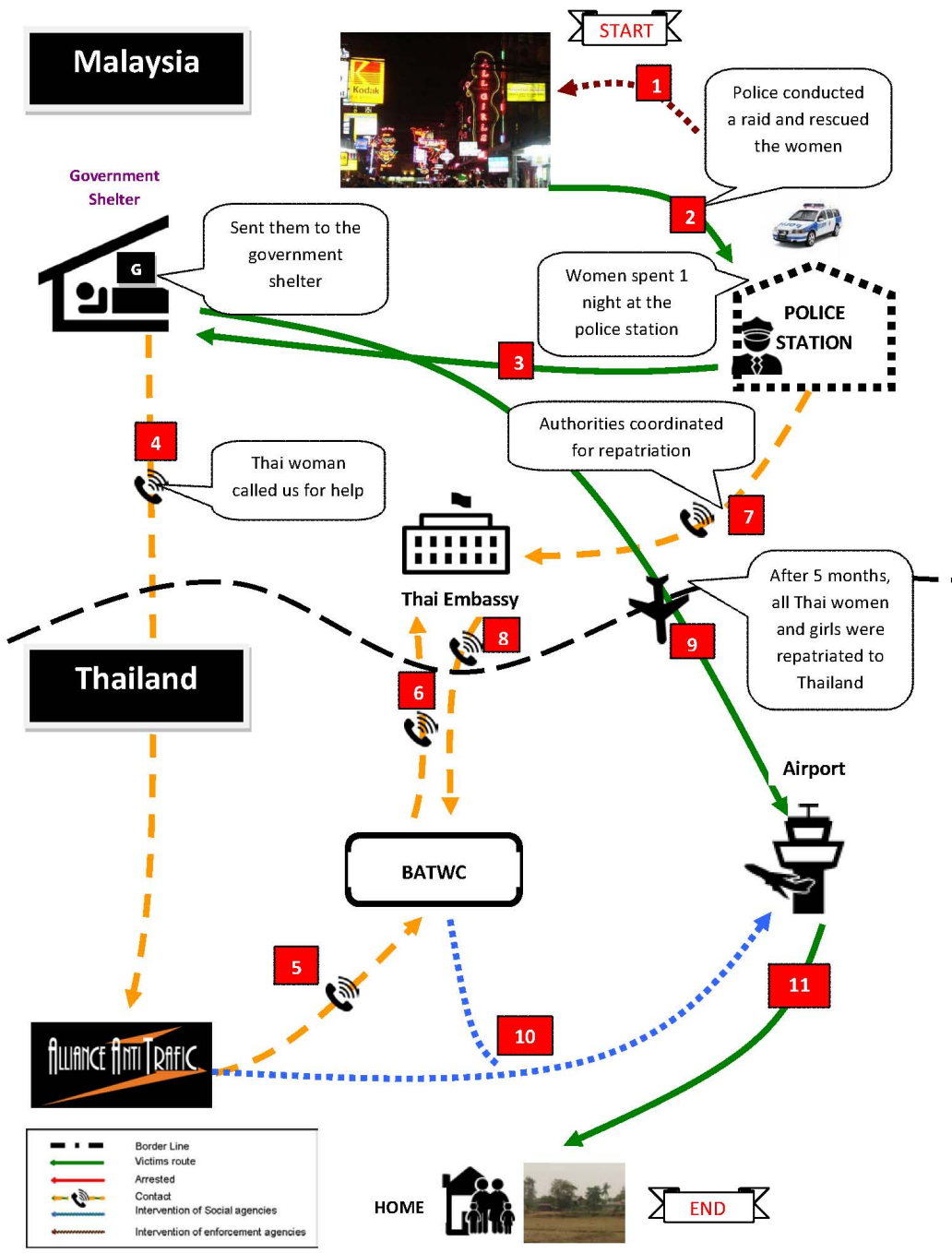
**Case 4: *Victims protected in a government shelter***

In early December 2009, AAT received a phone call from a Thai woman who was staying in a government shelter in Kuala Lumpur, Malaysia. She informed us that there were other 14 Thai women including girls in the shelter and requested that we contact the Thai authorities to help them. We thus contacted the relevant authorities.

These women had been lured into prostitution in Kuala Lumpur where they were fully controlled by the traffickers. On 19 November 2009, the Malaysian law enforcement officers raided the workplace and rescued them. The victims informed us that the police had placed them in a government protection shelter on the day following the rescue in accordance with the Anti-Trafficking Act. They further stated that after 14 days in the shelter they were permitted to use the telephone (once a week for each person). The women then called us regularly for assistance as they believed that they were staying in a juvenile delinquency center and wanted to go home. They described the living conditions as uncomfortable with no activity. As a result, we contacted BATWC to inform them about the case for further required actions.

In mid April 2010, upon completion of 5 months during which these victims served as witnesses, they were repatriated to Thailand. The Malaysian authorities notified the Embassy of Thailand to coordinate with BATWC for the reception of the victims. We and BATWC finally picked them up at the international airport.

**Case 4: Victims protected in a government shelter**





## Analysis of Working Chanel 4:

Experience from the cases under the channel 4 (the official channel of Malaysia) reveals that the victims were not provided with any form of protection as they were not considered to be victims of trafficking. Exception is made only for “case 4” where the victims were protected by the Malaysian Government.

Such absence of protection as mentioned above may be explained by the fact that, after the actions taken by ATIP, the Malaysian authorities wholly handled all the cases without giving opportunities to NGOs to provide assistance or agencies of the countries of origin (such as embassies) to participate actively in the victim identification process, except for administrative tasks. Identification of victims was delegated to the law enforcement officers with no presence of representatives from embassies or NGOs. Generally, law enforcement agencies are not the appropriate body to create an encouraging social environment for victims to participate. In fact, this should be the duty of social workers or psychologists. Additionally, we were informed by our victims that they had stayed overnight at the police station prior to the transfer to a shelter. Such treatment is rather applied to the alleged offenders than the persons suspected to be victims of trafficking and does not in any way encourage the victims to collaborate.

Under this channel, victims whose countries of origin request the Malaysian authorities for assistance are not systematically protected, as seen in channel 3. This is due to the fact that the determination of victims of trafficking is restricted merely to the decision of the Malaysian authorities. As such, countries of origin will be hesitant to refer cases to the Malaysian Government for rescue assistance since they cannot be certain whether their citizens will be protected.

Finally, even if the victims received effective protection from the Malaysian Government, it was found still the lack of coordination with the countries of origin at all stages of the process. Furthermore, while staying in the shelters, the victims were not provided with any orientation:

In sum, under channel 4, victims are not protected anymore and we encounter the situation close to that illustrated/explained in channel 1.

# Recommended Mechanisms

Following the lessons learned and experience from our cases as well as the operations in Malaysia, we have developed recommendations for two bilateral mechanisms.

The first mechanism had been jointly designed with Thai and Malaysian agencies before the Anti-Trafficking Act of Malaysia entered into force. Nevertheless, it was only applicable to Thai cases and until the enforcement of the Anti-Trafficking Act of Malaysia on 28 February 2008.

The second mechanism is intended to deal with the new situation emerged after the enforcement of the Anti-Trafficking Act of Malaysia. It is based on our working experience in the cases within the scope of the Anti-Trafficking Act of Malaysia. This mechanism is applicable to any country of origin and can serve as a foundation for the MOU between Malaysia and Thailand, which is currently being drafted.

In addition to the two mechanisms, we have proposed the third mechanism therein addressing our concerns on the draft MOU between Malaysia and Thailand regarding their collaboration in combating Trafficking in Persons that was undertaken during the year 2009.

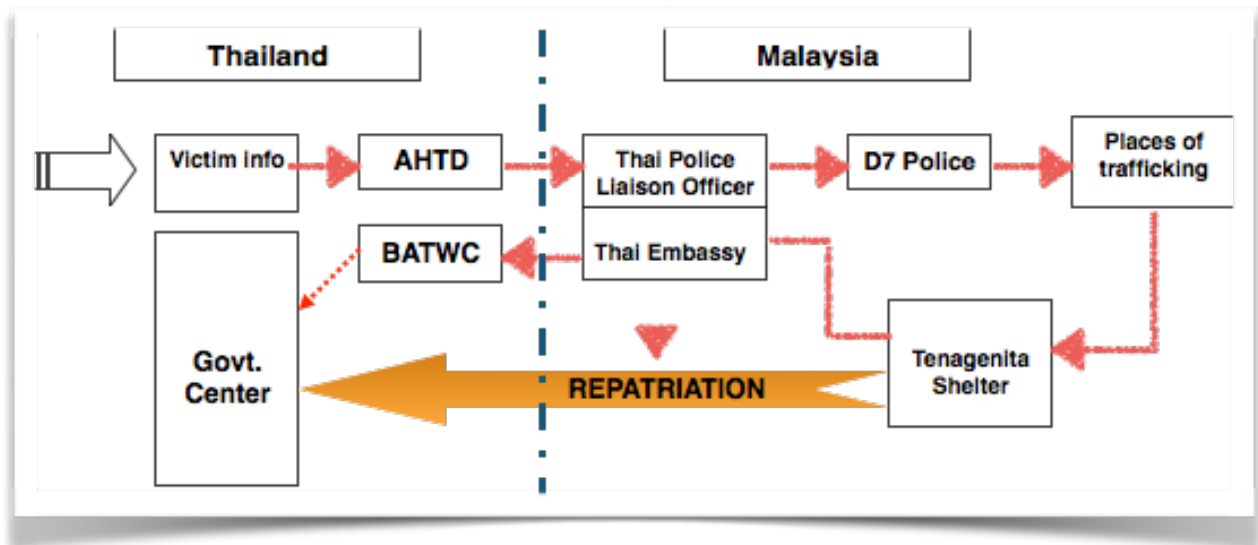


Diagram: Recommended Mechanism (PRE-ANTI-TRAFFICKING ACT)

Note: AHTD = The Anti Human Trafficking Division, the Royal Thai Police and BATWC = The Bureau of Anti-Trafficking in Women and Children, Ministry of Social Development and Human Security (MSDHS)

## 1. Pre-Anti-Trafficking Act of Malaysia

As a result of several meetings between the Thai and Malaysian counterparts, especially the meeting in Had Yai in June 2006 with the Malaysian Royal Police D7, we jointly developed the mechanism as shown below. Such mechanism was meant for temporary use as at that time Malaysia had no specific mechanisms to combat human trafficking. Therefore, it is presently no longer applicable. We employed this mechanism with Thai organizations up to the date the Anti-Trafficking Act of Malaysia was

put in force.

According to the process of this mechanism, information about a victim which was normally received from her or his family, acquaintances or NGOs would be initially given to the Crime against Child Juvenile and Women Suppression Division in Thailand. Subsequently, the information was forwarded to the Consul and the Police Liaison Officer (Intelligence) at the Thai Embassy in Kuala Lumpur who would contact and coordinate with the D7 police to rescue the victim. Led by the D7 unit of the Criminal Investigation Division (CID) of Bukit

Aman, a rescue was carried out and evidence was collected. The process described in this paragraph is illustrated in the Diagram 1 above.

This mechanism emerged after many meetings between the Thai and Malaysian counterparts to clarify their roles and responsibilities with regard to a victim's identification, rescue, protection, involvement in the criminal justice process and repatriation. Being a relatively new mechanism, it was implemented around 2006 and has been to date recognized as the most effective and structured mechanism. However, with the enactment of the 2007 Anti-Trafficking in Persons Act of Malaysia, this mechanism no longer guarantees the safe protection for the victims as their identification solely rests upon the decision of the Malaysian authorities.

Under this first recommended mechanism, the D7 police considered a person to be victim of trafficking on statement (according to the meeting in Had Yai).<sup>95</sup> The D7 police would rescue the victim upon the notification of the Thai Embassy and the victim would undergo the above-illustrated process.

On the contrary, according to the 2007 Anti-Trafficking in Persons Act, a decision stems from the investigation and the intervention of enforcement officers under the consideration of Magistrate. This means that the Thai Embassy should inform the D7 about the whereabouts of a victim. Upon rescue of the victim by the D7 police, the enforcement officer will investigate such person, while staying in a place of refuge for 14 days, in order to ascertain if she/he is a genuine victim of trafficking. Furthermore, the protection officer will enquire into the background of the victim. Once completed, reports will be prepared and the victim will be brought before the Magistrate for determining if she/he is a victim. This process indicates that, whenever we refer a victim for protection, we cannot be certain that the victim will be provided with protection in the end. Accordingly, this mechanism is no longer applicable.

In addition, there exists unclear information concerning the shelter, care and protection.

Finally, in the Anti-Trafficking Act 670, there is no information about the repatriation process such as family tracing, family assessment and repatriation process. Therefore, we understand that after the 3-month stay in the shelter, the victims will be referred to the Immigration Officer to be repatriated according to Immigration Act. In the Immigration Act, there is no special channel for repatriating the victims of trafficking. For all foreign persons they will be deported out of Malaysia. In this process, there is no need and it is not mentioned that the Officers

coordinate with concerned Embassies.

## 2. Post-Anti-Trafficking Act of Malaysia

This mechanism is applicable to any case of human trafficking. It is recommended for the case involving Malaysia as well as any other country in a similar context. So, for the purpose of generalized explication, we will replace the term "Malaysia" with "receiving country" and specifically mention Malaysia wherever it is touched upon.

An appropriate mechanism for the protection of foreign victims of trafficking requires engagement in the overall process of organizations in the home countries of the victims. While a victim is in the receiving country, organizations from both the receiving country and the country of origin must work collaboratively with the equal powers of decision on the identification and throughout the process. The victim must also be involved in the decision-making.

Relevant agencies must work as a multi-disciplinary team (MDT) including social welfare official, law enforcement officer, home country embassy, NGOs (from the original and the receiving country), social worker, psychologist, translator and lawyer from both sides.

Furthermore, another channel of actions for suppression needs to be established at the regional level.

This process will be a victim-centered approach, maximizing the collaboration of victims by placing them in an appropriate environment. Furthermore, it will permit a true and complete identification process conducted by professionals from the social and psychological fields who have the most appropriate specialty in the victim interview, protection and assistance.

Finally, the process will implicate the country of origin in assuming the direct and financial bearing role to protect its own citizens rather than imposing all burdens on the receiving country.

*The protection process must contain the elements as follows:*

### **Identification:**

Any potential victim/foreigner arrested in the receiving country should in the first instance be sent to an appropriate shelter (and not held in detention).

For *each* case, the embassy and/or the responsible

<sup>95</sup> See channel 3 in page XXX

*home social agencies*, and/or if not, home NGOs must be immediately contacted.

A multi-disciplinary team composed of government agencies including social welfare and law enforcement agencies and NGOs from the receiving and the country of origin must be formed with the responsibility over the entire process. The represented specialists should at least comprise social worker, psychologist, lawyer, law enforcement officer (of a special unit on human trafficking or women and children protection), embassy of the home country and specifically trained translator, if necessary.

There must be coordination between law enforcement officers of the receiving country and responsible agencies from the home country in order to undertake a thorough and complete investigation (also covering the information on recruitment, agency and trafficker, broker and person who produces legal travel documents). During the investigation process, it is also likely to start family tracing and family assessment as well as processing legal documents for repatriation.

The victim identification should build upon the information consolidated from all members of the multi-disciplinary team before concluding a final report, which is to be provided to the law enforcement officers and submitted to the magistrate (in the case of Malaysia).

### **Case management meeting and plan:**

Shortly after the identification process and/or when the victim is evaluated physically and psychologically, the multi-disciplinary team will develop an action plan with the victim in order to:

- Explain and orient the victim on each step of her/his journey in the receiving country.
- Provide information about her/his rights and possibilities
- Plan and schedule each stage of the process (legal procedures, preparation of repatriation documents and reception of the victim)
- Make choices on activities, education and vocational trainings, and health programs that the victim is willing to attend
- Decide and inform the victim of a repatriation date
- Divide tasks within the multi-disciplinary team and advise the victim whom she/he should contact on what matter

If there is any change in the planned schedules, the MDT has to meet again with the victim to inform her/

him of the change and its reason.

### **Legal procedures:**

A victim should be prepared, assisted and trained to undertake legal procedures. Law enforcement officers and other relevant agencies should collaborate at the regional level to arrest all networks of traffickers. The victim and her/his relatives should receive adequate protection and privacy.

Legal procedures include arresting perpetrators, tracing and protect other victims who may be confined at the same place with the protected victim and claiming compensations for the victim.

### **Rehabilitation/education / occupational training and prevention:**

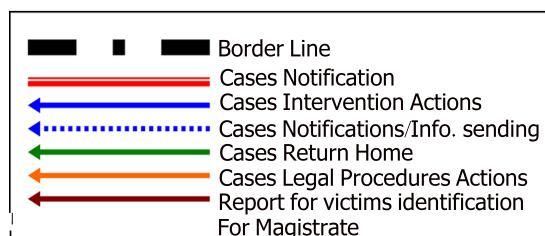
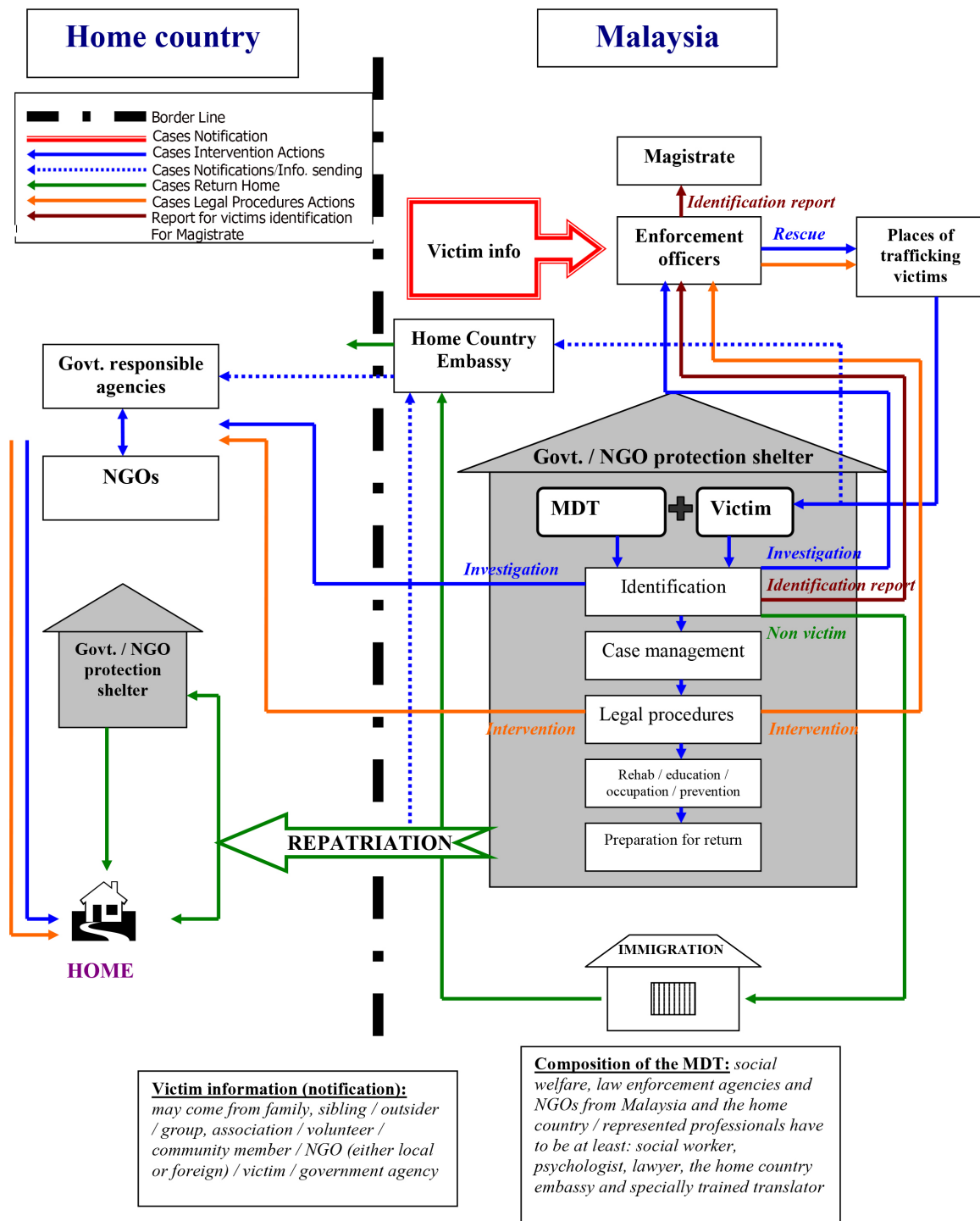
A victim should be assisted and oriented in receiving proper education and be provided with occupation training options that meet with her/his choice and the needs of her/his community. This requires community survey and trainings by the home country professionals. In addition, the victim must be provided with counseling and appropriate trainings on self esteem and self confidence building, prevention of trafficking, legal rights, self protection and legal migration process. While in the destination country, the victim should have the option to stay in another place other than the shelter, the opportunity to learn and have the permission to work, and the guarantee of adequate security.

### **Preparation for return:**

Family and the community should be prepared for the return of the victim and her/his security should be assured. Furthermore, privacy of the family should be respected. Legal documents should be processed for safe repatriation of the victim. Where needed, the victim should have the choice to either stay in the receiving country or be sent to a third country (given that she/he cannot return to the home country due to security or any other reason). The victim should be explained about the repatriation process. Repatriation should be carried out as fast and convenient for the victim as possible and be made confidential for the safety and privacy of the victim and family so as to prevent any form of danger she/he may encounter after the return. Apart from this, repatriation should be undertaken with a bilateral collaboration between the home country and the receiving country. The home country should organize a reception of the victim, bearing in mind her/his security and privacy. While the destination country should inform and hand over the case to appropriate organizations of the home country, every effort should be made to ensure that the victim will not be endangered by the trafficker.

See the two proposed frameworks (diagrams):

Diagram 1: The victim notified / found by Malaysia:



***Explanations for Diagram 1: The victim notified / found by Malaysia:***

When the law enforcement officers of the destination country receive the information of a potential victim, they will rescue the person and transfer her/him to an appropriate shelter. At the same time, the law enforcement officers inform the Embassy or organizations or NGOs of the home country. They also have to inform the rescued person about her/his rights, followed by the set up of a multi-disciplinary team (MDT) which will undertake a victim identification as well as coordinating the investigation in both the home and the destination countries. Finally, a report is prepared containing the decision of each MDT member and with the participation of the potential victim. The report then will be submitted by the law enforcement officers to the Magistrate (in the case of Malaysia).

In the case identified as non-victim of trafficking, she/he will be sent to the immigration office which then coordinates with the Embassy having the responsibility over the person. Lastly, she/he will be

repatriated to the country of origin.

In the case identified as a victim of trafficking, and when she/he is ready and steady, MDT and the victim will sit together in order to schedule a case conference meeting and draw up a plan of the procedure that the victim will follow until the end of stay in the receiving country. Upon completion of the action plan meeting, the victim will be aware of the repatriation date.<sup>96</sup>

The law enforcement officers and relevant agencies in both destination and home countries collaborate in various aspects of the legal process (investigation, suppression, court proceeding). While the victim is staying in the destination country, she/he is able to receive education and occupational training according to own choice as well as training in trafficking prevention. Lastly, the victim will be prepared for the safe return to the most suitable place.<sup>97</sup>

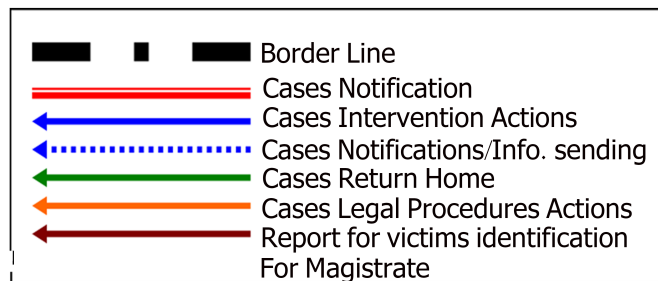
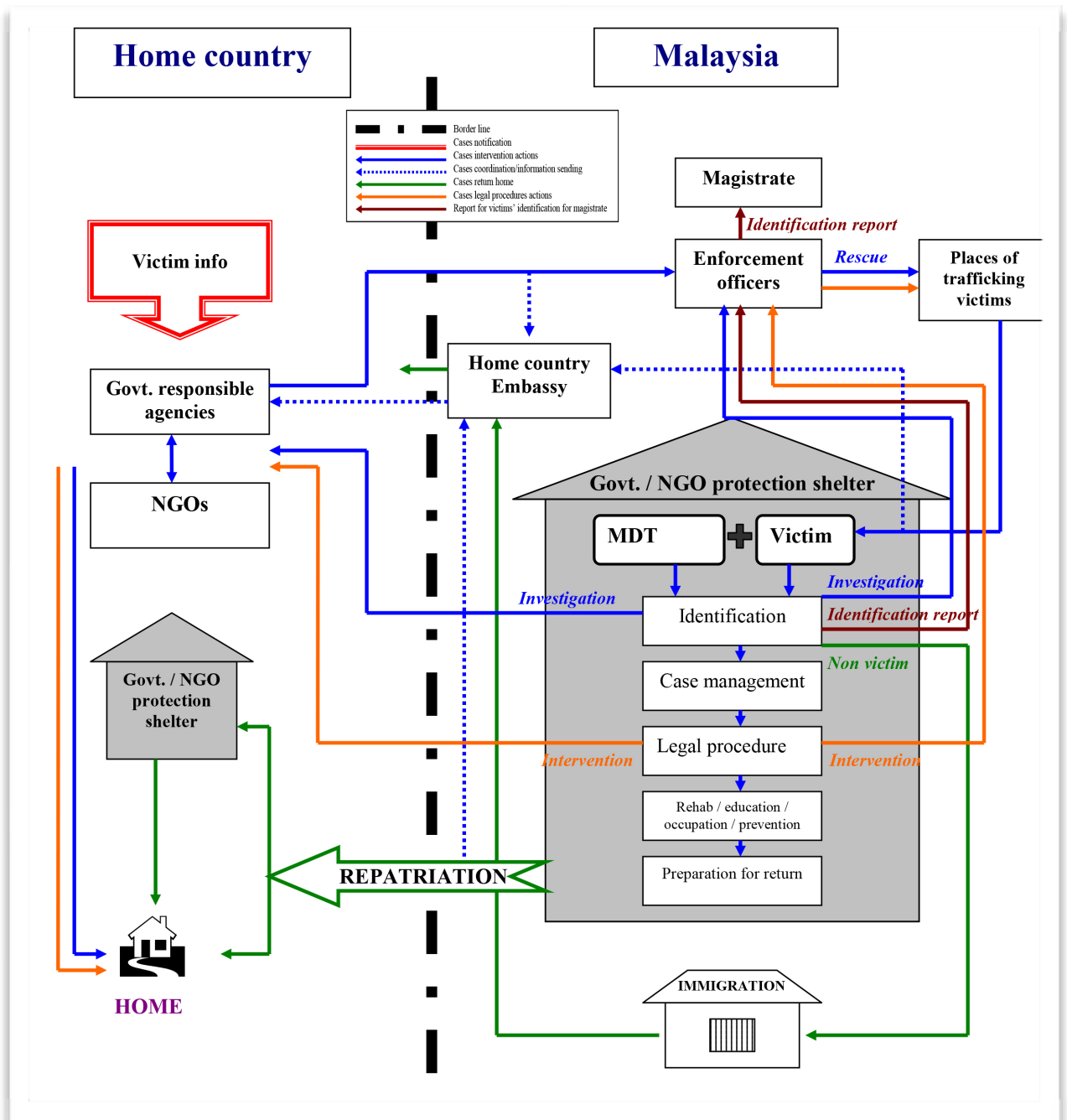
Once the coordination with the home embassy and agencies in the home country is finalized, the victim will be repatriated to a government shelter or her/his hometown / another safe place.

---

<sup>96</sup> See detail above

<sup>97</sup> See detail above

Diagram 2: The victim notified by the home country:



*Explanations:*

Whenever agencies in the home country receive information about a missing person or a victim of trafficking, the responsible agencies will coordinate with law enforcement officers in destination country and contact their Embassy in the destination country.

Upon receipt of the information about the potential victim, the destination country's law enforcement officers will rescue the person and transfer her/him to an appropriate shelter. At the same time, they will inform the Embassy or organizations or NGOs of the home country. The enforcement officers also have to inform the rescued person about her/his rights, followed by the set up of a multi-disciplinary team (MDT) which will undertake a victim identification as well as coordinating the investigation in both the home and the destination countries. Then, a report is prepared containing the decision of each MDT member and with the participation of the potential victim. Finally, the law enforcement officers will submit the report to the Magistrate (in the case of Malaysia).

In the case identified as non-victim of trafficking, she/he will be sent to the immigration office which then coordinates with the Embassy having the responsibility over the person. Lastly, she/he will be repatriated to the country of origin.

In the case identified as a victim of trafficking, and when she/he is ready and steady, MDT and the victim will sit together in order to schedule a case conference and draw up a plan of the procedure that the victim will follow until the end of stay in the destination country. Upon completion of the action plan meeting, the victim will be aware of the repatriation date.<sup>98</sup>

The law enforcement officers and relevant agencies in both destination and home countries collaborate in various aspects of the legal process (investigation, suppression, court proceeding). While the victim is staying in the destination country, she/he is able to receive education and occupational training according to own choice as well as training in trafficking prevention. Lastly, the victim will be prepared for the safe return to the most suitable place.<sup>99</sup>

Once the coordination with the home embassy and agencies in the home country is finalized, the victim will be repatriated to a government shelter or her/his hometown / another safe place.

### 3. Draft Memorandum of Understanding between Malaysia and Thailand

Thailand and Malaysia are working on a draft bilateral Memorandum of Understanding with a view to strengthening cooperation to combat Trafficking in Persons.

This is among the first MOUs that Thailand acts as the country of origin. The Government of Thailand first submitted a draft to its Malaysian counterpart on 28 June 2007 and Malaysia returned a completely modified version thereof on 24 July 2009. Nevertheless, while the MOUs Thailand has signed with several other countries in the region encourage bilateral collaboration and its participation in the protection, identification and repatriation of victims, it is apparent that Malaysia shuts the door to any participation of Thailand in the direct actions on Thai citizens within the Malaysian territory. This observation is confirmed by the revised draft that the Malaysian authorities returned to Thailand therein no bilateral collaboration in direct actions of a case was mentioned. The only collaboration referred to were exchange of information and staff training.

If bearing in mind the best interest of victims as the most important concern, and for the purpose of one most realistic victim identification, the MOU should:

- refer to the **Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime adopted by the two countries**, particularly Article 9 concerning the prevention of trafficking in persons as "1. States Parties shall establish comprehensive policies, programs and other measures: (a) To prevent and combat Trafficking in Persons; and (b) To protect victims of Trafficking in Persons Especially Women and Children, from re-victimization", Chapter II, Article 6 concerning the protection of victims of trafficking in persons which prescribes assistance to and protection of victims of trafficking in persons, Article 7 concerning the status of victims of trafficking in persons in receiving States as well as Article 8 concerning the repatriation of victims of trafficking in persons.

- include elements of the recommended mechanism earlier elaborated in *the Post-Anti-trafficking Act of Malaysia* that focus on the 3 main dimensions: collaboration between the home country and Malaysia in the victim identification, protection, assistance and repatriation with equal power; multi-disciplinary team work; victim security, privacy and convenience.

<sup>98</sup> See detail above

<sup>99</sup> See detail above





# CONCLUSION

# CONCLUSION

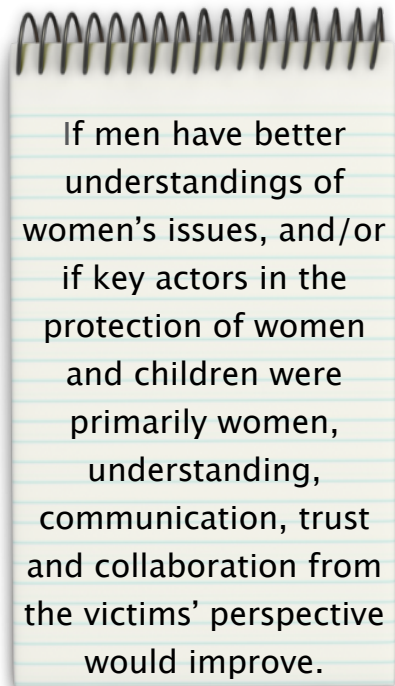
Malaysia has shown progress in its efforts to address human trafficking, but the overall established system fails in both combating the scourge of trafficking and providing protection to foreign women and child victims.

At the beginning of the survey, Malaysia did not recognize the problem of Trafficking in Persons. Now, Malaysia has enacted the new Anti-Trafficking in Persons Act, demonstrating its intention to combat the problem. They have developed new mechanisms and set up a working group to tackle Trafficking in Persons.

However, since the endorsement of the Act, the protection procedures have remained uncertain and lack efficiency, with suppression being almost non-existent. The new mechanisms should result in a high number of protected victims and arrested offenders. However, this is not the case. At the Thai border, we still find a consistent number of foreign women and children who were formerly trafficked to Malaysia and did not receive any protection.

This is due to several gaps in the legislation that do not adequately or suitably respond to the problem of trafficking. To name a few: lack of collaboration and multi-disciplinary team work, lack of collaboration and participation of organizations from the victims' country of origin, lack of collaboration and participation of NGOs, and lack of regional collaboration and definition and application of concrete measures.

Another reason is the complexity of human trafficking and the need to adopt measures covering a larger range of criminal activities instead of just human trafficking. Indeed, trafficking is a regional and international issue and that at any one time involves several countries in Southeast Asia. It can implicate government officers, and there is frequently collaboration between international networks that use sophisticated technology, their criminal activities often involving the production of fake documents and use of drugs. Thus, human trafficking occurs together with other forms of organized crime such as corruption and money laundering. Furthermore, human trafficking is a highly profitable business which benefits a large number of persons throughout society, exacerbating the difficulties in combating it.



Ultimately, trafficking for sexual exploitation is a **gender issue** that is often overlooked or forgotten. Indeed, if there were no demand for prostitution, there would be no more supply. Furthermore, in considering other forms of human trafficking, if men better understood women's issues, and/or if key actors in the protection of women and children were primarily women, understanding, communication, trust and collaboration from the victims' perspective would improve.

In the spirit of the enhanced collaboration and actions to safeguard the best interest/benefit of the victims of Trafficking in Persons, the Meeting of the focus group of experts has concluded the observations and further proposed the recommendations as shown in the following sections.

*These observations and recommendations have emanated from the discussion on the case study finding, the national policies and different channel analysis in combination with the experience sharing of the focused group of experts and NGOs from Malaysia and Thailand at the meeting on 8 September 2009 in Bangkok.*

*The focused group is composed of persons with expertise on human trafficking. They conducted an analysis of all the problems with a view to seeking an end. As Malaysia has not passed the first step of the process, which is the victim protection, we therefore have divided recommendations into 2 aspects: The first concerns the actions to combat trafficking and the second specifically touches upon the development of Malaysian protection mechanisms.*



# OBSERVATIONS

# OBSERVATIONS

## General Situation and Human Trafficking Movements:

- The network of traffickers is adjustable to varying situation. Traffickers are organized into a powerful international network and may also be organized into small national networks. These networks are composed of several branches of transnational organized crime (drug dealing, money laundering, document counterfeit and etc.
- Entertainment premises are used for regional human trafficking. We found a network of entertainment places such as pubs, bars and karaoke bars in different countries under the same name such as 'Bar 88', which is located both in Thailand and Malaysia. It was further found that this bar plays an important role in the transfer of women between Thailand and Malaysia.

## Current Situation of Sex Trafficking in Singapore

Trafficking in women and girls for commercial sexual exploitation in Singapore is rather complex. There are contradictions between the information and stances adopted by the Government of Singapore and the facts reported by NGOs and foreign embassies in Singapore. While the Government has continued to deny the existence of sex trafficking situation, the country is not free of human trafficking. Singapore has consistently been ranked as Tier Two in the U.S. State Department Report on Trafficking in Persons over the past three years. Remarkably, it was ranked as the Tier Two Watch List in 2010, the lowest rank ever for Singapore since the U.S. State Department has issued the report in 2001. More interestingly, reports compiled by NGOs and foreign embassies in Singapore show the facts related to sex trafficking in the country contradictory to the Government's sources. In 2009, for example, "the Embassy of Philippines in Singapore reported contacts from 136 potential sex trafficking victims whose claims the Philippine authorities determined to be creditable".<sup>100</sup> In the same year, the Royal Thai Embassy in Singapore reported on 21 Thai women who were victims of sex trafficking in Singapore.<sup>101</sup>

The sex trafficking situation in Singapore was reported in the 2010 U.S. State Department Report on Trafficking in Person as follows,

"Some women from Thailand, the Philippines, and China are recruited in their home countries with offers of legitimate employment but upon arrival in Singapore, are deceived or coerced into forced prostitution. Some women from these countries enter Singapore with the intention of engaging in prostitution but upon arrival are trafficked into forced prostitution for the benefit of others. Deceptive recruitment or subsequent coercion into commercial sexual exploitation may also happen to women from other countries, including India and Sri Lanka. Sex trafficking victims often enter Singapore on tourist visas arranged by their recruiters, though there were reports that victims increasingly enter Singapore on six-month entertainment visas. Some reports suggest organized crime groups may be involved in international sex trafficking of women and children to Singapore. Some foreign women in "forest brothels" located on public lands near migrant worker dormitories are reportedly victims of trafficking. It is believed substantial recruitment networks may be operating in order to continue the supply of women trafficked into commercial sexual exploitation in Singapore. Based on data published as recently as 2008, Singaporean men continue to be a source of demand for child sex tourism in Southeast Asia".<sup>102</sup>

This excerpt however needs some further elaborations.

**First**, the current situation of human trafficking in Singapore is increasingly complex. The country is home to more than 600,000 foreign workmen who are not allowed to bring wives or families to the country. They make one of the largest groups of commercial sex patrons in the country. In other words, Singapore, with this unusual demographic component, is always a prime market for the sex industry in the region.

**Second**, Singapore is a transit as well as destination for foreign women and girls who are trafficked to the country for the purpose of commercial sexual exploitation. There are some trafficking networks settled in the countries of origin such as Thailand and

<sup>100</sup> <http://gvnet.com/humantrafficking/Singapore-2.htm>, accessed 16 November 2010.

<sup>101</sup> Document from the Consular Section, the Royal Thai Embassy in Singapore, December 2009.

<sup>102</sup> <http://www.state.gov/g/tip/rls/tiprpt/2010/142761.htm>, accessed 16 November 2010.

Vietnam or the transit points as Malaysia and Indonesia, having some active links and operations in Singapore.

**Third**, foreign women working in the sex industry in Singapore are to some extent under high-risk circumstances of becoming victims of sex trafficking. Their conditions are rather insecure and unsafe. Some are forced to work by criminal syndicates and there have been murder cases involving women from China and Thailand.<sup>103</sup>

**Finally**, Singapore has not specifically enacted an anti-human trafficking legislation, despite other legal instruments criminalizing all forms of trafficking, such as the Penal Code, the Women's Charter, Children and Young Persons Act, the Employment of Foreign Manpower Act, etc. It is always difficult to combat human trafficking without the central legal and institutional frameworks. In addition, NGOs working in the anti-human trafficking area usually do not much enjoy the policies and financial support from the Government.

### **Existing Protection Mechanisms:**

#### Protection mechanisms fail to protect victims and suppress perpetrators.

- Human trafficking is a regional dilemma with no practical regional collaboration on either evidence collecting or trafficking suppressing.
- Although the 2007 Anti-Trafficking in Persons (ATIP) Act has been in force, the number of victims rescued remains considerably low in spite of our expectation that the Act would more effectively protect the victims than the past. As a matter of fact, each year a large number of women and children become victims of trafficking but a very small portion is rescued, notwithstanding the existence of the Act.
- Practically, actions are mostly focused on the victim protection with minimal suppression and prosecution through the arrest of a small range of perpetrators. We found that the Anti-Trafficking Acts of Thailand and Malaysia more addressed protection of victims than prosecution of perpetrators. As a result, while the victim rescue procedures are well carried out, the arrest of traffickers or the collection of evidence on the contrary improperly proceeds.
- Furthermore, we found that the Anti-Trafficking Act alone is insufficient to tackle the trafficking

problem, as it does not cover other transnational organized crimes. Human trafficking is directly connected with other forms of transnational organized crime such as money laundering, corruption and organized corruption and as such cannot be dealt solely by the Anti-Trafficking Act.<sup>104</sup>

- The suppression and prosecution of government officials who collude with traffickers are rare. We found that the authorities could be connected or involved with the transnational organized crime. They are further able to damage or fade away the evidence. Moreover, we found some transnational crime to be under the control of some executive level governmental officials in some countries.

#### It is possible to suppress an individual corruption, not the organized one.

We found discontinuity in the operations concerning anti-Trafficking in Persons. In particular, there is no special unit to handle cases and the government officials, the embassy officials or other responsible officials are rotated every 2 or 3 years. This situation may interrupt the efforts to tackle trafficking, as the new comers may have no basic understanding or even knowledge or experience on the issue of concern. Compared to the traffickers, though no rotation, they are very well organized and the responsible persons perform duties throughout their lives with cumulatively tremendous experience. As a result, it is unlikely for the officials to keep up with the traffickers.

#### Malaysia protection system contains specific major loopholes

- It is obvious that the trafficking of minors is not highly addressed in Malaysia. For example, a 13-year old girl was detained at an immigration depot (more details in the report). Furthermore, the age shown in the passport should not prevail over the identification of actual age since it is often falsified.
- The National Council has no direct monitoring role or authority to give a testimony in relation to the case management.
- We do not find safe repatriation of foreign victims of trafficking in the Malaysian system.
- There are four law enforcement units responsible for investigation of human trafficking cases. This can create conflict, overlapping, and slow collaboration, which will delay the whole process.

<sup>103</sup> See annex on page 119

<sup>104</sup> See the appendix on page 112

Rather, there should be only one specific and applicable law enforcement unit that assumes the responsibility for human trafficking cases as well as working with other members of the multi-disciplinary team.

- *In the Anti-Trafficking Act of Malaysia, the victim is not encouraged to be the witness. This can result in the refusal of the victim to collaborate in the protection and suppression process.*
- *The period of 14 days for interim protection order followed by 3 months in a center as prescribed in the Anti-Trafficking Act is the longest duration to keep the victims, though it may be shorter in some case. Such period was established with the intention to allow enough time to find evidence, not to control the victims. Hence, whenever the procedures are completed faster than required, the victims should be repatriated as soon as possible.*
- *The victims, especially those who are also the witnesses, should be protected from the traffickers. In this regard, however, they must not be put under control or prohibited from going outside the shelters.*
- *Victims of trafficking who are also the witnesses do not have more privileges so none of them will volunteer to be witnesses.*
- Actions are directly linked with individuals. As an example, the embassy has a key role on coordination but if the responsible person is not active all the process can be affected.
- Collaboration with law enforcement agencies of Malaysia is difficult as they do not disclose information about the process with foreign victims. For instance, we coordinated with Malaysian law enforcement agencies for the protection of victims trafficked in Johor Bahru. After they rescued the victims, they concealed all information concerning the following process with the victims. Although we coordinated with several agencies and had regular contacts with relevant agencies, we still could not obtain clear information on the number of women considered as victims, their whereabouts, their repatriation schedules and so on. Other than these, we were unable to get the permission to visit the victims. Lastly, we do not know whether the foreign victims have been safely repatriated or not.
- We once witnessed an unusual incident encountered by 54 women who were being detained in Johor Bahru. They were deported doubtfully by the Malaysian Authorities on the day we were scheduled to visit them. We obtained the permission from the Malaysian authorities to visit 54 Thai women in an immigration depot in Johor Bahru. However, the Malaysian authorities informed us that they had deported these women to the Thai-Malaysian Border shortly prior to our arrival. The Malaysian authorities had them travel across Malaysia to the Thai-Malaysian Border whilst our group was composed of Thai authorities who were able to repatriate them safely at no costs of the Malaysian authorities.

### **Obstacles to Collaboration and Their Consequences on the Victim Protection:**

- The victims feel more comfortable with NGOs than the police. We found that the victims were not collaborative when being interviewed by the police. Compared to the NGOs working group, the victims normally provide a lot of evidence or more facts. Furthermore, since most law enforcement officers are men, it is therefore difficult and awkward for women and children to share information particularly concerning sexual exploitation, sexual abuse, and etc. The fact that officers are men does not encourage women and children to collaborate. After all, they generally have no understanding of women and children issues.
- Malaysia organizes a repatriation ceremony on the occasion of the birthday of the Thai King or Queen only for the purpose of maintaining good political relationship with Thailand and not of solving the problem. The ceremony provides Malaysia with the opportunity to return Thai citizens without bearing the expenses. On such day, the Malaysian authorities gather detainees of Thai nationality (with petit crimes) and hold them at the Immigration depot in Penang before delivering them to the Thai authorities.



# RECOMMENDATIONS



# RECOMMENDATIONS

AAT makes two sets of recommendations:

1. Overall recommendations to better combat human trafficking and
2. Specific recommendations to improve the system as it currently operates in Malaysia. Should recommendations from #1 be implemented, recommendations from #2 are redundant as the entire Malaysian system would change.

## Measures to Combat Human Trafficking

*These recommendations include long and short term measures that can efficiently combat human trafficking to an end. They have emanated from the discussion of the focused group of experts on 8 September 2009 in Bangkok.*

### INTERNATIONAL LEVEL:

- All countries of Southeast Asia should ratify the UN Convention on Trans-national Organized Crime including the Palermo Protocols. A regional intelligence organization should be established with the mandate conforming to the UN Convention on Trans-national Organized Crime and the Commission of Human Rights. The intelligence organization should be composed of professionals from every country in Southeast Asia working as part of a mobile unit, which should be able to operate at the regional and national levels in a fully independent manner, across borders and with authorities in at least all the territories of Southeast Asia. Basically, its main roles are to covertly trace, investigate, arrest, prosecute and seek evidence in relation to the networks of traffickers and perpetrators (including corruption, money laundering, false documents, etc.), as well as rescue victims.
- There should establish a special unit particularly responsible for trafficking and women issues and equipped with permanent personnel from government agencies.
- As a short-term intervention, Malaysia should develop an agreement with each country of origin to ensure safe repatriation. Furthermore, the country of origin should assign an escort person for the safety of a victim under repatriation. Malaysia should bear in mind the differences between deportation and repatriation and consider them in 3 aspects as follows:
  1. Deportation of illegal immigrants
  2. Safe repatriation for victims of trafficking
  3. Safe repatriation for the victims who witness the trafficking
- As another short-term intervention, Malaysia and other Asian countries should adopt the Palermo Protocols and apply them for safe repatriation of the witnesses.
- With a view to strengthening regional collaboration in suppression, the ASEAN countries need to adopt and ratify the ASEAN Mutual Legal Assistance Treaty or ASEAN MLAT. Currently, the ASEAN MLAT is not adopted by Myanmar and Thailand. Bars of the same network may be an initial example of collaboration. In other words, if Bar88 in one country was raided and victims of trafficking were found, the officers of that country should coordinate with other countries to control all Bar88s.
- From a short-term perspective, a monitoring system should be set up in every embassy to monitor and evaluate the responsible officials who do not perform their jobs properly. The monitoring system can take 3 different forms as: multi-disciplinary team inside the embassy, participation of various

organizations (including NGOs) from the country of origin and regular evaluation. There was an example in 2007 when the Thai Embassy reported no victim trafficked to Malaysia. An appeal should have been made against the officials responsible for the problem since it had not been proved whether there was actually no victim or whether such responsible officials had not performed their jobs properly. If the responsible officials were found to be dysfunction, they should have been sanctioned and terminated. (not only transferred to another country).

- Men who are customers of sex services should be punished. Generally, men should be educated on the issues of gender and violence against women.
- There should be created an effective monitoring system in any country that legalizes prostitution such as Singapore. Additionally, in Singapore especially the woodland, there should be a monitoring system applicable to its context. At the same time, Singapore itself must admit that Trafficking in Persons does exist in the country and must have appropriate mechanisms to combat the problem of Trafficking in Persons.

### **National level**

- All countries in Southeast Asia should develop a national anti-organized crime act aside from the UN Convention of Transnational Organized Crime, the Palermo Protocols and the Anti-Trafficking Act. Every SEA country should have a national intelligence organization which is truly independent of police or special investigation in order to freely operate within its territory. The main roles of this organization include tracing, investigating, arresting, prosecuting and seeking evidence regarding the networks of traffickers (and related perpetrators) as well as monitoring the operations of government and law enforcement officers. The national intelligence organizations in all countries should collaborate freely among them and with the regional intelligence body.
- For the system of Malaysia in a short term, there should be a unit under the National Council to monitor the work of government agencies in the area of Anti-Trafficking in Persons. This unit should be independent of law enforcement officers and designated the applicable power and authority.

- There should be only one team composed of specialized professionals from multi-disciplinary agencies to work together on trafficking cases. Specifically, the multi-disciplinary team should be composed of psychologist, social worker, NGO, lawyer, enforcement officer from the Anti-Trafficking Unit and the national intelligence organization. Importantly, it should be represented by both the receiving country and the country of origin of the victims.
- A case report on victims of trafficking in Singapore should be developed and publicly published so as to make Singapore largely known as a destination country.
- The protection procedures for the victims while pending safe repatriation should be supplemented by other alternatives than keeping them in a center. For example, they should be able to move freely under safe guarding. Vitaly, the witness protection system should be promoted with no restriction of the rights of the witnesses.
- More privileges should be granted to the witness aside from the protection such as employment opportunity or broader travel permit. Such privileges will motivate the victims to act as witnesses.
- Passports should be more strictly inspected at the border checkpoints. Identification of age should be more carefully carried out since traffickers often forge the ages of trafficked women and children on their passports. Apart from that, there should be another system to control the age aside from the passport. In other words, minors should always be accompanied by parents / guardians. In case of departure from the country with no parents, an official letter issued by the Government should be additionally required. Crucially, there should be a monitoring system in the case when children are allowed to cross borders without parents / guardians or the said official letter.

### **Recommendations to Strengthen Victim Protection Mechanisms of Malaysia**

***AAT has formulated detailed short-term recommendations to strengthen existing mechanisms of Malaysia for the betterment of the protection of foreign victims, while the above recommendations are in the process of being applied.***

## Mechanisms and Approaches

Recommendations related to the developed mechanisms and their implementation in the manner of the model as shown in “*recommended mechanism 2*”, which involve multi-disciplinary approach especially towards the victim identification and the concerted actions between organizations from the home countries and Malaysia, include the following points:

- (1) There should be a special unit/department responsible for human trafficking issues within law enforcement and social welfare agencies.
- (2) There should be greater cooperation and collaboration among relevant NGOs (i.e. Tenaganita, SUKHAM, SOD, etc.), embassies and the D7 police units outside Kuala Lumpur, particularly those at the major trafficking destinations in Malaysia. NGOs should fully be able to work with the Malaysian government agencies regarding the issue of Trafficking in Persons in order to achieve collaboration in prevention, protection, assistance and repatriation at the regional level.
- (3) There should be collaboration between the home countries and the destination country (Malaysia) at every stage of the process as: protection, assistance, legal procedures, repatriation and reintegration. In this connection, action plans, MOUs and agreements among countries of origin, transit countries and destination countries should be developed to facilitate bilateral / regional collaboration solely in the best interest of victims.
- (4) Under the 2007 Anti-Trafficking in Persons Act, the definition of enforcement officer is quite limited, given that principally an enforcement official is already responsible for investigating the case of potentially trafficked person and determining whether the person has been trafficked or not. As such, a multi-disciplinary team consisting of members namely police, embassy of the home country, immigration officer, social worker, psychologist, NGO and Ministry of Justice officials from Malaysia and the home country, all of whom have the equal say in the victim identification, would allow for a more comprehensive assessment of the case from the initial stage of the rescue and identification up to her/his repatriation and successful prosecution of the case. A multi-disciplinary team would further ensure that the best interests and the rights of all parties involved are respected.<sup>105</sup>
- (5) There must be victim protection and assistance under the responsibility of the multi-disciplinary team (social worker, psychologist, NGO, volunteer, women’s group, lawyer and police) at all levels: provincial, national and regional.
- (6) Harmonization among the provisions of the 2007 Anti-Trafficking in Persons Act 2007 related to sheltering, victim identification and victim services and the process of *recommended mechanism 2* should be ensured so as to make all concerned actors aware of their roles, how to carry out each role and take part in such.
- (7) In the cases of foreign women and children, the enforcement officers must contact relevant embassies, social workers or NGOs before starting any step of the procedures. Upon arrest or rescue, the police or Malaysian agencies should notify the embassies of the suspected-to-be-victims. They can also request local or home country NGOs to facilitate the process. Besides, the embassies should be involved throughout the identification, assistance and protection, and repatriation. Furthermore, for the benefit of providing assistance to the suspected-to-be-victims and victims of trafficking, the police should inform them about their rights to compensation and legal aid.
- (8) A more holistic victim-centered approach to the protection and the involvement of the victims in the criminal justice process should be further advanced.
- (9) The Anti-Trafficking in Persons Act and the Immigration Act should incorporate the provision that victims of trafficking shall be placed under protection without being detained at any immigration depot for the purpose of deportation/removal. In addition, the victims should be safely repatriated to their home countries, except for the circumstances where their countries are not safe. In that case, they should be referred to the 3<sup>rd</sup> countries with no nationality is taken in account. The suspected-to-be-victims must be in the similar position to victims and placed under protection. A place of refuge should be safe and appropriate for either the suspected-to-be-victims or the victims and should provide 24-hour service. Moreover, it should be a one-stop venue for

<sup>105</sup> Tenaganita 108.

victims of trafficking by offering shelter, medical and psychological care, legal assistance and witness protection. Staff or persons taking care of the suspected-to-be-victims and victims should give priorities to the safety and protection policy as well as gender and age.

(10) The case conference and the victim orientation should be conducted upon arrival of the victims at the place of refuge.

- A “reflection period” of up to three months<sup>106</sup> should be provided to the victims, during the time of which they could receive any necessary medical or psychosocial care and decide if and to what extent they want to be involved in the prosecution process.
- Flexibility should be made available with regard to the maximum three-month period of the Protection Order under the 2007 Anti-Trafficking in Persons Act in order to allow victims to access a longer-term care at the shelters if deemed necessary and appropriate.
- During the temporary stay of victims of trafficking, relevant agencies should provide assistance with food, physical and mental rehabilitation, as well as education and training suitable for their gender, age, nationality, race, culture and dignity.
- Development and enactment of a Witness Protection Act, which applies to witnesses of all ages and sexes and adopts the best practices outlined in the 2007 Evidence of Child Witness Bill (see **pages 52-53**), should be undertaken.
- Legal aid and remedial measures (i.e. payment of withheld wages, compensation for the damage suffered from abuse, etc.) should be provided to the victims under the Anti-Trafficking in Persons Act and/ or the National Plan of Action as part of the criminal justice process.
- There should establish the provision that grants a victim a temporary residence permit in Malaysia upon the determination that the victim cannot return home on the ground of harm or any other equally significant reason or her status as the witness.
- It should be made possible for the victims to stay outside government shelters for occupational training or any other reason. Her/his safety should be

ensured in this regard.

- (11) A comprehensive victim identification process should be implemented in places of detention such as immigration depots and jails, in order to identify victims of trafficking and remove them to shelters where they will be afforded necessary protection.
- (12) The repatriation process and coordination with the home countries should be carried out to ensure protection for the victims. This includes: thorough delineation and implementation of the procedures on family tracing and assessment prior to repatriation of the victim in order to determine whether or not it is safe and appropriate for the victim to return home.
- (13) The operations should be monitored, assessed, improved and developed on a regular basis.
- (14) Mechanisms should be created for the public, labor inspectors, doctors, other government personnel and members of the civil society to report on suspected cases of trafficking or traffickers. An example of one mechanism could be a toll-free hotline.
- (15) Information concerning any arrest of traffickers should be widely disseminated in the country/the region.
- (16) The home countries should ensure to Malaysia that the ex-victims will be properly treated.
- (17) A centralized and comprehensive government database should be developed containing information about all human trafficking cases, and is accessible to all relevant government counterparts. This would be useful not only in terms of facilitating systematic collaboration between different government bodies on the cases but would also allow for the tracking of human trafficking trends and the extent of the problem in Malaysia, effectiveness of current measures, and identified gaps within the current frameworks.
- (18) Trafficking prevention strategies, which contain specific messages and target specific groups in the context of Malaysia as the destination, transit and source country for human trafficking, should be developed and implemented.

<sup>106</sup> Tenaganita 67.

## Legal Instruments

- (1) The Anti-Trafficking Act of Malaysia should be revised to address the victims identification process, treatment of victims and the witness protection.
- (2) There should be a follow-up on the status of the National Plan of Action on Human Trafficking which the Council for Anti-Trafficking in Persons has the responsibility of formulating and overseeing implementation thereof.
- (3) The Anti Organized Crime Act and bilateral / regional agreements should be enforced.
- (4) Malaysia should ratify the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime (UNTOC), to which Malaysia is a Party.
- (5) As a State Party to the CEDAW and CRC, the Malaysian Government should comply with the standards established in these Conventions by putting in place its national measures to fully protect foreign women and children, irrespective of whether or not they are trafficking victims.
- (6) The Immigration Act of Malaysia should be revised to ensure that victims of trafficking will be repatriated to their countries of origin or, if unsafe, to the third countries and will not be deported at the border.

## Training and Education

- (1) Training should be provided for all D7 police units in Malaysia on what human trafficking is and their specific role including appropriate methods for use in the investigation of possible trafficking cases, the rescue of victims and the provision of support to victims, as prescribed in the 2007 Anti-Trafficking in Persons Act (see **page 45**) and the working channel 4 (see **page 80**).
- (2) Training on what human trafficking is and specific role in the investigation of possible cases and the identification, rescue or protection of victims should be provided for all government personnel who may potentially be enforcement or protection officers as defined by the 2007 Anti-Trafficking in Persons Act.
- (3) Education and advocacy campaigns should

be conducted to educate the public and government personnel on what human trafficking is and specific role they can play in preventing human trafficking and/or reporting on a suspected case. Furthermore, IEC materials could be produced by both NGOs and governmental bodies to sensitize people to the issue of human trafficking.

- (4) Training on victim protection and assistance should be provided for all concerned organizations.
- (5) Training on collaboration, referral system, and multi-disciplinary teamwork (embassy, translator(s), social worker(s), police(s), psychologist(s), attorney, and NGO(s)) as well as case management should be conducted for all concerned organizations.
- (6) Training on gender issues and approaches to women and children should be provided for concerned organizations. A formation of proper attitudes and behaviors of men towards women at the national level should be promoted.
- (7) There should be training and experience sharing among source, transit and destination countries in respect of system, information sharing and database.

## Further Research

- (1) Further study should be conducted on identified human trafficking cases since the 2007 Anti-Trafficking in Persons Act entered into force in order to have a true insight of the practical implications of the law on current rescue procedures, services available for victims, time frame and procedures of the criminal justice process, and to better identify gaps, strengths and areas for improvement.
- (2) Further research should be conducted on other types of human trafficking into Malaysia, especially foreign migrants being employed primarily in construction business, palm oil plantations, and domestic services.
- (3) A specific research study should be conducted on human trafficking trends into Singapore, examining all forms of human trafficking.
- (4) An in-depth research should be conducted.

With regard to the implementation of all the above recommendations, experiences, good practices, and expertise of relevant governmental bodies, NGOs and civil society organizations, should be unutilized to the utmost extent.



# APPENDIX

# APPENDIX

## **Suan Plu Immigration Detention Center (IDC)**

It is the central immigration detention center, situated in Bangkok, which receives illegal immigrants from all over the country.

## **Sugnai Kolok Immigration Detention Center**

It is one Southern Immigration Detention Center on the Thai-Malaysian Border, situated in Narathiwat Province, Thailand which is opposite to Kelantan State of Malaysia.

## **Sadao Immigration Detention Center**

It is one Southern Immigration Detention Center on the Thai-Malaysian Border, situated in Songkhla Province, Thailand which is opposite to Kedah state of Malaysia.

## **Royal Thai Police Region 9**

The Royal Thai Police are subdivided into 9 regions throughout Thailand. This subdivision is based in the South of Thailand, covering 4 provinces: Trang, Pattalung, Satun and Songkhla.

## **Bureau of Anti-Trafficking in Women and Children (BATWC)**

The role and responsibility of the Bureau of Anti-Trafficking in Women and Children is to serve as a focal point for the coordination amongst networks and agencies concerned with the protection and welfare of victims of trafficking in women and children. It is also responsible for conducting studies and analysis relevant to preventing human trafficking, and for providing welfare assistance, protection, and vocational development for women and children who are victims of human trafficking.

Its other responsibilities are to promote the implementation of national laws, international conventions and declarations related to the welfare of women and children, to protect women and children from violence and human trafficking, and to facilitate the adoption of child victims who have no home to return to, or orphans.

The BATWC is under the Department of Social Development and Welfare (DSDW), under the Ministry of Social Development and Human Security (MSDHS).

## **Kredtrakarn Protection and Occupational Development Center (KTC)**

One of the 9 protection centers for victims of Trafficking in Persons in Thailand, where comprehensive rehabilitation and assistance services such as food, medical care, psycho-social recovery, legal aid, life skills and vocational training, and repatriation and reintegration preparation are provided. It is the main center for women and girls situated near Bangkok. KTC is under BATWC.

## **Nareesawad Protection and Occupational Development center (Baan Nareesawad)**

One of the 9 protection centers for female victims of Trafficking in Persons in Thailand, where comprehensive rehabilitation and assistance services such as food, medical care, psycho-social recovery, legal aid, life skills and vocational training, and repatriation and reintegration preparation are provided. It is situated in Northeastern region of Thailand. Baan Nareesawad is under the BATWC.

## **Songkhla Children and Family Shelter**

Located in Songkhla Province, it is one of the 77 temporary government shelters that can be found in each province of Thailand. These shelters receive people in difficulties, as well as victims of human trafficking, for temporary stay. Foreign victims of trafficking are then transferred to one of the nearest Protection and Occupational Development centers for rehabilitation and subsequent repatriation to their country of origin. The shelter is under the BATWC.

## **Multi-disciplinary Team approach (MDT)**

It is an approach where professionals from diverse disciplines work together to provide comprehensive assessment and consultation in trafficking cases. Such approach mobilizes participation of partners at local, national and international levels such as social worker, lawyer, psychologist and police.

In Thailand, this is the official mechanism adopted to identify and protect victims of Trafficking in Persons throughout the country. Each province has its own multi-disciplinary center managed by the Provincial Bureau of



Social Development and Human Security.

#### Identification of victims of human trafficking

It is the process of determining whether a person has been the victim of human trafficking or not. We established in this survey that the most appropriate manner of doing so should involve the following actions:

- The intervention of a Multi-Disciplinary Team (MDT) composed of government and non-government organizations from the destination and (on the agreement of the potential victim) origin country. The represented disciplines should at least be present: Social workers, psychologists, lawyers and corresponding representatives of law enforcement officers. The representatives of the MDT should be composed of persons who can best encourage the collaboration of the potential victim in the identification process. For example, they should be females when the potential victims are women or children, or should be NGO (or otherwise) representatives who were involved in the case since the beginning.
- The integration of investigations undertaken at the place where the supposed trafficking took place, the country of origin of the potential victim, and if appropriate, the transit places.

#### Prevention

Four levels of prevention exist, as defined below:

For all women and children: Promote measures (law and regulations) to protect women and children, build a safe, secure community environment, disseminating information on trafficking and prevention (regionally) and preparation of community actors to ensure a secure environment (government officers, parents, schools, community leaders, etc.)

For women and children at risk: identifying groups at risk and mobilizing responsible agencies to provide basic support, such as healthcare or legal assistance. On the other hand, to eliminate factors that make them groups at risk, such as creating a network of professionals to support targeted groups and their families.

Towards traffickers and offenders: Strengthening and applying legal mechanisms to arrest and control offenders / trafficking rings regionally, as well as disseminate information on the arrest of traffickers regionally to dissuade others from becoming traffickers.

For women and children victims of trafficking. Supporting victims in order to prevent them from becoming members of the trafficking ring. It consists of empowering former victims socially and economically and developing their education and knowledge so that they protect themselves and assist in the protection of others from becoming victims.

#### Rehabilitation of victims of human trafficking

It is the process of recovering and restoring the victims of trafficking which includes mental and physical care, vocational training, life skills education, etc...

#### Repatriation/Return

It is the process where the victims of trafficking are safely returned to their homes / communities in their countries of origin or other alternative places. Family tracing and assessment, as well as organized protection upon arrival, are the necessary prerequisites of repatriation/return.

#### Reintegration of victims of human trafficking

It is the process of reintegrating the victims of trafficking in the appropriate communities where they can live sustainably.

#### D7 Police

It is a department within the Criminal Investigation Division of the Royal Malaysian Police. This Division deals with the investigation, arrest and prosecution of hard crimes and petty crimes as well as gambling, vice and secret societies (triads). It consists of 12 departments, among which Department 7 (D7) is specialized in the crimes of gambling, vice and secret societies (triads) and also charged with the responsibility for trafficking cases.

#### Anti-Trafficking Task Force

It is composed of NGOs and independent organizations from 4 countries: Singapore, Malaysia, Vietnam and Thailand. The aim of the Task Force is to develop protection and repatriation mechanisms in both source and destination countries.

### Corruption and Organized Corruption

Corruption is an improper and usually unlawful conduct intended to secure a benefit for oneself or another. It takes forms of bribery, extortion and the misuse of inside information. Corruption exists as a result of the indifference in the society or the absence of law enforcement. In the society with a culture of ritualized gift giving, the line between acceptable and unacceptable gifts is often hard to draw.

Organized corruption refers to the manner that officials gain or receive benefit from organized crimes as if they were employed by such criminal groups. Therefore, the officials merely work to serve these criminal organizations, not for the citizens.

### Human Trafficking and Transnational Organized Crime

Transnational organized crime is considered as one of the major threats to human security, impeding the social, economic, political and cultural development of societies worldwide. It is a multi-faceted phenomenon and manifests itself in different activities such as, among others, drug trafficking, **trafficking in human beings**, trafficking in firearms, smuggling of migrants, money laundering, etc. Transnational organized crime is the organized crime conducted across nations.



# GLOSSARY

# GLOSSARY

<b>AAT</b>	Alliance Anti Trafic
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>ATIP Act</b>	Anti-Trafficking in Persons Act
<b>BATWC</b>	Bureau of Anti-Trafficking in Women and Children
<b>DSI</b>	Department of Special Investigation
<b>FOW</b>	Friends of Women Foundation
<b>GMS countries</b>	Greater Mekong Sub-Region countries (China, Myanmar, Lao PDR, Cambodia, Vietnam and Thailand)
<b>GPS</b>	Global Positioning System
<b>IJM</b>	International Justice Mission
<b>MLAT</b>	Mutual Legal Assistance Treaty
<b>MOU</b>	Memorandum of Understanding
<b>MSDHS</b>	Ministry of Social Development and Human Security
<b>MDT</b>	Multi-Disciplinary Team
<b>NGO</b>	Non-Governmental Organization
<b>Police D7</b>	Police Division 7 under the Royal Malaysian Police
<b>SEA</b>	Southeast Asia
<b>SOD</b>	Save Our Daughters
<b>Suhakam</b>	Human Rights Commission of Malaysia
<b>Human Trafficking</b>	Recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
<b>Exploitation</b>	At minimum, it refers to the exploitation of prostitution or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs
<b>UN</b>	The United Nations

**ANNEX**



## ANNEX 1: NEWS ON TRAFFICKING AND THE SITUATION IN SINGAPORE

### Prostitution in the jungle

First article:

#### **Den-of-vice in Forest Busted**

[http://www.ica.gov.sg/news\\_details.aspx?nid=2903](http://www.ica.gov.sg/news_details.aspx?nid=2903)

#### ***Immigration & Checkpoints Authority***

16-Apr-2007 filed under Joint Operations

In the urban jungle of Singapore, it is not easy to find people who make their homes in forested areas. It is even more difficult to find people living in the forests and making a livelihood through prostitution.

In the early morning of 13 Apr 2007, enforcement officers from the Immigration & Checkpoints Authority (ICA) and the Singapore Police Force (SPF) mounted a joint-operation at a forested area in the Upper Thomson area.

Five female Thai nationals aged 19 – 44 years old, were arrested. Four of them were found to be Immigration Offenders (IOs) while the fifth was a valid Social Visit Pass (SVP) holder. The women were suspected to be providing sexual services and soliciting for clients at the nearby industrial estates, constructions sites, as well as housing estate. They were arrested and brought back to both ICA and SPF for further investigations.

At the time of the raid, four men, Thai nationals with valid work permits, were also present. They were released after verification of their status in Singapore. The Singapore Land Authority (SLA) has been notified for the destruction of the makeshift shelter in the forest.

---

Second article:

[http://www.bangkokpost.com/121008\\_Spectrum/12Oct2008\\_spec001.php](http://www.bangkokpost.com/121008_Spectrum/12Oct2008_spec001.php)

Spectrum >> Sunday October 12, 2008

#### ***Singapore's forest brothels***

*Singapore is a choice destination for many Thai 'working girls', but an unknown number are trafficked to remote locations on the edge of the city where they are essentially held as sex slaves by Erika Fry*

Not far outside central Singapore, across from one of the city-state's foreign worker dormitories, is a small forest.

It appears ordinary enough - just trees, separated from the pavement by a steep embankment. If one looks closely, there is a trail; and if one is curious enough, it leads to a clearing that even at first glance, appears - part-dump, part-deserted camp - not quite right.

There's a spirit house at the base of a ribbon-wrapped tree, and just beyond that a cache of futons that have been flung in the brush. Tree branches are knotted with plastic bags. The site is strewn with beer cans, water bottles, planks of cardboard and a tremendous number of condom wrappers.

Yet what looks abandoned and random by day is reassembled and ready for business by night. The futons are brought out of the brush and laid on the cardboard mats, and a group of Thai ladies are brought in - either from forest hideouts or cheap hotels in Singapore's red light district - and lined up on a log bench.

There, they'll wait for their customers - Bangladeshis, Thais, Indians, an international coterie of foreign workers, almost all of whom will wander over from the dormitory across the road.

During the course of the night, a woman might service 20 men. She'll dispose of the condoms in the hanging plastic bags and wash herself using the water bottles provided. The air will be thick with mosquitoes, and she'll have sex, with ambiance and privacy provided by a tarpaulin, for S\$10 or S\$20 a session.

However un-Singaporean this may sound, such sites - also known as "forest brothels" - are long established and relatively common in the tightly regulated city-state.

Usually located in wooded areas surrounding Singapore's foreign worker dormitories (these tend to be zoned in areas on the outskirts of the city), the sites serve as one of the few - also the cheapest - sexual outlets available to the hundreds of thousands of men that migrate to Singapore on annual construction contracts (there are an estimated 43,800 from Thailand).

A handful of Thai workers who lived at a variety of Singapore's worker sites, and were well connected with the Thai community there, estimated that several hundred women work in Singapore's forest brothels at any one time.

The sites are also the destination for a number of Thai women - by almost all standards (though not Singapore's) trafficking victims - whose migration stories have usually taken an unanticipated and sinister twist.

Though the story comes in countless variations, the women working in the forest camps are almost invariably doing so against their will, says Bridget Lew, founder and president of Humanitarian Organization for Migration Economics (HOME), an NGO in Singapore that runs a shelter to assist foreign workers. "No one wants to be there," she says, explaining that the women have been drawn through deception, and are then held captive in a "circle of fear".

"They don't know where to run," she says. "They are in the middle of the forest in a country they don't know. They are scared of the authorities because they are foreigners.

While anecdotal evidence suggests many of these operations exist, and persist largely due to Singaporean policy - what many call its "blind eye" approach to trafficking and the strict sexual code that governs its migrant workers (see sidebar) - little is being done to stop them or amend policy.

"It's quite complicated," says Dr. Pattana Kitiarsa, a Thai anthropologist who teaches at National University Singapore and who has studied the issue extensively. "These women know what job they are on, but can't accept the conditions. It becomes a trafficking problem because the women can't stand, and were not prepared for the conditions. They expect to work for clients, but were not expecting to sleep on the ground with mosquitoes and no toilets."

He adds that in many cases, the women are held in debt bondage to the agents who brought them to Singapore.

Pattana explained that the nuances of the situation, that sometimes the women intended to work both illegally and in the sex industry, are at the heart of Singapore's argument that this is not trafficking and that such women are criminals, and not victims.

Those interviewed for this story (a Singaporean police officer among them) speculated that policing of forest brothels is rare because they are silent, out-of-sight operations that don't cause trouble for Singapore or its citizens.

There is also the fear that without allowing foreign workers a sexual outlet, they will turn to more violent forms of crime, says the Singaporean police officer.

The Thai embassy in Singapore has recorded 17 cases of trafficking this year. Though there is no official record, an embassy representative estimates there are 1,000 Thai women working in Singapore's sex industry at any one time. Of these, its estimated 10 per cent have been trafficked into it. She admits the numbers are hard to track because there is no official Thai worker registry. In addition, most of the sex workers are there on social visitor passes, and many of those that maybe trafficked will never make it to the embassy to file a report. While there are countless variations on the story, Pattana says the journey for forest brothel workers tends to begin in Isan, prompted by a call from a close contact already in Singapore, or an agent that speaks of jobs in the city-states highly profitable entertainment or sex industry.

The agents who manage the businesses are normally close to the women uncles, aunts. They promise a good job. Girls are ready to believe their relatives, explains Pattana. He suspects veteran Thai workmen in Singapore

are also involved and adds that as a trans-national network, it must involve players at both ends.

Often the trip also involves a stop in Had Yai, where the women will initially work in a brothel, or simply catch the bus that takes them, by cheapest means possible, to Singapore. Some of these women may expect to work in massage parlors, karaoke clubs, or discos without supplying sexual services, though there are also those that may plan to work in brothels or on the streets in the Geylang district as sex workers.

Though authorities resist the word legal, sex work is not against the law in Singapore, if the worker is registered and employed in a licensed brothel. Nonetheless, because of Singapore's immigration policy, it's an open secret that thousands of women from across the region come to Singapore to work as sex workers on Social Visit Passes, which are granted, almost indiscriminately, to all visitors upon entry to Singapore. (Probably few if any of these aspire to work in forest brothels, however.)

The pass lasts for a period of weeks or months and can easily be extended online.

Once the pass expires, one does not need to leave Singapore long before re-entering the country, again indiscriminately, on another Social Visit Pass.

The police officer explained that immigration officials will deny the most obvious of offenders from time to time, but not often. Thus, while streetwalking and solicitation are illegal, they are hardly rare.

Once in Singapore, some of these women are taken by their agents to the forest where they find the job they were promised, but conditions they were hardly expecting.

Nonetheless, Pattana says many of these women resign themselves to their fate, and endure it. Because they may be on a social visit pass, they live and work there a relatively short time. They also don't know where to go.

When victims do show up at the Thai embassy, they are encouraged to report their case to the Singapore police, though an official admitted that few want to do so because of the lack of social support Singapore provides them and the strong desire to simply return home.

Though many know these situations persist, little is done to prevent them. Police raids at the sites are rare and usually unsuccessful. Workers explain that the operators post watchmen at the edge of the forest to look out for raids. When the police documented the women not their agents, nor customers that are arrested and taken away. Demand, and the supply go on unabated.

What noise does come from the sites comes only rarely, when women manage to escape and report their cases. There have been a few such instances, and while the women may be only marginally better off for their efforts, their stories, along with the accounts of workers, provide the best indication as to the nature and methods of the forest brothel operations.

Lews organization has assisted several women who have escaped or been rescued from such sites, including one Thai woman who fled her forest brothel during the chaos of a murder-in-progress several years ago. She went to the police to report the murder, but was charged with immigration offences and imprisoned.

She had been duped into captivity in a forest site by Thais she met fresh off the bus at the Golden Mile complex, a sprawling plaza of discos, markets and Isan food stalls that is dubbed as Singapore Little Thailand and which doubles as a bus station. The Thai agents told her they'd help her find cheap housing on the outskirts of the city. They instead took her to the forest, where she was expected to service 250 men to clear her debt.

The woman was later released from prison and served as a state witness in the murder trial. While the Singaporean government waived immigration regulations, she was not given any form of social support for the period. She stayed at Lews HOME shelter and left the country after the trial, her traffickers having never been arrested or even acknowledged.

In another case, Lews organization initiated a rescue at one of the sites. Singapore anti vice squad again arrested and imprisoned the woman they went to rescue, only to release and deport her when an NGO lawyer wrote a letter of appeal. Had we not intervened, she would still be in jail, Lew says, adding that there are likely a number of similar cases in which the women have been less fortunate. Police don't tell us [when they make these arrests].

Julie Sim, a media officer with Singapore Ministry of Health, says Singapore conducts regular enforcement operations to keep prostitution in check, and that police forces monitor closely the ground and investigate any information of organized vice trafficking or cases of commercial sexual exploitation of women and minors.

A total of 5,400 foreign females were arrested for vice-related activities and repatriated by police in 2007, she says.



There were 28 cases of trafficking investigated by police in 2007. Of those, only one was found to have sufficient substantiating evidence for prosecution.

Yet, Singapore interpretation of such events is increasingly being called into question by foreign embassies and NGOs.

The US government recently published the 2008 Trafficking in Persons report, which rates Singapore along with Thailand, Cambodia and most other Southeast Asian nations a Tier 2 country, a designation that essentially translates to more could be done.

According to many sources, Singapore was irritated by the charge (it had been downgraded from a Tier 1) and demanded US data to explain the categorization.

The government of the Philippines also recently began voicing its concern over trafficking in Singapore, after its embassy recorded 212 trafficking cases in 2007 (only those in which victims are willing to stay and testify will be investigated by police), an alarming increase in the words of a national report, over 125 cases in 2006 and 59 in 2005. Twenty-seven percent of the 2007 cases were said to involve the sex industry.

While the Thai embassy in Singapore declined to comment on Singapore trafficking policies, it stressed the need to educate women in Thailand, particularly those that were considering foreign sex work, about safe migration and ensuring agents and job conditions are reliable. The embassy also stressed its efforts to educate Thais in Singapore about Thailand new trafficking law (effective June 2008) and so, provide assistance to victims.

Gauging the severity of Singapore trafficking issues depends who you speak to, says John Gee, the President of Transient Workers Count Too (TWC2), an NGO that concentrates on foreign worker issues.

Authorities in Singapore say there are very few cases. It comes down to a difference in definition. The UN definition includes women brought in by deception and false promises. Singapore definition is much more restricted to [the use of] force.

He explained that in the eyes of Singapore law enforcers, if individuals come through checkpoints and turn over passports without asking for help or claiming to be a victim, then they aren't one.

He explains the problem with this logic is that people may not yet realize they're being trafficked, or they may have been dissuaded by threats from making such claims. Policing should be more aggressive towards those who are coercing its not seen as grave as it really is, he adds.

Pattana says, here it becomes trafficking only when victims break out of the cycle and news gets to the media. This is the only way cases become widely known. Otherwise, its just normal business, travel, and etc. He remarked that trafficking is happening far more often than authorities admit, through prostitution, the entertainment industry, and even marriage.

They [officials] say they are all coming voluntarily, though.

Lew agrees that protection for trafficking victims is an area where Singapore can improve.

The official argument is that if they were more compassionate, women and men would take advantage of the compassionate response. They ask, how do you know whose telling the truth? Authorities think the women should know better.

But citing the forest brothel cases, she says, if someone does escape, we need to give social assistance. To me, that's not a question. It's common sense.

She also voiced the suspicion of many people I spoke to in regard to the extent of illegal sex work and related trafficking cases in Singapore and what many consider the governments blind eye approach.

She pointed out that everything is micromanaged in Singapore, and that the persistence of such cases gives an impression that so long as such behaviors are contained enough to not stain Singapore's image, the government doesn't care.

The law here can do almost anything. It is easy to contain things in a small nation, especially in Singapore, says Lew.

David Feingold, International Coordinator on HIV/Aids and Trafficking for UNESCO, agreed. Singapore has the capacity [to do something about it] its one of the least corrupt bureaucracies in Asia, at least that is the

perception. Unlike in other countries, this is a matter of political will.



Third Article:

<http://www.bangkokpost.com/news/crimes/35155/catching-a-ruthless-mangda>

### ***Catching a ruthless mangda — the pimp who promised the world***

#### ***The rise and fall of a procurer who promised Thai women the world***

Published: 28/03/2010 at 12:00 AM Newspaper section: [News](#)

He's deceitful, a liar and a schemer who is highly secretive, but he boasts an annual income of millions of baht. Although he is Malaysian-Chinese, he is a persuasive talker, fluent in Thai, well dressed, small in stature with women finding him simply handsome.

**CRUEL CUSTOMER:** One of the Thai women, top left, recruited to work in Singaporean forest brothels by Lee Swee Teck, right. The women lived in an apartment in Woodlands, bottom left.

Aged only 31, he lures poor Thai women to Singapore with the promise of wealth by selling their bodies. He is the head pimp, or mangda in Thai, of the infaMOUs jungle prostitutes of Woodlands, an outer suburb of the city-state where a large number of imported foreign labourers work mostly in factories.

For more than five years, he has "filled a need", as he puts it, by providing poorly paid Indian, Bengali, Thai,

Malaysian and Chinese men with sex that they can afford.

Before leaving Thailand for Singapore the girls know what type of work they will be doing and that it is illegal for them to work there. They fully believe him and his promises that they can earn more than 80,000 baht a month, and most put their families into debt of up to 20,000 baht for air fares and cash to show on arrival.

But he is scant on the details and the girls don't get a chance to ask. A conversation with him takes the form of: He talks, you listen.

The only thing that turns out to be true is a free bed for a short amount of time. He never tells them that the price they pay for his services is servicing the first 160 customers for free, before they earn even one Singapore dollar for themselves. And few know they will be servicing multiple customers every night on a filthy mattress in the open air with only a thin blue tarpaulin wrapped around four posts for privacy.

Meet "Candy", the hyper-active mafia don from the workers' enclave of Woodlands. The Bangkok Post learned of Candy's operations following a six-month investigation, which involved interviewing many of the women who worked in the forest brothels, and social meetings with the self-styled pimp, who was unaware he was being tracked.

Information gained from the investigation was passed on to Singaporean authorities, who made several arrests earlier this month when Candy returned to the island state.

He is married with four lovely young daughters who live in Johor, the southernmost state of Malaysia. Candy officially has a work permit for Singapore and he does work during the day as a "sub-con" as he calls it \_ a sub-contractor plastering and erecting walls. But as the city grows dark and the lights flicker on, Candy morphs himself into the hard-nosed boss of three quickly erected "tents" in a dark parkland which provide Thai girls to the international workers at an affordable S\$20 (about 460 baht) for 10 minutes.

Candy provides accommodation for the girls at his friend's three-bedroom apartment. The women sleep on bunkbeds crammed into two of the bedrooms and he sleeps there with them.

There is no shortage of customers, and he laughs about the records his girls have set. A half-Thai, half-Indian woman has the record for the quickest 160 customers, or as he calls them, "dem". She took only 17 days to get her "dem" tally.

After that, the girls can earn their own money, but he deducts some cash for the condoms, KY jelly and S\$10 per night for the bed. At any one time he has between 10 and 20 women in work, who arrive on a 30-day holiday visa and then return to Thailand. Nearly all of them score their 160 "dem" in the first month, providing Candy with an income of S\$3,200 per person per month. With only 10 girls in work, his income blossoms to S\$32,000 a month, or a cool 700,000 baht.

It is alleged that Candy was once a part-time drug dealer before coming up with his idea of the "tents". He enlisted the help of a Thai woman he met who was down on her luck and she soon fell in love with him. For some reason they all do.

Garn was from Chaiyaphum and each month when she returned there, she would recruit women to go to Singapore for work. Candy, who openly boasts he has bought three houses with his ill-gotten gains, all in his mother's name, soon had a thriving business and word went around Soi Nana and elsewhere that Garn was always looking for women to go and work in Singapore.

Some women chose to overstay their visas to continue to work, while others returned time and again and did earn what they considered better money than working in the bars and karaokes of Thailand.

In July 2008, Candy was unhappy. His beds were full of women who had already scored 160 "dem", so his income was limited to the S\$10 a night he was charging for a bed. Candy befriended the police and arranged for a raid on his tents.

This cleared his problem and it also started a relationship with the Singapore police, which had been causing him occasional grief. Girls who have worked for him claim that he pays a monthly bribe to the police so that he is forewarned of any raids. They even say they have seen the money change hands.

Late last year May, a 19-year-old from Khon Kaen, arrived with some others to work. Most of Candy's girls are aged in their late 20s to mid-40s and May took his eye. At the time Garn was in Thailand. When May discovered that she was required to attend to the needs of possibly 20 customers a day, she balked at this. She had been told in Thailand that it was one customer per night \_ something she thought she could handle.

Candy then offered her an alternative. As he had four daughters and no son, she could become a mia noi, or mistress, and give him an heir. He promised her a sin sot (bride price) she could never have dreamed of and a monthly salary of S\$1,000.

May was in a Catch-22 situation. If she returned home penniless she would not be able to repay the 15,000 baht she borrowed to go to Singapore. She certainly didn't want to have sex with 20 men a day, so option three

seemed the best alternative. After all, everybody loved Candy and he was rich and faMOUs.

Garn soon found out and was furious and began plotting Candy's demise. It was only then that she realised that nobody knew Candy's real name and without it, there was no stopping him.

On her second trip to Singapore, May became pregnant, and this was confirmed by a hospital in Thailand on her return. But Garn had stopped sending girls to Candy and his business was dropping off.

Candy decided to come to Thailand and do the recruiting himself. May and some former workers were ordered to find possibilities. His flight was booked.

Unbeknown to Candy, the Bangkok Post had been investigating him. The girls who had worked for him had no recourse for their complaints, but the media sometimes has a sympathetic ear. After all, they knew they were doing something illegal, but they did not know Candy would take advantage of them so much. He always looked and sounded like such a nice guy.

On the Air Asia flight from Singapore, Candy finally let his guard down. He went to the toilet, but there in the pocket was his boarding pass which was passed on to the Bangkok Post. It read: Flight FD3506, Seat number 25D. Passenger name: Lee Swee Teck.

We had him.

Candy was easily befriended during his quick recruiting trip to Bangkok, where he mainly operated in and around Soi Nana. He was hyper-active, consistently talking on the phone or talking with possible employees. One prospect who was introduced to Candy said he phoned her four times the next day, trying to convince her to go to Singapore.

On his return to Singapore the Bangkok Post alerted the relevant Singaporean authorities and gave them all the information we had, including names and the address where the girls were being housed.

On March 13 Mr Lee, alias Candy, was arrested. During the arrest Candy, along with his two best friends, Ah Meng and Ah Pooee, fought with police officers and all three were arrested. A raid was conducted on the apartment where the girls were living. Some were detained and remain in Singapore as prosecution witnesses.

Lee Swee Teck has been charged with a variety of offences and is to appear in court tomorrow. on Monday, March 29.

Last week Garn was denied entry to Singapore. She was informed the ban is for life.

Pregnant, May was not detained in the raid but was penniless as Candy controlled her finances and her life. The apartment's owner demanded she leave as he feared the police would return.

May phoned friends in Thailand, saying Candy faces at least five years in jail, that she had no money, feared returning to face her family and that she was considering suicide. At the time of going to press, her Singapore phone no longer connects and her whereabouts are unknown.

---

### ***Thai killed in the jungle***

**April 12, 2007 New Paper**

By Kor Kian Beng And Ng Hui Hui

**Thai woman was buried in unmarked grave 249.** <http://newpaper.asial.com.sg/news/story/0,4136,127319-1176415140,00.html?>

Now court documents reveal startling details

Body found tied with rubber tube  
Upper body wrapped in green, checked sarong

Lower body wrapped in maroon blanket

Ankles tied with white cloth

3-m black rubber tube coiled around waist, other end tied to branch of mangrove tree

There were injuries on her head, neck, chest, abdomen and limbs

SHE came to Singapore to escape abject poverty back home in Thailand.

Ms Phakhaphon Taeng-On became a prostitute here, servicing foreign workers in jungle hideouts in Kranji.

On 20 Feb last year, the 35-year-old's body was found dumped in a canal off Kranji Road.

Her body was so decomposed that it was difficult to identify her.

The New Paper ran the report of a woman only known by the number of the grave she was buried in - 249 - on Monday.

Then, her death was a mystery. But it turns out that Ms Phakhaphon may have been murdered. (See report below, left.)

Her decomposed body was wrapped up in a sarong and a blanket, her ankles bound.

Her body was bound with a rubber tube, the other end tied to a tree.

State Coroner Ronald Gwee had recorded an open verdict on her death during a hearing this February. It was unclear how she had died.

Now court papers have shed some light on Ms Phakhaphon's life here.

She first arrived here in June 2004 and overstayed until July 2005. She was repatriated after her arrest at a hospital a month earlier. She had gone there to treat severe abdominal pain.

#### NEW PASSPORT

But she returned to Singapore in August 2005 with a new passport and a new name - Oraphan Ayasit. She then overstayed until her death.

After finding her body, the police searched the area where they found her body and found two uninhabited makeshift huts about 500 metres away.

Another two such huts were found about 1km away, where the police found six Thai nationals. Three were arrested for immigration offences.

One of those arrested was a Thai woman, Phornthip Saensri, 39, who said she knew Ms Phakhaphon.

She claimed Ms Phakhaphon lived at the first location, where she provided sexual services to the foreign workers living there.

Another Thai woman, Nittaya, told police that she had also lived with the dead woman at the forested area.

Nittaya, who was serving time in jail for an unspecified offence, said she had accompanied Ms Phakhaphon to a clinic in Golden Mile Complex in June 2005.

There, Ms Phakhaphon was transferred to the Singapore General Hospital, where she stayed until her discharge and arrest one month later.

Her body may not have been found - if not for the 'help' of mystery callers, court papers said.

On 20 Feb morning last year, Ms Pennipa Plypetch from the Office of Labour Affairs in the Thai embassy received an anonymous call from a man, who claimed his friend had found a body at Kranji Road.

Ms Pennipa called the police at 10.30am and they searched the forested area.

At 2.11pm, an unknown caller called '999' from a public phone booth at 257 Kranji Road to provide directions.

The caller told the police that the body was inside a canal, about 400 metres from 213 Kranji Road.

Police found the body within 10 minutes and it was retrieved by Singapore Civil Defence Force officers three hours later.

Ms Phakhaphon was found clad in a black spaghetti tank top and pink boxer shorts underneath the sarong and blanket.

#### MYSTERIOUS CALL TO FAMILY

Ms Phakhaphon's elder sister, Ms Sukanya, told The New Paper over the phone from Pathum Thani, central Thailand, that she believes her sister could have been murdered.

Ms Sukanya, 42, said: 'A Thai woman called me on 16 Feb last year from Singapore saying that my sister had died. She said my sister was killed because she found out too much about some illegal trade.'

Ms Sukanya broke down for five minutes when relating how her sister's body was found by the police.

She later said through a Thai interpreter: 'We're sisters, yet she had to die in a foreign land, with no family around her to see her for last time.'

'The way she was found was pitiful. It's too much for me to bear.'

Ms Phakhaphon was buried in lot 249 - with costs borne by the Government - at Choa Chu Kang Cemetery for about a year.

Her body was exhumed and cremated on 4 Apr. The ashes are expected to be sent to the family today.

Recalling the time when Ms Phakhaphon returned home two years ago, Ms Sukanya said she noticed that her sister, who had asthma problems when she was young, looked pale and unwell.

She claimed that her sister wrote in her diary that she had gone to the clinic because she was pregnant and due to deliver a child.

Ms Sukanya said: 'She wrote that she fainted at the clinic and when she regained consciousness, she found herself at the hospital.'

'And she was told that she had suffered a miscarriage.'

Ms Sukanya, who has two other brothers, said she didn't know what her sister, who left Thailand without informing the family, was working as in Singapore.

Neither did she tell Ms Sukanya if she was having problems with anyone in Singapore.

#### CLOSURE

The coroner's inquiry helps to bring some closure to the matter, said Ms Sukanya, who still helps out in the family laundry business.

But she doesn't intend to tell

Ms Phakhaphon's two sons, aged 15 and 11, or her mother in her 60s about the inquiry's details.

Ms Sukanya, who is married with a five-year-old son, said: 'I will treat and raise her sons like my own, with help from my siblings.'

'Despite all that has happened to my sister, I'm relieved that we can at least get her ashes back so her sons can pay respects to her. That is the least we can do for her'

---

## Foreign Women Died in Singapore

First Article:



Second article (Same case):

**Family of death-fall Viet girl says: He warned us not to go or else...**

<http://newpaper.asia1.com.sg/news/story/0,4136,104452-1144101540,00.html?>

By Maureen Koh April 03, 2006

IN life, as in death, her story is one of betrayal, grief and innocence lost.

The truth: Reporter Maureen Koh (extreme left) talking with Ms [redacted]'s family in their home. --Pics/ JONATHAN CHOO

Not even the act of giving her a dignified funeral is simple for her family.

When Ms [redacted] (top left) died after a fall from a HDB block in Toa Payoh, her family wanted to travel to Singapore for her cremation.

'There was nothing we wanted most than to be in Singapore for our beloved daughter's final journey,' said Mr [redacted] speaking to The New Paper on Sunday from their three-storey home in the An Lac ward in the [redacted] district in Ho Chi Minh City.

But he had been warned against travelling. He suspects the man who delivered the warning was her former pimp who he said is still in Singapore.

A Vietnamese policeman present when Mr T█ got the call confirmed that Mr T█ had been threatened.

Mr T█, 55, said he was told: 'You come, you die.'

That is why he said he kept contradicting himself.

He had earlier rejected donations, and then said he would accept them. He had also said he wouldn't travel, then changed his mind.

'We have been informed by the authorities here of the many contradicting reports quoting me that have surfaced in Singapore. My family is very sorry about it,' he said. (See report on facing page.)

Mr T█ said he had to explain.

Ms █'s father, Mr T█

'While we were coping with the grief of losing █ many people were calling us, coming here. Our daughter had been a victim of a human trafficking scheme about four years ago.

'Since then, we have always been cautious when people – especially foreigners - approach us with any news, information about her,' he said.

#### HARD TO TRUST ANYONE

'Moreover those who called or visited did not contact us through the proper authorities here. We just did not know who we could trust.

'You are the first and only ones who have come to our home with the officials,' the retired policeman said, pointing to the others seated around in the living on the first floor.

The representatives were Ms Nguyen Thao Nguyen from the Foreign Affairs Office in Ho Chi Minh City, Mr Cao Hoang Cuong, the officer in charge of the █ district, Ms Ngo Thi To Uyen, administrative coordinator from AFESIP and a policeman.

In Vietnam, government officials have to be present when local and foreign media speak to locals.

The AFESIP is an organization that combats trafficking in women and girls for sex slavery, and provides care and recovery for those rescued.

Despite the warning, the family said they will travel to Singapore.

Now fearful for the family's safety, AFESIP has requested that The New Paper on Sunday keep details of the trip quiet. An official will also accompany them on their visit.

We have also put them in touch with Mr Roland Tay - the Singaporean undertaker who had organized her funeral - who said he would inform the police about the threats.

Ms Nguyen and Mr Cuong also confirmed what Mr T█ said.

Mr T█ said he was afraid the human trafficking syndicate was at work again and making the threats.

Ms Uyen added: 'Ms █ was lured into going to Malaysia in early 2002 with a job offer and later dumped - along with seven other women - near the border of Thailand.'

They were arrested when they tried to sneak into Thailand without any official papers and were detained for almost two years before AFESIP learned of Ms █'s plight.

Ms Uyen said: 'Our organization then arranged to have her repatriated to Vietnam. Yet she continued to be the target of these traffickers. Some tried to 'recruit' her, and she has also received death threats.'

Mr T█ said: 'We were shocked to receive a call from Singapore informing us that █ had died but my wife and I tried to reassure ourselves that it could be a hoax.



'There was something suspicious about the man who had contacted my family.'

The man is believed to be the pimp who had arranged for Ms ■■■ to travel to Singapore to work. More calls from more strangers followed, and with every one came more different versions.

'We no longer knew who to believe, who to trust, what to make out of it. Some asked us to go over to Singapore, others 'warned' us against visiting. It just got more confusing, and here we were, trying to overcome our grief,' said Mr T ■■■

It did not help that Ms ■■■'s mother, Madam ■■■ N., had suffered from shock and collapsed many times, wrought with grief.

'My daughter sacrificed herself for this family, she did everything for us. I miss her so much,' said Madam N., 53, before breaking down in tears.

She had to visit the hospital many times and is currently relying on medication to calm her nerves.

Mr T ■■■ added: 'The first time ■■■ accepted the offer to work (in Malaysia), it was because our family was had big debts. She was told the waitress job could help us out of dire straits.'

#### WANTED TO HELP PARENTS

Both Mr T ■■■ and Madam N. did not want to elaborate on how the debt was incurred. However, it was another MOUNTAIN of debts and the wish to provide a better life for her parents that saw Ms ■■■ travel to Singapore again.

But it was not because of her yearning for the high life, said Mr T ■■■

'Of course, we all know that ■■■ had taken the wrong path to get us out of the poverty rut... we know, but it is all too late now.'

On accusation that he was not close with his younger daughter, he said: 'I am very stern and strict, a no-nonsense man. I guess that'd explain the 'fear' she had of communicating with me.

'She had always been closer to her mother.'

Madam N. added: 'Now we only want to bring her home... so that she'll remain by our side, even if in ashes.'

#### Many baffling comments

THERE were so many contradicting statements from Mr ■■■ T ■■■ and his family that it had baffled many. It had seemed that Ms ■■■'s father just could not make up his mind.

First, he had denied Ms ■■■ was his daughter. Then, he said it was her yearning for high-life that drove her to prostitution.

Next, it was about whether he and his wife were coming to Singapore for their daughter's funeral.

Then, he rejected the \$43,800 donated by well-wishers. Undertaker Roland Tay had offered to give the money to Mr T ■■■ when his wife, Ms Sally Ho, visited the family in their home two days before her funeral on 23 Mar.

Mr T ■■■ claimed the family was well-off and didn't need the money. Then he changed his tune, saying they could use the money.

Mr T ■■■ also tried to delay his daughter's funeral again so he and his wife could attend.

But Ms ■■■ 24, whose topless body was found at the bottom of Block 161 in Toa Payoh Lorong 1 on 17 Mar, was cremated at Mandai Crematorium without any family present.

---

#### Third article:

***Viet woman was drunk when she fell***

<http://newpaper.asia1.com.sg/news/story/0,4136,120351,00.html?>

By Kor Kian Beng,

The New Paper, December 30, 2006

HE had been accused of indirectly causing the death of a Vietnamese hooker.

But Rohit Kumar, 24, was given a discharge not a mounting to an acquittal last Thursday.

Criminal lawyer Rakesh Vasu said it means an accused is discharged for now but can be recalled to face the original charge if more evidence surfaces later.

But Rohit has since left the country after being here for two years, said his lawyer, Mr R S Bajwa.

Ms Dinh Thanh Tuyen, 23, fell to her death from the window of Rohit's Bedok Reservoir flat on 18 Sep.

On 20 Sep, he was charged with indirectly causing the death of the Vietnamese national. The Indian national faced the possibility of one year in jail and a \$1,000 fine if convicted.

After the court hearing last Thursday, Rohit walked out of the Subordinate Court a free man, for now.

But what happened to Ms Dinh?

A coroner's inquiry yesterday, which recorded a misadventure verdict, provided clues.

Rohit and Ms Dinh had met at a bar at Orchard Towers on 18 Sep and he asked her to follow him home for sex.

She agreed and he later paid her \$150.

At 10am on the same day, Rohit told her he would pay her again for sex if she returned.

He then sent her at least two SMS messages, saying he would pay her \$200 for another round of sex.

She arrived at his flat at 2pm and they indulged in alcohol and pizzas, followed by sex.

At about 6pm, Rohit went to a nearby ATM to get the money to pay Ms Dinh. But the ATM was not working so he returned to the flat.

They then decided to go together to another ATM but, when they were about to leave, Rohit said he had lost his keys.

The pair then argued because Ms Dinh said she had to leave by 7pm.

Rohit claimed he then went to his bedroom to search for the keys but when he returned, he found her already at the living room's window ledge.

Ms Dinh was apparently trying to leave the flat.

Her left leg was outside the window and her right leg was on the window sill.

Rohit shouted at her to get back in but she lost her balance and fell.

He rushed to the window where he shouted for help.

He also called the police several times.

When the police arrived, Rohit kept them at bay by throwing things at the door and slashing himself on the abdomen, wrists and limbs with shards of broken glass.

The police eventually forced open the door and subdued him.

Ms Dinh's blood sample was found to contain 190mg/100ml of ethanol, which is roughly about five mugs of beer.

IDENTIFIED

Her body was identified by her mother Madam Ho Kim Diep, 44, who came to Singapore on 20 Sep morning with Ms Dinh's brother and three other relatives.

Earlier reports said that Ms Dinh, who didn't complete secondary school, came to Singapore on a social visit pass in order to work and support her poor family.

State Coroner Ronald Gwee said Ms Dinh was found to be intoxicated with alcohol before the fall.

Mr Gwee said: 'This could have affected her motor skills and coordination, which could have caused her death.'

Rohit declined to be interviewed but told his lawyer he wants to move on.

Mr Bajwa said: 'He said he feels sorry for the woman and her family over her death.'

---

## ***Foreign women married in Singapore***

### **She escapes from man who takes her for a 'test drive'**

<http://newpaper.asia1.com.sg/news/story/0,4136,120154-1167256740,00.html?>

The New Paper, December 27, 2006

THERE are many horror stories involving Vietnamese brides and the men who marry them. And a Vietnamese non-governmental organization is worried.

Mr Georges Blanchard, national director of Acting For Women In Distressing Situations in Vietnam, said his group recently helped four women who were smuggled out for matchmaking.

Diem (not her real name), from Tay Ninh province, is one of them.

She paid an acquaintance 5 million Vietnam dong (\$480) for a matchmaking trip to Singapore.

The money was supposed to be for a certificate stating her marital status, passport, visa, clothes and daily expenses.

She was told that if she could not find a husband after a month, her family would have to pay for her airfare home.

In November last year, together with four other Vietnamese girls, Diem landed in Malaysia - not Singapore - and ended up at an agent's house.

For 10 days, she was taken to several places to be 'sold'.

Then a 27-year-old man took her home for a 'one-week trial'. He later paid her agent RM 25,000 (\$10,800).

Diem said she had to work with her husband, selling food at night. She wasn't allowed to work in factories, contrary to what she had been told. Her husband also refused to give her money to send to her family.

He wouldn't let her return home; unless she returned him the money he had paid the agent. Diem finally escaped to Thailand, where she was caught and repatriated.

She was four months pregnant, and her nightmare journey ended with an abortion, soon after she arrived in Ho Chi Minh city.

Husbands-to-be too have shocking stories to tell. On Saturday, The New Straits Times of Malaysia reported that a man who married a Vietnamese had discovered that his marriage licence was a forgery.

He had met his wife through an agent in Muar a year ago. And the agent had promised to handle the paperwork.

The truth came to light only after the man tried to register his son's birth and was told he could not do so. He was then advised to re-register his marriage.

Two other men reported similar problems to the Malaysian Chinese Association.

Also yesterday, The Straits Times reported that a matchmaking agency in Chinatown was offering dates with foreign brides for just \$50. A sort of 'test drive'.

**ANNEX 2: Photos from the field research**

**Johor Bahru, Malaysia**



**(Left)** Scene of the “entertainment places” area **(Right)** Located side-by-side with others in the community



**(Above)** Entrance of the entertainment place/brothel upstairs. One young lady was sitting in front for customers to notice. (See the red arrow)

(Below) More entrances photos of two other entertainment complex/brothel. These twos had men guarding the places (see the red arrow).





**(Top Left)** This entertainment spot/brothel (TAM) opens from 9AM-3PM daily. **(Top Right)** “Sakura” opened inside the shopping mall in Sentosa area (see the red arrow). **(Below)** Some places, like this one (see the red arrow) is located inside the New York hotel



## Kuala Lumpur, Malaysia



**(Top)** “Sabai Thai”, an entertainment place/brothel which offered services of Thai women to customers. **(Below)** Inside “Sabai Thai” scene









## Anti Trafficking in Persons

Direct field actions to protect Southeast Asian women and children from sexual exploitation.

Help us protect women and girls in southeast asia through the following:

**Alternative Channels:** AAT Case notification and Case Referral (Thai, Vietnamese, Shan, Burmese, Laotian, and English), please click the link below:

**Website:** [www.aatthai.org](http://www.aatthai.org)

**Facebook (inbox):** <https://www.facebook.com/AllianceAntiTrafic/messages/>

**Special Facebook Page:** แจ้งเหตุ-มูลนิธิพิทักษ์สตรี-ลูกสาวถูกขายคนถูกค้า

**Line ID:** aatteam

**Telephone (Thailand):** 66 (0)2-214-5157-8 (Office hours 9:00-17:00, Mon-Fri)

AAT is committed to handle all given information with dignity and respect. Please be sure the all information reported will be kept strictly confidential.