

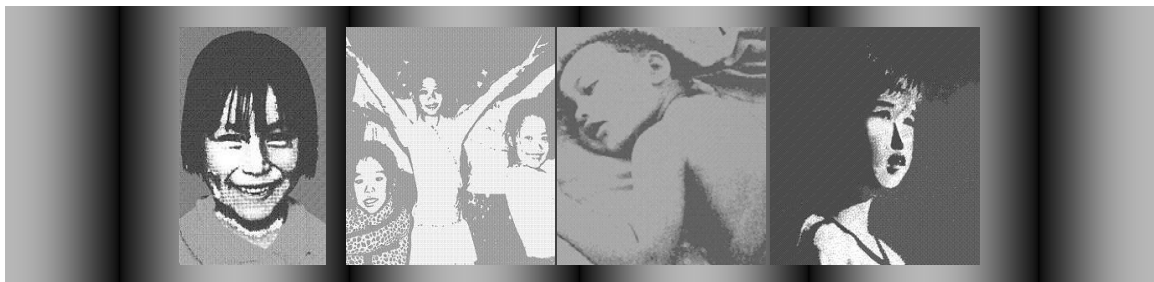


Post-Yokohama Mid-Term Review of the East Asia and the Pacific Regional Commitment and Action Plan Against Commercial Sexual Exploitation of Children (CSEC)

8–10 November 2004
Bangkok

MALAYSIA

Country Progress Report



Malaysia Progress Report (Final draft)
ON THE STATUS OF IMPLEMENTATION
OF THE EAP REGIONAL COMMITMENT AND ACTION PLAN AGAINST
CSEC
As of 17 October 2004

Background

As part of ASEAN's regional efforts to combat Commercial and Sexual Exploitation of Children (CSEC), Malaysia has made a strong commitment to tackle the problem and promote regional collaboration with other ASEAN nations. Malaysia's strong commitment was demonstrated by the high power delegates who attended the first CSEC conference in Yokohama in 2001 where the Minister of National Unity and Development made a presentation about the Malaysian commitment. Malaysian initiatives to review CSEC issues have further been instituted by Ms. Shahrizat Abdul Jalil who has been appointed as a newly established Minister of Women, Family and Community Development in March 2004. While there has been good progress observed for the prevention of CSEC/Trafficking, Malaysia has also faced various challenges for the future scope of CSEC and trafficking issues.

This paper aims to capture some of Malaysia's achievements in the above regard as well as constraints/challenges which need to be addressed in future. Minister Shahrizat of the Ministry of Women, Family and Community Development recently expressed her strong concern over the issue of Child Sexual Abuse and CSEC in Malaysia and has called for further collaboration and partnership with various stakeholders. In line with Minister Shahrizat's leadership and commitment to the issues, Post-Yokohama Mid-Term Review Meeting in November 2004 will give the Malaysian team an excellent opportunity to review our existing coordination/response mechanism, and future strategy to promote partnership and collaboration.

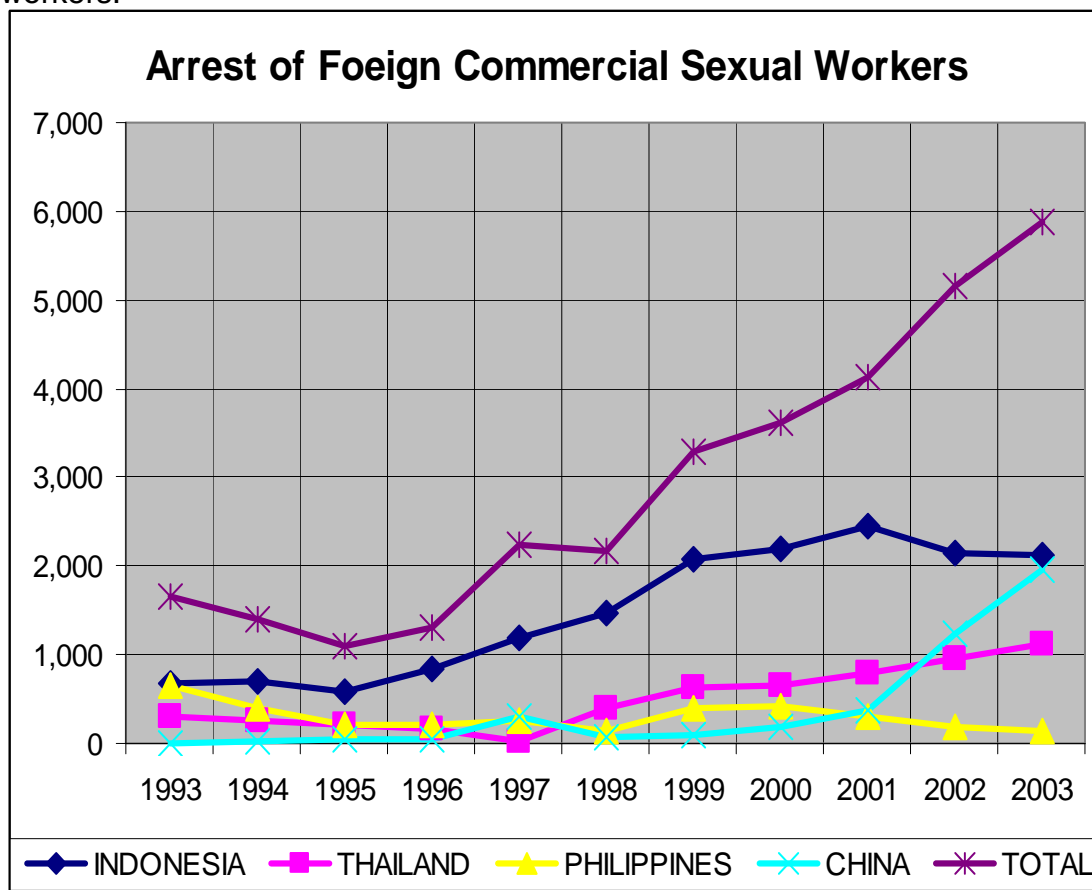
As highlighted in March 2004 Regional CSEC Meeting in Medan, Indonesia, Malaysia is a source, a transit and a destination country for the trafficking of women and children. There have been reports of Malaysian children and women have been trafficked to Singapore, Hong Kong, Taiwan, and Japan as sex workers and international syndicates are believed to be involved. These syndicates usually lure these vulnerable groups under false pretences, promising them better employment and economic opportunities.

Following the invitation for Post Yokohama MTR meeting, the Malaysian delegation met and agreed to gather various statistics/data regarding CSEC, which have now been compiled and are reflected in this report. The

Malaysian delegation consists of the representatives from the Ministry of Women, Family, and Community Development/Department Social Welfare, Immigration, Malaysian Royal Police, Ministry of Foreign Affairs, University of Kebangsaan Malaysia, and UNICEF Malaysia.

Situation of the Human Trafficking and CSEC in Malaysia

Malaysia is a source, a transit and a destination country for the trafficking of women and children. There are cases where Malaysian children and women have been trafficked to Singapore, Hong Kong, Taiwan, and Japan as sex workers.



Source: Royal Malaysian Police

Most of the human trafficking in Malaysia has been organized by syndicates, which are usually well linked to other international mafia. The syndicates also use Malaysia as a transit country. Victims usually come through airports, and the syndicate representatives have compiled all the necessary documents, new passports and other documents before sending them on to another destination.

Malaysia has also been reported as a destination country. The Number of undocumented foreigners/illegal immigrant, entering into Malaysia, has been increasing over the last 10 years. According to UNHCR Malaysia, two main groups of concern are the Achenese and Rohingyas. It is estimated that each group is about 10,000. Although precise figures/aggregated data are not

available, many of these undocumented foreigners are reportedly engaged in low paid construction labour, domestic work, and the commercial sex industry. In general, many Malaysians have a negative feeling towards these undocumented foreigners and associate them with various social problems, such as begging, prostitution, 'deviant' religious teachings, etc. . Malaysia's Star Newspaper on the 22nd April 2004 quoted that more than 70% of Malaysians (N=570 in KL area) feel that undocumented foreigners are a threat to Malaysia's national security and safety. In 1999, the Minister of National Unity and Community Development was reported to have said that 80 per cent of all beggars caught across the country are foreigners (*The Star*, 17 February 1999). The involvement of foreign women in the commercial sex industry has been affirmed by the results from frequent raids carried out on brothels and massage parlors. Further evidence of unfavourable foreign behaviour has been found in the increased cases of abandoned babies. According to the Parliamentary Secretary to the Ministry of National Unity and Community Development, out of a total of 56 cases of abandoned babies, in 1993, 36 (64 per cent) involved undocumented alien women in Kuala Lumpur, Slangier and Johore (*Utusan Malaysia*, 1 February 1994).

There appears to be a number of factors contributing to the increase of the women/child trafficking in Malaysia. First of all, Malaysia's socio-economic development over the last two decades has been attracting many foreign workers who seek better-paid jobs. Taking advantage of the visa-waiver programme among ASEAN countries, a large number of Indonesian, Thai, and Philippine nationals live in Malaysia as undocumented foreigners. The numbers of immigrants from China have also been increasing over the last 5 years. The increase of the un-documented foreigners in Malaysia does not necessarily inter-link with the increase of the child trafficking. It is, however, assumed that the syndicates could easily approach the Indonesian, Thai, and Cambodian youth, and indicate that they could find a 'well paid job without telling a whole story. The second possible factor to the increase of women/child trafficking is the general lack of awareness regarding trafficking problems. Majority of people in Malaysia are not aware of organized human trafficking by international syndicates or that some undocumented foreigners are the victims of the above illegal syndicates. In Malaysian language, there is no such word describing, "Human trafficking" which is often substituted with the Malay word "penyeludupan manusia" which means "human smuggling" in English. Malaysians therefore perceive that those who are "smuggled" are "illegal" rather than "victims" of trafficking syndicates. Smuggling refers to an agreement between the smugglers and migrants and those being smuggled pay a fee to the smugglers and the transaction ends when these migrants reach the destination country. This is somewhat contrary to Indonesia, which shares similar social values, culture and language with Malaysia. In Indonesian, Human Trafficking is commonly said as "Perdagangan Manusia" which means human "trading". This is more accurate, as victims of trafficking can be seen as mere commodities, such as illegal weapons and drugs that are shipped with the sole intention of making a profit. This aspect of human trafficking links it to other transnational threats, such as the illegal trade of weapons and drugs mentioned above, money laundering and the spread of HIV/AIDS. Collectively these threats undermine the safety

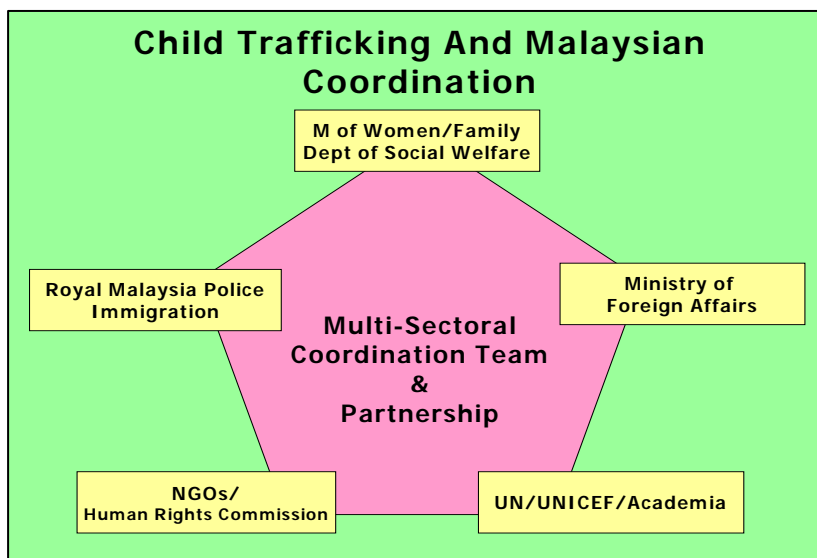
and security of both the victims and all other members of society. It is therefore necessary to have a multi-sectoral and multi-national approach to combat human trafficking in the region.

Following the worrying reports of the increase of CSEC and trafficking in Malaysia, the Government of Malaysia, in partnership with NGOs, academia, and UN has been taking a number of initiatives to tackle the problems. The efforts will be further increased with the leadership, being demonstrated by the new minister of Women, Family and Community Development. The minister has committed to promote collaboration with neighboring countries and international organizations. Police and Immigration are also important partners to work with other line ministries and civil societies to tackle the problem.

Malaysia is, to a lesser extent, a source and transit country for trafficking for sexual exploitation, when compared with other countries in the region, such as Thailand and Vietnam. As described in the above paragraphs, foreign trafficking victims come from Indonesia, China, Thailand, and neighboring countries of Southeast Asia and many of the CSWs also come from various countries outside of the SE Asia region, including Uzbekistan, Russia and India. A small number of Malaysian women (primarily of Chinese origin) are trafficked to Western Europe, North America, Japan, Australia and Taiwan. In 1997, 4,200 Malaysian girls and women were reported missing. In 2003, as many as 5,878 foreign CSWs were arrested by the Malaysian Royal Police. This figure indicated a 14% increase of such arrests from the year 2002 and a further 253% increase when compared with 1993. The available statistics do not show a breakdown of the numbers into the respective categories of women and children.

Human trafficking is a complete violation of human rights and the needs of these victims; especially the children have to be addressed. Although it still has a long way to go, Malaysia has taken steps in this regards. In 1995 Malaysia ratified the Convention on the Rights of the Child (CRC) and the CRC has stimulated the ratification of other fundamental human rights instruments and the reflection in Malaysian legislation of the principles embodied in these instruments. Malaysia enacted a new law, the Malaysian Child Act, which is within the framework of the CRC. The Malaysia Child Act, under Article 48, stipulates that any person who takes part in any transaction or trafficking of children shall on conviction be liable to a fine not exceeding 10,000 Malaysian Ringgit (Approx. US\$2,700) or imprisonment for a term not exceeding five years or both. Malaysia is not a signatory of the Hague Convention of 1993 on trans-boarder parental abductions.

A few other Malaysian laws protect women and children against rape, kidnapping, abduction, and other major criminal offenses. One of the major laws includes a 1978 Penal Code which prohibits any girl under the age of 18 years to go to any place that is removed from her parent or guardian; and it prohibits the performing of any act, knowingly or unintentionally, that leads to, or is likely to lead to, a girl being seduced or forced to have sexual intercourse.



Several Malaysian Government Ministries and Department have been involved with the issue of human trafficking. The Social and Cultural Affairs Section of the Malaysian Ministry of Foreign Affairs is the main government agency that has

helped to monitor the problem of international trafficking. Ministry of Women, Family, and Community Development along with Department of Social Welfare, has taken a good initiative to address the issue of child/woman's rights and their leadership on the issue of trafficking will be further sought under the new minister appointed. In addition, the Department of Immigration, along with Royal Malaysian Police, also acts as an important government law enforcement agency in curbing the problem. Particularly good news is that there have been several non-governmental organizations that have been actively assisting trafficking victims with legal advice, training, and peer education, as well as promoting public awareness of the dangers of trafficking for women and young children.

Malaysia has also cooperated with the regional police--the Association of Southeast Asian Nations Police (ASEAN-POL)--as well as with the international police (INTER-POL), to take preventive measures in regard to the problem.

Royal Malaysia Police (RMP) and immigration work closely with INTERPOL to promote an international partnership to tackle transnational crime. RMP is responsible for the investigation of missing persons cases and currently has two departments tasked with this responsibility. The first one is tasked with investigating normal missing person's cases whereby the elements of crime have not been established and is handled by the assistant director, public affairs division of the Royal Malaysia Police headquarters. When there are elements of crime, such as child trafficking, abduction or kidnapping, the investigation will then be handled by the director of the criminal investigation department.

In Malaysia, cases of missing persons are dealt by the RMP. Reports of missing persons can be made at any police station in the country and will be immediately referred to the police station of the area where the incident has taken place. Detailed information of each case will then be disseminated to all police stations nationwide via the on-line computer system, which RMP headquarters monitors very closely.

All information, including missing children, is then stored in the central data bank at the RMP headquarters and is accessible to all police stations countrywide via the on-line system.

RMP have received the full support of various other government agencies, NGO's and the private sector. Although they are not involved in the investigation process, they have been actively assisting in the tracing and preventive efforts such as publicity, campaigns etc.

From time to time, messages are conveyed through the local mass media such as radio, television, newspaper, public information kiosks at shopping malls and soon they will be circulated on the Internet via the RMP website.

All kinds of information, including that of missing children can be given to the police via the police operation rooms located at all police districts, contingents (state) and federal headquarters. The telephone numbers of these operation rooms are disseminated to the general public from time to time. The RMP has currently been developing an Internet site for information about missing children.

The human rights research institute, The Protection Project, reports that in recent police raids, 373 girls under the age of 18, most of who were trafficked into Malaysia were rescued from forced prostitution. The Institute also reports of a case of 34 Thai and Indonesia women between the ages of 15 and 34 who were heavily drugged and held captive in a brothel in Kuala Lumpur that was "passing itself off as a pub".

The Protection Project also reports that 12 individuals involved in a human trafficking ring were arrested in San Francisco for trafficking Malaysian and Korean women to brothels in over 20 U.S. cities.

Between 1999 and 2000, Canadian police raided a number of brothels near Vancouver where numerous Malaysian women between the ages of 17 and 19 were rescued from commercial sex work, however, these women were never charged with prostitution.

Malaysia has several active NGOs, specializing on child sexual abuse. Malaysia NGOs, working on the trafficking issues, include the Malaysian Chinese Association, the Malaysian Bar Council, and the All Women's Action Society, as well as *Suruhanjaya Hak Asasi Manusia Malaysia* (SUHAKAM, the human rights commission of Malaysia), and *Tenaganita* (Women's Force).

Main routs/entry points of undocumented foreigners entering Malaysia are herewith attached as below map (*The Nation* 28 October 2004).



PROGRESS ON THE EAP REGIONAL COMMITMENT AND ACTION PLAN AGAINST CSEC IN MALAYSIA

A. COORDINATION AND COOPERATION

Achievements:

At National Level

- Malaysian government has commitment to the Stockholm Agenda for Action by virtue of the recommitment contained in the Yokohama Global Commitment.
- Malaysia has not developed a National Plan of Action as agreed at the Yokohama Conference. Under the new minister of Women, Family, and Community Development, however, the Government has been consulting with various stakeholders to coordinate and develop a National Plan of Action. UNICEF has been closely consulting with the Ministries concerned.
- Malaysia has been requested by its neighbouring countries, such as Indonesia, to promote international cooperation for the prevention of transnational crime and trafficking. Subsequently, Malaysia signed an agreement with the Philippines and Indonesia to cooperate on transnational crimes, including human trafficking, and will initiate law enforcement contact with its neighbours. Special cooperation is underway between the states of Sabah and Sarawak and the Indonesian state of Kalimantan. UNICEF Indonesia and Malaysia currently explore possibility to facilitate
- UNICEF will further consult with line ministries to see if UN can facilitate the collaboration between the two countries.

- Ministry of Women, Family, and Community Development has expressed interest in forming an inter-government coordination mechanism, which will be developed in 2004.

B. PREVENTION

Given the relatively small number of Malaysian trafficking victims, the main focus of the prevention efforts are through public awareness or media campaigns. Domestically, Malaysian television broadcasts UN-sponsored public service announcements that warn of the dangers of trafficking.

The Malaysian Chinese Association, within the Government's ruling political coalition, publishes warnings about trafficking in its Chinese language publications, makes public statements to caution potential victims about overly lucrative job offers abroad, and holds periodic press conferences highlighting the plight of returned Malaysian trafficking victims. Internationally, Malaysia places great importance on working with ASEAN countries to fight trafficking and shares trafficking intelligence with Australia and Interpol.

Achievements:

At National Level

- Under the new cabinet and leadership, The Prime Minister's Department and the Ministry of Women, Family, & Community Development have been taking a strong initiative to address the issue and promote partnership with various counterparts.
- Ministry of Women, Family, and Community Development, in partnership with UNICEF, has just completed one of the first Malaysian Sexual Abuse Studies. The result of the study will be reviewed by Malaysian government and UNICEF to develop a new strategy for CSEC.
- The Government provided direct financial support to 75 different NGOs dedicated to women and girls' welfare. While these NGOs did not specifically target trafficking victims, they were available to help repatriated Malaysian victims and foreign victims who had been released into the custody of their embassy or consulate.¹
- Malaysia passed the Child Act 2002 to outlaw pornography.
- Local women's NGOs are working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims.
- The government is using the media to educate the public about the perils of human trafficking by exposing the abuses suffered by women and children as a result of trafficking.

- Malaysia Human Rights Commission has organized a workshop on the prevention of the trafficking in 2004 and prevention aspects were highlighted in line with education activities in schools.

At International Level

- Malaysia signed an agreement with the Philippines and Indonesia to cooperate on transnational crimes, including human trafficking, and will initiate law enforcement contact with its neighbors. Special cooperation is underway between the states of Sabah and Sarawak and the Indonesian state of Kalimantan.
- Malaysia is cooperating with ASEAN-POL and INTERPOL to prevent international human trafficking. A watch-list of identified traffickers is maintained to better identify the culprits.²
- Prime Minister's Department/EPU, Ministry of Women, Family and Community Development, Police, Immigration and UNICEF met at the Prime Minister's Department on the 14th of October 2004 and agreed to jump-start a new project for the prevention of trafficking and CSEC. 2005-2007 GOM/UNICEF planning meeting will be held on the 10 December and will decide the detailed work plans and strategies.

B. PROSECUTION

Malaysia enacted a new law, the Malaysian Child Act, which is within the framework of the CRC. The Malaysia Child Act, under Article 48, stipulates that any person who takes part in any transaction or trafficking of children shall on conviction be liable to a fine not exceeding 10,000 Malaysian Ringgit (Approx. US\$2,700) or to imprisonment for a term not exceeding five years or to both. Malaysia traditionally uses other laws such as the Immigration Act and Restricted Residency Act. In 2002, the new Immigration Act prosecuted 70 cases of suspected trafficking under the country's Immigration Act. Malaysia prosecuted 24 cases under a trafficking statute; seven of these led to convictions. However, it did not prosecute anyone specifically for the offense of human trafficking in 2002. Most traffickers are prosecuted as smugglers under the immigration statute and as a result receive only fines or light sentences. The Government aims to review its law provision and take necessary action for the amendment of the law.

In addition, 40 suspected traffickers were detained without trial under the Internal Security Act; another 49 individuals suspected of trafficking-related crimes were detained without trial under the Restricted Residence Act. The lack of a specific law addressing trafficking in persons, as well as use of the Internal Security Act and Restricted Residence Act in lieu of the criminal court system, makes it more difficult to accurately identify and quantify trafficking statistics. The government aims to institute a witness protection program, encouraging knowledgeable victims to testify against the criminal syndicates that are responsible for much of the trafficking in Malaysia.

The Government of Malaysia provided training for some of its higher-ranking officials. Currently there is no systematic anti-trafficking training program to sensitize front-line police and immigration officers who conduct raids on brothels and could identify potential victims. While illegal migration is a major national security issue, it does not detract from the government's commitment to combat trafficking. The lack of government translators to interview foreign trafficking victims has significantly hampered efforts to assist victims. An NGO activist who maintains a shelter for abused women and TIP victims was appointed to the newly created royal commission on police reform.

Status of Malaysian Legal Instrument to Prosecute Trafficking of Children

Name of Relevant Law/Convention for Trafficking	Malaysia Status	Remark
International		
Convention of the Rights of the Child	Ratified (Aug/95)	
CRC Optional Protocol on Sales of Children	N/A	
ILO Convention No 182	Ratified (Oct/00)	
Convention Against Transnational Organized Crime	Signed (Sep/02)	
Domestic		
2001 Child Act §48	2001	
Immigration Act	2002	Frequently Used
Internal Security Act	1978	
Restricted Residency Act	1984	Frequently Used

Achievements:

At National Level

- National jurisdiction system for the prevention of CSEC/Trafficking has been reviewed by government, NGOs, and Malaysian Human Rights Commission. The constitution of Malaysia prohibits slavery, but the provision has not been invoked in cases of human trafficking. However, in order to prosecute traffickers, Malaysian officials use other laws such as the Immigration Act and Restricted Residency Act. The new Immigration Act of 2002 has resulted in the decrease of the number of illegal residents in the country, and it is thought the number of trafficked victims. However, the government did not prosecute anyone specifically for the offense of human trafficking in 2002.
- Convention on the Rights of the Child (CRC) has stimulated the ratification of other fundamental human rights instruments and the reflection in Malaysian legislation of the principles embodied in these instruments. Malaysia enacted a new law, the Malaysian Child Act, which is within the framework of the CRC. The Malaysia Child Act, under Article 48, stipulates that any person who takes parts in any

transaction or trafficking of children shall on conviction be liable to a fine not exceeding 10,000 Malaysian Ringgit (Approx. US\$2,700) or to imprisonment for a term not exceeding five years or to both.

At International Level

- The team of Malaysian Academia, NGOs, and Government participated in international CSEC Conference in Medan Indonesia and exchanged information and views with other neighbouring countries. Following this meeting, Malaysia team has agreed to develop a strategy to tackle CSEC and trafficking.
- Malaysian Government aims to work with its neighbouring countries to tackle the trafficking issues.

C. PROTECTION

As of 2003, Malaysian law does not codify the difference between trafficking victims, illegal migrants, and asylum seekers. Thus, victims, especially those who do not usually speak Bahasa Melayu, are sometimes detained. Royal Malaysian Police sometimes lack the training and language skills to screen trafficking victims from illegal migrants. Foreign trafficking victims are often not recognized as victims and are treated as immigration offenders. The Government arrested and detained 5,564 foreign women suspected of prostitution, many of whom were likely trafficking victims.

The Malaysian Human Rights Commission "Suhakam," reported in April 2004 that it questioned 1,544 foreign women imprisoned for prostitution and identified approximately 350 trafficking victims; some of these have been released. The Government of Malaysia turned over 300 victims of trafficking to the care of the Indonesian and Thai embassies last year. Malaysia has not engaged IOM in efforts to repatriate foreign trafficking victims. In a recent case, 14 victims rescued from a high-rise apartment building were sent to a hospital for care and subsequently turned over to the Indonesian embassy for repatriation.

NGOs do not receive government funding for trafficking victims specifically, although the government provides general operating funds for women's welfare. In 2003, the Ministry of Women's Affairs and Family Development opened five centers for women in need of shelter, counseling and job skills training. These shelters in early 2004 were made available to trafficking victims.

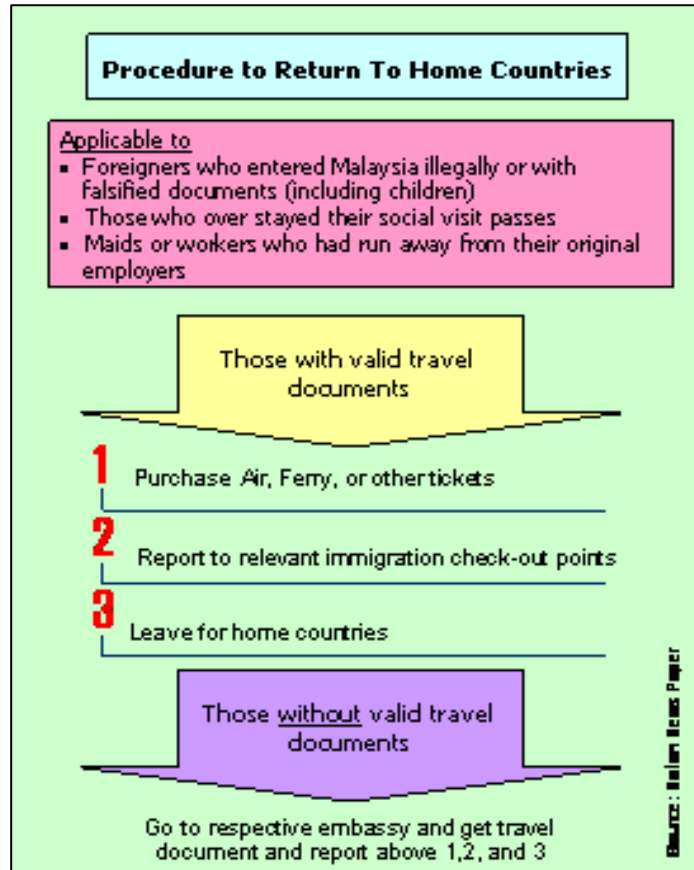
At National Level

- Overseas, the Ministry of Foreign Affairs provides assistance to Malaysian victims trafficked abroad.
- A number of active women's NGOs provide assistance to victims of trafficking.

D. RECOVERY AND REINTEGRATION

Current Malaysian recovery and reintegration system do not differentiate “illegal workers”, “overstayed foreigners” and “trafficked victims”. Existing recovery and reintegration system in Malaysia have been indicated in the below table.

- Ministry of Home Affairs and Immigration has currently been developing a short guidelines on how to deal with unaccompanied minors.
- Following the discussion between UN Malaysia and Ministry of Health, MOH has recently agreed to provide free of charge medical services for un-documented foreigners below age 15. UN Malaysia will review the implementation on the ground.



E. MONITORING

- Government is currently in the process of establishing a more efficient and transparent monitoring mechanism. Malaysia Human Rights Commission (SUHAKAM) organized a 1-day workshop in April 2004 to review and discuss the trafficking issue. One of the sessions specifically highlighted the possible collaboration of a trans-national monitoring mechanism between Malaysia and Indonesia.
- Government and UNICEF aim to start a new country programme cycle in 2005 and the first programme planning meeting was organized on the 15th October 2004. One of the programmes proposed by Prime Minister’s Department is the promotion of the regular monitoring of the problems and GoM/UNICEF will organize a workshop regarding the monitoring of trafficking.

E. FUTURE CHALLENGE AND COMITMENT

1. Strengthen Malaysia's cooperation and coordination at all levels, both within countries and across borders, especially to address the gaps in the prevention and protection of children from exploitation.
2. In line with the enactment of the 2001 Malaysia's Child Act, continue Malaysia's commitment to further improve its National Plan of Action for the Prevention of CSEC.
3. Minister of Women, Family and Community Development has recently expressed her intention to promote collaboration among various stakeholders. Malaysian government therefore will organize a coordination task force team to review the problem, identify the existing strategies, and future work plan.
4. Malaysia will identify an effective and accountable monitoring mechanism of human trafficking. As a part of efforts to improve its monitoring system, Malaysia seeks international collaboration with its neighboring countries as well as with INTERPOL and ASEANPOL.
5. Through media and NGOs, Malaysia will promote zero tolerance in the society towards sexual exploitation and trafficking of children.
6. Encourage all efforts to empower children and young people to protect themselves through education, training and safe employment opportunities and promote their participation in all matters that affect them.

Reference:

- Ministry of Women, Family, and Community Development/Department of Social Welfare
- Malaysia Royal Police
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- Ministry of Foreign Affairs
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- US Embassy Malaysia
- Human Rights Commission Malaysia
- Dr. Zarina Othman, University Kebangsaan Malaysia
- End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) report
- The Nations Newspaper
- The Star News paper
- 2004 UNICEF State the World Children
- 2002 UNICEF Malaysia Annual Report