



FROM EVERY ANGLE

*Using the law to combat human trafficking
in Southeast Asia*

NOVEMBER 2014



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WHITE & CASE

**C L I F F O R D
C H A N C E**



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FRONT COVER PHOTO Mithun, 11, carries a container full of dust on his shoulder at a laterite brick mine in Ratnagiri district, about 360km (224 miles) south of Mumbai. He is paid two Indian rupees (\$0.04) per brick and carries an average of 100 bricks out of the mine each day. Each brick costs between 10–14 rupees (\$0.22–\$0.31), and weighs around 40 kg. REUTERS/Danish Siddiqui

DISCLAIMER

The tables below reflect a summary of relevant jurisdictions' possible criminal offenses involved in multiple trafficking scenarios and their related laws. The foreign laws, however, were provided by the respective jurisdictions and Liberty Asia does not accept responsibility for its accuracy, or the accuracy of the translations. Users should at all times consult the full text of the relevant laws in the original language. The summaries do not constitute legal advice under any circumstance.

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FOREWORD

Modern-day slavery takes many forms: human trafficking, forced and bonded labour, sexual exploitation and domestic servitude. The common denominator of all these crimes is the evil intention to strip human beings of their freedom, and then to use, control, abuse and exploit them. Although often hidden, these odious crimes are all too common on fishing boats in Thailand, brothels in Cambodia, behind the closed doors of homes in Hong Kong, or in hotels in Western countries.

As part of the wider efforts to combat these hateful crimes, the Thomson Reuters Foundation has teamed up with Liberty Asia and a number of leading law firms, to produce *'From every angle: Using the law to combat human trafficking in Southeast Asia'*.

Fighting human trafficking through our global pro bono programme TrustLaw is a core focus of the Thomson Reuters Foundation. The report looks at the laws that apply in a range of scenarios: a woman is promised employment as a domestic worker, but receives abuse instead of her pay; a boy moves for a construction job, but is held against his will and denied fair wages; a woman moves country for a job, only to be forced to work in a brothel. While all these scenarios involve trafficking, it is not just trafficking laws that apply. We hope the report will highlight the range of offences that can occur in a trafficking situation, such as assault, sexual violence, employment and immigration law breaches, to enable more prosecutions and combat the culture of impunity for the traffickers and the offenders, whoever they are.

The report focuses on seven countries in Southeast Asia. However, trafficking is a global issue. TrustLaw connects lawyers in over 170 countries with NGOs, like Liberty Asia, to provide free legal assistance on pressing global issues or to support their legal needs. Modern day slavery is a big part of our Trust Women Conference – a fast-growing movement to put the rule of law behind women's rights and trigger concrete action.

Without prosecution of traffickers and fair compensation for survivors, we as a civilization will never outrun the perpetrators of these heinous crimes. This report will help us better understand the laws which will protect the victims and prosecute the traffickers.



MONIQUE VILLA

CEO, Thomson Reuters Foundation and Founder of TrustLaw

INTRODUCTION

With an estimated 21,000,000 slaves in the world and less than 10,000 reported prosecutions in 2013, much remains to be done to hold traffickers accountable for their actions and to secure justice for survivors of human slavery. One of the key challenges faced by the counter-trafficking movement is translating into practical terms the understanding of human trafficking as an ensemble of crimes and a process involving multiple parties and multiple jurisdictions. This Report considers a series of generic trafficking scenarios: sex trafficking, labour trafficking, construction trafficking, domestic trafficking and marriage trafficking and the various breaches of law that are triggered by different sets of facts in different jurisdictions across South-East Asia.

This Report highlights offences that include but are not limited to the offence of trafficking in persons, bribery/corruption, labour law violations, money-laundering offences, rape, theft, deception, assault, slavery and forced labour. The research paints a mixed picture with some jurisdictions, for example Thailand, armed with stronger legal frameworks than others but that in itself does not guarantee better prosecution and protection. Trafficking is gendered in some legal frameworks (e.g. China) whilst others are gender-neutral. The differences highlighted are primarily as a result of the differing notions/ definitions of human trafficking. The frameworks examined are heavily biased in favour of the offence of sex trafficking whilst forced labour attracts a fairly low sentencing tariff.

The aim of this Report is to allow front-line NGOs engaged in legal service provision and lawyers representing victims of trafficking to get creative about the way they pursue traffickers hence improving their chances of securing justice for victims. This Report is a tool that offers alternative avenues in a world where prosecutions for trafficking offences often fail due to paucity of evidence or an uncollaborative survivor who is fearful of the consequences of testifying against her traffickers. A broader view of the full spectrum of offences involved in various trafficking scenarios offers the opportunity to take a more holistic view of the crime and promote a more targeted response.

Thank you to all the regional partners involved in this project for their hard work and to Trust Law for bringing us together to complete this Report.

ARCHANA SINHA KOTECHA

Head of Legal, Liberty Asia

EXECUTIVE SUMMARY

1. All jurisdictions examined in this piece of research have **specific anti-trafficking legislation** in addition to relevant provisions in their respective Criminal/Penal Codes. The breadth of the definition of trafficking varies. For example, Cambodia, Malaysia, Myanmar and Thailand are modeled on the 2000 UN protocol definition particularly in regard to the definition of exploitation. On the other hand, the Hong Kong definition of trafficking as set out in the Crimes Ordinance (Cap 200) is focused on cross-border sex trafficking for exploitation in prostitution whilst China's definition of human trafficking excludes the application of sex trafficking laws to men.
2. Malaysia, Thailand, China, Cambodia, Myanmar and Vietnam all criminalize **forced labour** whereas forced labour is not criminalized in Hong Kong. Punishment ranges from as light as a two-week detainment to 10 years imprisonment. Countries such as Thailand that recognize forced labour as a form of exploitation under anti-trafficking law generally promulgate higher punishment than those where forced labour is punishable under separate Labour law or Penal Code provisions.
3. All jurisdictions offer similar **worker protection laws** e.g. number of working hours daily/weekly, failure to pay wages, failure to grant rest days, pay overtime work and grant sick leave. Punishment is mostly by way of fine with the exception of Thailand where the law prescribes imprisonment for a term not more than 6 months.
4. **Slavery** is also punishable under separate Penal Code provisions in Thailand, Myanmar and Malaysia. The laws in all three jurisdictions refer to slavery similarly as the act of bringing into or sending out of the country, removing, buying, selling, disposing of or restraining any person.
5. The degree of **punishment** for the crime of human trafficking varies with Myanmar prescribing the most stringent punishment up to a term of life imprisonment if the crime is committed on women and children. Factors that go into determination of appropriate punishment include, among others, purpose of trafficking, number of trafficked persons, how many times the trafficker has committed the crime and age of victims.
6. **Conspiracy to commit trafficking** is an offence in Thailand and Myanmar. Under Thai law, conspirators receive no more than one-half of the punishment of the offenders whereas conspirators and offenders in Myanmar receive the same punishment.

HONG KONG



HONG KONG

Although a Special Administrative Region of China, Hong Kong's anti-trafficking efforts are not on par with those of China and Macau, the second Special Administrative region of China. The very high number of anti-prostitution actions and disputes between domestic workers and their employees/agencies suggest that in fact the number of trafficking cases in Hong Kong should be higher than what is currently reflected in the low number of prosecutions and convictions. In addition, trafficking for forced labour is not provided for in the legal regime that focuses on cross-border sex trafficking for exploitation in prostitution.

Despite an improved awareness of the subject today as compared to a few years ago and the Government's efforts to train frontline staff on victim identification, further action is required for a more credible counter-trafficking effort. Stakeholder engagement with the issue must be encouraged and research and data collection prioritized for a better understanding of the scope of the issue in Hong Kong. With emerging reports of young Hong Kong girls being trafficked for sex to Australia, there is an increasing urgency to promote education/awareness raising on the subject at all levels. Improving the social visibility of the subject will allow for better informed and targeted awareness at all stakeholder levels.

By virtue of being a leading city in Asia, there is much hope that Hong Kong will step up to the task and lead by example given the staunch efforts on the counter-trafficking front by its neighbor and competitor Singapore. Singapore's Anti-Trafficking Private Members' Bill, its National Plan of Action and Case Referral System certainly provide Hong Kong with much food for thought.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Hong Kong law) involved in five trafficking scenarios: sex trafficking, construction trafficking, forced labour trafficking, marriage trafficking and domestic trafficking.

SCENARIO 1 – SEX TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A young Filipino woman hears about a possible job in Hong Kong working in a restaurant	
	She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	
	The statements he makes to her are false and intended to deceive her	
	He helps her to get a passport and a visa in exchange for a fee (US\$1,900)	
	This is done by bribing government officials in the Philippines to get the proper papers in order	
	Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	
	She flies to Hong Kong	
	Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE TRAFFICKER & VICTIM <ul style="list-style-type: none"> — Making false statement to immigration officer (s42(1), Immigration Ordinance)
DESTINATION COUNTRY: HONG KONG (INITIATION)	She arrives in Hong Kong. A man is waiting for her in the airport.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance)
	He takes her passport	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Obtaining property by deception (s17, Theft Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)		She is taken to an apartment in Kowloon	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Permitting children under 13 to resort to or be on premises for intercourse (s140, Crimes Ordinance) — Permitting young person to resort to or be on premises for intercourse (s141, Crimes Ordinance) — Keeping a vice establishment (s139, Crimes Ordinance) — Letting premises for use as a vice establishment (s143, Crimes Ordinance) — Permitting premises to be kept or used as a vice establishment (s144, Crimes Ordinance) — False imprisonment (common law offence)
		She begins to get nervous and starts to ask questions	
		The man becomes angry and slaps her several times and offers threats against her and her family	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
		He explains that if she doesn't do what she is told, she will be hurt	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s24, Crimes Ordinance) — Soliciting for immoral purpose (s147, Crimes Ordinance)
		She is held against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Control over persons for purpose of unlawful sexual intercourse or prostitution (s130, Crimes Ordinance) — Detention for intercourse or in vice establishment (s134, Crimes Ordinance) — False imprisonment (common law offence)
DESTINATION COUNTRY: EXPLOITATION PERIOD		She is confined in a room for two days – with little food or water	FOR THE PERPETRATOR <ul style="list-style-type: none"> — False imprisonment (common law offence) — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)
		She is forced to drink a juice cocktail that is laced with a sedative	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Administering drugs to obtain or facilitate intercourse (s121, Crimes Ordinance)
		In this intoxicated state, men come and have sex with her against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s118, Crimes Ordinance) — Procurement of intercourse by threats or false pretences (s119, Crimes Ordinance) — Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance) — Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance) — Non-consensual buggery (s118A, Crimes Ordinance) — Assault with intent to commit buggery (s118B, Crimes Ordinance) — Indecent assault (s122, Crimes Ordinance) — Abduction of unmarried girls under 18 for sexual intercourse (s127, Crimes Ordinance) — Indecent conduct towards child under 16 (s146, Crimes Ordinance)
		Photos are taken of her with several men in compromising positions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Indecent assault (s122, Crimes Ordinance) — Making and producing child pornography (s3, Prevention of Child Pornography Ordinance) — Possessing child pornography (s3, Prevention of Child Pornography Ordinance) — Procuring persons under 18 for making pornography (s138A, Crimes Ordinance)
		She is told that these photos shall be sent to her family if she doesn't comply with the trafficker	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing or encouraging unlawful sexual act with children under 16 (s135, Crimes Ordinance) — Criminal intimidation (s24, Crimes Ordinance)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She is forced to have sex with up to three men a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in persons to or from Hong Kong (s129, Crimes Ordinance) — Living on earnings of prostitution of others (s137, Crimes Ordinance) — Rape (s118, Crimes Ordinance) — Procurement of intercourse by threats or false pretences (s119, Crimes Ordinance) — Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance) — Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance) — Non-consensual buggery (s118A, Crimes Ordinance) — Assault with intent to commit buggery (s118B, Crimes Ordinance) — Indecent assault (s122, Crimes Ordinance) — Abduction of unmarried girls under 18 for sexual intercourse (s127, Crimes Ordinance) — Indecent conduct towards child under 16 (s146, Crimes Ordinance)
	She is not allowed to leave the apartment without an escort. She is not allowed to communicate with anyone at any time	FOR THE PERPETRATOR <ul style="list-style-type: none"> — False imprisonment (common law offence)
	She is forced to drink whatever the client offers, even if she doesn't want it	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of dangerous drugs (s8, Dangerous Drugs Ordinance) — Administering drugs to obtain or facilitate intercourse (s121, Crimes Ordinance)
	If the person doesn't want to wear a condom, she can't deny him sex	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s118, Crimes Ordinance) — Procurement of intercourse by threats or false pretences (s119, Crimes Ordinance) — Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance) — Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance) — Non-consensual buggery (s118A, Crimes Ordinance) — Assault with intent to commit buggery (s118B, Crimes Ordinance) — Indecent assault (s122, Crimes Ordinance) — Abduction of unmarried girls under 18 for sexual intercourse (s127, Crimes Ordinance) — Indecent conduct towards child under 16 (s146, Crimes Ordinance)
	She does not receive any payment – whatever they think she needs (food, clothing) is provided to her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to provide food, etc. for apprentices or servants (s25, Offences Against the Persons Ordinance) — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)
	She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Lending at excessive interest rates (s24, Money Lenders Ordinance)
	Bribes are paid to a local police officer to turn the other way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (s4, Prevention of Bribery Ordinance) — Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance) — Offering an advantage to an agent (s9, Prevention of Bribery Ordinance) FOR THE POLICE OFFICER <ul style="list-style-type: none"> — Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)
	The apartment is rented using money from drug trafficking profits	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in a dangerous drug (s4, Dangerous Drugs Ordinance) — Possession of a dangerous drug (s8, Dangerous Drugs Ordinance) — Money Laundering (s25, Organised and Serious Crimes Ordinance & Drug Trafficking (Recovery of Proceeds) Ordinance)
	The trafficker has a vice establishment and forces the girl to solicit clients	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Soliciting for immoral purpose (s147, Crimes Ordinance) — Keeping a vice establishment (s139, Crimes Ordinance) — Letting premises for use as a vice establishment (s143, Crimes Ordinance) — Permitting premises to be kept or used as a vice establishment (s144, Crimes Ordinance)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY: THE RETURN HOME		After 18 months, she is given her freedom to leave and be replaced by a new trafficked person	FOR THE PERPETRATOR — Soliciting for immoral purpose (s147, Crimes Ordinance))
		She returns home, but out of shame she does not communicate what had happened to her	
		She makes up a story that she tried to contact her home but couldn't get through	
		She explains that she earned a lot of money but was used up before she was coming back	

SCENARIO 2 – CONSTRUCTION TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A 16-year-old Mainland Chinese boy learns of a construction project in Hong Kong that hires workers	
	He is given instructions on how to get to Hong Kong on a supply boat	
	He pays the boat owner a smuggling fee	
	When the boat is stopped and he and others are found to be without papers, the captain pays the marine police a bribe	
	This is added to his debt	
	He is told he will be paid, but not for the first three months	
DESTINATION COUNTRY: HONG KONG (INITIATION)	The man is greeted at the border	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance)
	He is taken to an apartment that is shared by ten other men	
	They are all from different parts of Mainland China	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Being an employer of a person not lawfully employable (s17(1), Immigration Ordinance) — Illegal immigrants found on construction site (s38A(2), Immigration Ordinance) — Failing to keep record of employees (s17K & M, Immigration Ordinance)
	All of his documents are taken away and withheld from him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Obtaining property by deception (s17, Theft Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)
	They are told not to leave the apartment unless to go to the work site	FOR THE PERPETRATOR <ul style="list-style-type: none"> — False imprisonment (common law offence)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)		They are threatened with deportation and imprisonment if they don't follow instructions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s24, Crimes Ordinance)
		One of the men breaks the rules and gets severely beaten	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance) — Murder (common law offence) — Manslaughter (common law offence)
DESTINATION COUNTRY: EXPLOITATION PERIOD		Each morning, they are all taken to the construction site	
		Their services are subcontracted through a Hong Kong construction agent	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's prohibition of taking employment (s38AA, Immigration Ordinance) — Aiding, abetting, counseling or procuring another's breaching a condition of stay (s41, Immigration Ordinance) — Restriction on employment of persons under 18 years of age on construction sites (reg4A, Construction Sites (Safety) Regulations) — Prohibition of untrained & incompetent workmen to operate mechanical equipment (reg45, Construction Sites (Safety) Regulations) FOR THE VICTIM <ul style="list-style-type: none"> — Prohibition of taking employment (s38AA, Immigration Ordinance) — Breaching a condition of stay (s41, Immigration Ordinance)
		His supervisor physically and verbally abuses him over and over again	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
		After two months of work, when he asks for his payment he is hit across the face	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
		He works 14 hours a day, seven days a week	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to grant rest days (s17, Employment Ordinance) — Compelling employees to work on rest days (s19, Employment Ordinance) — Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance) — Failure to grant annual leave (s41AA, Employment Ordinance) — Failure to pay annual leave pay (s41D, Employment Ordinance – fine of \$50,000) — Failure to pay sickness allowance (s33, Employment Ordinance)
		After seven months of this work, he begins to feel he'll never be paid – the others are asking the same thing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Obtaining services by deception (s18A(1), Theft Ordinance) — Evasion of liability by deception (s18B, Theft Ordinance) — Fraud (s16A, Theft Ordinance)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)		After an accident takes place where one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault with intent to commit arrestable offences (s36, Offences Against the Persons Ordinance) — Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance) — Assaulting apprentices or servants (s25, Offences against the Person Ordinance) — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance) — Murder (common law offence) — Manslaughter (common law offence)
		Major loans for the project were approved by several international banks to cover construction materials, equipment and staffing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Money Laundering (s25, Organised and Serious Crimes Ordinance)
		One day immigration police visit the site and meet the foremen (a bribe is paid to the immigration police to arrest and deport them)	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (s4, Prevention of Bribery Ordinance) — Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance) — Offering an advantage to an agent (s9, Prevention of Bribery Ordinance) — Making false statement to immigration officer (s42(1), Immigration Ordinance) FOR THE GOVERNMENT OFFICIALS <ul style="list-style-type: none"> — Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)
		An hour later all of the men are arrested and brought to an immigration centre	
SOURCE COUNTRY: THE RETURN HOME		The man is deported with no money paid	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance) — Failure to pay wages on completion (s24, Employment Ordinance) — Failure to pay on termination (s25, Employment Ordinance) — Illegal deductions from wages (s32, Employment Ordinance) — Failure to pay interests on late payment on wages (s25A, Employment Ordinance) — Failure to pay end of year payment (s11E, Employment Ordinance)
		Despite trying to explain that he was deceived, no one listens to his story	

SCENARIO 3 – LABOR TRAFFICKING

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY		A Mainland Chinese woman with sewing skills learns of a good-paying sewing job in Hong Kong	
		She is given instructions by her sponsor (a trafficker) on how to get a tourist visa to visit the island	
		She is told she will be paid a good salary which is not true – no payment will be offered	
		No written contract is offered	
		Upon arriving at the border the immigration officer pulls her aside because of the size of her bag	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance)
		As instructed, she offers a small envelope that includes money to bribe the officer which is accepted	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (s4, Prevention of Bribery Ordinance) — Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance) — Offering an advantage to an agent (s9, Prevention of Bribery Ordinance) FOR THE OFFICER <ul style="list-style-type: none"> — Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)
		The garments made are going to a major retailer	
DESTINATION COUNTRY: HONG KONG (INITIATION)		Upon arriving, she is picked up by an agent who offers her contract to sign in an unknown language	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employer not to enter into contract without reasonable belief that he can pay wages (s31, Employment Ordinance) — Fraud (s16A, Theft Ordinance) — Prohibition of taking employment (s38AA, Immigration Ordinance) — Breaching a condition of stay (s41, Immigration Ordinance)
		The details are explained to her	
		She signs	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employers to inspect documents of new employee (s17J, Immigration Ordinance)
		She is asked to hand over her documents so copies can be made	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Obtaining property by deception (s17, Theft Ordinance)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	When she asks for them back, she is told she can't have them	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)
	She is taken to a small apartment that has 25 other women from different locations (only one speaks Mandarin) – attached to the apartment is a sewing workshop	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Being an employer of a person not lawfully employable (s171(1), Immigration Ordinance)
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to work 16 hours a day, seven days a week – sewing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to grant rest days (s17, Employment Ordinance) — Compelling employees to work on rest days (s19, Employment Ordinance) — Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance) — Failure to grant annual leave (s41AA, Employment Ordinance) — Failure to pay annual leave pay (s41D, Employment Ordinance) — Failure to pay sickness allowance (s33, Employment Ordinance)
	If she makes a mistake or is short on her quota, she is hit	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
	She is given two meals a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)
	She is not allowed to leave the premise for any reason	FOR THE PERPETRATOR <ul style="list-style-type: none"> — False imprisonment (common law offence)
	She is told that she owes money as outlined in the contact – the amount is unclear	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Fraud (s16A, Theft Ordinance)
	She is told she will not be paid until this amount is paid back in full	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance) — Failure to pay wages on completion (s24, Employment Ordinance) — Failure to pay on termination (s25, Employment Ordinance) — Illegal deductions from wages (s32, Employment Ordinance) — Failure to pay interests on late payment on wages (s25A, Employment Ordinance) — Failure to pay end of year payment (\$50,000) — Obtaining services by deception (s18A(1), Theft Ordinance) — Evasion of liability by deception (s18B, Theft Ordinance)
	After six months, she is told she will get money from that point on, but the money will be held by the manager	

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	Bribes are paid to local labor inspectors to ignore the business and the zoning breaches	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (s4, Prevention of Bribery Ordinance) — Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance) — Offering an advantage to an agent (s9, Prevention of Bribery Ordinance) FOR THE OFFICER <ul style="list-style-type: none"> — Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)
	<p>Loans were taken to pay for the sewing equipment, running costs (e.g. water and electricity) and the raw textiles used in the business</p> <p>Purchases are made from local wholesale shops</p>	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Money Laundering (s25, Organised and Serious Crimes Ordinance)
SOURCE COUNTRY: THE RETURN HOME	The woman is told she can go and visit her family. The arrangements are made	
	She is told she will get a payment on that day	
	She is dropped off at the border site and given her papers, but the van drives away without paying her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance) — Failure to pay wages on completion (s24, Employment Ordinance) — Failure to pay on termination (s25, Employment Ordinance) — Illegal deductions from wages (s32, Employment Ordinance) — Failure to pay interests on late payment on wages (s25A, Employment Ordinance) — Failure to pay end of year payment (s11E, Employment Ordinance) — Obtaining services by deception (s18A(1), Theft Ordinance) — Evasion of liability by deception (s18B, Theft Ordinance)

SCENARIO 4 – MARRIAGE TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Cambodian woman hears about a marriage brokering service	
	She reads an ad in a local paper and applies hoping she might be able to support her extended family financially	
	She is asked to provide a profile	
	A video is taken of her in a short dress	
	Once a prospective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US\$2,600)	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Conspiracy to defraud (s159C(6), Crimes Ordinance)
	She borrows money from her parents to cover the expenses	
	Money is paid by the broker to bribe government officials to secure the proper papers	
	She flies to Hong Kong	
DESTINATION COUNTRY: HONG KONG (INITIATION)	She arrives in Hong Kong A man and a woman are waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance) — Making false statement to immigration officer (s42(1), Immigration Ordinance)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Obtaining property by deception (s17, Theft Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	<p>She is driven to another agency office where she is presented with a set of papers to sign in a foreign language</p> <p>She is told to sign – that it is routine</p> <p>Once this is done, she is taken to a house</p> <p>She is told she is married</p> <p>Upon entering, she finds an elderly widower who is feeble</p> <p>She is told that she is already married and she is expected to take care of him and others who live in the house</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Conspiracy to defraud (s159C(6), Crimes Ordinance) — Fraud (s16A, Theft Ordinance) — Making false statement to immigration officer (s42(1), Immigration Ordinance)
	<p>When she explains that this was not the young person who was in the photo, they shout and threaten her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Criminal intimidation (s24, Crimes Ordinance)
	<p>She is told that she will be arrested and put in jail if she tries to leave</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Criminal intimidation (s24, Crimes Ordinance)
DESTINATION COUNTRY: EXPLOITATION PERIOD	<p>Each day she is forced to wake up at 6am and work until 11pm</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to grant rest days (s17, Employment Ordinance) — Compelling employees to work on rest days (s19, Employment Ordinance) — Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance) — Failure to grant annual leave (s41AA, Employment Ordinance) — Failure to pay annual leave pay (s41D, Employment Ordinance) — Failure to pay sickness allowance (s33, Employment Ordinance)
	<p>She services the needs of a large extended family</p>	
	<p>If she does something wrong, she is hit repeatedly</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
	<p>She is not allowed to leave the house unless a family member accompanies her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — False imprisonment (common law offence)
	<p>While the man is physically handicapped, he still demands that she sleeps with him</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Rape (s118, Crimes Ordinance – life imprisonment) — Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance) — Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance) — Non-consensual buggery (s118A, Crimes Ordinance) — Assault with intent to commit buggery (s118B, Crimes Ordinance) — Indecent assault (s122, Crimes Ordinance) — Indecent conduct towards child under 16 (s146, Crimes Ordinance)
	<p>She is forced to do whatever any of the family member demands of her, no matter what that might be</p>	

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She is given no money or freedom of movement	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance) — Failure to pay wages on completion (s24, Employment Ordinance) — Failure to pay on termination (s25, Employment Ordinance) — Illegal deductions from wages (s32, Employment Ordinance) — Failure to pay interests on late payment on wages (s25A, Employment Ordinance) — Failure to pay end of year payment (s11E, Employment Ordinance) — False imprisonment (common law offence)
	When she gets very sick, no medical care is offered – even when she was near death	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance) — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)
SOURCE COUNTRY: THE RETURN HOME	She feels she was cheated	
	She is not allowed to return to her home country She is not allowed to communicate with her family in any way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — False imprisonment (common law offence)

SCENARIO 5 – DOMESTIC TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	An Indonesian woman hears about a domestic job in Hong Kong	
	She reads an ad in a local paper and applies	
	She is given a contract in her own language that she reads and signs	
	The agency helps her to get a passport and a visa in exchange for a fee (US\$3,200)	
	She borrows money from her husband's family to cover the expenses	
	The process is legal	
	She flies to Hong Kong	
DESTINATION COUNTRY: HONG KONG (INITIATION)	She arrives in Hong Kong A woman is waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance) — Making false statement to immigration officer (s42(1), Immigration Ordinance)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Obtaining property by deception (s17, Theft Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)
	She is driven to another agency office where she is presented with a second contract that is in a foreign language	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Conspiracy to defraud (s159C(6), Crimes Ordinance))
	She is told to sign	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Conspiracy to defraud (s159C(6), Crimes Ordinance)
	When she resists, she is shouted at	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s24, Crimes Ordinance)
	She signs	
	A middle-aged couple come to the office	

DESTINATION COUNTRY: EXPLOITATION PERIOD	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
	The couple and the agent take her to an apartment	
	The agent explains she is not to talk to anyone or leave the apartment or she will get punished	FOR THE PERPETRATOR — Criminal intimidation (s24, Crimes Ordinance)
	Each day she is forced to wake up at 6am and work until 11pm	FOR THE PERPETRATOR — Prohibition of taking employment (s38AA, Immigration Ordinance) — Breaching a condition of stay (s41, Immigration Ordinance) — Failure to grant rest days (s17, Employment Ordinance) — Compelling employees to work on rest days (s19, Employment Ordinance) — Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance) — Failure to grant annual leave (s41AA, Employment Ordinance) — Failure to pay annual leave pay (s41D, Employment Ordinance) — Failure to pay sickness allowance (s33, Employment Ordinance)
	She services the needs of a large extended family	
	She gets Sunday afternoon off but she is not allowed to leave	FOR THE PERPETRATOR — Failure to grant rest days (s17, Employment Ordinance) — Compelling employees to work on rest days (s19, Employment Ordinance) — Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance) — Failure to grant annual leave (s41AA, Employment Ordinance) — Failure to pay annual leave pay (s41D, Employment Ordinance) — Failure to pay sickness allowance (s33, Employment Ordinance)
	If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly	FOR THE PERPETRATOR — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
	She is only paid HK\$60 a month because room, food, agency fees, and any other expenses are deducted	FOR THE PERPETRATOR — Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance) — Failure to pay wages on completion (s24, Employment Ordinance) — Failure to pay on termination (s25, Employment Ordinance) — Illegal deductions from wages (s32, Employment Ordinance) — Failure to pay interests on late payment on wages (s25A, Employment Ordinance) — Failure to pay end of year payment
	When she tries to ask any questions, she is hit	— Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) — Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance) — Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance) — Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)
	She is allowed to cook two meals a day for herself	FOR THE PERPETRATOR — Failure to provide food, etc. for apprentices or servants (s25, Offences Against the Persons Ordinance) — Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)
	Now and then, one of the uncles who visits the house fondles her – if she resists she is scolded and slapped	FOR THE PERPETRATOR — Indecent assault (s122, Crimes Ordinance) — Indecent conduct towards child under 16 (s146, Crimes Ordinance)
	She is forced to sleep in a tiny room that is no more than a broom closet	FOR THE PERPETRATOR — Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)

LAWS OF HONG KONG

ABDUCTION OF UNMARRIED GIRLS UNDER 18 FOR SEXUAL INTERCOURSE

A person who takes an unmarried girl under the age of 18 out of the possession of her parent or guardian against the will of the parent or guardian with the intention that she shall have unlawful sexual intercourse with men or with a particular man shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 7 years. ([S127, CRIMES ORDINANCE](#))

PUNISHMENT: Imprisonment for 7 years

ADMINISTERING DRUGS TO OBTAIN OR FACILITATE INTERCOURSE

A person who applies or administers to, or causes to be taken by, another person any drug, matter or thing with intent to stupefy or overpower that other person so as thereby to enable anyone to do an unlawful sexual act with that other person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. ([S121, CRIMES ORDINANCE](#))

PUNISHMENT: Imprisonment for 14 years

AIDING, ABETTING, COUNSELING OR PROCURING ANOTHER'S FAILURE TO PRODUCE IDENTITY CARDS

Any person who fails to produce proof of his identity for inspection as required by subsection (2) commits an offence and is liable on conviction to a fine at level 2. Any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence. ([S17C, IMMIGRATION ORDINANCE](#))

PUNISHMENT: Fine of HK\$5,000

ARRANGING PASSAGE TO HONG KONG OF UNAUTHORISED ENTRANTS

Any person who, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong –

- a. arranges or assists the passage to, or within, Hong Kong;
- b. offers to arrange or assist the passage to, or within, Hong Kong; or
- c. does or offers to do an act preparatory to or for the purpose of arranging or assisting the passage to, or within, Hong Kong,

of a person who is, or of a conveyance which carries, an unauthorized entrant, commits an offence. ([S37D, IMMIGRATION ORDINANCE](#))

PUNISHMENT: (i) on conviction on indictment to a fine of HK\$5,000,000 and to imprisonment for 14 years; (ii) on summary conviction to a fine of HK\$350,000 and to imprisonment for 3 years.

ASSAULT OCCASIONING ACTUAL BODILY HARM

Any person who is convicted of an assault occasioning actual bodily harm shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for 3 years. (S39, OFFENCES AGAINST THE PERSON ORDINANCE)

PUNISHMENT: Imprisonment for 3 years

ASSAULTS WITH INTENT TO CAUSE CERTAIN ACTS TO BE DONE

Any person who beats or uses any violence or force to any person with intent in any such case to cause such person or any other person to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, shall be guilty of an offence. (S25, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 5 years

ASSAULT WITH INTENT TO COMMIT BUGGERY

A person who assaults another person with intent to commit buggery shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (S118B, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

ASSAULTING APPRENTICES OR SERVANTS

Any person who –

- a. being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same; or
- b. unlawfully and maliciously does or causes to be done any bodily harm to any such apprentice or servant, so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been or is likely to be permanently injured, shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for 3 years. (S25, OFFENCES AGAINST THE PERSON ORDINANCE)

PUNISHMENT: Imprisonment for 3 years

ASSISTING UNAUTHORISED ENTRANT TO REMAIN

Any person who assists an unauthorized entrant to remain in Hong Kong commits an offence. (S37DA, IMMIGRATION ORDINANCE)

PUNISHMENT: (a) on conviction on indictment, to a fine of HK\$500,000 and to imprisonment for 10 years; and (b) on summary conviction, to a fine of HK\$250,000 and to imprisonment for 3 years.

BEING AN EMPLOYER OF A PERSON NOT LAWFULLY EMPLOYABLE

Any person who is the employer of an employee who is not lawfully employable commits an offence. (S17I(1), IMMIGRATION ORDINANCE)

PUNISHMENT: Fine of HK\$350,000 and to imprisonment for 3 years

BREACHING A CONDITION OF STAY

Any person who contravenes a condition of stay in force in respect of him shall be guilty of an offence.

PUNISHMENT: Fine of HK\$50,000 and to imprisonment for 2 years

CAUSING OR ENCOURAGING UNLAWFUL SEXUAL ACT WITH CHILDREN UNDER 16

A person who causes or encourages the prostitution of or an unlawful sexual act with a girl or boy under the age of 16 for whom that person is responsible shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years.

(S135, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

COMPELLING EMPLOYEES TO WORK ON REST DAYS

No employer shall require an employee to work on any of his rest days. (S19, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$50,000

CONSPIRACY TO DEFRAUD

A person convicted of the offence at common law of conspiracy to defraud shall be liable to imprisonment for 14 years. (S159C(6), CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 14 years

CONTROL OVER PERSONS FOR PURPOSE OF UNLAWFUL SEXUAL INTERCOURSE OR PROSTITUTION

A person who –

- a. harbours another person or exercises control or direction over another person with the intention that that person shall do unlawful sexual acts with others; or
- b. harbours another person or exercises control, direction or influence over another person for the purpose of or with a view to that person's prostitution,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (S130, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 14 years

CRIMINAL INTIMIDATION

Any person who threatens any other person –

- a. with any injury to the person, reputation or property of such other person; or
- b. with any injury to the person, reputation or property of any third person, or to the reputation or estate of any deceased person; or
- c. with any illegal act,

with intent in any such case –

- i. to alarm the person so threatened or any other person; or
- ii. to cause the person so threatened or any other person to do any act which he is not legally bound to do; or
- iii. to cause the person so threatened or any other person to omit to do any act which he is legally entitled to do,

shall be guilty of an offence. (S24, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 5 years

DETENTION FOR INTERCOURSE OR IN VICE ESTABLISHMENT

A person who in any manner or by any means detains another person against her or his will –

- a. with the intention that the other person shall do an unlawful sexual act; or
- b. on any premises or vessel, or in any place, kept as a vice establishment,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (S134, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 14 years

EMPLOYER NOT TO ENTER INTO CONTRACT WITHOUT REASONABLE BELIEF THAT HE CAN PAY WAGES

No person shall enter into, renew or continue a contract of employment as an employer unless he believes upon reasonable grounds that he will be able to pay all wages due under the contract of employment as they become due. ([S31, EMPLOYMENT ORDINANCE](#))

PUNISHMENT: Fine of HK\$100,000

EMPLOYERS TO INSPECT DOCUMENTS OF NEW EMPLOYEE

No person shall in Hong Kong enter into a contract of employment to employ any other person unless he first inspects –

- a. the identity card held by such other person and where the identity card held by such other person is not a permanent identity card as defined in the [REGISTRATION OF PERSONS ORDINANCE \(CAP 177\)](#), a valid travel document held by him;
- b. the official passport held by such other person;
- c. if such other person is a claimant who has a substantiated claim under [PART VIIC](#), the Director's permission given under [SECTION 37ZX](#); or
- d. where such other person is not the holder of an identity card and is not required to be registered under the [REGISTRATION OF PERSONS ORDINANCE \(CAP 177\)](#) –
 - i. a valid travel document;
 - ii. (Repealed 31 of 1984 s. 6)
 - iii. a Vietnamese refugee card;
 - iv. a certificate of exemption; or
 - v. any other approved document,

held by him. ([S17J, IMMIGRATION ORDINANCE](#))

PUNISHMENT: Fine of HK\$150,000 and to imprisonment for 1 year

EVASION OF LIABILITY BY DECEPTION

Where a person by any deception (whether or not such deception was the sole or main inducement) –

- a. dishonestly secures the remission of the whole or part of any existing liability to make a payment, whether his own liability or another's;
- b. with intent to make default (whether the default is permanent or otherwise) in whole or in part on any existing liability to make a payment, or with intent to let another do so, dishonestly induces the creditor or any person claiming payment on behalf of the creditor to wait for payment (whether or not the due date for payment is deferred) or to forgo payment; or

- c. dishonestly obtains any exemption from or abatement of liability to make a payment,

he shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. (S18B, THEFT ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

FAILING TO KEEP RECORD OF EMPLOYEES

1. Every employer shall keep at the place of employment of each of his employees a record of –
 - a. the full name of the employee as shown in his identity card or other document by virtue of which he is lawfully employable; and
 - b. the type of document held by the employee by virtue of which he is lawfully employable, and the number of that document.
2. Every employer shall, where he employs more than 10 employees at any one place of employment, keep at that place the records of those employees in the form of a list of the names and particulars of those employees required under subsection (1).
3. Every employer shall keep the record of each employee and every list required to be kept under subsection (2) –
 - a. up to date;
 - b. in a form which is capable of being produced on demand to a person authorized to inspect it; and
 - c. in a form which is legible and capable of being readily understood by any person authorized to inspect it.

(S17K & M, IMMIGRATION ORDINANCE) **PUNISHMENT:** Fine of HK\$50,000

FAILURE TO GRANT REST DAYS

Every employee who has been employed by the same employer under a continuous contract shall be granted not less than 1 rest day in every period of 7 days. Rest days shall be in addition to any statutory holiday, or alternative holiday or substituted holiday, to which an employee is entitled under section 39. (S17, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$50,000

FAILURE TO GRANT HOLIDAYS OR FAILURE TO PAY HOLIDAY PAY

An employee shall be granted a statutory holiday by his employer. Any employer who without reasonable excuse fails to grant to any employee any holiday which he is required to grant under section 39 shall be guilty of an offence. (S39 EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$50,000

FAILURE TO GRANT ANNUAL LEAVE

Every employee who has been in employment under a continuous contract for not less than 12 months shall, in respect of each leave year, be entitled to paid leave. Any employer who without reasonable excuse fails to give to any employee any leave which he is required to grant or allow by [SECTION 41AA](#) or [41F\(3\)](#); or to grant to any employee any rest day or holiday which he is required to grant under [SECTION 41AA\(6\)](#); or to pay to an employee as regards leave which he is required to grant or allow under [SECTION 41AA](#) shall be guilty of an offence. ([S41AA, EMPLOYMENT ORDINANCE](#))

PUNISHMENT: Fine of HK\$50,000

FAILURE TO PAY ANNUAL LEAVE PAY

1. Where –

- a. an employee ceases to be employed; and
- b. annual leave is due to him,
- c. the person by whom he was formerly employed shall, as soon as practicable and in any case not later than 7 days after such cesser, pay to him in respect of the annual leave compensation equal in amount to the annual leave pay he would have received had the leave so due been granted immediately after such cesser.

2. Where –

- a. an employee ceases to be employed;
- b. the cesser occurs otherwise than on the expiration of a leave year of the employee;
- c. his contract of employment terminates or is terminated otherwise than under section 9 for any reason whatsoever (including his resignation); and
- d. the termination occurs at least 3 months after the appropriate day,

he shall, as soon as practicable and in any case not later than 7 days after the termination, be paid by the person by whom he was formerly employed, in addition to any sum due under subsection (1), a sum equal in amount to that which bears to the notional leave pay the same proportion as the number of days in the final employment period bears to 365.

Any employer who without reasonable excuse fails to pay to an employee a sum or compensation which he is required to pay under [SECTION 41D](#) shall be guilty of an offence. ([S41D, EMPLOYMENT ORDINANCE](#))

PUNISHMENT: Fine of HK\$50,000

FAILURE TO PAY END OF YEAR PAYMENT

An end of year payment payable to an employee to whom this Part applies in respect of a payment period shall become due to the employee –

- a. subject to subsection (2), on the day specified in that behalf in the contract of employment; or
- b. if a day is not so specified, on the last day of the payment period,

and shall be paid as soon as is practicable but in any case not later than 7 days after that day but nothing in this section shall be construed as preventing the payment of the end of year payment at any time before that day.

(S11E, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$50,000

FAILURE TO PAY INTERESTS ON LATE PAYMENT ON WAGES

If any wages or any sum referred to in SECTION 25(2)(A) are not paid within 7 days from the day on which they become due under SECTIONS 23, 24 and 25, the employer shall pay interest at the rate specified in SUBSECTION (2) on the outstanding amount of

wages or sum from the date on which such wages or sum become due up to the date of actual payment. Any employer who wilfully and without reasonable excuse contravenes SECTION 25A commits an offence and is liable to a fine at level 3. (S25A, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$10,000

FAILURE TO PAY ON TERMINATION

Where a contract of employment is terminated any sum due to the employee shall be paid to him as soon as is practicable and in any case not later than 7 days after the day of termination. Any employer who wilfully and without reasonable excuse contravenes SECTION 23, 24 or 25 commits an offence and is liable to a fine of \$350,000 and to imprisonment for 3 years. (S25, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$350,000 and to imprisonment for 3 years

FAILURE TO PAY SICKNESS ALLOWANCE

An employee who has been employed by his employer under a continuous contract for a period of 1 month or more immediately preceding a sickness day shall be paid by his employer sickness allowance in accordance with this section and SECTION 35. (S33, EMPLOYMENT ORDINANCE)

PUNISHMENT: Fine of HK\$50,000

FAILURE TO PAY WAGES ON COMPLETION

Wages of an employee on completion of his contract of employment and any other sum payable in respect of his contract shall be due to him on the day of the completion of the contract and shall be paid as soon as is practicable but in any case not later than 7 days thereafter. Any employer who wilfully and without reasonable excuse contravenes [SECTION 23, 24 or 25](#) commits an offence and is liable to a fine of \$350000 and to imprisonment for 3 years. ([S24, EMPLOYMENT ORDINANCE](#))

PUNISHMENT: Fine of HK\$350,000 and to imprisonment for 3 years

FAILURE TO PAY WAGES ON EXPIRY OF LAST DAY OF WAGE PERIOD

Wages shall become due on the expiry of the last day of the wage period and shall be paid as soon as is practicable but in any case not later than 7 days thereafter. Any employer who wilfully and without reasonable excuse contravenes [SECTION 23, 24 or 25](#) commits an offence and is liable to a fine of \$350000 and to imprisonment for 3 years. ([S23, EMPLOYMENT ORDINANCE](#))

PUNISHMENT: Fine of HK\$350,000 and to imprisonment for 3 years

FAILURE TO PROVIDE FOOD, ETC FOR APPRENTICES OR SERVANTS

Any person who –

- a. being legally liable, either as a master or mistress, to provide for any apprentice or servant necessary food, clothing, or lodging, wilfully and without lawful excuse refuses or neglects to provide the same; or
- b. unlawfully and maliciously does or causes to be done any bodily harm to any such apprentice or servant,

so that the life of such apprentice or servant is endangered, or the health of such apprentice or servant has been or is likely to be permanently injured, shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for 3 years. ([S25, OFFENCES AGAINST THE PERSONS ORDINANCE](#))

PUNISHMENT: Imprisonment for 3 years

FRAUD

If any person by any deceit (whether or not the deceit is the sole or main inducement) and with intent to defraud induces another person to commit an act or make an omission, which results either –

- a. in benefit to any person other than the second-mentioned person; or
- b. in prejudice or a substantial risk of prejudice to any person other than the first-mentioned person,

the first-mentioned person commits the offence of fraud and is liable on conviction upon indictment to imprisonment for 14 years. [\(S16A, THEFT ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 14 years

HANDLING STOLEN GOODS

A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realization by or for the benefit of another person, or if he arranges to do so. Any person who handles stolen goods shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 14 years. [\(S24, THEFT ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 14 years

ILLEGAL DEDUCTIONS FROM WAGES

No deductions shall be made by an employer from the wages of his employee or from any other sum due to the employee otherwise than in accordance with this Ordinance. Any person who contravenes [SECTION 32](#) or fails to comply with a requirement made by an officer under [SECTION 72\(1\)\(A\), \(B\) or \(C\)](#) commits an offence. [\(S32, EMPLOYMENT ORDINANCE\)](#)

PUNISHMENT: Fine at HK\$100,000 and to imprisonment for 1 year

ILLEGAL IMMIGRANTS FOUND ON CONSTRUCTION SITE

Where it is proved that a person to whom [SECTION 38\(1\)](#) applies was on a construction site, the construction site controller of that construction site commits an offence and is liable to a fine of HK\$350,000. [\(S38A\(2\), IMMIGRATION ORDINANCE\)](#)

PUNISHMENT: Fine of HK\$350,000

INDECENT ASSAULT

A person who indecently assaults another person shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. [\(S122, CRIMES ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 10 years

INDECENT CONDUCT TOWARDS CHILD UNDER 16

A person who commits an act of gross indecency with or towards a child under the age of 16, or who incites a child under the age of 16 to commit such an act with or towards him or her or another, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (S146, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

KEEPING A VICE ESTABLISHMENT

A person who on any occasion –

- a. keeps any premises, vessel or place as a vice establishment; or
- b. manages or assists in the management, or is otherwise in charge or control, of any premises, vessel or place kept as a vice establishment,

shall be guilty of an offence.

PUNISHMENT: (I) on summary conviction to imprisonment for 3 years; or (II) on conviction on indictment to imprisonment for 10 years.

LANDING WITHOUT PERMISSION

A person who –

- a. being a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer or immigration assistant, lands in Hong Kong without such permission; or (AMENDED 15 OF 1980 S. 10)
- b. having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director, shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and to imprisonment for 3 years. (S38(1)(A), IMMIGRATION ORDINANCE)

PUNISHMENT: Fine of HK\$25,000 and to imprisonment for 3 years

LENDING AT EXCESSIVE INTEREST RATES

Any person (whether a money lender or not) who lends or offers to lend money at an effective rate of interest which exceeds 60 per cent per annum commits an offence. (S24, MONEY LENDERS ORDINANCE)

PUNISHMENT: (a) on summary conviction to a fine of HK\$500,000 and to imprisonment for 2 years; (b) on conviction on indictment to a fine of HK\$5,000,000 and to imprisonment for 10 years.

LETTING PREMISES FOR USE AS A VICE ESTABLISHMENT

A person who, being the owner or tenant of any premises or his agent –

- a. lets the whole or part of the premises with the knowledge that it is to be kept, in whole or in part, as a vice establishment; or
- b. where the whole or part of the premises is used as a vice establishment, is wilfully a party to that use continuing,

shall be guilty of an offence. (S143, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 7 years

LIVING ON EARNINGS OF PROSTITUTION OF OTHERS

A person who knowingly lives wholly or in part on the earnings of prostitution of another shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 10 years. (S137, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

MAKING AND PRODUCING CHILD PORNOGRAPHY

Any person who prints, makes, produces, reproduces, copies, imports or exports any child pornography commits an offence. (S3, PREVENTION OF CHILD PORNOGRAPHY ORDINANCE)

PUNISHMENT: (a) on conviction on indictment to a fine of \$2000000 and to imprisonment for 8 years; or (b) on summary conviction to a fine of \$1000000 and to imprisonment for 3 years. (S3, PREVENTION OF CHILD PORNOGRAPHY ORDINANCE)

MAKING FALSE STATEMENT TO IMMIGRATION OFFICER

Any person who makes or causes to be made –

- a. to an immigration officer, immigration assistant or any other person lawfully acting under or in the execution of PART IB, II, III, IV or VIIC of this Ordinance;
- b. in any document furnished to an immigration officer or immigration assistant pursuant to this Ordinance or a requirement made thereunder; or
- c. for the purpose of obtaining, whether for himself or any other person, any travel document, certificate of entitlement, entry permit, re-entry permit, certificate of identity, document of identity, APEC business travel card, travel pass or Vietnamese refugee card,

any statement or representation which he knows to be false or does not believe to be true shall be guilty of an offence. (S42(1), IMMIGRATION ORDINANCE)

PUNISHMENT: (a) on conviction on indictment, to a fine of HK\$150,000 and to imprisonment for 14 years; and (b) on summary conviction, to a fine at level 6 and to imprisonment for 2 years.

MANSLAUGHTER

Any person who is convicted of manslaughter shall be liable to imprisonment for life and to pay such fine as the court may award. (S7, OFFENCES AGAINST THE PERSONS ORDINANCE)

PUNISHMENT: Life imprisonment

MONEY LAUNDERING

A person commits an offence if, knowing or having reasonable grounds to believe that any property in whole or in part directly or indirectly represents any person's proceeds of an indictable offence, he deals with that property. (S25, ORGANISED AND SERIOUS CRIMES ORDINANCE & DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ORDINANCE)

PUNISHMENT: (a) on conviction upon indictment to a fine of HK\$5,000,000 and to imprisonment for 14 years; or (b) on summary conviction to a fine of HK\$500,000 and to imprisonment for 3 years.

MURDER

Any person who is convicted of murder shall be imprisoned for life. However, if it appears to the court that a person convicted of murder was under 18 years of age at the time of the offence, the court has a discretion as to whether the person should be sentenced to imprisonment for life or to imprisonment for a shorter term. (S2, OFFENCES AGAINST THE PERSONS ORDINANCE)

PUNISHMENT: Life imprisonment

NON-CONSENSUAL BUGGERY

A person who commits buggery with another person who at the time of the buggery does not consent to it shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. (S118A, CRIMES ORDINANCE)

PUNISHMENT: Life imprisonment

OBTAINING PROPERTY BY DECEPTION

Any person who by any deception (whether or not such deception was the sole or main inducement) dishonestly obtains property belonging to another, with the intention of permanently depriving the other of it, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. [\(S17, THEFT ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 10 years

OBTAINING SERVICES BY DECEPTION

A person who by any deception (whether or not such deception was the sole or main inducement) dishonestly obtains services from another shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. [\(S18A\(1\), THEFT ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 10 years

OFFERING AN ADVANTAGE TO AN AGENT

Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –

- a. doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- b. showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- c. shall be guilty of an offence. [\(S9, PREVENTION OF BRIBERY ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 7 years' imprisonment and a fine of HK\$500,000

OFFERING ADVANTAGE TO PUBLIC SERVANT

Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's –

- d. performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- e. expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- f. assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence. [\(S4, PREVENTION OF BRIBERY ORDINANCE\)](#)

PUNISHMENT: Imprisonment for 7 years' imprisonment and a fine of HK\$500,000

OFFERING ADVANTAGE TO PUBLIC SERVANT IN REGARD TO A CONTRACT

Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used influence in –

- a. the promotion, execution, or procuring of –
 - i. any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance, or
 - ii. any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body; or
- b. the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or subcontract as aforesaid, shall be guilty of an offence. ([S5, PREVENTION OF BRIBERY ORDINANCE](#))

PUNISHMENT: Fine of HK\$500,000 and to imprisonment for 10 years

PERMITTING CHILDREN UNDER 13 TO RESORT TO OR BE ON PREMISES FOR INTERCOURSE

An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers a girl or boy under the age of 13 to resort to or be on such premises or vessel for the purpose of doing an unlawful sexual act or for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. ([S140, CRIMES ORDINANCE](#))

PUNISHMENT: Life imprisonment

PERMITTING PREMISES TO BE KEPT OR USED AS A VICE ESTABLISHMENT

A person who –

- a. being the tenant or occupier, or person in charge, of any premises permits or suffers the whole or part of the premises to be kept as a vice establishment; or
- b. being the owner, or the master or other person in charge, of any vessel permits or suffers the whole or part of the vessel to be kept as a vice establishment,

shall be guilty of an offence. ([S144, CRIMES ORDINANCE](#))

PUNISHMENT: Imprisonment for 7 years

PERMITTING YOUNG PERSON TO RESORT TO OR BE ON PREMISES FOR INTERCOURSE

An owner or occupier of any premises or vessel, and any person who manages or assists in the management or control of any premises or vessel, who induces or knowingly suffers –

- a. a girl under the age of 16 to resort to or be on such premises or vessel for the purpose of having unlawful sexual intercourse with a man or for the purpose of prostitution;
- b. a girl or boy under the age of 21 to resort to or be on such premises or vessel for the purpose of committing buggery with a man; or
- c. a boy under the age of 21 to resort to or be on such premises or vessel for the purpose of committing an act of gross indecency with a man,

shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. ([S141, CRIMES ORDINANCE](#))

PUNISHMENT: Imprisonment for 14 years

POSSESSING CHILD PORNOGRAPHY

Any person who has in his possession any child pornography (unless he is the only person pornographically depicted in the child pornography) commits an offence.

PUNISHMENT: (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for 5 years; or (b) on summary conviction to a fine of HK\$500,000 and to imprisonment for 2 years.

POSSESSION OF ANOTHER'S IDENTITY CARDS

Any person who without lawful authority or reasonable excuse uses or has in his custody or possession an identity card or other document issued under this Ordinance which relates to another person commits an offence. ([S7A\(1A\), REGISTRATION OF PERSONS ORDINANCE](#))

PUNISHMENT: (A) on conviction on indictment to a fine at level 6 and to imprisonment for 10 years; and (B) on summary conviction to a fine at level 5 and to imprisonment for 2 years.

POSSESSION OF ANOTHER'S IDENTITY DOCUMENTS THAT ARE UNLAWFULLY OBTAINED

Any person who transfers to another without reasonable excuse or has in his possession any travel document, certificate of entitlement, entry permit, re-entry permit, certificate of identity, document of identity, APEC business travel card, travel pass or Vietnamese refugee card or any document whatsoever issued, kept or made under or for the

purposes of [PART IB, II, III or IV](#) of this Ordinance shall be guilty of an offence. ([S42\(2\), IMMIGRATION ORDINANCE](#))

PUNISHMENT: (a) on conviction on indictment, to a fine of HK\$150,000 and to imprisonment for 14 years; and (b) on summary conviction, to a fine at level 6 and to imprisonment for 2 years.

POSSESSION OF DANGEROUS DRUGS

No person shall –

- a. have in his possession; or
- b. smoke, inhale, ingest or inject,

a dangerous drug. ([S8, DANGEROUS DRUGS ORDINANCE](#))

PUNISHMENT: (a) on conviction upon indictment to a fine of HK\$1,000,000 and, subject to [SECTION 54A](#), to imprisonment for 7 years; or (b) on summary conviction to a fine of HK\$100,000 and, subject to [SECTION 54A](#), to imprisonment for 3 years.

PROHIBITION OF TAKING EMPLOYMENT

A person –

- a. who, having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director under [SECTION 13](#); or
- b. in respect of whom a removal order or a deportation order is in force, must not take any employment, whether paid or unpaid, or establish or join in any business. ([S38AA, IMMIGRATION ORDINANCE](#))

PUNISHMENT: Fine of HK\$50,000 and to imprisonment for 3 years

PROHIBITION OF UNTRAINED & INCOMPETENT WORKMEN TO OPERATE MECHANICAL EQUIPMENT

The contractor responsible for any mechanical equipment and any contractor who has direct control over any construction work which involves the use of the equipment shall ensure that, when it is used on a construction site, it is not operated except by a workman who is trained and competent to operate it ([REG45, CONSTRUCTION SITES \(SAFETY\) REGULATIONS](#))

PUNISHMENT: Fine of HK\$50,000

PROCUREMENT OF INTERCOURSE BY THREATS OR FALSE PRETENCES

A person who procures another person, by threats or intimidation, to do an unlawful sexual act in Hong Kong or elsewhere shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 14 years. (S119, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 14 years

PROCURING PERSONS UNDER 18 FOR MAKING PORNOGRAPHY

Any person who uses, procures or offers another person who is under the age of 18 for making pornography, or for a live pornographic performance, in which that other person is or is to be pornographically depicted, commits an offence. (S138A, CRIMES ORDINANCE)

PUNISHMENT: (a) if the offence is committed in relation to a person under the age of 16, to a fine of HK\$3,000,000 and to imprisonment for 10 years; (b) if the offence is committed in relation to a person of the age of 16 or above but under 18, to a fine of HK\$1,000,000 and to imprisonment of 5 years.

RAPE

A man who rapes a woman shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. (S118, CRIMES ORDINANCE)

PUNISHMENT: Life imprisonment

REMAINING WITHOUT PERMISSION

A person who –

- a. being a person who by virtue of section 7 may not land in Hong Kong without the permission of an immigration officer or immigration assistant, lands in Hong Kong without such permission; or (AMENDED 15 OF 1980 S. 10)
- b. having landed in Hong Kong unlawfully, remains in Hong Kong without the authority of the Director,

shall be guilty of an offence. (S38(1)(B), IMMIGRATION ORDINANCE)

PUNISHMENT: Fine at HK\$25,000 and to imprisonment for 3 years

RESTRICTION ON EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE ON CONSTRUCTION SITES

The contractor responsible for a construction site shall ensure that no person under 18 years of age is employed at any place on the site unless that person –

- a. is apprenticed to that contractor or to any other contractor engaged in work at that site, under a contract of apprenticeship registered under the [APPRENTICESHIP ORDINANCE \(CAP 47\)](#);
- b. has completed an apprenticeship and possesses a certificate of completion issued under the [APPRENTICESHIP ORDINANCE \(CAP 47\)](#);
- c. has undertaken an approved training course and possesses a certificate of completion in respect of that course issued by the Authority in such form as the Authority may determine for that purpose; or
- d. is undergoing on-site training, as part of an approved training course, under the supervision of any person authorized in writing by the Authority for that purpose. ([REG4A, CONSTRUCTION SITES \(SAFETY\) REGULATIONS](#) – fine of \$50,000)

PUNISHMENT: Fine of HK\$50,000

ROBBERY

A person commits robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force. ([S10, THEFT ORDINANCE](#))

PUNISHMENT: Life imprisonment

SOLICITING FOR IMMORAL PURPOSE

A person who in a public place or in view of the public –

- a. solicits for any immoral purpose; or
- b. loiters for the purpose of soliciting for any immoral purpose, shall be guilty of an offence. ([S147, CRIMES ORDINANCE](#))

PUNISHMENT: Fine of HK\$10,000 and to imprisonment for 6 months

SOLICITING OR ACCEPTING ADVANTAGE AS PUBLIC SERVANT

Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –

- a. performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- b. expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- c. assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

- d. shall be guilty of an offence. (S3, PREVENTION OF BRIBERY ORDINANCE) PUNISHMENT: Fine of HK\$100,000 and to imprisonment for 1 year

THEFT

Any person who commits theft shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 10 years. (S9, THEFT ORDINANCE)

PUNISHMENT: Imprisonment for 10 years

TRAFFICKING IN A DANGEROUS DRUG

No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong-

- a. traffic in a dangerous drug;
- b. offer to traffic in a dangerous drug or in a substance he believes to be a dangerous drug; or
- c. do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug or in a substance he believes to be a dangerous drug. (S4, DANGEROUS DRUGS ORDINANCE)

PUNISHMENT: (a) on conviction on indictment, to a fine of HK\$5,000,000 and to imprisonment for life; and (b) on summary conviction, to a fine of HK\$500,000 and to imprisonment for 3 years.

UNLAWFUL SEXUAL INTERCOURSE WITH GIRLS UNDER 13

A man who has unlawful sexual intercourse with a girl under the age of 13 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life. (S123, CRIMES ORDINANCE)

PUNISHMENT: Life Imprisonment

UNLAWFUL SEXUAL INTERCOURSE WITH GIRLS UNDER 16

A man who has unlawful sexual intercourse with a girl under the age of 16 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for 5 years. (S124, CRIMES ORDINANCE)

PUNISHMENT: Imprisonment for 5 years

WOUNDING OR INFLECTING GRIEVOUS BODILY HARM

Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for 3 years. (S19, OFFENCES AGAINST THE PERSON ORDINANCE)

PUNISHMENT: Imprisonment for 3 years

WOUNDING WITH INTENT TO DO GRIEVOUS BODILY HARM

Any person who –

- a. unlawfully and maliciously, by any means whatsoever, wounds or causes any grievous bodily harm to any person; or
- b. shoots at any person; or
- c. by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person,

with intent in any of such cases to maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of an offence triable upon indictment, and shall be liable to imprisonment for life. (S17, OFFENCES AGAINST THE PERSON ORDINANCE)

PUNISHMENT: Life imprisonment

CHINA



CHINA

Trafficking presents a multi-dimensional issue in China. From an international perspective, a number of Chinese nationals are each year trafficked abroad for exploitation in the sex and labour industries. From a national perspective, Chinese citizens particularly those from rural areas are often subjected to exploitation in garment factories, coal mines, brick kilns, the sex industry and unregistered factories. Unscrupulous recruitment agencies or gangs are very frequently at the center of these trafficking operations. Moreover, forced labour is currently used in prisons as part of the reform program for detainees. A further dimension is the trafficking of foreign nationals to China. Girls from Vietnam, Laos, North Korea and Cambodia are known to be trafficked to China for forced marriage. In this instance, the demand for these girls has been created by the gender imbalance in turn caused by the one-child policy.

The number of prosecutions, investigations and convictions is not very clear from information currently available in the public domain. However, it is clear that a number of laws such as anti-prostitution laws and immigration laws contribute to criminalisation of trafficking victims. Victim protection services including access to treatment and legal assistance must be improved and foreign victims must be enabled to challenge the decision to repatriate/deport them if such is likely to present further risks to their being. The response to human trafficking can be very much improved by comprehensive data collection and research on a local and national level.

The sheer size and logistics involved in deploying effective counter-trafficking strategies across China presents a monumental challenge in itself. Poverty, gender inequality and lack of opportunity in rural areas drive many towards urban centers for a better life. The laws and ensuing law enforcement efforts must be directed at protecting individuals with such vulnerabilities from being exploited for the profit of others.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under the laws of the People's Republic of China ("PRC")) involved in four trafficking scenarios: sex trafficking, forced labour trafficking, marriage trafficking and domestic trafficking.

SCENARIO 1 – SEX TRAFFICKING

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY		A young Filipino woman hears about a possible job in the PRC working in a restaurant	
		She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	
		The statements he makes to her are false and intended to deceive her	
		He helps her to get a passport and a visa in exchange for a fee (US\$1,900)	
		This is done by bribing government officials in the Philippines to get the proper papers in order	
		Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	
		She flies to the PRC	
DESTINATION COUNTRY: PRC (INITIATION)		Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE VICTIM <ul style="list-style-type: none"> — Failing to procure the work visa and provide the actual purpose of stay in the PRC – under Articles 15 and 16 of the Exit-Entry Administration Law foreigners shall apply for the right category of visa. Article 37 of the Exit-Entry Administration Law prohibits foreigner from engaging in activities not corresponding to the purpose of stay and violation of such shall render repatriation. Her lying to the immigration officials may also constitute to obtaining entry documents by resorting to fraudulent acts which shall render a fine of not less than RMB 2,000 but not more than RMB 5,000 pursuant to Article 73 of the Exit-Entry Administration Law and where circumstances are serious, she shall be detained for not less than 10 but not more than 15 days and also be fined not less than RMB 5,000 but not more than RMB 20,000. — Residing in the PRC illegally – as she does not have a work visa, if she stays in PRC and works, she shall violate Article 78 of the Exit-Entry Administration Law which imposes a fine of RMB 500 per day with a cap of RMB 10,000 in total or detention for not less than 5 but not more than 15 days. In addition, foreigner works in the PRC illegally shall be fined not less than RMB 5,000 but not more than RMB 20,000, and where circumstances are serious, she shall be detained for not less than 5 but not more than 15 days and also be fined not less than RMB 5,000 but not more than RMB 20,000.
		She arrives in the PRC A man is waiting for her in the airport	
		He takes her passport	FOR THE VICTIM <ul style="list-style-type: none"> — Failure to carry her passport – under Article 38 of the Exit-Entry Administration Law foreigner reaching the age of 16 shall carry with them their passports or other international documents or foreigner's stay or residence permits.

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	<p>She is taken to an apartment</p> <p>She begins to get nervous and starts to ask questions</p> <p>The man becomes angry and slaps her several times and offers threats against her and her family</p> <p>He explains that if she doesn't do what she is told, she will be hurt</p> <p>She is held against her will</p>	<p>FOR THE PERPETRATOR¹</p> <ul style="list-style-type: none"> — Unlawful detainment – under Article 238 of the Criminal Law, whoever unlawfully detains another or deprives him of his freedom by any means is to be sentenced to not more than 3 years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights. In this scenario where beating or humiliation is involved, a heavier punishment is to be given pursuant to Article 238 of the Criminal Law. The perpetrator has also violated Article 37 of the Law Safeguarding Women's Rights and Interests which prohibits unlawful deprivation and restriction of a woman's freedom. — Forcing, molesting or humiliating a woman by violence, coercion or other means – this violates Article 237 of the Criminal Law which imposes a sentence which is not more than 5 years of fixed-term imprisonment or criminal detention. — Intentionally injuring the victim – this violates Article 234 of the Criminal Law which imposes a sentence of not more than 3 years of fixed-term imprisonment, criminal detention, or control.
	<p>She is confined in a room for two days – with little food or water</p>	<ul style="list-style-type: none"> — If the perpetrator is the trafficker, he is guilty of abducting and trafficking women – under Article 240 of the Criminal Law abducting and trafficking women refers to abducting, kidnapping, buying, selling, transporting, or transshipping women. The minimal punishment is 5 to 10 years in prison plus a fine and Article 240 of the Criminal Law also stipulates circumstances where heavier punishment (sentence of 10 years or more or life sentences in addition to a fine or confiscation of property) shall be imposed. The scenario in question may fall into such circumstances including (i) primary elements of rings engaging in abducting and trafficking women; (ii) raping abducted women; (iii) seducing, tricking, or forcing abducted women into prostitution, or selling abducted women to others who in turn force them into prostitution. The perpetrator has also violated Article 36 of the Law Safeguarding Women's Rights and Interests which prohibits abducting and selling women. — If the perpetrator is a buyer of the trafficked victim, he is guilty of buying abducted women – under Article 241 of the Criminal Law the minimal sentence is 3 years or fewer in prison, or put under criminal detention or surveillance. Article 241 of the Criminal Law also stipulates that if the offender buys the abducted woman and forces her to have sex with him, the offender shall be convicted and punished according to Article 236 of the Criminal Law and if the offender buys the abducted woman and illegally deprives her of or restricts her physical freedom, or injures or insults her, the offender shall be convicted and punished according to the relevant provisions of the Criminal Law. It is further stipulated that offender of buying abducted women who has also committed the crimes of forcing the victim to have sex with him or illegally depriving the victim of her physical freedom shall be punished as committing more than one crime. The perpetrator has also violated Article 39 of the Law Safeguarding Women's Rights and Interests which prohibits buying abducted women. — Harbouring or hiding a foreigner who illegally entered or resided in the PRC – this violates Article 79 of the Exit-Entry Administration Law which imposes a fine of not less than RMB 2,000 but not more than RMB 10,000. Where circumstances are serious, heavier punishments including detainment for not less than 5 but not more than 15 days and a fine of not less than RMB 5,000 but not more than RMB 20,000 and with the illegal gains confiscated if any shall be imposed.
DESTINATION COUNTRY: EXPLOITATION PERIOD	<p>She is forced to drink a juice cocktail that is laced with a sedative</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Forcing others to take drugs – this violates Article 353 of the Criminal Law which imposes a sentence of 3 to 10 years in prison in addition to a fine.
	<p>In this intoxicated state, men come and have sex with her against her will</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Rape – under Article 236 of the Criminal Law, whoever rapes a woman is to be sentenced to not less than 3 years and not more than 10 years of fixed-term imprisonment. Article 236 also stipulates circumstances where heavier punishments (sentence of not less than 10 years of fixed imprisonment, life imprisonment or death) shall be imposed. The scenario in question may fall within one such circumstance where the raping takes place in odious circumstances.

1 Pursuant to Article 69 of the Criminal Law, where a person is convicted of more than one crime before a sentence is pronounced, except for death penalty or life imprisonment, the term of criminal penalty to be executed shall be decided in light of the actual circumstances below the sum of terms but above the highest term of the imposed criminal penalties; however, the decided term of control shall not exceed three years, the decided term of criminal detention shall not exceed one year, and the decided fixed-term imprisonment shall not exceed 20 years if the sum of terms of fixed-term imprisonment is less than 35 years or shall not exceed 25 years if the sum of terms is 35 years or more.

If there are accessory penalties imposed for the crimes, the accessory penalties must still be executed. Accessory penalties of the same kind shall be executed on a consolidated basis, while those of different kinds shall be executed separately.

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	<p>Photos are taken of her with several men in compromising positions</p> <p>She is told that these photos shall be sent to her family if she doesn't comply with the trafficker</p>	<p>FOR THE PERPETRATOR</p> <p>— Forcing, molesting or humiliating a woman by violence, coercion or other means – this violates Article 237 of the Criminal Law which imposes a sentence is not more than 5 years of fixed-term imprisonment or criminal detention.</p>
	<p>She is forced to have sex with up to three men a day</p> <p>She is not allowed to leave the apartment without an escort</p> <p>She is not allowed to communicate with anyone at any time</p> <p>She is forced to drink whatever the client offers, even if she doesn't want it</p> <p>If the person doesn't want to wear a condom, she can't deny him sex</p> <p>She does not receive any payment – whatever they think she needs (food, clothing) is provided to her</p>	<p>FOR THE PERPETRATOR</p> <p>— Organizing the victim for and forcing her into prostitution – this violates Article 358 of the Criminal Law which imposes a minimum sentence of 5 to 10 years in prison in addition to a fine. This scenario may fall in one or more of the following cases which render heavier punishment (sentence of 10 years or more in prison or a life sentence, in addition to a fine or confiscation of property) under Article 358:</p> <ol style="list-style-type: none"> (1) the offender committing serious crimes of organizing others for prostitution; (2) the offender forcing more than one person into prostitution and those repeatedly forcing others into prostitution; (3) the offender forcing others who were raped by them into prostitution; or (4) the offender causing severe injuries, death, or other serious consequences to those who are forced into prostitution. <p>Those committing one or more of the above crimes, if the case is especially serious, are to be given a life sentence or sentenced to death, in addition to confiscation of property.</p> <p>— Forced labour – use of violence, threat or illegal deprivation of personal freedom to force labor, humiliation, corporal punishment, beating and illegal holding of labors are also prohibited under Article 96 of the Labor Law and the offender shall be taken by a security department into custody for 15 days, fined or given a warning, and criminal responsibilities shall be fixed upon such offender.</p> <p>FOR THE MEN WHO VISIT THE FLAT</p> <p>— Visiting prostitutes – this is prohibited under Article 37 of the Law Safeguarding Women's Rights and Interests.</p> <p>— Rape – rape is carried out using violence, coercion or other means under Article 236 of the Criminal Law. Therefore these men may have committed rape since the victim was forced to have sex against her shall. While the minimal sentence of 3 to 10 years fixed-term imprisonment shall apply, if the victim contracted serious disease from being forced to have sex without condoms, a heavier punishment (a sentence of not less than 10 years of fixed imprisonment, life imprisonment or death) may be applicable.</p> <p>FOR THE VICTIM</p> <p>— Working as prostitute – it is prohibited under Article 41 of the Law Safeguarding Women's Rights and Interests.</p>
	<p>She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is</p>	<p>FOR THE PERPETRATOR</p> <p>— Making private loan at excessive interest rate – under Article 211 of the Contract Law, the interest rate on a loan between natural persons may not contravene the relevant stipulations of the State regarding limit on loan interest rate.</p> <p>— Detaining the victim for the purpose of demanding the payment – the punishment given under Article 238 of the Criminal Law which deals with unlawful detainment also applies to such offence.</p>

EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	<p>Bribes are paid to a local police officer to turn the other way</p> <p>FOR THE PERPETRATOR</p> <p>— Offering bribe – this violates Article 390 of the Criminal Law which imposes a sentence of not more than 5 years of fixed-term imprisonment or criminal detention; if the offender offers bribes to seek illegitimate gain and the circumstances are serious or causes great damage to State interests, the offender shall be sentenced to not less than 5 years and not more than 10 years of fixed-term imprisonment, or to not less than 10 years of fixed-term imprisonment or life imprisonment when the circumstances are extremely serious, in addition to confiscation of property.</p> <p>FOR THE LOCAL POLICE OFFICER</p> <p>— Accepting bribe – this violates Article 385 of the Criminal Law which prohibits State personnel taking advantage of their office to demand money and things from other people or if they illegally accept money and things from other people and give favors to the latter. The offender shall be punished in accordance with Article 383 of the Criminal Law which imposes punishments according to the following stipulations depending on the seriousness of the case:</p> <ol style="list-style-type: none"> (1) Individuals who have engaged in graft with an amount of more than RMB 100,000 are to be sentenced to more than 10 years of fixed-term imprisonment or life imprisonment and may, in addition, have their properties confiscated. In especially serious cases, those offenders are to be sentenced to death and, in addition, have their properties confiscated. (2) Individuals who have engaged in graft with an amount of more than RMB 50,000 but less than RMB 100,000 are to be sentenced to more than 5 years of fixed-term imprisonment and may, in addition, have their properties confiscated. In especially serious cases, those offenders are to be sentenced to life imprisonment and, in addition, have their properties confiscated. (3) Individuals who have engaged in graft with an amount of more than RMB 5,000 but less than RMB 50,000 are to be sentenced to more than 1 year but less than 7 years of fixed-term imprisonment. In serious cases, those offenders are to be sentenced to more than 7 years but less than 10 years of fixed-term imprisonment. Individuals who have engaged in graft with an amount of more than RMB 1,000 but less than RMB 10,000 may receive a reduced punishment or be exempted from punishment if they express repentance after having committed crimes and actively returning the illegally obtained money. However, they shall receive administrative action to be decided by the unit to which they belong or the higher administrative organ. (4) Individuals who have engaged in graft with an amount of less than RMB 5,000, with the situation being serious, are to be sentenced to less than 2 years of fixed-term imprisonment or criminal detention. <p>In lighter cases, they shall be given administrative action to be decided by the unit to which they belong or the higher administrative organ.</p> <p>For an offender of repeated crimes of graft, all amounts of graft of unhandled cases are to be added in meting out punishment.</p>
	<p>The apartment is rented using money from drug trafficking profits</p> <p>FOR THE PERPETRATOR</p> <p>— Providing cover for criminals who have engaged in drug trafficking and hiding, moving or concealing proceeds from drug trafficking – under Article 349 of the Criminal Law the offender is to be sentenced to less than 3 years of fixed-term imprisonment, detaining or control. In serious cases, the offender shall be sentenced to more than 3 but less than 10 years of fixed-term imprisonment. Those who conspire with others in advance to commit such crimes are to be handled as accomplices of smuggling, trafficking, transporting, or making drugs.</p> <p>— Money laundering – under Article 191 of the Criminal Law if anyone who obviously knows that any incomes are obtained from any drug-related crime engages in disguising or concealing the origin or nature of such proceeds, the incomes obtained from such act as well as the proceeds generated therefrom shall be confiscated, and the offender shall be sentenced to fixed-term imprisonment of not more than five years or detention, and/or shall be imposed a fine of 5% up to 20% of the amount of laundered money. If the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than 5 but not more than 10 years, and shall be imposed a fine of 5% up 20% of the amount of laundered money.</p>
	<p>The trafficker has a vice establishment and forces the girl to solicit clients</p>

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY: THE RETURN HOME	After 18 months, she is given her freedom to leave and be replaced by a new trafficked person	
	She returns home, but out of shame she does not communicate what had happened to her	
	She makes up a story that she tried to contact her home but couldn't get through	
	She explains that she earned a lot of money but was used up before she was coming back	

SCENARIO 2 – CONSTRUCTION TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION	<p>A 16-year-old Mainland Chinese boy learns of a construction project that hires workers</p> <p>He is told he will be paid, but not for the first three months</p>	<p>FOR THE AGENT</p> <p>— Providing false employment information as a job intermediary – this violates Article 41 of the Employment Promotion Law and under Article 65 of the Employment Promotion Law the labor administrative department or other administrative departments shall order the offender to make a correction and if there are any illegal gains, it shall confiscate the illegal gains and imposes a fine of not less than RMB 10,000 but not more than RMB 50,000. If the circumstance is severe, it shall revoke the job intermediary agency license.</p> <p>FOR THE EMPLOYER</p> <p>— Failing to reach an employment agreement with the laborer – according to Article 19 of the Labor Law the labor contract shall be in writing and contain certain stipulated terms including payment terms. Under Article 10 of the Labor Contract Law if an employment relationship has already been established but no written labor agreement has been entered simultaneously, a written contract shall be concluded within 1 month from the date when the laborer begins to work. Under Article 98 of the Labor Law the employer who purposely delays the conclusion of labor contracts in violation of the conditions specified in the Labor Law shall be ordered by the labor administrative departments to make corrections and assume responsibility over compensation for any losses that may be sustained by the laborers therefrom.²</p>
	<p>He is taken to an apartment that is shared by ten other men</p> <p>They are all from different parts of Mainland China</p>	<p>FOR THE EMPLOYER</p> <p>— Failing to establish system for labor safety and sanitation and provide labor safety and sanitation facilities that meet the standard stipulated by the State – this violates Articles 52, 53 and 54 of the Labor Law. Under Article 92 of the Labor Law the employer whose labor safety facilities and labor sanitation conditions fall short of State regulations or who fails to provide laborers with necessary labor protection articles and labor protection facilities shall be ordered by the labor administrative departments or other relevant departments to make corrections, or be fined. Offenders in serious cases shall be reported to People's Governments at or above the county level so that these People's Governments can decide and order it to stop production for consolidation and criminal responsibilities shall be fixed upon the persons in charge according to the Criminal Law shall the failure on the part of the employer to take measures against possible accidents result in serious accidents and cause losses of labors life or properties.</p>
	<p>All of his documents are taken away and withheld from him</p>	<p>FOR THE AGENT</p> <p>— Detaining worker's resident identity cards and other certificates – this is an offence of any job intermediary under Article 41 of the Employment Promotion Law. Under Article 66 the labor administrative department shall order the offender to return the detained documents to the workers and shall punish it in pursuance of relevant laws.</p> <p>FOR THE EMPLOYER</p> <p>— Detaining worker's resident identity cards and other certificates – this is an offence applicable to any employer under Article 9 of the Labor Contract Law. Under Article 84 of the Labor Contract Law the labor administrative department shall order the offender to return the detained documents to the laborer and shall punish the offender in pursuance of the relevant laws</p>
	<p>They are told not to leave the apartment unless to go to the work site</p> <p>They are threatened with deportation and imprisonment if they don't follow instructions</p>	<p>FOR THE PERPETRATOR</p> <p>— Unlawful detainment – this violates Article 238 of the Criminal Law which imposes a sentence of not more than 3 years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights. In the scenario in question where beating or humiliation is involved, a heavier punishment is to be given pursuant to Article 238 of the Criminal Law. In addition, Article 244 of the Criminal Law also stipulates that persons of employing units who are directly responsible for forcing workers to labor by restricting their physical freedom in violation of labor management laws and regulations are subject to a fine or shall be sentenced to 3 years or fewer in prison or put under criminal detention in addition to a fine.</p>

¹ Under Article 105 of the Labor Law, if other laws or administrative decrees have already specified punishments for encroachment upon the legitimate rights and interests of labors in violation of the stipulations of the provisions under the Labor Law, punishments shall be given in accordance with the stipulations of these laws or administrative decrees.

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	One of the men breaks the rules and gets severely beaten	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Intentionally injuring the victim – this violates Article 234 of the Criminal Law which imposes a sentence to not more than 3 years of fixed-term imprisonment, criminal detention, or control.
	Each morning, they are all taken to the construction site Their services are subcontracted through a construction agent	FOR THE EMPLOYER <ul style="list-style-type: none"> — Engaging underage worker in work falling within the category prohibited for underage worker – under Article 58 of the Labor Law, an underage worker is someone who is up to 16 years old but below 18 years old. Under Article 64 of the Labor Law, it is an offence to engage underage worker in work falling within Grade IV physical labor intensity as stipulated by the State (whether the construction work in question fall within such category depends on the intensity of the work and workings hours involved). Under Article 95 of the Labor Law the offender shall be ordered by the labor administrative department to make corrections and fined and shall assume the responsibility over making compensations if harms are caused to the underage worker. — Failing to provide regular physical examination to the laborers – this violates Article 65 of the Labor Law and under Article 95 of the Labor Law the offender shall be ordered by the labor administrative department to make corrections and fined and shall assume the responsibility over making compensations if harm is caused to the underage workers. Article 54 of the Labor Law also requires the employer to provide regular health examination for laborers engaged in work with occupational hazards.
EXPLOITATION PERIOD	His supervisor physically and verbally abuses him over and over again	FOR THE EMPLOYER <ul style="list-style-type: none"> — Insulting, corporally punishing and restraining the labor – these are offences under Article 88 of the Labor Contract Law and the offender shall be given an administrative punishment. If any crime is constituted, the offender shall be subject to criminal liabilities. If any damage is caused to the laborer, the employer shall also be liable for compensation. Use of violence, threat or illegal deprivation of personal freedom to force labor, humiliation, corporal punishment, beating and illegal holding of laborers are also prohibited under Article 96 of the Labor Law and the offender shall be taken by a security department into custody for 15 days, fined or given a warning, and criminal responsibilities shall be fixed upon such offender. — Intentionally injuring the victim – this violates Article 234 of the Criminal Law which imposes a sentence to not more than 3 years of fixed-term imprisonment, criminal detention, or control.
	After two months of work, when he asks for his payment he is hit across the face	FOR THE EMPLOYER <ul style="list-style-type: none"> — Delaying payment of wages – under Article 48 of the Labor Law, the State shall implement a system of guaranteed minimum wages and the employer shall pay labors wages no lower than the local standards on minimum wages. Delaying or deducting wages without reasons are prohibited under Article 50 of the Labor Law and pursuant to Article 91 of the Labor Law the labor administrative department shall order the offender to pay the wages or to make up for economic losses of the labors. The offender may also be liable to pay compensation. — Failing to pay social insurance funds – under Article 72 of the Labor Law the employer and laborers shall participate in social insurance funds and pay social insurance costs. Under Article 100 of the Labor Law, the employer who refuses to pay social insurance funds shall be ordered by the labor administrative department to pay within a fixed period of time. If the employer fails to make payments beyond the prescribed time he shall be liable to make additional payments.

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	He works 14 hours a day, seven days a week	FOR THE EMPLOYER <p>— Imposing excessive working hours and depriving labors of holidays – under Article 36 of the Labor Law, the working hour system practiced by the State is no more than 8 hours a day and no more than 44 hours a week on the average. While under Article 41 of the Labor Law the employer can prolong working hours due to needs of production or businesses after consultation with its trade union and the labors, the work hours to be prolonged, in general, shall be no longer than 1 hour a day, or no more than 3 hours a day if such prolonging is called for due to special reasons and under the condition that the physical health of labors is guaranteed. The work time to be prolonged shall not exceed, however, 36 hours a month. In addition, Article 38 of the Labor Law stipulates that the employer shall guarantee that his laborers have at least 1 day off a week and Article 40 of the Labor Law stipulates that the employer shall arrange rests for laborers in accordance with the law during certain holidays. Article 44 of the Labor Law regulates the payment terms the employer shall made in relation to the prolonged working hours. Under Article 31 of the Labor Contract Law, the employer shall not force his laborers to work overtime or make his laborers do so in a disguised form. It also stipulates that if an employer arranges for overtime work, he shall pay his laborer for the overtime work according to the relevant provisions of the State. Prolonging the working hour in violation of these laws is prohibited under Article 43 of the Labor Law and if the employer prolongs working hours in violation of the stipulations in the law, the labor administrative departments can give him a warning, order him to make corrections, and may impose a fine under Article 90 of the Labor Law. Under Article 85 of the Labor Contract Law, if the overtime payment is not made by the employer within the time limit, the employer shall be ordered to pay an extra compensation to the employee at a rate of not less than 50 percent and not more than 100 percent of the payable amount.</p>
	After seven months of this work, he begins to feel he'll never be paid – the others are asking the same thing	
	After an accident takes place where one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered	FOR THE EMPLOYER <p>— Failing to establish system for labor safety and sanitation and provide labor safety and sanitation facilities that meet the standard stipulated by the State – this violates Articles 52, 53 and 54 of the Labor Law. Under Article 92 of the Labor Law the employer whose labor safety facilities and labor sanitation conditions fall short of State regulations or who fails to provide labors with necessary labor protection articles and labor protection facilities shall be ordered by the labor administrative departments or other relevant departments to make corrections, or be fined. Offenders in serious cases shall be reported to People's Governments at or above the county level so that these People's Governments can decide and order it to stop production for consolidation and criminal responsibilities shall be fixed upon the persons in charge according to the Criminal Law shall the failure on the part of the employer to take measures against possible accidents result in serious accidents and cause losses of labors life or properties. Article 93 of the Labor Law also stipulates that criminal responsibilities shall be fixed upon the persons in charge in accordance with law if the employer forces laborers to venture to work against regulations and as a result cause major accidents of injuries and deaths and serious consequences.</p> <p>Under Article 134 of the Criminal Law, the staff and workers of the construction enterprise who force laborers to work in a risky way in violation of the rules, thereby giving rise to major accidents involving injury or death and causing other serious consequences, are to be sentenced to not more than 3 years of fixed-term imprisonment or criminal detention. Where the circumstances are particularly odious, a heavier punishment of not less than 3 and not more than 7 years of fixed-term imprisonment shall be imposed. Under Article 135 of the Criminal Law, if any construction enterprises that have labor safety facilities failing to conform with the State's regulations do not take measures to prevent hidden dangers after a request was made by the relevant departments or the units' staff and workers, thereby giving rise to major accidents involving injury or death or other serious consequences, personnel who are directly responsible shall be sentenced to not more than 3 years of fixed-term imprisonment or criminal detention; where the circumstances are particularly odious, the sentence is to be not less than 3 and not more than 7 years of fixed-term imprisonment.</p>
	Major loans for the project were approved by several international banks to cover construction materials, equipment and staffing	

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES	
EXPLOITATION PERIOD (CONT.)	One day immigration police visit the site and meet the foremen (a bribe is paid to the immigration police to arrest and deport them)	FOR THE AGENT — Accepting bribe – under Article 387 of the Criminal Law enterprises and institutions which exact or illegally accept money from other people and try to obtain gain for other people, if the circumstance is serious, shall be fined and their personnel who are directly in charge and other personnel who are directly held responsible for the offence shall be sentenced to not more than 5 years of fixed-term imprisonment or to criminal detention. FOR THE EMPLOYER — Offering bribe – under Article 391 of the Criminal Law whoever gives money to enterprises and institutions for the purpose of seeking illegitimate gain shall be sentenced to not more than 3 years of fixed-term imprisonment or to criminal detention. Whichever unit committing such crime shall be sentenced to a fine, and the responsible persons who are directly in charge of the unit or other personnel who are held directly responsible for the crime shall be punished on the basis of the preceding paragraph.	
	The boy is dismissed with no money paid	FOR THE EMPLOYER — Delaying payment of wages – under Article 48 of the Labor Law, the State shall implement a system of guaranteed minimum wages and the employer shall pay labors wages no lower than the local standards on minimum wages. Delaying or deducting wages without reasons are prohibited under Article 50 of the Labor Law and pursuant to Article 91 of the Labor Law the labor administrative department shall order the offender to pay the wages or to make up for economic losses of the labors. The offender may also be liable to pay compensation.	
	Despite trying to explain that he was deceived, no one listens to his story		

SCENARIO 3 – MARRIAGE TRAFFICKING

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY		A Cambodian woman hears about a marriage brokering service	
		She reads an ad in a local paper and applies hoping she might be able to support her extended family financially	
		She is asked to provide a profile	
		A video is taken of her in a short dress	
		Once a prospective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US\$2,600)	
		She borrows money from her parents to cover the expenses	
		Money is paid by the broker to bribe government officials to secure the proper papers	
DESTINATION COUNTRY: PRC (INITIATION)		She flies to the PRC	
		She arrives in the PRC	
		A man and a woman are waiting for her at the airport	
		Her travel documents are taken immediately	
		She is driven to another agency office where she is presented with a set of papers to sign in Chinese	FOR THE AGENT/TRAFFICKER <ul style="list-style-type: none"> — Arranging marriage, interfering a marriage and exaction of money by means of marriage – this is an offence under Articles 2, 3, 5 and 6 of the Marriage Law. — Abducting and trafficking women – under Article 240 of the Criminal Law abducting and trafficking women refers to abducting, kidnapping, buying, selling, transporting, or transshipping women. The minimal punishment is 5 to 10 years in prison plus a fine. Article 240 of the Criminal Law also stipulates circumstances where heavier punishment (sentence of 10 years or more or life sentences in addition to a fine or confiscation of property) shall be imposed and the scenario in question may fall into one of such circumstances if it has the primary elements of rings engaging in abducting and trafficking women. The trafficker has also violated Article 39 of the Law Safeguarding Women's Rights and Interests which prohibits abducting and selling women. If the victim is less than 18 years old, she is classified as a "minor" under the Law on the Protection of Minors, then the trafficker also violates Article 41 of the Law on the Protection of Minors
		She is told to sign – that it is routine	
		Once this is done, she is taken to a house where she was introduced to a man and told that she is to marry this man. She is told that if she does not comply with such request she shall be locked up and beaten.	
DESTINATION COUNTRY: PRC (INITIATION)		She is taken to the local marriage registration authority and told by the man to "keep quiet" and be cooperative on the registration or she shall be beaten. Out of fear she complies and the marriage registration is completed.	FOR THE "HUSBAND" <ul style="list-style-type: none"> — Buying abducted women – under Article 241 of the Criminal Law the minimal sentence is 3 years or fewer in prison, or criminal detention or surveillance. Article 241 of the Criminal Law also stipulates that if the offender forces the abducted woman he brought to have sex with him, he shall be convicted and punished according to Article 236 of the Criminal Law. If the offender illegally deprives the abducted woman he brought of her physical freedom, or injures or insults her, he shall also be convicted and punished according to relevant stipulations of the Criminal Law. The man has also violated Article 39 of the Law Safeguarding Women's Rights and Interests which prohibits buying abducted women. — Engaging in intimidated marriage – this violates Article 5 of the Marriage Law. According to Article 11 of the Marriage Law, in the case of intimidated marriage, the intimidated party may apply to the marriage registration authority or the People's Court for canceling the marriage. The intimidated party shall need to make such application within 1 year since the day of the marriage registration. Where any party who is unlawfully confined in personal freedom applies for canceling a marriage, she shall need to make the application within 1 year since the day she resumes personal freedom.

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION	<p>She is told by the man that she will be arrested and put in jail if she tries to leave</p>	<p>FOR THE “HUSBAND”</p> <p>— Fabricating stories to defame others or in an attempt to subject others to criminal investigation – this violates Article 243 of the Criminal Law and the offender shall be sentenced to 3 years or fewer in prison, or put under criminal detention or surveillance. If serious consequences are caused a heavier punishment (3 to 10 years of imprisonment) shall be imposed.</p>
	<p>If she does something wrong, she is hit repeatedly</p> <p>She is not allowed to leave the house</p> <p>She is forced to do whatever any of the family member demands of her, no matter what that might be</p> <p>She is given no money or freedom of movement</p> <p>She is not allowed to return to her home country</p> <p>She is not allowed to communicate with her family in any way</p>	<p>FOR THE “HUSBAND”</p> <p>— Unlawful detainment – under Article 238 of the Criminal Law, whoever unlawfully detains another or deprives her of her freedom by any means is to be sentenced to not more than 3 years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights. In the scenario in question where beating or humiliation is involved, a heavier punishment is to be given pursuant to Article 238. The perpetrator has also violated Article 37 of the Law Safeguarding Women’s Rights and Interests which prohibits unlawful deprivation and restriction of a woman’s freedom.</p> <p>— Forcing, molesting or humiliating a woman by violence, coercion or other means – under Article 237 of the Criminal Law the sentence is not more than 5 years of fixed-term imprisonment or criminal detention.</p> <p>— Intentionally injuring the victim – this violates Article 234 of the Criminal Law which imposes a sentence of not more than 3 years of fixed-term imprisonment, criminal detention, or control.</p> <p>— Engaging in domestic violence – this violates Article 3 of the Marriage Law. Article 43 of the Marriage Law stipulates that in case of domestic violence or maltreatment of any family member, the victim shall be entitled to make petitions. The villagers’ committees, the relevant urban residents’ committee, villagers’ committee or the entity where the victim is a staff member shall make dissuasions or mediations and the public security organs shall stop such domestic violence and shall give administrative punishment to the offender according to the provisions on the administration of public security. In addition, Article 45 of the Marriage Law stipulates that criminal liabilities shall be meted out to offender who commits domestic violence or maltreats any family member so seriously as to have constituted a crime. The victim may also file a private prosecution at the People’s Court in accordance with the provisions of the criminal procedure law upon which the relevant public security organ shall make investigations and the People’s Procuratorate concerned shall make a public prosecution according to the law.</p> <p>Further, under Article 32 of the Marriage Law, the wife can also apply to the marriage authority for divorce. The People’s Court shall make mediations but if the mediation fails and domestic violence is involved (as in this case), the divorce shall be approved and under Article 46 of the Marriage Law, the wife shall be entitled to claim damages upon divorce.</p> <p>— Restricting liberty of wife to participate in social activities – this violates Article 15 of the Marriage Law.</p>
	<p>While the man is physically handicapped, he still demands that she sleeps with him</p>	<p>FOR THE “HUSBAND”</p> <p>— Rape – rape is carried out using violence, coercion or other means under Article 236 of the Criminal Law, so he may constitute raping since the victim was forced to have sex against her will. A minimal sentence of 3 to 10 years fixed-term imprisonment shall apply.</p>
	<p>She feels she was deceived</p>	

SCENARIO 4 – DOMESTIC TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
	An Indonesian woman hears about a domestic job in another province	
	She reads an ad in a local paper and applies	
	She borrows money from her husband's family to cover the expenses	
	The process is legal	
INITIATION	She arrives in the province A woman is waiting for her at the train station	
	Her travel documents are taken immediately	FOR THE AGENT — Detaining worker's resident identity cards and other certificates – this is an offence of any job intermediary under Article 41 of the Employment Promotion Law and under Article 66 of the Employment Promotion Law the labor administrative department shall order the offender to return the detained documents to the workers and shall punish it in pursuance of relevant laws.
	She is driven to another agency office where she is presented with a second contract She is told to sign When she resists, she is shouted at She signs A middle-aged couple come to the office The couple and the agent take her to an apartment The agent explains she is not to talk to anyone or leave the apartment or she will get punished	FOR THE AGENT — Under Article 26 of the Labor Contract Law, where the contract involves a party employing the means of deception or coercion or takes advantage of the other party's difficulties to force the other party to conclude a labor contract, such contract is invalid or is partially invalid. Under Article 28 of the Labor Contract Law, if a labor contract has been confirmed to be invalid, the employer shall still need to pay remunerations to the laborer who has labored for the employer. The amount of remuneration shall be determined by analogy to the remuneration to the laborers taking up the same or similar positions of the employer.
EXPLOITATION PERIOD	Each day she is forced to wake up at 6am and work until 11pm	FOR THE EMPLOYER — Imposing excessive working hours and depriving laborers of holidays – under Article 36 of the Labor Law, the working hour system practiced by the State is no more than 8 hours a day and no more than 44 hours a week on the average. While under Article 41 of the Labor Law the employer can prolong working hours due to needs of production or businesses after consultation with its trade union and the laborers, the work hours to be prolonged, in general, shall be no longer than 1 hour a day, or no more than 3 hours a day if such prolonging is called for due to special reasons and under the condition that the physical health of labors is guaranteed. The work time to be prolonged shall not exceed, however, 36 hours a month. In addition, Article 38 of the Labor Law stipulates that the employer shall guarantee that his laborers have at least 1 day off a week and Article 40 of the Labor Law stipulates that the employer shall arrange rests for laborers in accordance with the law during certain holidays. Article 44 of the Labor Law regulates the payment terms the employer shall make in relation to the prolonged working hours. Under Article 31 of the Labor Contract Law, the employer shall not force his laborers to work overtime or make his laborers do so in a disguised form. It also stipulates that if an employer arranges for overtime work, he shall pay his laborer for the overtime work according to the relevant provisions of the State. Prolonging the working hour in violation of these laws is prohibited under Article 43 of the Labor Law and if the employer prolongs working hours in violation of the stipulations in the law, the labor administrative departments can give him a warning, order him to make corrections, and may impose a fine under Article 90 of the Labor Law. Under Article 85 of the Labor Contract Law, if the overtime payment is not made by the employer within the time limit, the employer shall be ordered to pay an extra compensation to the employee at a rate of not less than 50 percent and not more than 100 percent of the payable amount.

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She services the needs of a large extended family	
	She gets Sunday afternoon off but she is not allowed to leave the family home	FOR THE EMPLOYER <ul style="list-style-type: none"> — Not allowing enough day-off – Article 38 of the Labor Law stipulates that the employer shall guarantee that its laborers have at least one day off a week and Article 40 of the Labor Law stipulates that the employer shall arrange rest days for laborers in accordance with the law during certain holidays.
	If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly When she tries to ask any questions, she is hit	FOR THE EMPLOYER <ul style="list-style-type: none"> — Insulting, corporally punishing and restraining the labor – these are offences under Article 88 of the Labor Contract Law and the offender shall be given an administrative punishment. If any crime is constituted, it shall be subject to criminal liabilities. If any damage is caused to the labor, the employer shall be liable for compensation. Use of violence, threat or illegal deprivation of personal freedom to force labor, humiliation, corporal punishment, beating and illegal holding of laborers are also prohibited under Article 96 of the Labor Law and the offender shall be taken by a security department into custody for 15 days, fined or given a warning, and criminal responsibilities shall be fixed upon such offender. — Intentionally injuring the victim – under Article 234 of the Criminal Law whoever is guilty of intentionally injuring others is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control.
	She is only paid RMB6 a month because room, food, agency fees, and any other expenses are deducted from her wages	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Deducting wages without reasons – deducting wages without reasons is prohibited under Article 50 of the Labor Law and pursuant to Article 91 of the Labor Law the labor administrative department shall order the offender to pay laborers' wages or to make up for economic losses. The offender may also be liable to pay compensation. — Paying wage lower than the state stipulated local standard – under Article 48 of the Labor Law, the State shall implement a system of guaranteed minimum wages and the employer shall pay laborers wages no less than the local standards on minimum wages. — Failing to pay social insurance funds – under Article 72 of the Labor Law the employer and laborers shall participate in social insurance funds and pay social insurance costs. Under Article 100 of the Labor Law, the employer who refuses to pay social insurance funds shall be ordered by the labor administrative department to pay within fixed periods of time. If he fails to make payments beyond the prescribed time he shall be liable to make additional payments. — In addition, if the employer does not pay the victim or provide labor conditions in accordance with the contract or has forced her to work by means of violence, threat or deprivation of personal freedom in violation of law, she can notify, at any time, the employer her decision to revoke the contract in accordance with Article 32 of the Labor Law.
	She is allowed to cook two meals a day for herself	
	Now and then, one of the uncles who visits the house fondles her – if she resists she is scolded and slapped	FOR THE UNCLE <ul style="list-style-type: none"> — Forcing, molesting or humiliating a woman by violence, coercion or other means – under Article 237 of the Criminal Law the sentence is not more than 5 years of fixed-term imprisonment or criminal detention. — Intentionally injuring the victim – this violates Article 234 of the Criminal Law which imposes a sentence of not more than 3 years of fixed-term imprisonment, criminal detention, or control.
	She is forced to sleep in a tiny room that is no more than a broom closet	FOR THE EMPLOYER <ul style="list-style-type: none"> — Failing to provide laborer with sanitation facilities (assuming that there are no adequate sanitation facilities available for her) and it is questionable whether the facilities provided to the victim are safe – this violates Articles 52, 53 and 54 of the Labor Law. Under article 92 of the Labor Law the employer whose labor sanitation conditions fall short of State regulations shall be ordered by labor administrative departments or other relevant departments to make corrections, or be fined. Those involved in serious cases shall be reported to People's Governments at or above the county level.

LAWS OF THE PEOPLE'S REPUBLIC OF CHINA

EXIT-ENTRY ADMINISTRATION LAW

Illegal entry into the PRC

ARTICLE 15: A foreigner wishing to enter the PRC shall apply for a visa from a Visa Issuing Office Abroad, unless otherwise provided herein.

PUNISHMENT, ARTICLE 71: The offender shall be fined not less than RMB1,000 and not more than RMB5,000. If the circumstances are serious, the offender shall be detained for not less than five days and not more than 10 days and may additionally be fined not less than RMB2,000 and not more than RMB10,000.

Illegal residence in the PRC

ARTICLE 37: A foreigner staying or residing in the PRC may not engage in activities incompatible with the reason for his/her stay or residence, and shall leave the PRC by the expiration of the specified stay or residence period.

PUNISHMENT

ARTICLE 78: The offender shall be given a warning. If the circumstances are serious, the offender shall be fined RMB500 for each day he/she is illegally residing, up to a total not exceeding RMB10,000, or detained for not less than five days and not more than 15 days.

ARTICLE 81: If it would be inappropriate for a foreigner to continue to stay or reside in the PRC due to his/her engaging in activities incompatible with the reason for his/her stay or residence or due to his/her having committed another violation of PRC laws or regulations, he/she may be ordered to exit the PRC within a specified period of time. If the violation is serious without constituting a criminal offence, the Ministry of Public Security may expel him/her from the PRC. Such a penalty decision by the Ministry of Public Security shall be final. A foreigner who has been expelled from the PRC shall be barred from entering the PRC for 10 years from the date on which he/she is expelled.

Obtaining entry document fraudulently

ARTICLE 73: Acting in a fraudulent manner to illegally obtain an exit-entry document.

PUNISHMENT, ARTICLE 73: The offender shall be fined not less than RMB2,000 and not more than RMB5,000. If the circumstances are serious, the offender shall be detained for not less than 10 days and not more than 15 days and fined not less than RMB5,000 and not more than RMB20,000.

Sheltering a foreigner who enters or resides in the PRC illegally

ARTICLE 79: Sheltering or hiding a foreigner who has entered, or is residing in, the PRC illegally.

PUNISHMENT, ARTICLE 79: The offender shall be fined not less than RMB2,000 and not more than RMB10,000. If the circumstances are serious, the offender shall be detained for not less than 5 days and not more than 15 days, fined not less than RMB5,000 and not more than RMB20,000 and his/her illegal income confiscated, if any.

CRIMINAL LAW

Unlawful detainment

ARTICLE 238: Unlawfully detaining another or depriving another of his freedom of the person by any other means (including for the purpose of demanding payment of a debt).

PUNISHMENT, ARTICLE 238: The offender shall be sentenced to not more than 3 years of fixed-term imprisonment, criminal detention, control, or deprivation of political rights.

Unlawful detainment by employer

ARTICLE 244: Anyone of employing units being directly responsible for forcing workers to labor by restricting their physical freedom in violation of labor management laws and regulations.

PUNISHMENT, ARTICLE 244: The offender is subject to a fine or shall be sentenced to 3 years or fewer in prison or put under criminal detention in addition to a fine.

Forcing laborers to work in a risky way

ARTICLE 134: The staff or workers of the construction enterprises forcing laborers to work in a risky way in violation of the regulations, thereby giving rise to major accidents involving injury or death and causing other serious consequences.

PUNISHMENT, ARTICLE 134: The offender shall be sentenced to not more than 3 years of fixed-term imprisonment or criminal detention. Where the circumstances are particularly odious, a heavier punishment of not less than 3 and not more than 7 years of fixed-term imprisonment shall be imposed.

Failing to provide labor safety facilities

ARTICLE 135: Any construction enterprises having labor safety facilities failing to conform with the State's regulations and not taking measures to prevent hidden dangers after a request being made by the relevant departments or the units' staff and workers, thereby giving rise to major accidents involving injury or death or other serious consequences.

PUNISHMENT, ARTICLE 135: The personnel who are directly responsible shall be sentenced to not more than 3 years of fixed-term imprisonment or criminal detention. If the circumstances are particularly odious, the sentence is to be not less than 3 and not more than 7 years of fixed-term imprisonment.

Molesting a woman by violence

ARTICLE 237: Forcing, molesting or humiliating a woman by violence, coercion or other means.

PUNISHMENT, ARTICLE 237: The offender shall be sentenced to not more than 5 years of fixed-term imprisonment or criminal detention.

Intentionally injuring others

ARTICLE 234: Intentionally injuring another person.

PUNISHMENT, ARTICLE 234: The offender shall be sentenced to not more than 5 years of fixed-term imprisonment or criminal detention.

Abducting and trafficking women or children

ARTICLE 240: Abducting and trafficking women or children and abducting and trafficking woman or children in one or more of the following cases:

1. Primary elements of rings engaging in abducting and trafficking women or children;
2. abducting and trafficking more than three women and/or children;
3. raping abducted women;
4. seducing, tricking, or forcing abducted women into prostitution, or those selling abducted women to others who in turn force them into prostitution;
5. kidnapping women or children using force, coercion, or narcotics, for the purpose of selling them;
6. stealing or robbing infants or babies for the purpose of selling them;
7. causing abducted women or children, or their family members, to serious injuries or death, or causing other grave consequences; and
8. selling abducted women or children to outside the country.

Abducting and trafficking women or children refers to abducting, kidnapping, buying, selling, transporting, or transshipping women or children.

PUNISHMENT, ARTICLE 240: The minimal punishment is 5 to 10 years in prison plus a fine. Article 240 also stipulates circumstances (see above) where heavier punishment (sentence of 10 years or more or life sentences in addition to a fine or confiscation of property) shall be imposed.

Buying trafficked women or children

ARTICLE 241: Buying abducted women or children, forcing them to have sex and illegally depriving them of or restricting their physical freedom, or injuring or insulting them.

PUNISHMENT, ARTICLE 241: The offender shall be sentenced to minimal of 3 years or fewer in prison, or put under criminal detention or surveillance.

If the offender forces the abducted woman to have sex, the offender shall be convicted and punished according to Article 236 of the Criminal Law (Rape). If the offender

illegally deprives the abducted woman of or restricts her physical freedom, or injures or insults her, the offender shall be convicted and punished according to the relevant provisions of the Criminal Law. Such offender shall be punished as committing more than one crime.

Forcing others to take drugs

ARTICLE 353: Forcing others to take drugs. Drugs are defined under Article 357 as opium, heroin, ice, morphine, marijuana, cocaine, and other addictive narcotics and drugs for mental sickness that are under the state's control.

PUNISHMENT, ARTICLE 353: The offender shall be sentenced to 3 to 10 years in prison in addition to a fine.

Rape

ARTICLE 236: Raping a woman by violence, coercion or other means and raping a woman in circumstances involving one of the following:

1. raping a woman or have sexual relations with a girl and when the circumstances are odious;
2. raping several women or have sexual relations with several girls;
3. raping a woman in a public place and in the public;
4. raping a woman in turn with another or more persons; and
5. causing the victim serious injury, death, or other serious consequences.

PUNISHMENT, ARTICLE 236: The offender shall be sentenced to not less than 3 years and not more than 10 years of fixed-term imprisonment. Article 236 also stipulates circumstances (see above) where heavier punishments (sentence of not less than 10 years of fixed imprisonment, life imprisonment or death) shall be imposed.

Organising and forcing others into prostitution

ARTICLE 358: Organizing others for or forcing others into prostitution are and organizing others for or forcing others into prostitution involving one or more of the following circumstances:

1. committing serious crimes of organizing others for prostitution;
2. forcing young girls under the age of 14 into prostitution;
3. forcing more than one person into prostitution and those repeatedly forcing others into prostitution;
4. forcing others who were raped by them into prostitution; and
5. causing severe injuries, death, or other serious consequences to those who are forced into prostitution.

PUNISHMENT, ARTICLE 358: The offender shall be subject to a minimum punishment of 5 to 10 years in prison in addition to a fine. Article 358 also stipulates circumstances (see

above) which render heavier punishment (sentence of 10 years or more in prison or a life sentence, in addition to a fine or confiscation of property).

Offering bribes to State personnel

ARTICLE 390: Committing the crime of offering bribes and committing the crime of offering bribes to seek illegitimate gain, when the circumstances are serious, or causes great damage to State interests.

PUNISHMENT, ARTICLE 390: The offender shall be sentence to not more than 5 years of fixed-term imprisonment or criminal detention. If the offender offers bribes to seek illegitimate gain and the circumstances are serious or causes great damage to State interests, the offender shall be sentenced to not less than 5 years and not more than 10 years of fixed-term imprisonment, or to not less than 10 years of fixed-term imprisonment or life imprisonment when the circumstances are extremely serious, in addition to confiscation of property.

Accepting bribes by State personnel

ARTICLE 385: State personnel who take advantage of their office to demand money and things from other people or if they illegally accept money and things from other people and give favors to the latter are guilty of the crime of bribery.

PUNISHMENT, ARTICLE 385: The offender shall be punished in accordance with Article 383 of the Criminal Law which imposes punishments according to the following stipulations depending on the amount of the bribe:

1. Bribe with an amount of more than RMB100,000: the offender shall be sentenced to more than 10 years of fixed-term imprisonment or life imprisonment and may, in addition, have their properties confiscated. In especially serious cases, those offenders are to be sentenced to death and, in addition, have their properties confiscated.
2. Bribe with an amount of more than RMB50,000 but less than RMB100,000: the offender shall be sentenced to more than 5 years of fixed-term imprisonment and may, in addition, have their properties confiscated. In especially serious cases, those offenders are to be sentenced to life imprisonment and, in addition, have their properties confiscated.
3. Bribe with an amount of more than RMB5,000 but less than RMB50,000: the offender shall be sentenced to more than 1 year but less than 7 years of fixed-term imprisonment. In serious cases, those offenders are to be sentenced to more than 7 years but less than 10 years of fixed-term imprisonment. If the bribe is with an amount of more than RMB1,000 but less than RMB10,000 the offender may receive a reduced punishment or be exempted from punishment if they express repentance after having committed crimes and actively returning the illegally obtained money. However, they shall receive administrative action to be decided by the unit to which they belong or the higher administrative organ.

4. Bribe with an amount of less than RMB5,000: with the situation being serious, the offender shall be sentenced to less than 2 years of fixed-term imprisonment or criminal detention and in lighter cases, the offender shall be given administrative action to be decided by the unit to which they belong or the higher administrative organ.

For an offender of repeated crimes of graft, all amounts of graft of unhandled cases are to be added in meting out punishment.

Offering bribes

ARTICLE 391: Giving money to enterprises and institutions for the purpose of seeking illegitimate gain.

PUNISHMENT, ARTICLE 391: The offender shall be sentenced to not more than 3 years of fixed-term imprisonment or to criminal detention. Whichever unit committing such crime shall be sentenced to a fine, and the responsible persons who are directly in charge of the unit or other personnel who are held directly responsible for the crime shall be punished on the same basis.

Accepting bribes

ARTICLE 387: Enterprises and institutions exacting or illegally accepting money from other people and trying to obtain gain for other people.

PUNISHMENT, ARTICLE 387: If the circumstance is serious, the offender shall be fined and their personnel who are directly in charge and other personnel who are directly held responsible for the offence shall be sentenced to not more than 5 years of fixed-term imprisonment or to criminal detention.

Concealing proceeds from drug trafficking

ARTICLE 349: Providing cover for criminals who have engaged in smuggling, trafficking, transporting and manufacturing drugs and hiding, moving or concealing drugs and properties of such criminals.

PUNISHMENT, ARTICLE 349: The offender shall be sentenced to less than 3 years of fixed-term imprisonment, detaining or control. In serious cases, the offender shall be sentenced to more than 3 but less than 10 years of fixed-term imprisonment. Those who conspire with others in advance to commit such crimes are to be handled as accomplices of smuggling, trafficking, transporting, or making drugs.

Money laundering

ARTICLE 191: Disguising or concealing the origin or nature of proceeds obtained from any drug-related crime knowing that such incomes are obtained from drug-related crime.

PUNISHMENT, ARTICLE 191: The incomes obtained from such act as well as the proceeds generated therefrom shall be confiscated, and the offender shall be sentenced to fixed-term imprisonment of not more than five years or detention, and/or shall be imposed a fine of 5% up to 20% of the amount of laundered money. If the circumstances are

serious, he shall be sentenced to fixed-term imprisonment of not less than 5 but not more than 10 years, and shall be imposed a fine of 5% up 20% of the amount of laundered money.

Framing others

ARTICLE 243: Fabricating stories to frame others or in an attempt to subject others to criminal investigation.

PUNISHMENT, ARTICLE 243: The offender shall be sentenced to 3 years or fewer in prison, or put under criminal detention or surveillance. If serious consequences are caused a heavier punishment (3 to 10 years of imprisonment) shall be imposed.

EMPLOYMENT PROMOTION LAW

Job agency providing false employment information

ARTICLE 41: No job intermediary agency may provide false employment information.

PUNISHMENT, ARTICLE 65: The labor administrative department or other administrative departments shall order the offender to make a correction and if there are any illegal gains, it shall confiscate the illegal gains and imposes a fine of not less than RMB10,000 but not more than RMB50,000. If the circumstance is severe, it shall revoke the job intermediary agency license.

Job agency detaining worker's resident identity card

ARTICLE 41: No job intermediary agency may provide false employment information or detain workers' resident identity cards and other certificates.

PUNISHMENT, ARTICLE 66: The labor administrative department shall order the offender to return the detained documents to the workers and shall punish it in pursuance of relevant laws.

LABOR LAW

Purposely delaying the conclusion of labour contracts

ARTICLE 98: Employer purposely delaying the conclusion of labour contracts in violation of the conditions specified in the Labor Law.

PUNISHMENT, ARTICLE 98: The offender shall be ordered by the labor administrative departments to make corrections and assume responsibility over compensation for any losses that may be sustained by the laborers therefrom.

Engaging underage worker in prohibited category of work

ARTICLE 64: Engaging underage worker (defined as someone who is up to 16 years old but below 18 years old under Article 58) in work falling within Grade IV physical labor intensity as stipulated by the State (whether the construction work in question fall within such category depends on the intensity of the work and workings hours involved).

PUNISHMENT, ARTICLE 95: The offender shall be ordered by the labor administrative department to make corrections and fined and shall assume the responsibility over making compensations if harms are caused to the underage worker.

Failing to provide regular physical examination to the laborers

ARTICLE 65: The employer shall carry out regular physical examinations for underage workers.

PUNISHMENT, ARTICLE 95: The offender shall be ordered by the labor administrative department to make corrections and fined and shall assume the responsibility over making compensations if harms are caused to the underage workers.

Forcing labor

ARTICLE 96: Using violence, threat or illegal deprivation of personal freedom to force labor, humiliation, corporal punishment, beating and illegal holding of labors.

PUNISHMENT, ARTICLE 96: The offender shall be taken by a security department into custody for 15 days, fined or given a warning, and criminal responsibilities shall be fixed upon such offender.

Delaying payment of wages

ARTICLE 50: Delaying or deducting wages without reasons.

PUNISHMENT, ARTICLE 91: The labor administrative department shall order the offender to pay the wages or to make up for economic losses of the laborers. The offender may also be liable to pay compensation.

Failing to pay social insurance funds

ARTICLE 72: The employer and the laborers shall participate in social insurance funds and pay social insurance costs.

PUNISHMENT, ARTICLE 100: The employer who refuses to pay social insurance funds shall be ordered by the labor administrative department to pay within a fixed period of time. If the employer fails to make payments beyond the prescribed time he shall be liable to make additional payments.

Failing to establish system for labor safety and sanitation

ARTICLES 52, 53 and 54: Failing to establish system for labor safety and sanitation and provide labor safety and sanitation facilities that meet the standard stipulated by the State.

PUNISHMENT

ARTICLE 92: The employer whose labor safety facilities and labor sanitation conditions fall short of State regulations or who fails to provide labors with necessary labor protection articles and labor protection facilities shall be ordered by the labor administrative departments or other relevant departments to make corrections, or be fined. Offenders in serious cases shall be reported to People's Governments at or above the county level so that these People's Governments can decide and order it to stop production for consolidation and criminal responsibilities shall be fixed upon the persons in charge according to the Criminal Law shall the failure on the part of the employer to take measures against possible accidents result in serious accidents and cause losses of labors life or properties.

ARTICLE 93: Criminal responsibilities shall be fixed upon the persons in charge in accordance with law if the employer forces labors to venture to work against regulations and as a result cause major accidents of injuries and deaths and serious consequences.

LABOR CONTRACT LAW

Employer detaining worker's identity card

ARTICLE 9: When an employer hires an employee, it shall not detain his identity card or other certificates.

PUNISHMENT, ARTICLE 84: The labor administrative department shall order the offender to return the detained documents to the laborer and shall punish the offender in pursuance of the relevant laws.

Insulting, corporally punishing and restraining the laborer

ARTICLE 88: Employer insulting, corporally punishing and restraining the laborer.

PUNISHMENT, ARTICLE 88: The offender shall be given an administrative punishment. If any crime is constituted, the offender shall be subject to criminal liabilities. If any damage is caused to the laborer, the employer shall also be liable for compensation.

Imposing excessive working hours and depriving labors of holidays

ARTICLE 31: The employer shall not force his labors to work overtime or make his labors to do so in a disguised form. If the employer arranges for overtime work, he shall pay his labor for the overtime work according to the relevant provisions of the State.

PUNISHMENT

ARTICLE 85: If the overtime payment is not made by the employer within the time limit, the employer shall be ordered to pay an extra compensation to the employee at a rate of not less than 50 % and not more than 100 % of the payable amount.

ARTICLE 90: The labor administrative departments may give the offender a warning, order him to make corrections, and may impose a fine.

Labor contract concluded by deception or coercion

ARTICLE 26: Contract involving a party employing the means of deception or coercion or taking advantage of the other party's difficulties to force the other party to conclude a labor contract is invalid or is partially invalid.

REMEDIES, ARTICLE 28: If a labor contract has been confirmed to be invalid, the employer shall still need to pay remunerations to the laborer who has labored for the employer. The amount of remunerations shall be determined by analogy to the remuneration to the laborers taking up the same or similar positions of the employer.

MARRIAGE LAW

Forcing marriage by intimidation

ARTICLE 5: Marriage shall be based on the complete willingness of both man and woman. No party may coerce the other party to enter into marriage, and no third party may interfere with the marriage.

REMEDIES, ARTICLE 11: The intimidated party being forced into marriage may apply to the marriage registration authority or the People's Court for canceling the marriage. The intimidated party shall need to make such application within 1 year since the day of the marriage registration. Where any party who is unlawfully confined in personal freedom applies for canceling a marriage, she shall need to make the application within 1 year since the day she resumes personal freedom.

Domestic violence

ARTICLE 3: Familial violence shall be prohibited.

REMEDIES

ARTICLE 43: The victim of domestic violence shall be entitled to make petitions. The villagers' committees, the relevant urban residents' committee, villagers' committee or the entity where the victim is a staff member shall make dissuasions or mediations and the public security organs shall stop such domestic violence and shall give administrative punishment to the offender according to the provisions on the administration of public security.

ARTICLE 32: The victim can apply to marriage authority for divorce. The People's Court shall make mediations but if the mediation fails and domestic violence is involved, the divorce shall be approved.

ARTICLE 46: The victim shall be entitled to claim damages upon divorce.

ARTICLE 45: Criminal liabilities shall be meted out to offender who commits domestic violence or maltreats any family member so seriously as to have constituted a crime. The victim may also file a private prosecution at the People's Court in accordance with the provisions of the criminal procedure law upon which the relevant public security organ shall make investigations and the People's Procuratorate concerned shall make a public prosecution according to the law.

THAILAND



THAILAND

Thailand offers attractive employment opportunities to migrant workers due to its comparative wealth in relation to its neighboring countries. The wealth of better opportunities has led to ethnic minorities and citizens from countries like Cambodia, Laos and Myanmar being duped and trafficked into Thailand for commercial sexual exploitation in a billion dollar sex industry and forced labour especially in the fishing industry.

Thailand has recently garnered much attention from its use of slave labour in the production of seafood sold by major retailers worldwide, a discovery that has downgraded the country to Tier 3 in the US Department of State's TIP Report this year. Migrant workers from Myanmar and Laos, for example, are trafficked and being exploited under inhumane conditions in supply chains.

Widespread corruption enables human trafficking to prosper. Some officials protect brothels and food processing facilities while others were reportedly involved in selling the deported Rohingyas to human traffickers, a "clandestine policy" that relies upon established use of human traffickers and smugglers to rid Thailand of Rohingya detainees. Victim identification is also a problem.

Lack of proper implementation of the law coupled with weak interagency coordination yields a relatively weakened effort to assist victims of trafficking. Without a centralized system of referrals, some receive help and are transferred from detention centers to shelters waiting to be repatriated. Others are not so lucky and are sent to no man's land between Thailand and Myanmar where they just simply vanish. This is unfortunate given Thailand has one of the most comprehensive anti-trafficking legislation in South East Asia.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Thai law) involved in four trafficking scenarios: sex trafficking, forced labour, labour trafficking and domestic servitude.

SCENARIO 1 – SEX TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A young Cambodian woman hears about a possible job in Thailand working in a restaurant	
	She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	FOR THE FRIEND — Supporting the commission of Trafficking in persons offence (Anti-trafficking in Persons Act S7, S6, S11 and S52)
	The statements he makes to her are false and intended to deceive her	FOR THE TRAFFICKER — Trafficking in persons (despite committing the offence outside Thailand) (Anti-trafficking in Persons Act S6, S11 and S52)
	He helps her to get a passport and a visa in exchange for a fee (US\$1,900) This is done by bribing government officials in the Cambodia to get the proper papers in order	
	Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	FOR THE TRAFFICKER — Bringing into Thailand in order to enslave a person or to cause a person to be in a position similar to a slave (committed outside Thailand but the consequence of the offence will occur within Thailand) (Penal Code S312, S5) — Bringing or taking a foreigner into Thailand or does anything which helps, assists or facilitates a foreigner in making and entry into Thailand in contravention of the Immigration Act (committed outside Thailand but the consequence of the offence will occur within Thailand) (Immigration Act S63 and Penal Code S5)
	Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE TRAFFICKER & THE VICTIM — Giving false information to an officer (Penal Code S137)
DESTINATION COUNTRY: THAILAND (INITIATION)	She arrives in Thailand A man is waiting for her at the border	FOR THE TRAFFICKER — Bringing into Thailand in order to enslave a person or to cause a person to be in a position similar to a slave (Penal Code S312) — Trafficking in persons (Anti-trafficking in Persons Act S6 and S52) — Bringing or taking a foreigner into Thailand or does anything which helps, assists or facilitates a foreigner in making an entry into Thailand in contravention of the Immigration Act (Immigration Act S63)
	He takes her passport	FOR THE TRAFFICKER / PERPETRATOR — Taking away a document of the other person (Penal Code S188) — Theft (Penal Code S334)
	She is taken to an apartment in Pattaya	FOR THE PERPETRATOR — Taking away a child (not over 15 years) from the parent, guardian or person looking after such child for lucre or indecent purpose without reasonable cause (Penal Code S317) — Taking away a minor (over 15 years but not yet over 18 years) from the parent, guardian or person looking after such minor for lucre or indecent purpose with the consent of such minor (Penal Code S319) — Dishonestly procuring, seducing or taking away a minor or a child even with consent of such person (Penal Code S312ter)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	She begins to get nervous and starts to ask questions	
	The man becomes angry and slaps her several times and threatens her and her family	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Putting a person in fear or in fright by threat (Penal Code S392)
	He explains that if she doesn't do what she is told, she will be hurt	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	She is held against her will	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Taking away a minor for indecent purpose (over 15 years but not yet over 18 years) from the parent, guardian or person looking after such minor against will of such minor (Penal Code S318) — Taking a child away from the lawful control of parents (Penal Code S317) — Detaining in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) — Detaining or confining the other or depriving such person of the liberty of person (Penal Code S310)
DESTINATION COUNTRY: EXPLOITATION PERIOD	She is confined in a room for two days – with little food or water	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Confining a person and making such person to do any act (Penal Code S310bis) — Confining a child (not exceeding 15 years) and making such child to do any act (Penal Code S312bis) — Confining a person or a child and such person or child is bodily harmed (Penal Code S312bis) — Confining a person or a child in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312bis) — Confining a person by means of the use of force for the purpose of trafficking in persons (Anti-trafficking in persons S6) — Detaining or confining another person in order to force such person to prostitution activity (Prevention and Suppression of Prostitution Act S12) — Intentionally withhold things that are necessary for sustaining the life or health of a child (not yet 18 years) which would be likely to cause physical or mental harm to the child (Child Protection Act S26)
	She is forced to drink a juice cocktail that is laced with a sedative	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Adulterating food with intent to be consumed by any other person which is likely to cause injury to health (Penal Code S236) — Causing bodily harm (Penal Code S295) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	In this intoxicated state, men come and have sex with her against her will	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Committing sexual intercourse by exploiting a situation in which such person is unable to resist or by commission in the company of persons in the nature of destroying a female or a male (Penal Code S276) — Committing sexual intercourse with a child (not yet over 15 years/ not over 13 years) who is not the wife or husband, irrespective of having consent of such child by commission in the company of persons in the nature of destroying a female or a male (Penal Code S277) — Congregating with another person in a prostitution establishment for the benefit of prostitution of that person or of another person (Prevention and Suppression of Prostitution Act S6) — Committing sexual intercourse or any other act against a minor (over 15 but not over 18 years) or a child in a prostitution establishment (Prevention and Suppression of Prostitution Act S8) <p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Procuring a female, a minor (over 15 years but not yet over 18 years) or a child (not over 15 years) for the purpose of indecency by using any deceitful means, threatening, doing an act of violence, influencing with unjust power, or coercing (Penal Code S283) — Living on, even some part of, the earning of a prostitute (Penal Code S286) — Procuring another person, a minor or a child to commit the act of prostitution (Prevention and Suppression of Prostitution Act S9) — Owner of a prostitution business, supervisor, or manager of a prostitution business or prostitution establishment, or controller of a prostitute in the prostitution establishment (Prevention and Suppression of Prostitution Act S11) <p>FOR BOTH THE TRAFFICKER AND THE PERPETRATOR</p> <ul style="list-style-type: none"> — Forcing, threatening, inducing, encouraging or allowing a child (not yet 18 years) to adopt behaviour and manners which are inappropriate (Child Protection Act S26, S78) — Forcing, threatening, using, inducing, instigating, encouraging or allowing a child (not yet 18 years) to perform or act in a pornographic manner (Child Protection Act S26, S78)
	Photos are taken of her with several men in compromising positions	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Committing an indecent act on a person (over 15 years) by threatening, by doing any act of violence, by exploiting a situation in which such person is unable to resist (Penal Code S278) — Committing an indecent act on a child (not yet over 15 years) by threatening, by doing any act of violence, by exploiting a situation in which such person is unable to resist (Penal Code S279) <p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Procuring a female, a minor (over 15 years but not yet over 18 years) or a child (not over 15 years) for the purpose of indecency by using any deceitful means, threatening, doing an act of violence, influencing with unjust power, or coercing (Penal Code S283) — Making any pornographic document for the purpose of public distribution or exhibition (Penal Code S287) <p>FOR BOTH THE TRAFFICKER AND THE PERPETRATOR</p> <ul style="list-style-type: none"> — Force, threaten, induce, encourage or allow a child (not yet 18 years) to adopt behaviour and manners which are inappropriate (Child Protection Act S26, S78) — Force, threaten, use, induce, instigate, encourage or allow a child (not yet 18 years) to perform or act in a pornographic manner (Child Protection Act S26, S78)
	She is told that these photos shall be sent to her family if she doesn't comply with the trafficker	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Making any pornographic document for the purpose of public distribution or exhibition (Penal Code S287) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392) — Defaming a person by picture (Penal Code S326, S328) — Disseminating or forwarding pornographic data (Computer Crime Act S14)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	<p>She is forced with physical violence to have sex with up to three men a day</p>	<p>FOR THE PERPETRATORS</p> <ul style="list-style-type: none"> — Committing sexual intercourse by doing any act of violence (Penal Code S276) — Committing sexual intercourse with a child (not yet over 15 years/ not over 13 years) who is not the wife or husband, irrespective of having consent of such child (Penal Code S277) — Congregating with another person in a prostitution establishment for the benefit of prostitution of that person or of another person (Prevention and Suppression of Prostitution Act S6) — Committing sexual intercourse or any other act against a minor (over 15 but not over 18 years) or a child in a prostitution establishment (Prevention and Suppression of Prostitution Act S8) — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Putting a person in fear or in fright by threat (Penal Code S392) <p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Procuring a female, a minor (over 15 years but not yet over 18 years) or a child (not over 15 years) for the purpose of indecency by using any deceitful means, threatening, doing an act of violence, influencing with unjust power, or coercing (Penal Code S283) — Living on, even some part of, the earning of a prostitute (Penal Code S286) — Procuring another person, a minor or a child to commit the act of prostitution (Prevention and Suppression of Prostitution Act S9) — Owner of a prostitution business, supervisor, or manager of a prostitution business or prostitution establishment, or controller of a prostitute in the prostitution establishment (Prevention and Suppression of Prostitution Act S11)
	<p>She is not allowed to leave the apartment without an escort</p> <p>She is not allowed to communicate with anyone at any time</p>	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Confining a person and making such person to do any act (Penal Code S310bis) — Confining a child (not exceeding 15 years) and making such child to do any act (Penal Code S312bis) — Detaining or confining another person in order to force such person to prostitution activity (Prevention and Suppression of Prostitution Act S12) — Detaining a person or a child in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312bis)
	<p>She is forced to drink whatever the client offers, even if she doesn't want it</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	<p>If the person doesn't want to wear a condom, she can't deny him sex</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Committing sexual intercourse by exploiting a situation in which such person is unable to resist (Penal Code S276) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	<p>She does not receive any payment – whatever they think she needs (food, clothing) is provided to her</p>	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Living on, even some part of, the earning of a prostitute (Penal Code S286)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)		She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Living on, even some part of, the earning of a prostitute (Penal Code S286) — Committing cheating and fraud offence (Penal Code S341)
		Bribes are paid to a local police officer to turn the other way	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Granting any benefit to any official with intent to persuade such person to wrongfully omit to discharge of any duty in his or her office (Penal Code S144) FOR THE POLICE <ul style="list-style-type: none"> — A police supports the detention or confinement of another person in order to force such person to prostitution activity (Prevention and Suppression of Prostitution Act S12) — An official accepting any benefit for himself or for any other person for omitting to discharge of any duty in his or her office (Penal Code S149) — An official assisting the commission of trafficking in persons offence (Anti-trafficking in Persons S7, S6, S13, S52)
		The apartment is rented using money from drug trafficking profits	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Transferring an asset involved in the commission of an offense for the purpose of assisting another person to avoid the penalty for the predicate offense (Anti-money Laundering Act S5, S60) FOR THE APARTMENT OWNER <ul style="list-style-type: none"> — Procuring with assets or means of shelter in order to assist the offender to escape or to avoid the punishment from such offence, or to gain a benefit from the commission of an offence (Anti-money Laundering Act S7, S6 and S60) — Aiding by contributing property, procuring a meeting place or lodge, for the offender of trafficking in persons (Anti-trafficking in Persons Act S7, S6 and S52) — Supporting the detention or confinement of another person in order to force such person to prostitution activity (Prevention and Suppression of Prostitution Act S12)
		The trafficker has a vice establishment and forces the girl to solicit clients	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Owner of a prostitution business, supervisor, or manager of a prostitution business or prostitution establishment, or controller of a prostitute in the prostitution establishment (Prevention and Suppression of Prostitution Act S11) — Engaging a foreigner to work for him other than the holder of a permit (Foreign Workers Act S27, S54) — Not notifying relevant officials where a foreigner, receiving permission to stay temporary in Thailand has stayed (Immigration Act S38, S77) — Knowing of any foreigner entering into Thailand in contravention of the Immigration Act, and harbouring, hiding or in any manner assisting said foreigner to evade arrest (Immigration Act S64) — For the victim — Engaging in a work without having a permit (Foreign Workers Act S51) — Having received a temporary entry permit and staying in Thailand longer than 90 days without notifying competent officials (Immigration Act S37, S75 and S76)
SOURCE COUNTRY: THE RETURN HOME		After 18 months, she is given her freedom to leave and be replaced by a new trafficked person	
		She returns home, but out of shame she does not communicate what had happened to her	
		She makes up a story that she tried to contact her home but couldn't get through	
		She explains that she earned a lot of money but was used up before she was coming back	

SCENARIO 2 – FORCED LABOR (SEAFOOD PACKING)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A twenty-five year old male from Myanmar hears that there are many factories in Thailand offering work peeling shrimp	
	A broker (trafficker) tells him he can get US\$100 per month	
	The broker helps him to come to Thailand in exchange of US\$1000	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Trafficking in persons (despite committing the offence outside Thailand) (Anti-trafficking in Persons Act S6, S11 and S52)
DESTINATION COUNTRY: THAILAND (INITIATION)	The trafficker takes him to a shrimp-peeling factory	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Trafficking in persons (Anti-trafficking in Persons Act S6 and S52) — Conspiring to commit trafficking in persons offence (Anti-trafficking in Persons Act S9, S6 and S52) — Bringing into or sends out of Thailand in order to enslave a person or to cause a person to be in a position similar to a slave (Penal Code S312) FOR THE EMPLOYER <ul style="list-style-type: none"> — Receiving in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) — Supporting the commission of the trafficking in persons offence (Anti-trafficking in Persons Act S7, S6 and S52) — Conspiring to commit trafficking in persons offence (Anti-trafficking in Persons Act S9, S6 and S52)
	The factory is not registered with the government	FOR THE FACTORY OWNER <ul style="list-style-type: none"> — Engaging in a business of group 2 factory, and notifying the authorities incorrectly or incompletely or failing to notifying the competent authorities (Factory Act S48, S49) — Engaging in a business of group 3 without a permit (Factory Act S50) — (However, the violation of the Factory Act above does not affect the protection of employment. The victim is still considered as an employee under Thai labour law.)
	The manager says he can have a job and they negotiate a salary of US\$75 per month	FOR THE EMPLOYER <ul style="list-style-type: none"> — Paying employees in the amount lower than the minimum wage rate (Labour Protection Act S90 and S144) — Committing cheating and fraud offence (Penal Code S341)
	He does not have a work permit and the manager is aware of it	FOR THE EMPLOYER <ul style="list-style-type: none"> — Engaging a foreigner to work for him other than the holder of a permit (Foreign Workers Act S27, S54) — Not notifying relevant officials where a foreigner receiving permission to stay temporary in Thailand has stayed (Immigration Act S38, S77) FOR THE VICTIM <ul style="list-style-type: none"> — Engaging in work without having the permit (Foreign Workers Act S51) — Having received a temporary entry permit and engaging in an employment and staying in Thailand longer than 90 days without notifying competent officials (Immigration Act S37, S75 and S76)
	The manager says he cannot leave the factory and the man agrees as he needs the money	FOR THE MANAGER <ul style="list-style-type: none"> — Confining a person and making such person to do any act (Penal Code S310bis) — Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) — Confining a person by means of deception for the purpose of trafficking in persons (Anti-trafficking in persons S6)
	All of his documents and phone are taken away and withheld from him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Taking away a document of the other person (Penal Code S188) — Theft (Penal Code S334)

DESTINATION COUNTRY: EXPLOITATION PERIOD	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
	<p>He works 18 hours a day for two months without getting paid</p> <p>He is allowed a ten minute break per day</p> <p>If he takes a day of rest, he is fined 100 Baht</p> <p>He sleeps on mats on the floor, no furniture</p> <p>He asks for gloves – the manager hands them to him and adds the cost of the gloves to his existing debt</p> <p>He goes to the manager and asks for his pay. The manager says: <i>"I am sorry, I forgot to mention to you that it costs me US\$54 a month to keep you here and I am only paying you US\$50. So you owe me money. Until you pay it back you cannot leave this place."</i></p>	<p>FOR THE EMPLOYER</p> <ul style="list-style-type: none"> Working time per day exceeds what is prescribed by law without justification (Labour Protection Act S23 and S144) Requiring an employee to work overtime without his consent (Labour Protection Act S24 and S144) Not arranging a rest period during work for an employee (Labour Protection Act S27 and S146) Deducting wages, overtime pay, holiday pay and holiday overtime pay for the purpose other than those prescribed by law (Labour Protection Act S76, S144) Confining a person and making such person to do any act (Penal Code S310bis) Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312)
	<p>The manager physically and verbally abuses him over and over again in front of the factory owner</p>	<p>FOR THE MANAGER</p> <ul style="list-style-type: none"> Causing bodily harm (Penal Code S295) Committing serious bodily harm (Penal Code S296, S295 and S289) Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) Insulting any person in his or her presence (Penal Code S393) Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person (Penal Code S309) Putting a person in fear or in fright by threat (Penal Code S392)
	<p>The manager locks the door and confines all the workers until they finish their work</p>	<p>FOR THE MANAGER</p> <ul style="list-style-type: none"> Confining a person and making such person to do any act (Penal Code S310bis) Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) Confining a person by force for the purpose of trafficking in persons (Anti-trafficking in persons S6)
	<p>He works for three years without leaving.</p>	<p>FOR THE MANAGER</p> <ul style="list-style-type: none"> Confining a person and making such person to do any act (Penal Code S310bis) Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) Confining a person by force for the purpose of trafficking in persons (Anti-trafficking in persons S6)
	<p>He cannot escape as armed security guards, barbed wires and high walls surround the factory</p>	<p>FOR THE MANAGER</p> <ul style="list-style-type: none"> Confining a person and making such person to do any act (Penal Code S310bis) Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309)
	<p>The more he works, the more debt he incurs</p>	<p>FOR THE EMPLOYER</p> <ul style="list-style-type: none"> Deducting wages, overtime pay, holiday pay and holiday overtime pay for the purpose other than those prescribed by law (Labour Protection Act S76, S144) Committing cheating and fraud offence (Penal Code S341)
	<p>After an accident takes place and one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered</p>	<p>FOR THE EMPLOYER</p> <ul style="list-style-type: none"> Not providing appropriate healthcare and paying medical expense to the employee when the employee is injured as a result of work (Workers' Compensation Act S13 and S62)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	One day immigration police visit the factory and meet the manager (a bribe is paid to the officer to ignore the situation)	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Granting any benefit to any official with intent to persuade such person to wrongfully omit to discharge of any duty in his or her office (Penal Code S144) <p>FOR THE POLICE</p> <ul style="list-style-type: none"> — An official accepting any benefit for himself or for any other person for omitting to discharge of any duty in his or her office (Penal Code S149) — An official assisting the commission of trafficking in persons offence (Anti-trafficking in Persons S7, S6, S13, S52)
	He eventually escapes as a fire breaks out which brings the authorities to the factory	
	The shrimps come from all over Thailand and are exported to the US market	

SCENARIO 3 – LABOR TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A local trafficker approached a Cambodian man to offer him a job on a fishing boat in Thailand	FOR THE TRAFFICKER — Trafficking in persons (despite committing the offence outside Thailand) (Anti-trafficking in Persons Act S6, S11 and S52)
	He is told he will be paid a good salary (US\$265 monthly)	
	No written contract is offered	
	He is taken by bus to a fishing port in Thailand	FOR THE TRAFFICKER — Bringing into or sends out of Thailand in order to enslave a person or to cause a person to be in a position similar to a slave (Penal Code S312)
DESTINATION COUNTRY: EXPLOITATION PERIOD	Upon arrival, the captain tells him that he was sold and if he wants to be free, he has to pay US\$3000	FOR THE CAPTAIN — Trafficking in persons (Anti-trafficking in Persons Act S6 and S52) — Supporting the commission of the anti-human trafficking offence (Anti-trafficking in Persons Act S7, S6 and S52) — Conspiring the commission of the anti-human trafficking offence (Anti-trafficking in Persons Act S9, S6 and S52) — Receiving in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312)
	The boat is registered but is engaged in illegal fishing activities	FOR THE PERPETRATOR — Dumping poisonous substance into fishery area or using electricity for fishing (Fishery Act S19, S20 and S62bis) — Possessing aquatic animals for commercial purpose with the knowledge of commission of the illegal fishing offence (Fishery Act S20bis and S62ter)
	He is working on the boat 7 days a week	FOR THE EMPLOYER — Ordering an employee to work on a holiday without reasonable grounds (Labour Protection Act S25 and S144)
	He is allowed to sleep two or three hours per day	FOR THE EMPLOYER — Working time per day exceeds what is prescribed by law without justification (Labour Protection Act S23 and S144) — Requiring an employee to work overtime without his consent (Labour Protection Act S24 and S144) — Not arranging a rest period during work for an employee (Labour Protection Act S27 and S146)
	The Captain and Thai crew are armed	FOR THE CAPTAIN AND THE CREW — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	He is forced to take drugs to keep him working – if he refuses, he is beaten with a stick	FOR THE PERPETRATOR — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Adulterating food with intent to be consumed by any other person which is likely to cause injury to health (Penal Code S236) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	One day, he sees a co-worker who felt ill being thrown overboard	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Murdering a person for the purpose of concealing any other offence committed by him or her or escaping from the punishment for any other offence committed by him (Penal Code S289)
	He gets kicked, beaten and punched every time he doesn't work enough or he complains He never receives any wages	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Deducting wages, overtime pay, holiday pay and holiday overtime pay for the purpose other than those prescribed by law (Labour Protection Act S76, S144) — Committing cheating and fraud offence (Penal Code S341)
	He receives one meal per day	
	He stays three years on the boat without seeing land	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Confining a person and making such person to do any act (Penal Code S310bis) — Confining a person in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312) — Confining a person by force for the purpose of trafficking in persons (Anti-trafficking in persons S6)
	A co-worker manages to escape and alert the authorities	

SCENARIO 4 – DOMESTIC SERVITUDE

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A 15 years old girl is recruited by a friend of her parents in Laos	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Trafficking in persons (despite committing the offence outside Thailand) (Anti-trafficking in Persons Act S6, S11 and S52) — Bringing into Thailand in order to enslave a person or to cause a person to be in a position similar to a slave (committed outside Thailand but the consequence of the offence will occur within Thailand) (Penal Code S312, S5) — Bringing or taking a foreigner into Thailand or does anything which helps, assists or facilitates a foreigner in making and entry into Thailand in contravention of the Immigration Act (committed outside Thailand but the consequence of the offence will occur within Thailand) (Immigration Act S63 and Penal Code S5)
	In exchange for her domestic work, she will receive education in Thailand	
DESTINATION COUNTRY	She arrives in Thailand with false documents She is never sent to school Each day she is forced to wake up at 6am and work until 11pm	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> — Bringing into Thailand/Receiving in order to enslave a person or to cause a child (not yet over 15 years) to be in a position similar to a slave (Penal Code S312 and S312bis) — Bringing or taking a foreigner into Thailand or doing anything which helps, assists or facilitates a foreigner in making and entry into Thailand in contravention of the Immigration Act (Immigration Act S63) — Trafficking in persons (Anti-trafficking in Persons Act S6 and S52) — Dishonestly procuring a child (not yet over 15 years) even with consent of such person (Penal Code S312ter) — Taking a child away from the lawful control of parents (Penal Code S317) — Not sending a child to enter into an educational institution (Compulsory Education Act S6 and S13) — Not taking any action causing a child not to enter into an educational institution under the Compulsory Education Act without a reasonable ground (Compulsory Education Act S15) — When employing a child, not reporting to the officer and do other acts required by the Labour Protection Act (Labour Protection Act S45, S146) — Not arranging a rest period for a child employee (Labour Protection Act S46, S144) — Permitting a child employee to work between the hours of 22.00 hrs and 6.00 hrs (Labour Protection Act S47 S144) FOR THE TRAFFICKER AND THE VICTIM <ul style="list-style-type: none"> — Giving false information to an officer (Penal Code S137)
	She services the needs of a large extended family	
	She never receives any salary	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Deducting wages, overtime pay, holiday pay and holiday overtime pay for the purpose other than those prescribed by law (Labour Protection Act S76, S144) — Committing cheating and fraud offence (Penal Code S341)
	She is not allowed to leave the family home without a member of the family accompanying her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Confining a person and making a child to do any act (Penal Code 310bis and S312bis) — Confining a person or a child in order to enslave a person or to cause such person to be in a position similar to a slave (Penal Code S312bis) — Confining a person by force for the purpose of trafficking in persons (Anti-trafficking in persons S6)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY (CONT.)	If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	When she tries to ask any questions, she is hit	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	She is allowed to cook two meals a day for herself	
	Now and then, one of the uncles who visits the house, fondles her – if she resists she is scolded and slapped	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing bodily harm (Penal Code S295) — Committing serious bodily harm (Penal Code S296, S295 and S289) — Committing an act of violence not amounting to bodily or mental harm (Penal Code S391) — Committing an indecent act on a child (not yet over 15 years) by doing any act of violence (Penal Code S279) — Insulting any person in his or her presence (Penal Code S393) — Compelling the other person by putting him in fear of injury to life, body, liberty, reputation or property of him or another person so that he does or does not do such act (Penal Code S309) — Putting a person in fear or in fright by threat (Penal Code S392)
	She is forced to sleep in a tiny room that is no more than a broom closet	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Engaging a foreigner to work for him other than the holder of a permit (Foreign Workers Act S27, S54) — Not notifying relevant officials where a foreigner, receiving permission to stay temporary in Thailand has stayed (Immigration Act S38, S77) — Knowing of any foreigner entering into Thailand in contravention of the Immigration Act, and harbouring, hiding or in any manner assisting said foreigner to evade arrest (Immigration Act S64) FOR THE VICTIM <ul style="list-style-type: none"> — Engaging in a work without having a permit (Foreign Workers Act S51) — Having received a temporary entry permit and engaging in an employment and staying in Thailand longer than 90 days without notifying competent officials (Immigration Act S37, S75 and S76)
	She runs away after one year and half	

LAWS OF THAILAND

ANTI-MONEY LAUNDERING ACT

a. **SECTION 5** – Whoever:

1. transfers, receives the transfer, or changes the form of an asset involved in the commission of an offense, for the purpose of concealing or disguising the origin or source of that asset, or for the purpose of assisting another person either before, during, or after the commission of an offense to enable the offender to avoid the penalty or receive a lesser penalty for the predicate offense; or
2. acts by any manner which is designed to conceal or disguise the true nature, location, sale, transfer, or rights of ownership, of an asset involved in the commission of an offense

shall be deemed to have committed a money laundering offence.

b. **SECTION 7** – Pursuant to the offense of money laundering (as in Section 5), whoever undertakes one of the following acts shall receive the same penalty as a principal offender of such offence:

1. aiding in the commission of an offence or abetting the offender, either before or during the commission of the offence; or
2. procuring or supporting with money or assets, means of transportation, shelter, or any other object, or undertaking any other acts in order to assist the offender to escape or to avoid the punishment from such offence, or to gain a benefit from the commission of an offence.

The Court may not impose a lesser punishment than that provided by the law for such offense where the person who procures or provides money or assets, shelter, or hiding place in order to assist his or her father, mother, son or daughter, wife or husband to avoid apprehension.

c. **SECTION 60** – Any individual who is found guilty of the crime of money laundering (as in Section 5) shall receive a term of imprisonment of 1 to 10 years, or a fine of 20,000 to 200,000 Baht, or both.

ANTI-TRAFFICKING IN PERSONS ACT

a. **SECTION 6** – Whoever, for the purpose of exploitation, does any of the following acts:

1. procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or
2. procuring, buying, selling, vending, bringing from or sending to,

detaining or confining, harbouring, or receiving a child;

is guilty of trafficking in persons.

b. **SECTION 7** – Whoever commits any of the following acts, shall be punished likewise as the offender of an offence of trafficking in persons (as in Section 6):

1. supporting the commission of an offence of trafficking in persons;
2. aiding by contributing property, procuring a meeting place or lodge, for the offender of trafficking in persons;
3. assisting by any means so that the offender of trafficking in persons may not be arrested;
4. demanding, accepting, or agreeing to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished;
5. inducing, suggesting or contacting a person to become a member of the organised criminal group, for the purpose of committing an offence of trafficking in persons.

c. **SECTION 9** – Whoever, from 2 persons upwards, conspires to commit an offence as aforesaid by Section 6 shall be liable to no more than one-half of the punishment stipulated for such offence.

If any one of the offenders in paragraph one has committed in furtherance of the conspiratorial objective, each member of the conspiracy shall be liable, as an additional count, for the punishment stipulated for the committed offence.

...

d. **SECTION 11** – Whoever commits an offence mentioned in Section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of Section 10 of the Penal Code shall apply mutatis mutandis.

e. **SECTION 13** – Whoever in the capacity as an official,..., commits an offence under this Act shall be liable to twice punishment stipulated for such offence.

Any competent official empowered to act in accordance with this Act, committing an offence under this Act, shall be liable to thrice the punishment stipulated for such offence.

f. **SECTION 52** – Whoever commits an offence of trafficking in persons (as in Section 6) shall be liable to imprisonment for a period of 4 to 10 years and a fine of 80,000 to 200,000 Baht.

If the offence under paragraph one is committed against a child whose age exceeds 15 years but not yet reaching 18 years, the offender shall be liable to imprisonment for a period of 6 to 12 years and a fine of 120,000 to 240,000 Baht.

If the offence under paragraph one is committed against a child not over 15 years of age, the offender shall be liable to imprisonment for a period of 8 to 15 years and a fine of 160,000 to 300,000 Baht.

CHILD PROTECTION ACT

a. **SECTION 26** – Under the provisions of other laws, regardless of a child’s consent, a person is forbidden to act as follows:

1. Commit or omit acts which result in torturing a child’s body or mind;
2. Intentionally or neglectfully withhold things that are necessary for sustaining the life or health of a child under guardianship, to the extent which would be likely to cause physical or mental harm to the child;
3. Force, threaten, induce, encourage or allow a child to adopt behaviour and manners which are inappropriate or likely to be the cause of wrongdoing;
4. Advertise by means of the media or use any other means of information dissemination to receive or give away a child to any person who is not related to the child, save where such action is sanctioned by the State;
5. Force, threaten, induce, encourage, consent to, or act in any other way that results in a child becoming a beggar, living on the street, or use a child as an instrument for begging or committing crimes, or act in any way that results in the exploitation of a child;
6. Use, employ or ask a child to work or act in such a way that might be physically or mentally harmful to the child, affect the child’s growth or hinder the child’s development;
7. Force, threaten, use, induce, instigate, encourage, or allow a child to play sports or commit any acts indicative of commercial exploitation in a manner which hinders the child’s growth and development or constitutes an act of torture against the child;
8. Use or allow a child to gamble in any form or enter into a gambling place, brothel, or other place where children are not allowed;
9. Force, threaten, use, induce, instigate, encourage or allow a child to perform or act in a pornographic manner, regardless of whether the intention is to obtain remuneration or anything else;
10. Sell, exchange or give away liquor or cigarettes to a child, other than for medical purposes.

If the offences under paragraph one carry heavier penalties under other law, penalties under such law shall be imposed.

b. **SECTION 78** – Any person who violates Section 26 shall be liable to a term of imprisonment not exceeding three months or a fine not exceeding 30,000 Baht, or both.

COMPULSORY EDUCATION ACT

a. **SECTION 6** – A guardian shall send a child to enter into an educational institution.

...

- b. **SECTION 13** – A guardian who does not comply with Section 6 shall be liable to a fine not exceeding 1,000 Baht.
- c. **SECTION 15** – Whoever takes any action causing a child not to enter into an educational institution under this Act without a reasonable ground shall be liable to a fine of not exceeding 10,000 Baht.

COMPUTER CRIME ACT

- a. **SECTION 14** – If any person commits any offence of the following acts shall be subject to imprisonment for not more than 5 years or a fine of not more than 100,000 Baht or both:

...

- 4. that involves import to a computer system of any computer data of a pornographic nature that is publicly accessible;
- 5. that involves the dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4);

FACTORY ACT

- a. **SECTION 48** – Any person engaging in a business of group 2 factory without notifying the authority under Section 11 paragraph one shall to an imprisonment not exceeding 6 months or a fine not exceeding 50,000 Baht or both.
- b. **SECTION 49** – Any person engaging in a business of group 2 factory notify of the engagement in the business incorrectly or incompletely as provided for in the ministerial rules under Section 11 paragraph two or failing to comply with Section 11 paragraph five or Section 33 shall be subject to fine not exceeding 20,000 Baht.
- c. **SECTION 50** – Any person engaging in a business of group 3 factory without a permit under Section 12 paragraph one or establishing a factory without a permit under Section 12 paragraph two shall be subject to an imprisonment not exceeding 2 years or a fine not exceeding 2,000 Baht or both.

FISHERY ACT

- a. **SECTION 19** – No person shall dump, dispose or pour poisonous substances as prescribed in the Ministerial Regulation into a fishery area, perform any act causing aquatic animals intoxicated, or pour any substances into the fishery area which endangers aquatic animals or causes pollution to the fishery area, unless such act is performed for the purpose of scientific benefits and approved by competent officials.
- b. **SECTION 20** – No person shall use electricity or explosives for fishing in the fishery area, unless such is performed for the purpose of the public administration or approved by the Director General.

- c. **SECTION 20 BIS** – No person shall have any aquatic animals in possession for commercial purpose with knowledge that such animals are derived from the commission of the offence stipulated in Section 19 and Section 20.
- d. **SECTION 62 BIS** – Whoever fails to comply with Section 19 or Section 20 shall be liable to imprisonment for a term of 6 months to 5 years or to a fine from 10,000 Baht to 100,000 Baht.
- e. **SECTION 62 TER** – Whoever fails to comply with Section 20 bis shall be liable to imprisonment for a term of not exceeding 3 years or to a fine not exceeding 5,000 Baht.

FOREIGN WORKERS ACT

- a. **SECTION 27** – No person shall engage a foreigner to work for him other than the holder of a permit and in the work of the category or nature and at the working area or work place as specified in the permit.
- b. **SECTION 51** – A foreigner who engages in work without having the permit shall be liable to imprisonment for a term of not exceeding 5 years or to a fine from 2,000 Baht to 100,000 Baht or to both.
- c. **SECTION 54** – Whoever fails to comply with Section 27 shall be liable to a fine of not exceeding 10,000 Baht, and he shall be liable to a fine from 10,000 to 100,000 Baht per one alien if that alien has not had the permit.

IMMIGRATION ACT

- a. **SECTION 37** – A foreigner having received a temporary entry permit into Thailand must comply with the following:
 1. shall not engage in the occupation or employment unless authorized by the Director General or competent official deputized by the Director General. If, in any case, there is a law concerning alien employment provided hereafter, the granting of work privileges must comply with the law concerned.
 2. shall stay at the place as indicated to the competent official. Where there is proper reason that he cannot stay at the place as indicated to the competent official, he shall notify the competent official of the change in residence, within 24 hours from the time of removing to said place.
 3. shall notify the police official of the local police station where such foreigner resides, within 24 hours from the time of arrival. In the case of change in residence in which new residence is not located the same area with the former police stations, such foreigner must notify the police official of the police station for that area within 24 hours from the time of arrival.
 4. if the foreigner travels to any province and will stay there longer than 24 hours, such foreigner must notify the police official of the police station for that area within 48 hours from the time of arrival.

5. if the foreigner stays in Thailand longer than 90 days, such foreigner must notify the competent official at the Immigration Division, in writing, concerning his place of stay, as soon as possible upon expiration of 90 days. The alien is required to do so every 90 days. Where there is an Immigration Office, the foreigner may notify a competent Immigration Official of that office.

The provision of (3) and (4) shall not apply to any cases under Section 34 by any conditions as prescribed by the Director General.

In making notification under this Section, the foreigner may make notification in person or send a letter of notification to the competent official, in accordance with the regulations prescribed by the Director General.

- b. **SECTION 38** – The house – master, the owner or the possessor of the residence, or the hotel manager where the alien, receiving permission to stay temporary in the Kingdom has stayed, must notify the competent official of the Immigration Office located in the same area with that hours, dwelling place or hotel, within 24 hours from the time of arrival of the alien concerned. If there is no Immigration Office located in that area, the local police official for that area must be notified.

In case the house, dwelling place, or hotel where the alien has stayed under provision of Paragraph 1 is located within the Bangkok area, such notification must be reported to the competent official at the Immigration Division.

Making notification, in reference to the Paragraph 1 and 2 of this Section, must comply with regulations prescribed by the Director General.

- c. **SECTION 63** – Whoever brings or takes a foreigner into Thailand or does anything which helps, assists or facilitates a foreigner in making and entry into Thailand in contravention of this Act, shall be liable to imprisonment for a term of not exceeding 10 years and a fine of not exceeding 100,000 Baht.
- d. **SECTION 64** – Whoever know of any foreigner entering into Thailand in contravention of this Act, and harbours, hides or in any manner assists said foreigner to evade arrest, shall be liable to imprisonment for the term of not exceeding 5 years and a fine of not exceeding 50,000 Baht.

Whoever allows a foreigner entering into Thailand in contravention of this Act, to stay with him, it is first presumed that said person is aware that the foreigner concerned entered into Thailand in contravention of this Act, unless it can be proved that he does not know, even though proper caution has been exercised.

- e. **SECTION 75** – Any foreigner, who fails to comply with the provisions of Section 37(1) shall be liable to imprisonment for a term of not exceeding 1 year or a fine of not exceeding 10,000 Baht or both.
- f. **SECTION 76** – Any foreigner, who fails to comply with the provisions of Section 37(2), (3), (4) or (5) shall be liable to a fine of not exceeding 5,000 Baht and with an additional fine of not exceeding 200 Baht for each day which passes until the law is complied with.

- g. **SECTION 77** – Whoever fails to comply with the provision of Section 38, shall be liable to a fine of not exceeding 2,000 Baht. If said person is a hotel manager, he shall be liable to a fine from 2,000 to 10,000 Baht.

LABOUR PROTECTION ACT

- a. **SECTION 23** – An employer shall notify employees of the normal working time whereby the commencing and ending time of work for an employee in each day and does not exceed the working time for each type of work as prescribed in the Ministerial Regulations the working time shall not exceed 8 hours per day. In case where the working time for a day is less than 8 hours, the employer and the employee may agree to add the remaining working time to other normal working days, but shall not exceed 9 hours per day and the total working time per week shall not exceed 48 hours. Where the work may be hazardous to the health and safety of the employee as prescribed in the Ministerial Regulations, the normal working time shall not exceed seven hours per day and the total working time per week shall not exceed 42 hours.

...

Whereas an employer is unable to specify the commencing and ending time of work in each day due to the description or nature of the work, the employer and employees shall agree to specify the working hours not exceeding 8 hours per day in each day and the total working time per week shall not exceed 48 hours.

- b. **SECTION 24** – An Employer shall not require an employee to work overtime on a working day unless the employee's prior consent is obtained on each occasion.

Whereas the description or nature of work requires it to be performed continuously and stoppage may cause damage to the work, or it is emergency work, or other work as prescribed in the Ministerial Regulations, an employer may require an employee to work overtime as necessary.

- c. **SECTION 25** – An employer is not allowed to order an employee to work on a holiday, except when the characteristics or nature of the work requires the work to be performed continuously, such that if there is a stoppage it will cause damage to the work, or when the work is emergency work; in such cases the boss may order the employee to work on a holiday to the extent necessary.

An employer may order an employee to work on a holiday in respect of the businesses of a hotel, a place of amusement, transportation work, a shop that sells food, a shop that sells drinks, a club, an association, a medical facility, or such other businesses as prescribed in ministerial regulations.

In the interests of production, sales and services, an employer may order an employee to perform work, in circumstances other than those stipulated in paragraph one and paragraph two, on a holiday to the extent necessary, such that the consent of the employee has been obtained first on a case-by-case basis.

- d. **SECTION 27** – On a working day, an employer shall arrange a rest period during work for an employee of not less than 1 hour per day after the employee has been working for not more than 5 consecutive hours. An employer and employee may

agree in advance that each rest period may be less than 1 hour but the total the rest period per day shall not be less than 1 hour.

Whereas an employer and employee agree to specify rest periods during work other than paragraph one, the agreement shall be applicable only if it is more favorable to the employee.

A rest period during work shall not be counted as working time except where the total rest period is more than 2 hours per day, where the amount of time exceeding 2 hours shall be counted as normal working time.

Whereas any overtime work after normal working time is more than 2 hours, the employer shall arrange for the employee to take a rest period of not less than 20 minutes before the employee commences the overtime work.

The provisions in paragraph one and paragraph four shall not apply where an employee is required to do work of a continuous nature or character with the consent of the employee, or in case of the emergency work.

e. **SECTION 45** – When a child under the age of eighteen years is employed as an employee, the employer shall act as follows:

1. Report the employment of that child employee to the Labour Inspection Officer within fifteen days from the date on which the child starts work.
2. Prepare a record of conditions of employment, when they are changed from the original conditions, for storage at the boss' place of business operations or office, ready for inspection by the Labour Inspection Officer during hours of work.
3. Report the termination of the employment of the child to the Labour Inspection Officer within seven days from the date on which the child left the job.

The reports or preparation of the record under paragraph one shall be in accordance with the formats prescribed by the Director-General.

f. **SECTION 46** – An employer shall arrange for a child employee to have a rest period of not less than one consecutive hour per day after the employee has been working for not more than four hours.

However, during those four hours, the child employee shall have a rest period as prescribed by the boss.

g. **SECTION 47** – An employer shall be prohibited from permitting a child employee under the age of eighteen years to work between the hours of 22.00 hrs and 6.00 hrs unless written permission has been obtained from the Director-General or a person assigned by the Director-General.

An employer may let a child employee under the age of eighteen years who is a performer in a movie, play or other similar form of exhibition work between the said hours. In this connection, the boss shall arrange for that child employee to rest as appropriate.

h. **SECTION 76** – An employer shall not deduct wages, overtime pay, holiday pay and holiday overtime pay unless it is a deduction for the purpose of:

1. paying income tax in the amount which has to be paid by the employee or paying other monies as provided for by law,
2. paying trade union dues under the articles of the trade union,
3. paying the debts of a savings cooperative or some other cooperative which has the same characteristics of those of a savings cooperative, or debts which are for the beneficial welfare of the employees solely, wherein consent has been obtained in advance from the employees,
4. providing guarantee money under Section 10 or compensation to the boss for damages which had been caused by the employee deliberately or due to gross negligence, wherein consent has been obtained from the employee,
5. depositing money for the employee in a savings fund under an agreement with the employee regarding such a fund.

With regard to deductions under subsections (2) to (5), in each case deductions of more than ten percent are prohibited and the total deductions may not be more than one fifth of the money which the employee is entitled to receive on the date for payment under Section 70, unless consent has been obtained from the employee.

i. **SECTION 90** – When a notification of the minimum wage rate or wage rate according to skill standards comes into force, employers shall not pay employees wages which are lower than the prescribed minimum wage rate or wage rate according to skill standards

...

j. **SECTION 144** – An employer who violates or does not comply with Section 24, 26, 46, 47, 76, 90..., must be liable to imprisonment for a term not more than 6 months or a fine not more than 100,000 Baht, or both.

k. **SECTION 146** – Any employer who fails to comply with Section 27, 45..., shall be liable to a fine not exceeding 20,000 Baht.

PENAL CODE

a. **SECTION 5** – Whenever any offence is even partially committed within the Kingdom, or the consequence of the commission of which, as intended by the offender, occurs within the Kingdom, or, by the nature of the commission of which, the consequence resulting therefrom should occur within the Kingdom, or it could be foreseen that the consequence would occur within the Kingdom, it shall be deemed that such offence is committed within the Kingdom.

In the case of preparation or attempt to commit any at provided by law to be an offence, even though it is done outside the Kingdom, if the consequence of the doing of such act, when carried through to the stage of accomplishment of the offence, will occur within the Kingdom, it shall be deemed that the preparation or attempt to commit such offence is done within the Kingdom.

- b. **SECTION 137** – Whoever gives any false information to any official in a manner likely to cause injury to any person or the public shall be liable to imprisonment for a term not exceeding 6 months or a fine of not exceeding 1,000 baht, or both.
- c. **SECTION 144** – Whoever grants, offers to grant, or promises to grant any property or benefit to any official, member of the National Legislative Assembly, member of the Provincial Assembly or member of the Municipal Assembly with intent to persuade such person to wrongfully discharge, omit to discharge or delay performing of any duty in his or her office shall be liable to imprisonment for a term not exceeding 5 years or a fine of not exceeding 10,000 Baht, or both.
- d. **SECTION 149** – Whoever, being an official, a member of the National Legislative Assembly, a member of the Provincial Assembly or a member of the Municipal Assembly, demands, accepts or agrees to accept any property or benefit for himself or herself, or for any other person for discharging or omitting to discharge of any duty in his or her office, whether such act is wrongful according to his or her duty or not, shall be liable to imprisonment for a period of 5 to 20 years or imprisonment for life, and a fine of 2,000 to 40,000 Baht; or the death penalty.
- e. **SECTION 188** – Whoever causes damage, destroys, conceals, makes away with, loses or render useless any will or document of the other person in a manner likely to cause damage to another person or the public, shall be liable to imprisonment for a term not exceeding 5 years and a fine of not exceeding 10,000 Baht.
- f. **SECTION 236** – Whoever adulterates food, medicine or any other consumer goods with intent to be consumed or used by any other person, and such adulteration is likely to cause injury to health, or sells or offers to sell such adulterated thing for human consumption or use shall be liable to imprisonment for a term of not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both.
- g. **SECTION 276** – Whoever commits sexual intercourse with any person by threatening by any means, by doing any act of violence, by exploiting a situation in which such person is unable to resist, or by causing such person to mistake the offender for another person shall be liable to imprisonment for a term of 4 to 20 years and a fine of 8,000 to 40,000 Baht.

The sexual intercourse according to the first paragraph means an act done with the intention to gratify the sexual desires of the offender by using the sexual organ of the offender to do by any means to the sexual organ, anus or mouth of another person, or by using any object to do by any means to the sexual organ or anus of another person.

If the offence according to the first paragraph be committed by carrying or using gun or explosive, or by commission in the company of persons in the nature of destroying a female or a male, the offender shall be liable to imprisonment for a term of 15 to 20 years and a fine of 30,000 to 40,000 Baht, or imprisonment for life.

- h. **SECTION 277** – Whoever commits sexual intercourse with a child not yet over 15 years of age who is not the wife or husband, irrespective of having consent of such child, shall be liable to imprisonment for the terms of 4 years to 20 years and a fine of 8,000 to 40,000 Baht.

The sexual intercourse according to the first paragraph means an act done with

the intention to gratify the sexual desires of the offender by using the sexual organ of the offender to do by any means to the sexual organ, anus or mouth of another person, or by using any object to do by any means to the sexual organ or anus of another person.

If the offence according to the first paragraph be committed with a child not yet over 13 years of age, the offender shall be liable to imprisonment for a term of 7 to 20 years and a fine of 14,000 to 40,000 Baht, or imprisonment for life.

If the offence according to the first paragraph or the third paragraph be committed in the company of persons in the nature of destroying a girl or a boy without consent of such child, by carrying gun or explosive, or using weapons, the offender shall be liable to imprisonment for life.

- i. **SECTION 278** – Whoever commits an indecent act on a person over 15 years of age by threatening by any means, by doing any act of violence, by exploiting a situation in which such person is unable to resist, or by causing such person to mistake the offender for another person shall be liable to imprisonment for a term not exceeding 10 years or a fine of not exceeding 20,000 Baht or both.
- j. **SECTION 279** – Whoever commits an indecent act on a child not yet over 15 years of age, irrespective of having consent of such child, shall be liable to imprisonment for a term not exceeding 10 years or a fine of not exceeding 20,000 Baht or both.

If the commission of the offence according to the first paragraph be committed by threatening by any means, by doing any act of violence, by exploiting a situation in which such person is unable to resist, or by causing such person to mistake the offender for another person shall be liable to imprisonment for a term not exceeding 15 years or a fine of not exceeding 30,000 Baht, or both.

- k. **SECTION 283** – Whoever, in order to gratify the sexual desire of another person, procures, seduces, or takes away a male or a female for the purpose of indecency by using any deceitful means, threatening, doing an act of violence, influencing with unjust power, or coercing by any means shall be liable to imprisonment for a term of 5 to 20 years and a fine of 10,000 to 40,000 Baht.

If the commission of the offence according to the first paragraph be committed against a person over 15 years but not yet over 18 years of age, the offender shall be liable to imprisonment for a term of 7 to 20 years and a fine of 14,000 to 40,000 Baht, or imprisonment for life.

If the commission of the offence according to the first paragraph be committed against a child not yet over 15 years of age, the offender shall be liable to imprisonment for a term of 10 to 20 years and a fine of 20,000 to 40,000 Baht, imprisonment for life, or the death penalty.

Whoever, in order to gratify the sexual desire of another person, receives, the person who is procured, seduced, or taken away in accordance with the first, second, third paragraph; or supports the commission of such offence shall be liable to the same punishment as prescribed in the first, second, third paragraph, as the case may be.

- l. SECTION 286** – Whoever over 16 years of age lives on, even some part of , the earning of a prostitute shall be liable to imprisonment from 7 to 20 years and a fine of 14,000 to 40,000 Baht, or imprisonment for life.

Whoever has no other means of living or has no sufficient means of living, and has been in the following circumstances shall be presumed to live on the earning of the prostitute, unless the contrary is successfully proved:

1. residing or associating with one or more prostitutes regularly;
2. living or receiving money or other benefit procured by a prostitute;
3. engaging for the purpose of helping a prostitute in the quarrel with his or her customer.

The provision of this Section shall not apply to any person who receives maintenance from a prostitute who is bound to give by law or morality.

- m. SECTION 287** – Whoever

1. for the purpose of trade or by trade, or for the purpose of public distribution or exhibition; makes, produces, possesses, imports into or causes to be imported into the Kingdom, exports or causes to be exported from the Kingdom, takes or causes to be taken, or disseminates by any means any pornographic document, drawing, print, painting, printed matter, picture, poster, symbol, photograph, film, sound recording tape, picture recording tape or other pornographic materials;
2. trades, participates or engages in the trade of such pornographic objects or materials, and then distributes or exhibits to the public, or hires out such pornographic objects or materials;
3. for the purposes of disseminating or trading of such pornographic objects or materials, advertises or propagates by any means that there is a person who commits the act which amounts to the offence under this Section, or advertises or propagates that such pornographic objects or materials may be obtained from whom or by which mean,

shall be liable to imprisonment for a term not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both.

- n. SECTION 289** – Whoever murders:

1. the ascendant;
2. an official in the execution of his or her duty, or as a consequence of executing or having executed his or her duty;
3. a person who assists an official in the execution of his or her duty, or because the person will assist or have assisted such official;
4. any person by premeditation;
5. any person by any act of torture or any act of cruelty;
6. any person for the purpose of preparing or facilitating the

commission of other offences; or

7. any person for the purpose of taking or securing the benefit obtained from the commission of any other offence, concealing any other offence committed by him or her, or escaping from the punishment for any other offence committed by him or her,

shall be liable to the death penalty.

- o. **SECTION 295** – Whoever causes injury to the other person in body or mind is said to commit bodily harm and shall be liable to imprisonment for a term not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both.
- p. **SECTION 296** – Whoever commits bodily harm (as in Section 295) under any act of the circumstances as provided in Section 289 shall be liable to imprisonment of not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both.
- q. **SECTION 309** – Whoever compels the other person to do or not to do any act, or to suffer anything by putting him in fear of injury to life, body, liberty, reputation or property of him or another person, or commits violence so that he does or does not do such act, or suffers such thing, shall liable to imprisonment for a term not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both.

If the offence according to the first paragraph be committed by making use of arms or by five persons upwards participating, or it be committed in order that the compelled person shall execute, revoke, damage or destroy any document of right, the offender shall liable to imprisonment for a term not exceeding 5 years or a fine of not exceeding 10,000 Baht, or both.

If the offence be committed by alluding to the power of the secret society or criminal association, whether it be existent or not, the offender shall liable to imprisonment for a term of 1 to 7 years and a fine of 2,000 to 14,000 Baht.

- r. **SECTION 310** – Whoever detains or confines the other, or by any other means whatever, deprives such person of the liberty of person shall liable to imprisonment for a term of not exceeding 3 years or a fine of not exceeding 6,000 Baht, or both..

...

- s. **SECTION 310 BIS** – Whoever detains or confines the other, or by any other means whatever, deprives such person of the liberty of person, and makes such other person to do any act for the offender or other person, shall liable to imprisonment for a term of not exceeding 5 years or a fine of not exceeding 10,000 Baht.
- t. **SECTION 312** – Whoever, in order to enslave a person or to cause a person to be in a position similar to a slave, brings into or sends out of the Kingdom, removes, buys, sells, disposes of, accepts or restrains any person, shall liable to imprisonment for a term of not exceeding 7 years and a fine of not exceeding 14,000 Baht.
- u. **SECTION 312 BIS** – If the commission of the offence according to Section 310 bis or Section 312 is committed to a child not exceeding 15 years of age, the offender shall liable to imprisonment for a term of 3 to 10 years and a fine oft exceeding 20,000 Baht.

If the commission of the offence according to the first paragraph, Section 310 bis or Section 312 causes:

1. bodily harm or mental harm to the victim, the offender shall be liable to imprisonment for a term of 5 to 15 years and a fine of not exceeding 30,000 Baht.
2. grievous bodily harm to the victim, the offender shall be liable to imprisonment for life or imprisonment for a term of 7 to 20 years.
3. death to the victim, the offender shall be liable to the death penalty, imprisonment for life or imprisonment for a term of 15 to 20 years.

- v. **SECTION 312 TER** – Whoever dishonestly accepts, disposes of, procures, seduces or takes away a person over 15 years but not yet over 18 years of age, even with the consent of such person, shall be liable to imprisonment for a term of not exceeding 5 years or a fine of not exceeding 10,000 Baht, or both.

If the offence according to paragraph 1 be committed to a child not over 15 years of age, such offender shall be liable to imprisonment for a term of not exceeding 7 years or a fine of not exceeding 14,000 Baht, or both.

- w. **SECTION 317** – Whoever, without reasonable cause, takes away a child not yet over 15 years of age from the parent, guardian or person looking after such child, shall be liable to imprisonment for a term of 3 to 15 years and a fine of 6,000 to 30,000 Baht.

Whoever dishonestly buys, disposes of or accepts such child taken away in accordance with to the first paragraph, shall be liable to the same punishment as the person who takes such child away.

If the offence according to this Section be committed for lucre or indecent purpose, the offender shall be liable to imprisonment for a term of 5 to 20 years and a fine of 10,000 to 40,000 Baht.

- x. **SECTION 318** – Whoever takes away a minor over 15 years but not yet over 18 years of age from the parent, guardian or person looking after such minor against will of such minor, shall be liable to imprisonment for a term of 2 to 10 years and a fine of 4,000 to 20,000 Baht.

Whoever dishonestly buys, disposes of or accepts such minor to be taken away in accordance with the first paragraph, shall be liable to the same punishment as the person who takes such minor away.

If the offence according to this Section be committed for lucre or indecent purpose, the offender shall be liable to imprisonment for a term of 3 to 15 years and a fine of 6,000 to 30,000 Baht.

- y. **SECTION 319** – Whoever takes away a minor over 15 years but not yet over 18 years of age from the parent, guardian or person looking after such minor for lucre or indecent purpose with the consent of such minor, shall be liable to imprisonment for a term of 2 to 10 years and a fine of 4,000 to 20,000 Baht.

Whoever dishonestly buys, disposes of or accepts such minor taken away in accordance with the first paragraph, shall be liable to the same punishment as the person who takes such minor away.

- z. **SECTION 326** – Whoever imputes anything to the other person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to hatred or contempt is said to commit defamation, and shall be liable to imprisonment for a period of not exceeding 1 year or a fine of not exceeding 20,000 Baht, or both.
- aa. **SECTION 328** – If the offence of defamation (as in Section 326) be committed by means of publication of a document, drawing, painting, film, picture, or letters made visible by any means, gramophone record or any other recording instruments, or by broadcasting or by propagation by any other means, the offender shall be liable to imprisonment for a term not exceeding 2 years or a fine not exceeding 200,000 Baht.
- ab. **SECTION 334** – Whoever dishonestly takes away a thing belonging to another person or of which another person is a co-owner is said to commit theft, and shall be liable to imprisonment for a term of not exceeding 3 years and a fine of not exceeding 6,000 Baht.
- ac. **SECTION 341** – Whoever dishonestly deceives a person with the assertion of a falsehood or the concealment of the facts which should be revealed, and, by such deception, obtains a property from the person so deceived or a third person, or causes the person so deceived or a third person to execute, revoke or destroy a document of right is said to commit the offence of cheating and fraud, and shall be liable to imprisonment for a period not exceeding 3 years or a fine not exceeding 6,000 Baht, or both.
- ad. **SECTION 391** – Whoever commits an act of violence not amounting to bodily or mental harm to the other person shall be liable to imprisonment for a period not exceeding 1 month or a fine not exceeding 1,000 Baht, or both.
- ae. **SECTION 392** – Whoever puts a person in fear or in fright by threat shall be liable to imprisonment for a term of not exceeding 1 month or a fine of not exceeding 1,000 Baht, or both.
- af. **SECTION 393** – Whoever insults any person in his or her presence or by publication shall be liable to imprisonment for a term not exceeding 1 month or a fine of not exceeding 1,000 Baht, or both.

PREVENTION AND SUPPRESSION OF PROSTITUTION ACT

- a. **SECTION 6** – Whoever congregates with another person in a prostitution establishment for the benefit of prostitution of that person or of another person shall be punished with imprisonment not exceeding 1 month, or a fine not exceeding 1,000 Baht, or both.
- b. **SECTION 8** – Whoever, for sexual gratification of that person or of another person, commits sexual intercourse or any other act against a person over 15 years but not over 18 years of age, with or without his or her consent, in a prostitution establishment, shall be punished with imprisonment of 1 to 3 years and a fine of 20,000 to 60,000 Baht.

If the offence under the first paragraph is committed against a child not over 15

years of age, the offender shall be punished with imprisonment of 2 to 6 years and a fine of 40,000 to 120,000 Baht.

- c. **SECTION 9** – Whoever procures, seduces, or takes away another person to commit the act of prostitution, even with consent of such person, irrespective of whether the various acts which constitute the offence are committed inside or outside the Kingdom, shall be punished with imprisonment of 1 to 10 years and a fine of 20,000 to 200,000 Baht.

If the offence under the first paragraph is committed against a person over 15 years but not over 18 years of age, the offender shall be punished with imprisonment of 5 to 15 years and a fine of 100,000 to 300,000 Baht.

If the offence under the first paragraph is committed against a child not over 15 years of age, the offender shall be punished with imprisonment of 10 to 20 years and a fine of 200,000 to 400,000 Baht.

If the offence under the first, second, or third paragraph is committed by using deceitful means, threat, physical assault, immoral influence, or by any other means for mental coercion, the offender shall be punished with punishment one-third heavier than the punishment as provided in the first, second, or third paragraph.

Whoever, in order to provide prostitution, accepts a person with the knowledge that such person was procured, deceived, or brought away under the first, second, third, or fourth paragraph, or abets the commission of such offence, shall be punished with the punishment provided in the first, second, third, or fourth paragraph, as the case may be.

- d. **SECTION 11** – Whoever is the owner of a prostitution business, supervisor, or manager of a prostitution business or prostitution establishment, or controller of a prostitute in the prostitution establishment, shall be punished with imprisonment of 3 to 15 years, and a fine of 60,000 to 300,000 Baht.

If the prostitution business or prostitution establishment under the first paragraph has a person over 15 but not over 18 years of age for prostitution, the offender shall be punished with imprisonment of 5 to 15 years, and a fine of 100,000 to 300,000 Baht.

If the prostitution business or prostitution establishment under the first paragraph has a child not over 15 years of age for prostitution, the offender shall be punished with imprisonment of 10 to 20 years, and a fine of 20,000 to 400,000 Baht.

- e. **SECTION 12** – Whoever detains or confines another person, commits any other act that deprives the liberty of another person, assaults another person, or threatens with any other means to commit a violent act against another person, in order to force such person to prostitution activity, shall be punished with imprisonment of 10 to 20 years, and a fine of 200,000 to 400,000 Baht.

Whoever abets the commission of the offence under the first or second paragraph shall be punished with the penalty provided in the first or second paragraph, as the case may be.

If the perpetrator or abettor in the commission of the offence under the first paragraph is an administrative or police official, official or worker in the primary shelter or in the protection and vocational development place under this act, such

perpetrator or abettor shall be punished with imprisonment of 15 to 20 years and a fine of 300,000 to 400,000 Baht.

WORKERS' COMPENSATION ACT

- a. **SECTION 13** – When an employee is injured or ill, an employer shall immediately provide an appropriate healthcare for such employee and such employer shall pay actual medical expense incurred as necessary, but not more than the amount prescribed in the Ministerial Regulations.

The employer shall pay the medical expense as stipulated in paragraph 1 without delay when the employee notifies the employer.

- b. **SECTION 62** – Any employer who does not provide the injured employee with healthcare in accordance with Section 13 or does not comply with Section 17, Section 44 or Section 48 shall be liable to imprisonment for a period of not exceeding 6 months or a fine not exceeding 10,000 Baht, or both.

CAMBODIA



CAMBODIA

Cambodia's youthful population remains in recovery mode from the Khmer Rouge times. Poverty, the economic disparity between rural and urban areas, lack of employment opportunities have driven and continue to drive masses of the population from rural to urban areas. In the course of such migration or once they have arrived at their destination, many are exploited for forced labour on construction sites, on fishing boats, in factories or as domestic workers. Children are exploited for commercial sex or forced labour (begging rings, street vendors etc...). Many are duped into sexual exploitation after being promised domestic worker jobs. Cambodian trafficking victims deported from Thailand are also at risk of being re-trafficked on arrival to Cambodia.

Traffickers are known to range from family members, friends and acquaintances to crime syndicates. Complicity of authorities with perpetrators, bribery and corruption also provide strong challenges to the counter-trafficking movement in Cambodia. Cambodian migrants are also known to be victims of trafficking for forced labour in Thailand and Malaysia. Recruitment agencies are often at the center of much of the deception and debt bondage that these workers are subjected to.

Traffickers operate with impunity preying on the weak, young and vulnerable and law enforcement efforts are not commensurate with the scale of the problem in Cambodia. Victim identification and effective prosecution remain key areas that need to be improved upon. Like many other jurisdictions in the region, support services for male victims of trafficking are very limited. The legal frameworks provide for sufficiently deterrent sanctions against traffickers but enforcement action against traffickers needs to be improved. Having a national case referral system, clear identification protocols and reporting channels to law enforcement will promote enhanced efficiency, transparency and accountability for victims, law enforcement services and other stakeholders.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Cambodian law) involved in six trafficking scenarios: sex trafficking, construction trafficking, labor trafficking, marriage trafficking, domestic trafficking and child trafficking.

REFERENCES:

1. Cambodian Criminal Code dated 30 November 2009;
2. Cambodian Immigration Law dated 26 August 1994;
3. Cambodian Labor Law dated 13 March 1997;
4. Cambodian Civil Code dated 08 December 2007;
5. Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008

SCENARIO 1 – SEX TRAFFICKING

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY		A young Vietnamese woman hears about a possible job in Cambodia working in a restaurant	
		She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	
		The statements he makes to her are false and intended to deceive her He helps her to get a passport and a visa in exchange for a fee (US\$1,900) This is done by bribing government officials in Vietnam to get the proper papers in order Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family) She flies to Cambodia	
		He helps her to get a passport and a visa in exchange for a fee (US\$1,900)	
		This is done by bribing government officials in Vietnam to get the proper papers in order	
		Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	
		She flies to Cambodia	

DESTINATION COUNTRY: CAMBODIA (INITIATION)	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
	Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE TRAFFICKER & VICTIM <ul style="list-style-type: none"> — Making false statement to immigration officer (Article 29 to Article 39 of Cambodian Immigration Law dated 26 August 1994)
	She arrives in Cambodia A man is waiting for her in the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Arranging passage to Cambodia of unauthorized entrants (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Assisting unauthorized entrant to remain (Article 29 of Cambodian Immigration Law dated 26 August 1994) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	He takes her passport	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance) — Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance) — Obtaining property by deception (s17, Theft Ordinance) — Theft (s9, Theft Ordinance) — Robbery (s10, Theft Ordinance) — Handling stolen goods (s24, Theft Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (s17C, Immigration Ordinance)
	She is taken to an apartment in Phnom Penh	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Permitting children under 13 to resort to or be on premises for intercourse (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Permitting young person to resort to or be on premises for intercourse (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Keeping a vice establishment (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Letting premises for use as a vice establishment (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Permitting premises to be kept or used as a vice establishment (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Prostitution and Child Prostitution under Article 23 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008
	She begins to get nervous and starts to ask questions	
	The man becomes angry and slaps her several times and offers threats against her and her family	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	He explains that if she doesn't do what she is told, she will be hurt	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009) — Soliciting for immoral purpose (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009)
	She is held against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Control over persons for purpose of unlawful sexual intercourse or prostitution (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Detention for intercourse or in vice establishment (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009)
DESTINATION COUNTRY: EXPLOITATION PERIOD	She is confined in a room for two days – with little food or water	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	She is forced to drink a juice cocktail that is laced with a sedative	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Administering drugs to obtain or facilitate intercourse (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
	In this intoxicated state, men come and have sex with her against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Procurement of intercourse by threats or false pretences (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Abduction of unmarried girls under 18 for sexual intercourse (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009)
	Photos are taken of her with several men in compromising positions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Indecent assault (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Making and producing child pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Possessing child pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Procuring persons under 18 for making pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Pornography and Child Pornography under Article 38 and Article 40 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	She is told that these photos shall be sent to her family if she doesn't comply with the trafficker	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing or encouraging unlawful sexual act with children under 16 (Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009) — Criminal intimidation (Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She is forced to have sex with up to three men a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in persons to or from Cambodia (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Living on earnings of prostitution of others (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Procurement of intercourse by threats or false pretences (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Abduction of unmarried girls under 18 for sexual intercourse (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Sexual Intercourse with Minor under Article 42 and Article 43 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	She is not allowed to leave the apartment without an escort She is not allowed to communicate with anyone at any time	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Arrest, Detention, and Unlawful Confinement, Article 253 of Cambodian Criminal Code dated 30 November 2009 — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	She is forced to drink whatever the client offers, even if she doesn't want it	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of dangerous drugs (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Administering drugs to obtain or facilitate intercourse (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
	If the person doesn't want to wear a condom, she can't deny him sex	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Procurement of intercourse by threats or false pretences (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Abduction of unmarried girls under 18 for sexual intercourse (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 246 of Cambodian Criminal Code dated 30 November 2009)
	She does not receive any payment – whatever they think she needs (food, clothing) is provided to her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to provide food, etc. for apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Over charged interest and/or unreasonable charging interest without agreement, Fraud based on Article 377 and Exploitation of Weakness based on Article 383 of Cambodian Criminal Code dated 30 November 2009 — Conditional Money Loan in connection with Child Prostitution under Article 36 Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	Bribes are paid to a local police officer to turn the other way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) — Offering advantage to public servant in regard to a contract (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) — Offering an advantage to an agent (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) FOR THE POLICE OFFICER <ul style="list-style-type: none"> — Soliciting or accepting advantage (Infringement of Public Administration by representative of public authority, acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009)
	The apartment is rented using money from drug trafficking profits	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in a dangerous drug (Money Laundering, Article 404 of Cambodian Criminal Code dated 30 November 2009) — Possession of a dangerous drug (Money Laundering, Article 404 of Cambodian Criminal Code dated 30 November 2009) — Money Laundering, Article 404 of Cambodian Criminal Code dated 30 November 2009
	The trafficker has a vice establishment and forces the girl to solicit clients	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Soliciting for immoral purpose (Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009) — Keeping a vice establishment (Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009) — Letting premises for use as a vice establishment (Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009) — Permitting premises to be kept or used as a vice establishment (Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009)
SOURCE COUNTRY: THE RETURN HOME	After 18 months, she is given her freedom to leave and be replaced by a new trafficked person	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009
	She returns home, but out of shame she does not communicate what had happened to her She makes up a story that she tried to contact her home but couldn't get through She explains that she earned a lot of money but was used up before she was coming back	

SCENARIO 2 – CONSTRUCTION TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A 16-year-old Mainland Chinese boy learns of a construction project in Cambodia that hires workers	
	He is given instructions on how to get into Cambodia on a supply boat	
	He pays the boat owner a smuggling fee	
	When the boat is stopped and he and others are found to be without papers, the captain pays the marine police a bribe	
	This is added to his debt	
	He is told he will be paid, but not for the first three months	
DESTINATION COUNTRY: CAMBODIA (INITIATION)	The man is greeted at the border	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Arranging passage to Cambodia of unauthorized entrants (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Assisting unauthorized entrant to remain (Article 29 of Cambodian Immigration Law dated 26 August 1994) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	He is taken to an apartment that is shared by ten other men	
	They are all from different parts of Mainland China	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Being an employer of a person not lawfully employable (Article 19 of Cambodian Immigration Law dated 26 August 1994 and Article 21 of Cambodian Labor Law dated 13 March 1997) — Illegal immigrants found on construction site (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Failing to keep record of employees (Chapter XVI, Penalties of the Cambodian Labor Law dated 13 March 1997)
	All of his documents are taken away and withheld from him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Possession of another's identity documents that are unlawfully obtained (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Obtaining property by deception (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Theft (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Handling stolen goods (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (Article 29 of Cambodian Immigration Law dated 26 August 1994)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	They are told not to leave the apartment unless to go to the work site	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009. — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008
	They are threatened with deportation and imprisonment if they don't follow instructions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009
	One of the men breaks the rules and gets severely beaten	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Murder (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Manslaughter (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each morning, they are all taken to the construction site Their services are subcontracted through a Cambodia construction agent	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's prohibition of taking employment (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's breaching a condition of stay (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Restriction on employment of persons under 18 years of age on construction sites (Violation on Chapter 8 and Chapter 9 of Cambodian Labor Law dated 13 March 1997 on the provisions of health, safety and work related to accidents) — Prohibition of untrained & incompetent workmen to operate mechanical equipment (Violation on Chapter 8 and Chapter 9 of Cambodian Labor Law dated 13 March 1997 on the provisions of health, safety and work related to accidents) FOR THE VICTIM <ul style="list-style-type: none"> — Prohibition of taking employment (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Breaching a condition of stay (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	His supervisor physically and verbally abuses him over and over again	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	After two months of work, when he asks for his payment he is hit across the face	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
	He works 14 hours a day, seven days a week	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to grant rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Compelling employees to work on rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant holidays or failure to pay holiday pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant annual leave (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay annual leave pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay sickness allowance (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
	After seven months of this work, he begins to feel he'll never be paid – the others are asking the same thing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Obtaining services by deception (Article 377, Fraud under the Cambodian Criminal Code dated 30 November 2009) — Evasion of liability by deception (Article 377, Fraud under the Cambodian Criminal Code dated 30 November 2009) — Fraud (Article 377, Fraud under the Cambodian Criminal Code dated 30 November 2009)
	After an accident takes place where one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault with intent to commit arrestable offences (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Failure to provide food, etc. for apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaulting apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Violation on Chapter 8 and Chapter 9 of Cambodian Labor Law dated 13 March 1997 on the provisions of health, safety and work related to accidents
	Major loans for the project were approved by several international banks to cover construction materials, equipment and staffing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Money Laundering, Article 404 of Cambodian Criminal Code dated 30 November 2009

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	One day immigration police visit the site and meet the foremen (a bribe is paid to the immigration police to arrest and deport them)	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Offering advantage to public servant (acceptance of bribery (Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering advantage to public servant in regard to a contract (acceptance of bribery (Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering an advantage to an agent (acceptance of bribery (Article 594 of Cambodian Criminal Code dated 30 November 2009) — Making false statement to immigration officer is Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009 <p>FOR THE GOVERNMENT OFFICIALS</p> <ul style="list-style-type: none"> — Soliciting or accepting advantage (acceptance of bribery (Article 594 of Cambodian Criminal Code dated 30 November 2009)
	An hour later all of the men are arrested and brought to an immigration centre	
SOURCE COUNTRY: THE RETURN HOME	<p>The man is deported with no money paid</p> <p>Despite trying to explain that he was deceived, no one listens to his story</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay wages on completion (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay on termination (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Illegal deductions from wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay interests on late payment on wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay end of year payment (\$50,000) (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)

SCENARIO 3 – LABOR TRAFFICKING

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY		A Vietnamese woman with sewing skills learns of a good-paying sewing job in Cambodia	
		She is given instructions by her sponsor (a trafficker) on how to get a tourist visa to visit the island	
		She is told she will be paid a good salary which is not true – no payment will be offered	
		No written contract is offered	
		Upon arriving at the border the immigration officer pulls her aside because of the size of her bag	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Arranging passage to Cambodia of unauthorized entrants (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Assisting unauthorized entrant to remain (Article 29 of Cambodian Immigration Law dated 26 August 1994) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994)
		As instructed, she offers a small envelope that includes money to bribe the officer which is accepted	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering advantage to public servant (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering advantage to public servant in regard to a contract (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering an advantage to an agent (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009) FOR THE OFFICER <ul style="list-style-type: none"> — Soliciting or accepting advantage (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009)
DESTINATION COUNTRY: CAMBODIA (INITIATION)		The garments made are going to a major retailer	
		Upon arriving, she is picked up by an agent who offers her contract to sign in an unknown language	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employer not to enter into contract without reasonable belief that he can pay wages (Book V chapter 2 formality contract under the provisions of Cambodian Civil Code dated 08 December 2007) — Fraud (Article 377 of Cambodian Criminal Code dated 30 November 2009) — Prohibition of taking employment (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Breaching a condition of stay (Article 29 of Cambodian Immigration Law dated 26 August 1994)
		The details are explained to her	
		She signs	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employers to inspect documents of new employee (Book V chapter 2 –section 3 Violable and Invalid of Contract under the provisions of Cambodian Civil Code dated 08 December 2007)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)		She is asked to hand over her documents so copies can be made	FOR THE PERPETRATOR <ul style="list-style-type: none"> Obtaining property by deception (Fraud, Article 377 of Cambodian Criminal Code dated 30 November 2009)
		When she asks for them back, she is told she can't have them	FOR THE PERPETRATOR <ul style="list-style-type: none"> Possession of another's identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) Possession of another's identity documents that are unlawfully obtained (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) Aiding, abetting, counseling or procuring another's failure to produce identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) Obtaining property by deception (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) Theft (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) Handling stolen goods (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) FOR THE VICTIM <ul style="list-style-type: none"> Failure to produce identity cards (Article 29 of Cambodian Immigration Law dated 26 August 1994)
		She is taken to a small apartment that has 25 other women from different countries – attached to the apartment is a sewing workshop	FOR THE PERPETRATOR <ul style="list-style-type: none"> Being an employer of a person not lawfully employable (Article 29 of Cambodian Immigration Law dated 26 August 1994)
DESTINATION COUNTRY: EXPLOITATION PERIOD		Each day she is forced to work 16 hours a day, seven days a week – sewing	FOR THE PERPETRATOR <ul style="list-style-type: none"> Failure to grant rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) Compelling employees to work on rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) Failure to grant holidays or failure to pay holiday pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) Failure to grant annual leave (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) Failure to pay annual leave pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) Failure to pay sickness allowance (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
		If she makes a mistake or is short on her quota, she is hit	FOR THE PERPETRATOR <ul style="list-style-type: none"> Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
		She is given two meals a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> Failure to provide food, etc. for apprentices or servants (Exploitation of Weakness based on Article 383 of Cambodian Criminal Code dated 30 November 2009)
		She is not allowed to leave the premise for any reason	FOR THE PERPETRATOR <ul style="list-style-type: none"> Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009
		She is told that she owes money as outlined in the contract – the amount is unclear	FOR THE PERPETRATOR <ul style="list-style-type: none"> Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)		<p>She is told she will not be paid until this amount is paid back in full</p> <p>After six months, she is told she will get money from that point on, but the money will be held by the manager</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay wages on completion (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay on termination (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Illegal deductions from wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay interests on late payment on wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay end of year payment (\$50,000) (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Obtaining services by deception (Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009) — Evasion of liability by deception (Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009)
		Bribes are paid to local labor inspectors to ignore the business and the zoning breaches	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Offering advantage to public servant (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering advantage to public servant in regard to a contract, Acceptance of bribery (Article 594 of Cambodian Criminal Code dated 30 November 2009) — Offering an advantage to an agent (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009) <p>FOR THE OFFICER</p> <ul style="list-style-type: none"> — Soliciting or accepting advantage (Acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009)
		<p>Loans were taken to pay for the sewing equipment, running costs (e.g. water and electricity) and the raw textiles used in the business</p> <p>Purchases are made from local wholesale shops</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Money Laundering, Article 404 of Cambodian Criminal Code dated 30 November 2009
SOURCE COUNTRY: THE RETURN HOME		The woman is told she can go and visit her family. The arrangements are made	
		She is told she will get a payment on that day	
		<p>She is dropped off at the border site and given her papers, but the van drives away without paying her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay wages on completion (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay on termination (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Illegal deductions from wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay interests on late payment on wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay end of year payment (\$50,000) (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Obtaining services by deception (Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009) — Evasion of liability by deception (Fraud under Article 377 of Cambodian Criminal Code dated 30 November 2009)

SCENARIO 4 – MARRIAGE TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Chinese woman hears about a marriage brokering service	
	She reads an ad in a local paper and applies hoping she might be able to support her extended family financially	
	She is asked to provide a profile	
	A video is taken of her in a short dress	
	Once a prospective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US\$2,600)	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Making false statement to a natural person by use of a false name or a fictitious capacity, by the abuse of a genuine capacity, or by means of unlawful manoeuvres, in order to obtain from that person, to his or her prejudice or to prejudice of a third party (Article 377 of Cambodian Criminal Code dated 30 November 2009). — Fraud based on Article 377 of Cambodian Criminal Code dated 30 November 2009. — Getting a passport and visa in exchange for an unreasonable fee arrangement is corruption and proffering of bribes (Article 605 of Cambodian Criminal Code dated 30 November 2009).
	She borrows money from her parents to cover the expenses	
	Money is paid by the broker to bribe government officials to secure the proper papers	
	She flies to Cambodia	
DESTINATION COUNTRY: CAMBODIA (INITIATION)	She arrives in Cambodia A man and a woman are waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Arranging passage to Cambodia of unauthorized entrants (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Assisting unauthorized entrant to remain (Article 29 of Cambodian Immigration Law dated 26 August 1994) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Possession of another's identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Possession of another's identity documents that are unlawfully obtained (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Obtaining property by deception (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Theft (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Handling stolen goods (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) FOR THE VICTIM <ul style="list-style-type: none"> — Failure to produce identity cards (Article 29 of Cambodian Immigration Law dated 26 August 1994)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	<p>She is driven to another agency office where she is presented with a set of papers to sign in a foreign language</p> <p>She is told to sign – that it is routine</p> <p>Once this is done, she is taken to a house</p> <p>She is told she is married</p> <p>Upon entering, she finds an elderly widower who is feeble</p> <p>She is told that she is already married and she is expected to take care of him and others who live in the house</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Conspiracy to defraud also stated in the Article 377 of Cambodian Criminal Code dated 30 November 2009. — Fraud based on Article 377 of Cambodian Criminal Code dated 30 November 2009. — Unlawful removal with purpose of marriage against will of the victim under Article 10 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	<p>When she explains that this was not the young person who was in the photo, they shout and threaten her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Criminal intimidation (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009)
	<p>She is told that she will be arrested and put in jail if she tries to leave</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Criminal intimidation (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009) — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
DESTINATION COUNTRY: EXPLOITATION PERIOD	<p>Each day she is forced to wake up at 6am and work until 11pm</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to grant rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Compelling employees to work on rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant holidays or failure to pay holiday pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant annual leave (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay annual leave pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay sickness allowance (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
	<p>She services the needs of a large extended family</p>	
	<p>If she does something wrong, she is hit repeatedly</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
	<p>She is not allowed to leave the house unless a family member accompanies her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)		While the man is physically handicapped, he still demands that she sleeps with him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009)
		She is forced to do whatever any of the family member demands of her, no matter what that might be	
		She is given no money or freedom of movement	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay wages on completion (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay on termination (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Illegal deductions from wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay interests on late payment on wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay end of year payment (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
SOURCE COUNTRY: THE RETURN HOME		When she gets very sick, no medical care is offered – even when she was near death	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to provide food, etc for apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
		She feels she was cheated	
		She is not allowed to return to her home country She is not allowed to communicate with her family in any way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Fraud Article 377 and Exploitation of Weakness based on Article 383 of Cambodian Criminal Code dated 30 November 2009 — Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009 — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008

SCENARIO 5 – DOMESTIC TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	An Indonesian woman hears about a domestic job in Cambodia	
	She reads an ad in a local paper and applies	
	She is given a contract in her own language that she reads and signs	
	The agency helps her to get a passport and a visa in exchange for a fee (US\$3,200)	<ul style="list-style-type: none"> — Making false statement to a natural person by use of a false name or a fictitious capacity, by the abuse of a genuine capacity, or by means of unlawful manoeuvres, in order to obtain from that person, to his or her prejudice or to prejudice of a third party (Article 377 of Cambodian Criminal Code dated 30 November 2009) — Fraud based on Article 377 of Cambodian Criminal Code dated 30 November 2009 — Getting a passport and visa in exchange for a unreasonable fee arrangement is corruption and proffering of bribes (Article 605 of Cambodian Criminal Code dated 30 November 2009)
	She borrows money from her husband's family to cover the expenses	
	The process is legal	
	She flies to Cambodia	
DESTINATION COUNTRY: CAMBODIA (INITIATION)	<p>She arrives in Cambodia</p> <p>A woman is waiting for her at the airport</p>	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Aiding, abetting, counseling or procuring another's remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Arranging passage to Cambodia of unauthorized entrants (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Assisting unauthorized entrant to remain (Article 29 of Cambodian Immigration Law dated 26 August 1994) <p>FOR THE VICTIM</p> <ul style="list-style-type: none"> — Landing without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994) — Remaining without permission (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	Her travel documents are taken immediately	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Possession of another's identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Possession of another's identity documents that are unlawfully obtained (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Aiding, abetting, counseling or procuring another's failure to produce identity cards (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Obtaining property by deception (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Theft (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) — Handling stolen goods (Article 353 and 354 of Cambodian Criminal Code dated 30 November 2009) <p>FOR THE VICTIM</p> <ul style="list-style-type: none"> — Failure to produce identity cards (Article 29 of Cambodian Immigration Law dated 26 August 1994)
	She is driven to another agency office where she is presented with a second contract that is in a foreign language	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Conspiracy to defraud also stated in the Article 377 of Cambodian Criminal Code dated 30 November 2009 — Fraud based on Article 377 of Cambodian Criminal Code dated 30 November 2009

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	She is told to sign	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Conspiracy to defraud also stated in the Article 377 of Cambodian Criminal Code dated 30 November 2009 — Fraud based on Article 377 of Cambodian Criminal Code dated 30 November 2009
	When she resists, she is shouted at	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009
	She signs	
	A middle-aged couple come to the office	
	The couple and the agent take her to an apartment	
	The agent explains she is not to talk to anyone or leave the apartment or she will get punished	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to wake up at 6am and work until 11pm	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Prohibition of taking employment (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Breaching a condition of stay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Compelling employees to work on rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant holidays or failure to pay holiday pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant annual leave (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay annual leave pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay sickness allowance (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
	She services the needs of a large extended family	
	She gets Sunday afternoon off but she is not allowed to leave	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to grant rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Compelling employees to work on rest days (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant holidays or failure to pay holiday pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to grant annual leave (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay annual leave pay (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay sickness allowance (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)

EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
<div data-bbox="116 958 140 1258" data-label="Page-Header">EXPLOITATION PERIOD (CONT.)</div> <p>If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
<p>She is only paid KHR40,000 a month because room, food, agency fees, and any other expenses are deducted</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to pay wages on expiry of last day of wage period (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay wages on completion (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay on termination (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Illegal deductions from wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay interests on late payment on wages (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997) — Failure to pay end of year payment (Violation on working conditions under Chapter 6 of Cambodian Labor Law dated 13 March 1997)
<p>When she tries to ask any questions, she is hit</p>	<ul style="list-style-type: none"> — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
<p>She is allowed to cook two meals a day for herself</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to provide food, etc. for apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
<p>Now and then, one of the uncles who visits the house fondles her – if she resists she is scolded and slapped</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Indecent assault (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Threats, Article 231 of Cambodian Criminal Code dated 30 November 2009)
<p>She is forced to sleep in a tiny room that is no more than a broom closet</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Fraud based on Article 377 and Exploitation of Weakness based on Article 383 of Cambodian Criminal Code dated 30 November 2009 — Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009

SCENARIO 6 – CHILD TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE: BATTAMBANG PROVINCE, CAMBODIA	A young Cambodian woman hears about an orphanage in a neighbouring town that is taking in young girls from poor families to offer them education, food and shelter.	FOR THE TRAFFICKER — Making false statement to a natural person by use of a false name or a fictitious capacity, by the abuse of a genuine capacity, or by means of unlawful manoeuvres, in order to obtain from that person, to his or her prejudice or to prejudice of a third party (Article 377 of Cambodian Criminal Code dated 30 November 2009)
	She is introduced to the orphanage owner by an acquaintance.	
	The statements the orphanage owner makes to her are false and intended to deceive her.	
	She arrives in Sihanoukville and leaves her daughter in the care of the orphanage. Her daughter is 14 years old.	
	The man at the orphanage tells the girl if she doesn't do what she is told, she will be hurt.	FOR THE PERPETRATOR — Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009
	The girl gets anxious and asks to go home to her mother. The man becomes angry and slaps her several times and makes threats against her and her family	FOR THE PERPETRATOR — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding or inflicting grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Wounding with intent to do grievous bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assaults with intent to cause certain acts to be done (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
DESTINATION COUNTRY: EXPLOITATION PERIOD	She is held against her will.	FOR THE PERPETRATOR — Control over persons for purpose of unlawful sexual intercourse or prostitution (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009) — Detention for intercourse or in vice establishment (Unlawful deprivation of liberty, Article 253 of Cambodian Criminal Code dated 30 November 2009)
	She is confined in a room for two days with little food or water.	FOR THE PERPETRATOR — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008
	She is forced to drink a juice cocktail that is laced with a sedative.	FOR THE PERPETRATOR — Administering drugs to obtain or facilitate intercourse (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	In this intoxicated state, men come and have sex with her against her will.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Procurement of intercourse by threats or false pretences (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Abduction of unmarried girls under 18 for sexual intercourse (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009)
	Photos are taken of her with several men in compromising positions.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Indecent assault (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Making and producing child pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Possessing child pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Procuring persons under 18 for making pornography (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Pornography and Child Pornography under Article 38 and Article 40 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
	She is told that these photos will be sent to her family if she doesn't comply with the instructions given to her.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Causing or encouraging unlawful sexual act with children under 16 (Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009) — Criminal intimidation (Threat, Article 231 of Cambodian Criminal Code dated 30 November 2009)
	She is forced to have sex with up to three men a day.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in persons to or from Cambodia (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Living on earnings of prostitution of others (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Rape (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Procurement of intercourse by threats or false pretences (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 13 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Unlawful sexual intercourse with girls under 16 (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Non-consensual buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Assault with intent to commit buggery (Article 239 of Cambodian Criminal Code dated 30 November 2009) — Indecent assault (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Abduction of unmarried girls under 18 for sexual intercourse (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Indecent conduct towards child under 16 (Article 246 of Cambodian Criminal Code dated 30 November 2009) — Sexual Intercourse with Minor under Article 42 and Article 43 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)		<p>She is not allowed to leave the apartment at any time.</p> <p>She is not allowed to communicate with anyone at any time.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Arrest, Detention, and Unlawful Confinement, Article 253 of Cambodian Criminal Code dated 30 November 2009 — Confinement under Article 21 of Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008
		<p>She is forced to drink whatever the client offers, even if she doesn't want it.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Possession of dangerous drugs (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Administering drugs to obtain or facilitate intercourse (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
		<p>She does not receive any payment – whatever they think she needs (food, clothing) is provided to her.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to provide food, etc. for apprentices or servants (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009) — Assault occasioning actual bodily harm (Torture and Acts of Cruelty, Article 210 and Intentional Acts of Violence, Article 217 of Cambodian Criminal Code dated 30 November 2009)
		<p>She is told she must pay back a debt that was incurred by her mother when travelling to the orphanage and for securing a place at the orphanage.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Over charged interest and/or unreasonable charging interest without agreement, Fraud based on Article 377 and Exploitation of Weakness based on Article 383 of Cambodian Criminal Code dated 30 November 2009 — Conditional Money Loan in connection with Child Prostitution under Article 36 Cambodian Law on Suppression of Human Trafficking and Sexual Exploitation dated 15 February 2008.
		<p>During a police visit to the orphanage, bribes are paid to a local police officer to turn the other way.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Offering advantage to public servant (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) — Offering advantage to public servant in regard to a contract (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) — Offering an advantage to an agent (Offences Against Public Administration by Individual, Corruption and Proffering Bribes, Article 605 of Cambodian Criminal Code dated 30 November 2009) <p>FOR THE POLICE OFFICER</p> <ul style="list-style-type: none"> — Soliciting or accepting advantage (Infringement of Public Administration by representative of public authority, acceptance of bribery, Article 594 of Cambodian Criminal Code dated 30 November 2009)
SOURCE COUNTRY: THE RETURN HOME		<p>After 36 months, she is given her freedom to leave and be replaced by a new trafficked person.</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Article 284 and Article 285 of Cambodian Criminal Code dated 30 November 2009
		<p>She returns, but out of shame she does not communicate what had happened to her.</p>	
		<p>She makes up a story that the orphanage has shut down.</p>	

LAWS OF CAMBODIA

CAMBODIAN IMMIGRATION LAW DATED 26 AUGUST 1994 ("CI")

This immigration law is for the purpose of administering all the aliens who come to stay in the territory of the Kingdom of Cambodia.

SCOPE OF CI REGULATION: Any person who does not have Cambodian nationality shall be considered an alien, without discrimination as to the nationality, belief, religion or where he/she originated (CI, Article 2)

CONDITION FOR IMMIGRATION: Aliens seeking admission to stay in Cambodia shall be divided into 3 types according to the conditions for immigration (CI, Article 4):

1. The non-immigrant Aliens;
2. The immigrant Aliens; and
3. The immigrant Aliens as private investors.

PENALTIES (CI, ARTICLE 29, ARTICLE 30, ARTICLE 31 AND ARTICLE 32) as follow:

ARTICLE 29: Any alien who has entered the Kingdom of Cambodia without authorization, by using fraud or clandestinely or any other forms of entry contrary to the provisions of this Law, shall be punished with three to six months imprisonment before he/she is expelled.

Those who have assisted in helping unauthorized foreigners enter the Kingdom of Cambodia or concealing foreigners as they enter the Kingdom of Cambodia shall be subject to the same punishment.

Any official with appropriate jurisdiction or an agent of the government who conspires or assists the offenses above shall be punished with six months to one year imprisonment.

Any official with appropriate jurisdiction or an agent of the government who, by negligence, lack of attention, or non-observance of regulation, fails to prevent the offenses above shall be subject to administrative penalties.

All types of transport and materials used for committing the above crimes or offenses shall be confiscated and kept as property of the state.

ARTICLE 30: Foreigners who breach the provisions of Articles 14, 15, 16, 17, 21 and 23 of this Law shall be subject to a fine of 50,000 to 1,000,000 riel.

Repeat offenses against the above mentioned Articles by one foreigner shall be punished by a fine of 1,000,001 to 2,000,000 riel.

ARTICLE 31: Anyone who breaches the provisions of Article 18 of this Law shall be subject to a fine of 10,000 to 30,000 riel.

Repeat breaches of Article 18 of this Law by one individual shall be punished by a fine of 30,001 to 60,000 riel.

Anyone who breaches the provisions of Article 19 of this Law shall be subject to a fine of 200,000 to 500,000 riel.

Repeat breaches of Article 19 of this Law by one individual shall be punished by one month to three months imprisonment.

ARTICLE 32: Anyone who scratches, erases, makes a carbon copy of, fakes, lends, or writes false names on any Resident Card, or labor/employment contract; or uses documents with a name not his or her own; or files a fake application for above documents, shall be imprisoned from five to fifteen years.

Accomplices in any act mentioned in the first paragraph of this Article shall be subject to the same penalty.

CAMBODIAN CRIMINAL CODE DATED 30 NOVEMBER 2009 (“CCC”)

DEFINITION OF PERPETRATOR (CCC, ARTICLE 25): Described as a perpetrator is a person who has committed the incriminated acts. Described also as a perpetrator is a person who has attempted to commit a felony or, in the cases provided for by law, a misdemeanour.

DEFINITION OF CO-PERPETRATORS (CCC, ARTICLE 26): Described as co-perpetrators when several persons have agreed to commit an offence together directly. Described also as co-perpetrators when several persons have agreed to attempt to commit a felony or, in the cases provided for by law, a misdemeanour directly.

DEFINITION OF ATTEMPT (CCC, ARTICLE 27): The attempt to commit a felony or, in the cases provided for by law, a misdemeanour is punishable when the following conditions are fulfilled:

1. The perpetrator has started the initial steps in the commission of the offence which means that the perpetrator has carried out his/her intention directly to commit the offence;
2. The perpetrator has not stopped his/her act voluntarily but it was disrupted or interrupted by the effect of the circumstances outside his/her will.

Act of preparation without own intention to commit an offence does not constitute the initial steps.

The attempt in petty crime carries no punishment.

DEFINITION OF INSTIGATOR (CCC, ARTICLE 28): Described as an instigator is the person who:

1. Encourages the commission of a felony or a misdemeanour by giving an instruction or order;
2. Instigates to commit a felony or a misdemeanour by means of a gift, a promise or a threat, incitement, lure or by abuse of his/her authority or his/her power.

The instigator is punishable only if the felony or the misdemeanour is carried out or was attempted.

The instigator of a felony or a misdemeanour receives the same punishments as the perpetrator.

DEFINITION OF AN ACCOMPLICE (CCC, ARTICLE 29): Described as an accomplice is the person who intentionally facilitates the attempt or the realization of a felony or a misdemeanour by providing his/her help or assistance.

The accomplice of a felony or a misdemeanour receives the same punishments as the perpetrator.

Criminal Responsibilities of the Minors

LEGAL AGE OF CRIMINAL RESPONSIBILITY (CCC, ARTICLE 38):

The criminal legal age is set at 18 (eighteen) years of age.

MEASURES TO APPLY AGAINST MINORS (CCC, ARTICLE 39): The minors who committed an offence are subject to the measures of surveillance, education, protection and assistance.

However, the court may pronounce a criminal conviction against a minor of 14 (Fourteen) years of age or more, if the circumstances of the offence or the personality of the minor justify in doing so.

TYPES OF MEASURES (CCC, ARTICLE 40): The educational measures, the surveillance measures, the protection measures and the assistance measures are the following:

1. Handing-over of the minor to his/her parents; his/her guardian; to a person who has guardianship role or to another person who is trustworthy;
2. Handing-over of the minor to a social service agency charged with handling of minors;
3. Handing-over of the minor to a private organization who has the qualification to receive them;
4. Handing-over of the minor to a specialized hospital or institution;

PLACEMENT UNDER JUDICIAL PROTECTION (CCC, ARTICLE 41): In case of placement under judicial protection, the court designates a person to be in charge of surveillance of the minor. This person submits regularly to the prosecutor a report on the conduct of the minor. This person informs the prosecutor of all relevant events that would entail a modification of this measure.

PRINCIPAL PENALTIES APPLICABLE TO MINORS AGED MORE THAN 14 (FOURTEEN) YEARS OLD (CCC, ARTICLE 160): When the court decides to pronounce the criminal sentence against a minor aged from 14 (fourteen) years old, the principal penalties imposed for the offence prosecuted are reduced according to the following conditions:

1. The maximum of the penalty for imprisonment imposed is reduced into a half;
2. If the maximum of the penalty imposed is a life imprisonment, it is reduced to 20 (twenty) years of imprisonment;

3. The minimum of the penalty for imprisonment is reduced into a half if the minimum is more than 1 (one) day;
4. The minimum and the maximum of the fine are reduced to a half.

In case of prosecution for a felony, if the provisions of this Article result in reducing the maximum of the penalty of imprisonment imposed for a duration equal to or less than 5 (five) years, the offence imposed remains a felony.

ADDITIONAL PENALTIES (CCC, ARTICLE 161): Only the following additional penalties are applicable to the minors:

1. The confiscation of any instruments, materials or objects which have been used to commit the offence or have been intended to commit the offence;
2. The confiscation of the objects or funds with which the offence was carried out;
3. The confiscation of the incomes or the properties earned by the offence;
4. The confiscation of the utensils, materials and moveable objects at the place where offence was committed;
5. Prohibition against possessing or carrying a weapon.

PENALTIES FOR COMMUNITY WORK (CCC, 162): The penalty for the community work is applicable to the minors of less than 16 (sixteen) years of age. However, the duration of the community work may not exceed 100 (one hundred) hours.

The community work must be adapted to the minors, presenting a rehabilitating character and facilitating social reintegration.

NON APPLICABILITY OF RECIDIVISM WITH MINORS (CCC, ARTICLE 163): The provisions on recidivism are not applicable to the minors.

BENEFITS FROM MITIGATING CIRCUMSTANCES (CCC, ARTICLE 164): The mitigating circumstances are applicable to the minors.

When the court decides on mitigating circumstances, the minimum of principal penalties imposed on a minor for a felony or of a misdemeanour is reduced according to the following specific scales:

1. If the minimum of the penalty for imprisonment imposed is equal to or more than 10 (ten) years, it is reduced to 1 (one) year;
2. If the minimum of the penalty for imprisonment imposed is equal to or more than 5 (five) years and less than 10 (ten) years, it is reduced to 6 (six) months;
3. If the minimum of the penalty for imprisonment imposed is equal to or more than 2 (two) years and less than 5 (five) years, it is reduced to 3 (three) months;
4. If the minimum of the penalty for imprisonment imposed is equal to or more than 6 (six) days and less than 2 (two) years, it is reduced to 1 (one) day;
5. The minimum of fine imposed is reduced to a half.

TORTURES AND BARBAROUS ACTS (CCC, ARTICLE 210): Tortures or barbarous acts against any individual is punishable for an imprisonment for between 7 (seven) and 15 (fifteen) years.

AGGRAVATING CIRCUMSTANCES IN RELATION TO VICTIMS (CCC, ARTICLE 211): The crime described in Article 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 10 (ten) and 20 (twenty) years when it is committed:

1. On a person particularly vulnerable due to his/her age;
2. On a woman with pregnancy where this pregnancy is apparent or known to the offender;
3. On a person particularly vulnerable due to his/her sickness or disability while his/her conditions are apparent or known to the perpetrator;

AGGRAVATING CIRCUMSTANCES DEPENDING ON TARGETS (CCC, ARTICLE 212): The crime described in 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 10 (ten) to 20 (twenty) years when it is committed:

1. On a victim or a civil party in order to prevent the latter from denouncing the offence or demanding the reparation of the damage;
2. On the witness in order to prevent the latter from becoming a witness during an inquiry, an investigation or a court proceeding;
3. On a victim or a civil party because he/she has denounced an offence or has demanded the reparation of his/her damage;
4. On a witness due to his/her testimony given during an inquiry, an investigation or a court proceeding.

AGGRAVATING CIRCUMSTANCES IN RELATION TO PERPETRATOR (CCC, ARTICLE 213): The crime described in Article 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 10 (ten) and 20 (twenty) years when it is committed by a government official, as civilian or military, in carrying out his/her functions or during the performance of his/her functions.

AGGRAVATING CIRCUMSTANCES RESULTING FROM MAIMING AND DISABILITY (CCC, ARTICLE 214): The crime described in Article 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 10 (ten) and 20 (twenty) years when it entails a maiming or a permanent disability of the victim.

AGGRAVATING CIRCUMSTANCES RESULTING FROM THE DEATH OF VICTIM (CCC, ARTICLE 215): The crime described in Article 210 (Tortures and Barbarous Acts) is punishable by an imprisonment from between 15 (fifteen) and 30 (thirty) years when it results in the death of the victim without any intention of so doing or results in the suicide of the victim.

ADDITIONAL PENALTIES: CATEGORIES AND DURATION (CCC, ARTICLE 216): For the crimes laid out in this chapter, the following additional penalties may be pronounced:

1. The deprivation of certain civil rights definitively or for a period of not more than 5 (five) years;

2. Prohibition against pursuing a profession during which time the crime was committed in course of or during the occasion of pursuing of this profession definitively or for a period of not more than 5 (five) years;
3. Prohibition against taking a residency for a period of not more than 10 (ten) years;
4. For a convicted foreigner, prohibition against entering and taking residency in the territory of the Kingdom of Cambodia definitively or for a period of not more than 5 (five) years;
5. The confiscation of any instruments, materials or any objects which have been used to commit the offence or were intended to commit the offence;
6. Prohibition against possessing or carrying a weapon definitively or for a period of not more than 5 (five) years;
7. Posting the decision of sentence for a period of not more than 2 (two) months;
8. Publication of the decision of sentence in the newspapers;
9. Broadcasting the decision of sentence by all means of audio-visual communications for a period of not more than 8 (eight) days.

INTENTIONAL VIOLENCE (CCC, ARTICLE 217): The acts of violence committing on another person is punishable by an imprisonment from between 1(one) and 3 (three) years and a fine of between 2,000,000 (two million) Riels and 6,000,000 (six million) Riels.

AGGRAVATING CIRCUMSTANCES (CCC, ARTICLE 218): The intentional violence is punishable by an imprisonment between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. With premeditation;
2. With utilization of or threatening with a weapon;
3. By many persons acting their capacity as perpetrator, instigator or accomplice.

AGGRAVATING CIRCUMSTANCES IN RELATION TO VICTIMS (CCC, ARTICLE 219): The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. On a person particularly vulnerable due to his/her age;
2. On a woman with pregnancy where this pregnancy is apparent or known to the offender;
3. On a person particularly vulnerable due to his/her sickness or disability while his/her conditions are apparent or known to the perpetrator;

AGGRAVATING CIRCUMSTANCES IN RELATION TO TARGETS (CCC, ARTICLE 220): The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. On a victim or a civil party in order to prevent the latter from denouncing the offence or demanding the reparation of the damage;
2. On a witness in order to prevent the latter from becoming a witness during an inquiry, an investigation or a court proceeding;
3. On a victim or a civil party because he/she has denounced an offence or has demanded the reparation of his/her damage;
4. On a witness due to his/her testimony given during an inquiry, an investigation and a court proceeding.

AGGRAVATING CIRCUMSTANCES IN RELATION TO PERPETRATORS (CCC, ARTICLE 221): The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed by a government official, as civilian or military, in carrying out his/her functions or during the performance of his/her functions.

VIOLENCE COMMITTED BY SPOUSE OR CONCUBINE (CCC, ARTICLE 222): The intentional violence is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed by spouse or by concubine of the victim.

AGGRAVATING CIRCUMSTANCES RESULTING FROM MAIMING AND DISABILITY (CCC, ARTICLE 223): The intentional violence is punishable by an imprisonment of between 5 (five) and 10 (ten) years when it entails maiming or a permanent disability of the victim.

AGGRAVATING CIRCUMSTANCES CAUSED BY THE DEATH OF THE VICTIM (CCC, ARTICLE 224): The intentional violence is punishable by an imprisonment of between 7 (seven) and 15 (fifteen) years when it results in the death of the victim without any intention of so doing.

TREATING POISONOUS SUBSTANCES AS INTENTIONAL VIOLENCE (CCC, ARTICLE 225): The act of giving others drink, swallow or take into their bodies by whatsoever means the substances, on purpose which are harmful to their health is considered as intentional violence.

TREATING PROVISION OF POISONOUS FOOD AS INTENTIONAL VIOLENCE (CCC, ARTICLE 226): The act of selling, granting or giving away the foods or drinks while knowing that these foods or drinks are harming to the health is considered as intentional violence.

TREATING THE INTRODUCTION OF POISONOUS SUBSTANCES IN DRINKING WATER AS INTENTIONAL VIOLENCE (CCC, ARTICLE 227): The act, committed intentionally, of introducing the substances that are harmful to the health into the public drinking water is considered as intentional violence.

LESS SEVERE VIOLENCE (CCC, ARTICLE 228): The act of committing on other persons less severe violence that did not result in any wound is punishable by a fine of between 5,000 (five thousand) Riel and 100,000 (one hundred thousand) Riels.

ADDITIONAL PENALTIES: CATEGORIES AND DURATION (CCC, ARTICLE 229): For the crimes laid out in this Chapter, the following additional penalties may be pronounced:

1. Deprivation of certain civil rights definitively or for a period of not more than 5 (five) years;
2. Prohibition against pursuing a profession during which time the crime was committed in course of or during the occasion of pursuing of this profession definitively or for a period of not more than 5 (five) years;
3. Prohibition against taking a residency for a period of not more than 5 (five) years;
4. For a convicted foreigner, prohibition against entering and taking residency in the territory of the Kingdom of Cambodia definitively or for a period of not more than 5 (five) years;
5. The confiscation of any instruments, materials or any objects which have been used to commit the offence or were intended to commit the offence;
6. Prohibition against possessing or carrying a weapon definitively or for a period of not more than 5 (five) years;
7. Posting the decision of sentence for a period of not more than 2 (two) months;
8. Publication of the decision of sentence in the newspapers;
9. Broadcasting the decision of sentence by all means of audio-visual communications for a period of not more than 8 (eight) days.

ACTS OF THREAT (CCC, ARTICLE 231): A threat to commit a felony or misdemeanour against persons when it is repeated again and again or expressed by a letter, a picture or an object is punishable by an imprisonment of between 1 (one) month and 6 (six) months and a fine of between 100,000 (one hundred thousand) Riels and 1,000,000 (one million) Riels.

THREAT THROUGH ORDER TO FULFIL ANY CONDITIONS (CCC, ARTICLE 232): A threat, under any form whatsoever, to commit a felony or a misdemeanour against a person is punishable for an imprisonment of between 6 (six) months to 2 (two) years and a fine of between 1,000,000 (one million) Riels to 4,000,000 (four million) Riels if this threatening is carried out with an order to fulfil any condition.

DEATH THREAT (CCC, ARTICLE 233): The death threat when it is repeated again and again or expressed by a letter, a picture or an object is punishable by an imprisonment of between 6 (six) months to 2 (two) years and a fine of between 1,000,000 (one million) Riels to 4,000,000 (four million) Riels.

DEATH THREAT WITH AN ORDER TO FULFIL ANY CONDITIONS (CCC, ARTICLE 234): The death threat, under any form whatsoever when it is carried out with an order to fulfil any condition, is punishable by an imprisonment of between 1 (one) year to 3 (three) years and a fine of between 2,000,000 (two million) Riels to 6,000,000 (six million) Riels.

ACTS OF UNINTENTIONAL INJURIES (CCC, ARTICLE 236): The offence that causes unintentional injuries to another is an act of injuring other persons through:

1. An imprudence, a carelessness or a negligence that causes the inability to work for a period of equal to or more than 8 (eight) days;

2. Violation of an obligation, safety or carefulness imposed by law.

The unintended offence causing wounds is punishable by an imprisonment of between 6 (six) days and 2 (two) years and a fine of between 1,000,000 (one million) Riels and 4,000,000 (four million) Riels.

ADDITIONAL PENALTIES: CATEGORIES AND DURATION (CCC, ARTICLE 237): For offences in this Chapter, the following additional penalties may be pronounced:

1. Prohibition against pursuing a profession during which time the offence was committed in course of or during the occasion of pursuing of this profession for a period of not more than 5 (five) years;
2. Prohibition against driving motor vehicles of whatever types for a period of not more than 5 (five) years;
3. Suspension of driver's licence for a period of not more than 5 (five) years;
4. Prohibition against possessing or carrying a weapon for a period of not more than 5 (five) years;
5. Posting the decision of sentence for a period of not more than 2 (two) months;
6. Publication of the decision of sentence in the newspapers;
7. Broadcasting the decision of sentence by all means of audio-visual communications for a period of not more than 8 (eight) days.

ELEMENTS OF RAPE (CCC, ARTICLE 239): All acts of sexual penetration, of any kind whatsoever, or an act of penetrating any object into sexual organs of a person of either the same sex or different sexes by violence, coercion, threat or surprise constitutes a rape:

The rape is punishable by an imprisonment from 5 (five) to 10 (ten) years.

Legality of sexual intercourse is determined from the age of 15 (fifteen) years old.

AGGRAVATING CIRCUMSTANCES WHICH BASED ON MEANS USED OR CONNECTION WITH THE OFFENDER (CCC, ARTICLE 240): The rape is punishable by an imprisonment of between 7 (seven) to 15 (fifteen) years when it is committed:

1. With a utilization of weapon or a threat with a weapon;
2. With a utilization of drug or all other methods of any kind designed to suppress or weaken the resistance of the victim;
3. By a person who has authority over the victim;
4. By a person who abuses his/her power which was vested in him/her;
5. By several persons acting in their capacity as an perpetrator, co-perpetrators, an instigator or an accomplice.

AGGRAVATING CIRCUMSTANCES IN CONNECTION WITH VICTIMS (CCC, ARTICLE 241): The rape is punishable by an imprisonment of between 7 (seven) and 15 (fifteen) years when it is committed:

1. On a person particularly vulnerable due to his/her age;

2. On a woman with pregnancy where this pregnancy is apparent or known to the offender;
3. On a person particularly vulnerable because of his/her sickness or disability while his/her conditions are apparent or known to the perpetrator.

AGGRAVATING CIRCUMSTANCES RESULTING FROM MAIMING OR DISABILITY (CCC, ARTICLE 242): The rape is punishable by an imprisonment of between 10 (ten) and 20 (twenty) years when it results in a maiming or permanent disability of the victim.

AGGRAVATING CIRCUMSTANCES RESULTING FROM TORTURES OR BARBAROUS ACTS (CCC, ARTICLE 243): The rape is punishable by an imprisonment of between 10 (ten) and 30 (thirty) years when it preceded, accompanied or followed by tortures or barbarous acts.

AGGRAVATING CIRCUMSTANCES RESULTING FROM THE DEATH OF THE VICTIM (CCC, ARTICLE 244): The rape is punishable by an imprisonment of between 15 (fifteen) and 30 (thirty) years when it results in the death of the victim without intention of so doing.

ACTS OF IMMODEST (CCC, ARTICLE 246): All acts of immodest of any kind whatsoever, committed on any person by violence, coercion, threat or by surprise is punishable by an imprisonment of between 1 (one) and 3 (three) years and a fine of between 2,000,000 (two million) Riels and 6,000,000 (six million) Riels.

AGGRAVATING CIRCUMSTANCES WHICH ARE BASED ON MEANS USED OR IN CONNECTION WITH OFFENDERS (CCC, ARTICLE 247): The offence specified in Article 246 (Acts of Immodest) is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. With a utilization of a weapon or a threat with a weapon;
2. With a utilization of drug or all other methods of any kind designed to suppress or weaken the resistance of the victim;
3. By a person who has authority over the victim;
4. By a person who abuses his/her power which was vested in him/her;
5. By several persons acting in their capacity as a perpetrator, co-perpetrators, an instigator or an accomplice.

AGGRAVATING CIRCUMSTANCES DEPENDING ON VICTIMS (CCC, ARTICLE 248): The offence specified in Article 246 (Acts of Immodest) is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed:

1. On a person particularly vulnerable due to his/her age;
2. On a woman with pregnancy where this pregnancy is apparent or known to the offender;
3. On a person particularly vulnerable due to his/her sickness or disability while his/her conditions are apparent or known to the perpetrator;

EXPOSURE OF SEX ORGAN (CCC, ARTICLE 249): All sex organs exposed within the sight of another person in a place which is accessible to the public eyes is punishable by an imprisonment of between 6 (six) days to 3 (three) months and a fine of between 100,000 (one hundred thousand) Riels and 500,000 (five hundred thousand) Riels.

SEXUAL HARASSMENT (CCC, ARTICLE 250): Sexual harassment is an act that a person abuses the power which was vested to him/her in his/her functions in order to put pressure again and again on other persons in exchange for sexual favour.

The sexual harassment is punishable by an imprisonment of between 6 (six) days to 3 (three) months and a fine of between 100,000 (one hundred thousand) Riels and 500,000 (five hundred thousand) Riels.

ILLEGAL ARREST, DETENTION OR CONFINEMENT (CCC, ARTICLE 253): Any person who arrests, detains or confines other persons without order from the legitimate authorities or except for the cases provided by the law is punished to:

1. Imprisonment of between 1 (one) and 3 (three) years if the arrest, detention or confinement is less than 48 (forty eight) hours;
2. Imprisonment of between 3 (three) and 5 (five) years if the arrest, detention or confinement is from 48 (forty eight) hours to less than 1(one) month;
3. Imprisonment of between 5 (five) and 10 (ten) years if the arrest, detention or confinement is equal to or more than 1 (one) month;

AGGRAVATING CIRCUMSTANCES OF PUNISHMENT (CCC, ARTICLE 254): Any person who arrests, detains or confines other persons without order from the legitimate authorities or except for the cases provided by the law is punished to imprisonment of between 15 (fifteen) and 30 (thirty) years for one of the following cases:

1. With tortures or barbarous acts;
2. Causing the death of the victim without intention of so doing;
3. Carrying out with the intention to extort for a ransom.

TAKING CONTROL OF MEANS OF TRANSPORTATION BY FORCE (CCC, ARTICLE 256): The acts of seizing or of taking control, by violence or the threat of violence, of any means of transportation on which many people have boarded, is punishable by an imprisonment of between 5 (five) and 10 (ten) years.

ACTS OF REFUSING TO SUPPLY GOODS OR SERVICE (CCC, ARTICLE 265): The act of refusing to supply goods or service to a person is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (ten thousand) Riels and 2,000,000 (two million) Riels when the refusal is based on one of the following motives:

1. A person's belonging to or not belonging to a specified ethnicity, a nation or a race;
2. A person's belonging to or not belonging to a specified religion;
3. A person's political tendencies;
4. A person's trade-union activities;

5. A person's family situation;
6. A person's sex;
7. A person's state of health;
8. A person's disability.

CONDITIONAL PROVISION OF GOODS OR SERVICE (CCC, ARTICLE 266): The act of provision of goods or a service to a person on the ground of one of the following conditions, is punishable for an imprisonment of between 1(one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels:

1. A person's belonging to or not belonging to a specified ethnicity, a nation or a race;
2. A person's belonging to or not belonging to a specified religion;
3. A person's political tendencies;
4. A person's trade-union activities;
5. A person's family situation;
6. A person's sex;
7. A person's state of health ;
8. A person's disability.

ACTS OF REFUSING TO HIRE A PERSON (CCC, ARTICLE 267): The acts of refusing to hire a person is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels when the refusal is based on the motives specified in points No. 1 to 8 of Article 265 (Acts of Refusing to Supply Goods or Service) of this Code.

ACTS OF REFUSING EMPLOYMENT OF A PERSON (CCC, ARTICLE 268): The acts of offering employment based on the ground of one of the conditions specified in points No.1 to 8 of Article 265 (Conditional Supply of Goods or Service) of this Code, is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels.

PENALTIES APPLICABLE FOR DISMISSAL OR DISCHARGE BASED ON DISCRIMINATION (CCC, ARTICLE 269): Any decision made to discharge or dismiss a person based on one of the motives specified in points No.1 to 8 of Article 265 (Acts of Refusing to Supply Goods or Service) of this Code, is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels.

Working Conditions versus Human Dignity

SUBMISSION UNDER WORKING CONDITIONS INCOMPATIBLE WITH HUMAN DIGNITY (CCC, ARTICLE 274): The acts of submitting a person, by abusing his/her vulnerability, or his/her situation of dependence, to working conditions incompatible with the human dignity,

is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels.

PROCURING (CCC, ARTICLE 284): The procuring is an act of:

1. Drawing a financial profit from the prostitution of another;
2. Assisting or protecting the prostitution of another or running with whatever means the prostitution activities;
3. Recruiting , abducting or luring any person to become a prostitute;
4. Exercising pressure on a person to become a prostitute.

The procuring is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels.

INTERMEDIARY BETWEEN MAN OR WOMAN PROSTITUTE AND PROCURER (CCC, ARTICLE 285): The act of serving as an intermediary between man or woman prostitute and procurer is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels.

JUSTIFICATION OF PRESUMED RESOURCES (CCC, ARTICLE 286): The acts of any person who facilitates or covers up the resources that he/she earned from procuring is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels.

The same punishment is also applied to any person who cannot justify his/her resources by habitually living with the person who commits prostitution or by habitually communicating with one or several persons who commit prostitution.

ACTS OF HINDERING THE PREVENTION OF PROSTITUTION (CCC, ARTICLE 287): The acts of hindering actions of preventing, assisting or rehabilitating carried out by either public service agencies or by the specialized private organizations for the benefit of persons who indulge in prostitution or who are in danger of prostitution is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels.

AGGRAVATING CIRCUMSTANCES WITH REGARD TO PROCURING (CCC, ARTICLE 288):

Procuring is punishable by an imprisonment of between 5 (five) and 10 (ten) years for the following cases:

1. When the procurer/procuress or master of prostitution is an ascendant or a descendent of the person who indulges in prostitution;
2. When the procurer/procuress or master of prostitution abuses the authority that was vested to him/her by his/her functions over the person who indulges in prostitution;
3. When the procurer/procuress or master of prostitution who employs violence or coercion towards the person who indulges in prostitution;
4. When the procuring was committed by an organized groups;

5. When procuring was committed with several persons indulge in prostitution.

AGGRAVATING CIRCUMSTANCES WITH REGARD TO VICTIM (CCC, ARTICLE 289): Procuring is punishable by an imprisonment of between 7 (seven) and 15 (fifteen) years when the person who indulges in prostitution is a minor.

AGGRAVATING CIRCUMSTANCES RESULTING FROM TORTURES OR BARBAROUS ACTS (CCC, ARTICLE 290): Procuring is punishable by an imprisonment of between 10 (ten) and 20 (twenty) years when the procurer/procuress or master of prostitution utilizes tortures or barbarous acts towards the person who indulges in prostitution.

ACTS OF OPERATING AN ESTABLISHMENT OF PROSTITUTION (CCC, ARTICLE 291): The acts of managing, exploiting, directing, operating or financing an establishment of prostitution, directly or through a intermediary, is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) and 10,000,000 (ten million) Riels.

AUTHORIZATION OF PROSTITUTION ACTIVITIES IN AN ESTABLISHMENT (CCC, ARTICLE 292): It is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) and 10,000,000 (ten million) Riels for the person who manages, exploits, directs, or operates any establishment opened to the public, directly or through an intermediary, authorize or tolerates that:

1. A person indulges habitually in prostitution inside this establishment or its annexes;
2. A person looks habitually for clients with a view to prostitution inside this establishment or its annexes.

ACTS OF RENDERING A PLACE FOR PROSTITUTION (CCC, ARTICLE 293): It is punishable by an imprisonment of between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) and 10,000,000 (ten million) Riels for the person who sells or makes available for a person the place not utilized by the public, knowing that the person will use it for prostitution activities.

ABANDONMENT OF MINORS (CCC, ARTICLE 321): The acts of abandonment by a person who has authority to take care a minor of less than 15 (fifteen) years of age, is punishable by an imprisonment of between 1 (one) year and 5 (five) years and a fine of between 2,000,000 (two million) Riels and 10,000,000 (ten million) Riels, if the abandonment puts the health or the safety of the minor in danger.

FAILURE TO HAND OVER A MINOR (CCC, ARTICLE 326): The acts of failing, in bad faith, to hand over a minor child to a person who has legitimate rights of claim, is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels and 2,000,000 (two million) Riels.

TAKING AWAY A MINOR (CCC, ARTICLE 327): The act of illegal taking away a minor child from the person who has a legitimate care is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred

thousand) Riels and 2,000,000 (two million) Riels. This offence is punishable by an imprisonment of between 1 (one) year and 3 (three) years and a fine of between 2,000,000 (two million) Riels and 6,000,000 (six million) Riels, if the minor child is kept outside of the territory of the Kingdom of Cambodia.

ACTS OF DEPRIVING FOODS OR CARES FOR MINORS OF LESS THAN 15 YEARS OF AGE (CCC, ARTICLE 337): The acts of any person who has authorities over a minor of less than 15 (fifteen) years of age to deprive foods or cares to a certain extent where his/her health is endangered are punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

AGGRAVATING CIRCUMSTANCES RESULTING FROM THE DEATH OF THE VICTIM (CCC, ARTICLE 338): The offence specified in Article 337 (Acts of Depriving Foods or Cares for Minors of less than 15 Years of Age) is punishable by an imprisonment from 7 (seven) years to 15 (fifteen) years when this offence had resulted in the death of the victim.

PLACING A MINOR TO WORKING CONDITIONS WHICH ENDANGER HIS/HER HEALTH (CCC, ARTICLE 339): The acts of placing a minor to working conditions which are detrimental to his/her health or his/her physical development are punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

AGGRAVATING CIRCUMSTANCES RESULTING FROM THE DEATH OF THE VICTIM (CCC, ARTICLE 340): The offence specified in the Article 339 (Placing a Minor to Working Conditions which Endanger his/her Health) is punishable by an imprisonment from 7 (seven) years to 15 (fifteen) years when this offence had resulted in the death of the victim.

OBSCENE ACTS ON A MINOR OF LESS THAN 15 YEARS OF AGE (CCC, ARTICLE 341): The acts of, by a mature person, committing the obscene acts on a minor of less than 15 (fifteen) years of age without violence is punishable by an imprisonment from 1 (one) year to 3 (three) years and a fine from 2,000,000 (two million) Riels to 6,000,000 (six million) Riels.

AGGRAVATING CIRCUMSTANCES (CCC, ARTICLE 342): The offence specified in Article 341 (Obscene Acts on a Minor of Less Than 15 Years of Age) is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels, when it is committed:

1. By an ascendant;
2. By a person who has an authority over the minor;
3. By several persons acting as the perpetrator, co-perpetrators, the instigator or the accomplice;
4. By payment of remunerations.

INCITING MINORS TO USE ADDICTED DRUGS (CCC, ARTICLE 344): The act of directly inciting a minor to illegally utilize addicted drugs are punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

INCITING MINORS TO TRANSPORT, KEEP OR SUPPLY ADDICTED DRUGS (CCC, ARTICLE 345):

The act of directly inciting a minor to transport, keep in possession or to supply the addicted drug is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

INCITING MINORS TO CONSUME HABITUALLY AND EXCESSIVELY ALCOHOLIC DRINKS (CCC, ARTICLE 346): The act of directly inciting a minor to consume habitually and excessively the alcoholic drinks is punishable by an imprisonment from 6 (six) months to 2 (two) years and a fine from 1,000,000 (one million) Riels to 4,000,000 (four million) Riels.

INCITEMENT OF A MINOR TO BEG (CCC, ARTICLE 347): The act of directly inciting a minor to beg is punishable by an imprisonment from 1 (one) month to 1 (one) year and a fine from 100,000 (one hundred thousand) Riels to 2,000,000 (two million) Riels.

INCITING A MINOR TO COMMIT FELONIES OR MISDEMEANOURS (CCC, ARTICLE 348): The act of directly inciting a minor to commit felonies or misdemeanours is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

GATHERING FOR SEXUAL EXHIBITIONS OR SEXUAL RELATIONS WITH INVOLVEMENT OF MINORS (CCC, ARTICLE 349): The act of, by an adult person, gathering that includes sexual exhibitions or sexual relations at which a minor has seen or participated is punishable by an imprisonment from 1 (one) year to 5 (five) years and a fine from 2,000,000 (two million) Riels to 10,000,000 (ten million) Riels.

DEFINITION OF THEFT (CCC, ARTICLE 356): Theft is an act of fraudulently taking away a property of another person by whatsoever means with the purpose of making ownership on it.

THEFT OF ENERGY (CCC, ARTICLE 357): It is considered as theft for an act of fraudulently use energy which damages the interests of other persons.

PENALTIES TO BE IMPOSED (CCC, ARTICLE 359): Theft is punishable by an imprisonment from 6 (six) months to 3 (three) years and a fine from 1,000,000 (one million) Riels to 6,000,000 (six million) Riels.

AGGRAVATING CIRCUMSTANCES RESULTING FROM VIOLENCE (CCC, ARTICLE 360): A theft is punishable by an imprisonment from 5 (five) years to 10 (ten) years for the following cases:

1. The theft is committed before, during or after a violent act;
2. The theft is committed with burglary.

AGGRAVATING CIRCUMSTANCES RESULTING IN MAIMING AND DISABILITY (CCC, ARTICLE 361): A theft is punishable by an imprisonment from 10 (ten) years to 20 (twenty) years if it is committed before, during or after a violent act which results in a maiming or permanent disability.

AGGRAVATING CIRCUMSTANCES RESULTING FROM TORTURES AND BARBAROUS ACTS (CCC, ARTICLE 362): A theft is punishable by an imprisonment from 15 (fifteen) years to 30 (thirty) years if the theft is committed before, during or after tortures or barbarous acts.

AGGRAVATING CIRCUMSTANCES RESULTING IN THE DEATH OF A VICTIM (CCC, ARTICLE 363): A theft is punished to a life imprisonment if the theft is committed before, during or after a violent act which results in the death of a victim without any intention of so doing.

FRAUD (CCC, ARTICLE 380): Fraud is an act of deceiving any natural person or a legal entity by using false name, by claiming false status, by abusing true status or by utilizing fraudulent schemes, so as to obtain from this person at his/her expenses or at the expenses of the third party:

1. The delivery of funds, of assets, of any property;
2. The provision of services;
3. The written consent effective as an obligation or renunciation of any obligation.

PENALTIES TO BE IMPOSED (CCC, ARTICLE 381): Fraud is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels.

AGGRAVATING CIRCUMSTANCES WITH REGARD TO VICTIMS (CCC, ARTICLE 382): Swindling is punishable by an imprisonment from 5 (five) years to 10 (ten) years when it is committed at the expenses of:

1. The person particularly vulnerable because of his/her age;
2. The pregnant woman while her pregnancy is apparent or known to the perpetrator;
3. A person particularly vulnerable because of his/her sickness or disability, while his/her condition is apparent or known to the perpetrator.

OTHER AGGRAVATING CIRCUMSTANCES (CCC, ARTICLE 383): Fraud is punishable by an imprisonment from 5 (five) years to 10 (ten) years when it is committed by:

1. Public official as a civilian or military during his/her official functions or during the course of the performance of his/her functions;
2. A person who designates him/herself as public official;
3. A person who appeals to the public to issue securities;
4. A person who solicits funds for humanitarian or social assistance;
5. Organized group.

TAKING ADVANTAGES FROM WEAKNESSES (CCC, ARTICLE 386): The act of knowingly abusing either the ignorance or the weakness of a person because of her pregnancy, his/her sickness or disability in order to constrain this person to act or to abstain at his/her own grave expenses, is punishable by an imprisonment from 1 (one) year to 3 (three) years and a fine from 2,000,000 (two million) Riels to 6,000,000 (six million) Riels.

CHEATING (CCC, ARTICLE 387): Cheating is an act committed by a person who knows that it is absolutely impossible for him/her to pay or who is determined not to pay:

1. To have someone served him/her foods or beverages in a bar, a restaurant or any other establishment opened to the public;
2. To have someone provided with and to occupy a room in a hotel or any other establishment opened to the public;
3. To have someone driven him/her in a tricycle, in a taxi/bus or in any other means of transportation.

The cheating is punishable by an imprisonment from 6 (six) days to 3 (three) months and a fine from 100,000 (one hundred thousand) Riels to 500,000 (five hundred thousand) Riels.

DEFINITION OF MONEY LAUNDERING (CCC, ARTICLE 407): Money laundering is an act of providing, by any means, the false justifications to conceal the direct or indirect benefits of a felony or a misdemeanour.

The act of lending support to further its operational transaction for investing, concealing or converting the direct or indirect benefits of a felony or a misdemeanour is also considered as money laundering.

PENALTIES TO BE IMPOSED (CCC, ARTICLE 408): Money laundering is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels up to the value of funds, assets and properties which were the subject of money laundering.

In the event that the offences that were the source of assets or funds, and they were the subject of money laundering, which is punishable to an imprisonment which is longer than the imprisonment term mentioned in paragraph 1 above, the imprisonment sentence shall be the same as the offence to the knowledge of the perpetrator and if the offence has several aggravating circumstances then the perpetrator shall be punished according to the circumstances he/she is aware of only.

AGGRAVATING CIRCUMSTANCES (CCC, ARTICLE 409): Money laundering is punishable by an imprisonment from 2 (two) years to 5 (five) years, when it is committed:

1. By a habitual manner;
2. By utilizing facilitation made available through the pursuance of a profession;
3. By an organized group.

CAMBODIAN LABOR LAW DATED 13 MARCH 1997 (“CLL”)

WAGE (CLL, ARTICLE 103):

Wage includes, in particular:

- Actual wage or remuneration

- Overtime payments;
- Commissions;
- Bonuses and indemnities;
- Profit sharing;
- Gratuities;
- The value of benefits in kind;
- Family allowance in excess of the legally prescribed amount;
- Holiday pay or compensatory holiday pay; and
- Amount of money paid by the employer to the workers during disability and maternity leave.

Wage does not include:

- Health care
- Legal family allowance;
- Travel expenses; and
- Benefits granted exclusively to help the worker do his or her job.

DAILY AND WEEKLY HOURS (CLL, ARTICLE 137): In all establishments of any nature, whether they provide vocational training, or they are of a charitable nature or liberal profession, the number of hours worked by workers of either sex cannot exceed eight hours per day, or 48 hours per week.

(CLL, ARTICLE 138): The work schedule is set by each enterprise for different jobs based on the nature of their activities and organization of work.

When the work schedule consists of split shifts, the enterprise's management can normally set up only two shifts, one in the morning and the other in the afternoon.

(CLL, ARTICLE 139): If workers are required to work overtime for exceptional and urgent jobs, the overtime hours shall be paid at a rate of fifty percent higher than normal hours. If the overtime hours are worked at night or during weekly time off, the rate of increase shall be one hundred percent.

NIGHT WORK (CLL, ARTICLE 144): For the purposes of this law, the term “night” represents a period of at least eleven consecutive hours that includes the interval between 2200 and 0500 hour.

Besides continuous work that is performed by rotating teams who sometimes work during the day and sometimes at night, the work at the enterprise can always include a portion of night work. Night work is paid at the rate set in Article 139 of this law.

WEEKLY TIME OFF (CLL, ARTICLE 145): The provisions of the present Section shall apply to workers employed in enterprises of any kind as specified in Article 1 of this law.

However, these provisions do not apply to rail transport workers whose time off is covered by special provisions.

([CLL, ARTICLE 146](#)): It is prohibited from using the same worker for more than six days per week.

([CLL, ARTICLE 147](#)): Weekly time off shall last for a minimum of twenty-four consecutive hours. All workers shall be given in principle a day off on Sunday.

([CLL, ARTICLE 148](#)): When it is established that having all staff take Sunday off would be detrimental to the public or jeopardise the normal operation of the enterprise, the rest must be arranged as follows:

- a. Give all staff rest on a day other than Sunday.
- b. Rest from Sunday noon to Monday noon.
- c. Rest by rotating all staff. Necessary authorisations must be requested from the Ministry in charge of Labour.

([CLL, ARTICLE 149](#)): It is permitted by law to give the weekly time off, by rotating the day off, to establishments belonging to the following categories:

1. Manufacturers of foodstuffs intended for immediate consumption;
2. Hotels, restaurants, and bars;
3. Natural flower shops;
4. Hospitals, hospices, asylums, homes for retired persons, mental institutions, dispensaries, health clinics, and pharmacies;
5. Bathhouses;
6. Publishers of newspapers, information and show business; museums and exhibitions;
7. Vehicle rental firms;
8. Enterprises supplying electricity, water and power for machinery;
9. Businesses providing land transportation other than railroads;
10. Industries using materials that rapidly deteriorate;
11. Industries where any interruption of operations could cause the product being manufactured to spoil or deteriorate; and
12. Industries performing work for safety, sanitation, or public utility.

PAID HOLIDAYS ([CLL, ARTICLE 161](#)): Each year, the Ministry in charge of Labour issues a *Prakas* determining the paid holidays for workers of all enterprises.

These paid holidays do not break off the length of service required to obtain paid annual leave, nor do they reduce this type of leave.

([CLL, ARTICLE 162](#)): In case that the public holiday coincides with a Sunday, workers will have the following day off. Time off for holidays cannot be the reason for reducing monthly, bi-monthly, or weekly wages.

([CLL, ARTICLE 163](#)): Workers paid by the hour, the day, or by the amount produced shall be entitled to an indemnity equal to the wage lost as a result of holidays as defined in Article 161. This indemnity shall be paid by the employer.

PAID ANNUAL LEAVE ([CLL, ARTICLE 166](#)): Unless there are more favourable provisions in collective agreements or individual labour contracts, all workers are entitled to paid annual leave to be given by the employer at the rate of one and a half work days of paid leave per month of continuous service.

Any worker who has not worked for two continuous months is entitled, at the termination of his labour contract, to compensation for paid leave calculated in proportion to the amount of time he worked in the enterprise.

For jobs that are not performed regularly throughout the year, a worker is considered to have met the condition of continuous service if he works an average of 21 days per month.

The length of paid leave as stated above is increased according to the seniority of workers at the rate of one day per three years of service.

Official paid holidays and sick leave are not counted as paid annual leave.

([CLL, ARTICLE 167](#)): The right to use paid leave is acquired after one year of service.

If the contract is terminated or expires before the worker has acquired the right to use his paid-leave, an indemnity calculated on the basis of Article 166 above is granted to the worker.

Apart from this, any collective agreement providing compensation in lieu of paid leave, as well as any agreement renouncing or waiving the right to paid annual leave, shall be null and void.

Acceptance by the worker to defer all or part of his rights to paid leave until the termination of the contract is not considered as renunciation. Deferment of this leave cannot exceed three consecutive years and can only apply to leave exceeding twelve working days per year.

([CLL, ARTICLE 168](#)): Before the worker departs on leave, the employer must pay him an allowance that is at least equal to the average wage, bonuses, benefits, and indemnities, including the value of benefits in kind, but excluding reimbursement for expenses, that the worker earned during the twelve months preceding the date of departure on leave. This allowance shall in no case be less than the allowance that the worker would have received had he actually worked.

([CLL, ARTICLE 169](#)): The length of continuous service set out in Article 166 must cover the entire period during which the worker has a labour contract with the employer, even if the work was suspended without a termination of the contract.

Included in the period for which the worker is entitled to paid leave each year is as follows:

- Weekly time off;

- Paid holidays;
- Sick leave;
- Maternity leave;
- Annual leave and notice period; and
- Special leave granted up to a maximum of seven days during any event directly affecting the worker's immediate family.

On the contrary, special leave for personal reasons is not included when calculating the eligibility period for paid annual leave if the time off was not made up.

SPECIAL LEAVE (CLL, ARTICLE 171): The employer has the right to grant his worker special leave during the event directly affecting the worker's immediate family.

If the worker has not yet taken his annual leave, the employer can deduct the special leave from the worker's annual leave.

If the worker has taken all his annual leave, the employer cannot deduct the special leave from the worker's annual leave for the next year.

CHILD LABOR – WOMEN LABOR (CLL, ARTICLE 172): All employers and managers of establishments in which child laborers or apprentices less than eighteen years of age or women work, must watch over their good behaviour and maintain their decency before the public. All form of sexual violation (harassment) is strictly forbidden.

(CLL, ARTICLE 175): Children, employees, laborers, or apprentices aged less than eighteen years cannot be employed to perform night work in any enterprise covered in Article 1 of this law.

The Ministry in charge of Labour shall determine the conditions under which special dispensations can be allowed for teenagers over sixteen years of age:

- a. or work performed in the industries listed below, which, because of their nature, must operate continuously day and night:
 - Iron and steel factories;
 - Glass factories;
 - Paper factories;
 - Sugar factories;
 - Gold ore refineries.
- b. For an inevitable case that obstruct the normal operations of the establishment.

(CLL, ARTICLE 176): The night-time break for children of either sex must be a minimum of eleven consecutive hours.

CHILD LABOUR (CLL, ARTICLE 177):

1. The allowable minimum age for wage employment is set at fifteen years.

2. The minimum allowable age for any kind of employment or work, which, by its nature, could be hazardous to the health, the safety, or the morality of an adolescent, is eighteen years.
3. Regardless of the provisions of paragraph 2 above, the Ministry in charge of Labour can authorize the generation of occupation or employment for adolescents aged fifteen years and over on the condition that their health, safety, or morality is fully guaranteed and that they can receive, in the corresponding area of activity, specific and adequate instruction or vocational training.
4. Regardless of the provisions of paragraph 1 above, children from twelve to fifteen years of age can be hired to do light work provided that:
 - a. The work is not hazardous to their health or mental and physical development.
 - b. The work will not affect their regular school attendance, their participation in guidance programs or vocational training approved by a competent authority.

WOMEN WORK (CLL, ARTICLE 182): In all enterprises covered by Article 1 of this law, women shall be entitled to a maternity leave of ninety days.

After the maternity leave and during the first two months after returning to work, they are only expected to perform light work.

The employer is prohibited from laying off women in labour during their maternity leave or at a date when the end of the notice period would fall during the maternity leave.

(CLL, ARTICLE 183): During the maternity leave as stipulated in the preceding article, women are entitled to half of their wage, including their perquisites, paid by the employer.

Women fully reserve their rights to other benefits in kind, if any.

Any collective agreement to the contrary shall be null and void.

However, the wage benefits specified in the first paragraph of this article shall be granted only to women having a minimum of one year of uninterrupted service in the enterprise.

(CLL, ARTICLE 184): For one year from the date of child delivery, mothers who breast-feed their children are entitled to one hour per day during working hours to breast-feed their children. This hour may be divided into two periods of thirty minutes each, one during the morning shift and the other during the afternoon shift. The exact time of breast-feeding is to be agreed between the mother and the employer. If there is no agreement, the periods shall be at the midpoint of each work shift.

(CLL, ARTICLE 185): Breaks for breast feeding are separate from and shall not be deducted from normal breaks provided for in the labour law, in internal regulations of the establishment, in collective labour agreements, or in local custom for which other workers in the same category enjoy them.

([CLL, ARTICLE 186](#)): Managers of enterprises employing a minimum of one hundred women or girls shall set up, within their establishments or nearby, a nursing room and a day-care center.

If the company is not able to set up a day-care center on its premises for children over eighteen months of age, female workers can place their children in any day-care center and the charges shall be paid by the employer.

HEALTH AND SAFETY OF WORKER ([CLL, ARTICLE 229](#)): All establishments and work places must always be kept clean and must maintain standards of hygiene and sanitation or generally must maintain the working conditions necessary for the health of the workers.

The measures are included:

- Quality of the premises;
- Cleaning;
- Hygienic arrangements for the needs of personnel;
- Beverages and meals;
- Lodging of the personnel, if applicable;
- Work stations and the seating arrangements;
- Ventilation and sanitation;
- Individual protective instruments and work clothes;
- Lighting and noise levels in the workplace.

([CLL, ARTICLE 230](#)): All establishments and work places must be set up to guarantee the safety of workers. Machinery, mechanisms, transmission apparatus, tools, equipment and machines must be installed and maintained in the best possible safety conditions. Management of technical work utilizing tools, equipment, machines, or products used must be organized properly for guaranteeing the safety of workers.

It shall also determine the measures for enforcing this article, particularly regarding:

- Risks of falling;
- Moving heavy objects;
- Protection from dangerous machines and apparatus;
- Preventive measures to be taken for work in confined areas or for work done in an isolated environment;
- Risks of liquids spilling;
- Fire prevention.

WORK RELATED ACCIDENTS ([CLL, ARTICLE 248](#)): An accident is considered to be work related, regardless of the cause, if it happens to a worker working or during the working hours, whether or not the worker was at fault; it is the accident inflicted on the body

of the worker or on an apprentice with or without wage, who is working in whatever capacity or whatever place for an employer or a manager of an enterprise.

Equally, accidents happening to the worker during the direct commute from his residence to the work place and home are also considered to be work-related accidents as long as the trip was not interrupted nor a detour made for a personal or non-work-related reason.

All occupational illness, as defined by law, shall be considered a work-related accident and shall be remedied in the same manner.

(CLL, ARTICLE 252): The victim or his beneficiaries are entitled to compensation from the manager of enterprise or the employer in the event of work-related accidents inflicting on him and resulting in temporary incapacitation. However, this compensation can be paid on the condition that the accidents cause incapacitation for longer than four days. If the work related accidents lead to a temporary incapacitation of four days or less, the victim is entitled to his regular wage.

The victim who intentionally causes an accident shall receive no compensation.

The competent tribunal can:

- Reduce the compensation if it is proved that the accident was the result of an inexcusable mistake of the victim;
- Increase the compensation if it is proved that the accident was the result of an inexcusable mistake of the employer or persons acting for him in the management of work.

(CLL, ARTICLE 253): Compensation for fatal accidents or for accidents causing permanent disability is paid to the victim or his beneficiaries as an annuity.

Supplementary compensation is granted to a victim who requires constant care from another person.

In the event of incapacitation, compensation shall be paid no later than the fifth day after the accident.

(CLL, ARTICLE 254): Victims of work-related accidents shall be entitled to medical assistance (benefits in kind, medical treatment and medicine as well as hospitalization) and to all surgical assistance and prostheses deemed necessary after the accident.

PENALTIES (CLL, ARTICLE 359): Those guilty of violating the provisions of the articles in Chapter XVI of this law shall be fined or imprisoned or both. Fines are imposed by the Labour Inspector and the Labour Controller.

(CLL, ARTICLE 360): Fines are set in multiples of the base daily wage.

(CLL, ARTICLE 361): Those guilty of violating the provisions of Articles 14, 20, 22, 24, 29, 30, 34, 37, 42, 43, 72, 112, 134, 187, 214, 222, 253, and 255 are liable to a fine of ten to thirty days of the base daily wage.

(**CLL, ARTICLE 363**): Those guilty of violating the provisions of Articles 21, 28, 44, 45, 49, 50, 57, 59, 106, 139, 144, 162, 163, 164, 166, 167, 168, 169, 170, 179, 180 – paragraphs 1 and 2, 182 – paragraphs 2 and 3, 184, 194, 198, 200, 204, 205, 206, 210, 249, 296, and 306 are liable to a fine of thirty-one to sixty days of the base daily wage.

(**CLL, ARTICLE 365**): Without prejudice to any civil liability, those guilty of violating the provisions of Articles 113, 114, 115 and 116 are liable to a fine of thirty-one to sixty days of the base daily wage.

(**CLL, ARTICLE 366**): Offsetting, installments, deductions from wages by the employer in violation of the rules imposed by Articles 127, 128 and 129 are liable to a fine of thirty-one to sixty days of the base daily wage.

(**CLL, ARTICLE 367**): Employers who employ staff under conditions contrary to the provisions of Articles 137, 138 – paragraph 2, 140 and 141 regarding hours of work or the implementing these articles are liable to a fine of thirty-one to sixty days of the base daily wage.

(**CLL, ARTICLE 368**): Employers who employ children less than eighteen years of age under conditions contrary to the provisions of Articles 173, 174, 175, 176, 177 and 178 of this law are liable to a fine of thirty-one to sixty days of the base daily wage.

(**CLL, ARTICLE 369**): Those guilty of violating the provisions of Articles 12, 15, 17, 18, 39, 46, 104, 126, 260, 264, 281, 292, 331, 333, 334 and 335 are liable to a fine of sixty-one to ninety days of base daily wage or to imprisonment of six days to one month.

(**CLL, ARTICLE 370**): The employer who violates the provisions of Article 16 of this law is liable to a fine of sixty-one to ninety days of the base daily wage.

(**CLL, ARTICLE 371**): The employer who dismisses staff from work for one of the reasons laid in Article 95 – paragraphs 1 and 2, without informing the Labour Inspector, or who carries out this dismissal during the suspension period of dismissal imposed by the Minister in charge of Labour in compliance with Article 95 – last paragraph, is liable to a fine of sixty-one to ninety days of base daily wage or to imprisonment of six days to one month.

(**CLL, ARTICLE 373**): Those guilty of violating Articles 278, 279, and 280 are liable to a fine of sixty one to ninety days of the base daily wage and to imprisonment of six days to one month, or to one of the both penalties.

Anyone guilty of violating or attempting to breach the provisions of Section I, Chapter XI, regarding the formation of trade unions and the freedom to join or to not join a union organization, in particular, Articles 266, 267 and 273 through pressure, threat or coercion, shall be subject to the same penalties.

(**CLL, ARTICLE 374**): Those guilty of violating the rules concerning the minimum age are liable to a fine of thirty to one hundred twenty days of the base daily wage.

(**CLL, ARTICLE 376**): Any person who commits the offenses defined in the preceding article that are harmful to the health or safety of others, is liable to a fine of thirty to one hundred twenty days of the base daily wage.

The penalties laid in Articles 375 and 376 are independent of the provisions related to the compensation for work-related accidents and occupational illnesses that are the subject of Chapter IX of this law.

(**CLL, ARTICLE 377**): Those guilty of violating the provisions of articles 240, 241, 242, 243, 244, 245, 246 and 247 or violating their implementing Prakas of labour health are liable to a fine of one hundred twenty days to three hundred sixty days of the base daily wage and to imprisonment of one to five years, or to only one of the both penalties.

(**CLL, ARTICLE 379**): Those guilty of violating Articles 268, 269 and 270 are liable to a fine of sixty-one to one hundred twenty days of the base daily wage.

(**CLL, ARTICLE 380**): Anyone who undermines or attempts to undermine the free designation of a union steward or the independent or regular performance in his mandate, or who violates the provisions of Article 282 regarding the dismissal from work, reassignment, transfer of union stewards or former union stewards, shall be liable to a fine of sixty one to ninety days of the base daily wage and to imprisonment of six days to one month, or to only one of the both penalties.

(**CLL, ARTICLE 381**): Anyone who does not observe the provisions of Articles 283, 286, 287 and 291 and who undermines or attempts to undermine the free election of a shop steward or the regular performance of his functions, shall be liable to a fine of sixty one to ninety days of the base daily wage and to imprisonment of six days to one month, or to only one of the both penalties.

(**CLL, ARTICLE 382**): Anyone who prevents or attempts to prevent the Labour Inspectors or Controller as well as the Labour Medical Inspectors from carrying out their functions or from exercising their powers, is liable to a fine of one hundred twenty to three hundred sixty days of base daily wage or to imprisonment of one month to one year.

(**CLL, ARTICLE 383**): When there are several infractions, which are liable to the same penalty by virtue of this law, fines must be proportional to the number of infractions. However, the total amount fined cannot exceed five times the maximum rate of fines. This rule applies particularly when several workers are employed under conditions contrary to this law. Fines imposed in the event of subsequent offenses are tripled.

LAW ON SUPPRESSION OF HUMAN TRAFFICKING AND SEXUAL EXPLOITATION DATED 15 FEBRUARY 2008 (“LSHT”)

CRIMINAL RESPONSIBILITY (LSHT, ARTICLE 4): An attempt to commit the felonies or misdemeanors stipulated in this law shall be punished and liable to the same punishment as if the offence has been committed. An accomplice and instigator of the felonies or misdemeanors stipulated in this law shall be punished and liable to the same punishment as a principal who commits it. An accomplice and instigator shall include, but not be limited to, the form of organizing or directing another to commit any of the felonies or misdemeanours stipulated in this law.

When a representative, agent, or employee for a legal entity or a principal commits any offense stipulated in this law in the scope of its business, or in the interest of the legal entity or the principal, the legal entity or the principal shall be punished with fine and additional penalties in accordance with the punishment stipulated in the relevant article.

UNLAWFUL REMOVAL WITH PURPOSE (LSHT, ARTICLE 10): A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- the victim is a minor
- the offence is committed by a public official who abuses his/her authority over the victim,
- the offence is committed by an organized group.

The terms “any form of exploitation” in this Article and Article 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs.

The consent of the victim to any of the intended purpose set forth in paragraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1) of Article 8 of this law is used. This shall apply to the offences stipulated in Article 15, 17, and 19 of this law as well.

ABDUCTION (ARREST), DETENTION OR CONFINEMENT (LSHT, ARTICLE 21): A person who, without legal authority, arrests, detains or confines another person shall be punished with imprisonment for: 1) 3 to 5 years when the arrest, detention or confinement lasts less than one month; 2) 5 to 10 years when the arrest, detention or confinement lasts one month or longer.

DEFINITION OF PROSTITUTION AND CHILD (LSHT, ARTICLE 23): Prostitution “Prostitution” in this law shall mean having sexual intercourse with an unspecified person or other

sexual conduct of all kinds in exchange for anything of value. “Child prostitution” in this law shall mean having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value.

CONDITIONAL MONEY LOAN IN CONNECTION WITH CHILD PROSTITUTION (LSHT, ARTICLE 36):

A person who provides another with money loan or anything of value on the condition that a minor engage in child prostitution business shall be punished with imprisonment for 5 to 10 years.

A person who provides a minor with money loan or anything of value on the condition that the latter engage in child prostitution business shall be punished the same as set out in paragraph 1 of this article.

DEFINITION OF PORNOGRAPHY (LSHT, ARTICLE 38): ‘Pornography’ in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a genital or other similar pornography which excites or stimulates sexual desire.

DEFINITION OF CHILD PORNOGRAPHY (LSHT, ARTICLE 40): ‘Child pornography’ in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a minor’s naked figure which excites or stimulates sexual desire.

SEXUAL INTERCOURSE WITH MINORS UNDER FIFTEEN YEARS (LSHT, ARTICLE 42): A person who has sexual intercourse with another person of the age of less than fifteen years shall be punished with imprisonment for 5 to 10 years.

INDECENT ACT AGAINST MINORS UNDER FIFTEEN YEARS (LSHT, ARTICLE 43): ‘Indecent act’ in this law shall mean an act of touching or exposing a genital or other sexual part of another, or of having another touch the actor’s or a third person’s genital or other sexual part, with the intent to stimulate or satisfy the actor’s sexual desire.

A person who commits an indecent act against another person of the age of less than 15 years shall be punished with imprisonment for 1 to 3 years and a fine of 2,000,000 to 6,000,000 riels.

A person who repeatedly commits any offense stipulated in Article 42 or this article shall be punished with double the prison punishment.

VIETNAM



VIETNAM

Human trafficking at the Vietnam-China border poses significant challenges for local authorities. Nearly half of Vietnam's poor households are ethnic minorities who reside in the rural hinterland, the back door along the stretched remote border of China. Women and children living in these isolated mountainous areas are vulnerable to trafficking and a significant number has been reported to have been kidnapped and sold.

Many factors contribute to the growth of trafficking in Vietnam, but the most common is the disintegration of family structures. The vast majority of victims are sold by either family members or close friends carrying out the deception in cahoots with the traffickers.

China's gender imbalance, the product of its one-child policy, is responsible for part of human trafficking in Vietnam. International marriage has caused a surge in bride trafficking. Marriage brokerages are abundant, promising young women introductions to rich Chinese men. In fact, they are being sold as brides to Chinese men living in rural China while others are forced to become prostitutes. Male babies are also being trafficked and sold in China for adoption.

Internal trafficking is also on the rise with women and children being trafficked from the rural provinces into the sex industry in the big cities like Hanoi and Ho Chi Minh City. Children are trafficked internally for labor exploitation such as forced begging and street hawking.

The legal framework in Vietnam has serious flaws, the main one being the lack of clear legal definition of human trafficking under the anti human trafficking law. Although Vietnam has a standardized referral mechanism in place, a step ahead of many neighboring countries, there is inconsistency in the initial victim identification by first responders. Implementing a National Referral Mechanism that incorporates Vietnam's existing referral mechanism will ensure fair identification and referral of victims to support services. The streamlined data collection will also allow a better understanding of the crime.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Vietnam law) involved in five trafficking scenarios: sex trafficking, construction trafficking, labor trafficking, marriage trafficking and domestic trafficking.

SCENARIO 1 – SEX TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
ORIGINAL PROVINCE: DAK NONG	A 15-year-old girl from Dak Nong province, a province in the Central Highlands of Vietnam, gets to know and trusts a man	
	He promises to get her a job as a waitress at a restaurant in a Southern city of Vietnam with an attractive salary of 30 million VND (~US\$143) per month.	
	He takes her to another part of Dak Nong province and hands her over to two other men.	FOR THE TRAFFICKER <ul style="list-style-type: none"> Human Trafficking (Article 119, Penal Code) Define the acts of human trafficking (Article 1, Joint Circular No. 01/2013)
	After two more days she is taken to Ho Chi Minh City to meet a woman.	
	She rests for two days and receives new clothes. The woman tells her these clothes are needed for the job at the restaurant.	
DESTINATION PROVINCE: HO CHI MINH (INITIATION)	The woman takes all her identification documents away.	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP)
	A man takes her to an apartment with many other girls.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Illegal arrest, custody or detention of people (Article 123, Penal Code)
	She becomes nervous when she sees several men in the apartment and starts to ask the other girls and the men questions.	
	Some of the men get angry, slap her several times, and tell her not to ask questions anymore.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code)
	The men tell her that she will get hurt if she doesn't do what she is told.	

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION PROVINCE: EXPLOITATION PERIOD		All girls in this apartment are forced to have sexual intercourse with 11 to 12 customers per day.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having sexual intercourse with children (Article 115, Penal Code) — Harboring prostitution (Article 254, Penal Code) — Procuring prostitution (Article 255, Penal Code) — Paying for sexual intercourse with juveniles (Article 256, Penal Code)
		She has to work continuously from 6am until 2am the following day.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having sexual intercourse with children (Article 115, Penal Code) — Harboring prostitution (Article 254, Penal Code) — Procuring prostitution (Article 255, Penal Code)
		If she refuses to serve the customers, she is beaten and locked in a dark room without food.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code) — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating other persons (Article 110, Penal Code)
		She is not allowed to communicate with anyone outside the apartment at any time.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code)
		She is not allowed to leave the apartment without an escort.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code)
		Sometimes she is given drugs in order to be able to serve more customers.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having sexual intercourse with children (Article 115, Penal Code) — Harboring prostitution (Article 254, Penal Code) — Procuring prostitution (Article 255, Penal Code)
		Photos of her are taken while she is working. She is told that these photos will be sent to her family if she does not follow the men's orders.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having sexual intercourse with children (Article 115, Penal Code) — Harboring prostitution (Article 254, Penal Code)
		She does not receive any payment.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having sexual intercourse with children (Article 115, Penal Code) — Harboring prostitution (Article 254, Penal Code) — Procuring prostitution (Article 255, Penal Code)
ORIGINAL PROVINCE: THE RETURN HOME		She is told to pay back her own "purchase price" paid by the manager of the apartment. She does not know how much this is.	
		After some months she tries to escape, but she fails.	
		One day, she meets a woman who offers to pay the purchase price and help her escape. The woman offers her a place to stay. The girl borrows the woman's phone to call her family and tells them about her situation.	
		Her family transfers the money to the bank account of the woman. After receiving the money from the woman, the girl is able to return to Dak Nong province.	

SCENARIO 2 – CONSTRUCTION TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
ORIGINAL PROVINCE: A PROVINCE IN CENTRAL VIETNAM	A group of poor farmers are seeking employment. They meet a man who introduces himself as a labor broker.	
	The man tells them about a construction site in Hanoi.	
	Due to high demand for workers they are offered well-paid jobs with high salaries and a place to stay in Hanoi.	
	They accept the job offer.	
	The man then asks each farmer for a specific amount of money. They are told that this money has to be paid to cover transportation costs and agency fees.	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Appropriating property through swindling (Article 139, Penal Code)
	Their identification documents are taken away by this man.	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP)
DESTINATION PROVINCE: HANOI (INITIATION)	After a long trip, they arrive at the construction site.	
	Upon arrival at the construction site, the man gives their identification documents to the site manager and receives money from him in return.	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> — Human Trafficking (Article 119, Penal Code) — Define the acts of human trafficking (Article 1, Joint Circular No. 01/2013) — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Prohibited conduct of employer while implementing the labour contract (Article 20, Labour code) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP) — Violation of regulations on entering into labour contract (Clause 2, Article 5, Decree 95/2013/ND-CP)
DESTINATION PROVINCE: HANOI (INITIATION)	They are neither given a written contract nor any other documents. Thus, they do not have health insurance or social insurance.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rights and Obligations of Employers (Clause 2, Article 6 Labour Code) — Responsibility to sign labour contracts (Article 18, Labour Code) — Responsibility to provide information before signing a labour contract (Clause 1 Article 19, Labour Code) — Violation of regulations on entering into labour contract (Clause 1, Article 8, Decree 95/2013/ND-CP) — Participation in Social Insurance (Article 186, Labour Code) — Responsibility of employers (Article 18, Law on Social Insurance) — Violation of regulations on paying compulsory social insurance, job loss insurance (Article 26, Decree 95/2013/ND-CP) — Violation of other regulations social insurance (Clause 2, Clause 5 Article 28 Decree 95/2013/ND-CP) FOR THE VICTIMS <ul style="list-style-type: none"> — Rights and Obligations of Employees (Clause 2, Article 5 Labour Code) — Participation in Social Insurance (Article 186, Labour Code) — Responsibility of the employee (Article 16, Law on Social Insurance)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	They have to start working immediately, despite having no experience or knowledge of the dangers of working on a construction site. Helmets or other protective equipment are not provided.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Conduct which is strictly prohibited (Article 8, Labour Code) — Obligations of employers and employees for occupational safety and hygiene work (Article 138, the Labour Code) — Personal protective facilities for workers (Article 149, Labour Code) — Training on occupational safety and hygiene (Article 150, Labour Code) — Information about occupational safety and hygiene (Article 151, Labour Code) — Violation of regulations on preventing work-related accident and occupational (Clause 4, Clause 10 Article 17 Decree 95/2013/ND-CP)
	They eat and live on the construction site, which is dirty, dusty, and lacking in amenities.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rights and Obligations of Employers (Clause 2, Article 6, Labour Code) — Conduct which is strictly prohibited (Article 8, Labour Code) FOR THE VICTIM <ul style="list-style-type: none"> — Rights and Obligations of Employees (Clause 2, Article 5, Labour Code)
DESTINATION COUNTRY: EXPLOITATION PERIOD	They have to work 7 days per week and more than 15 hours per day.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Normal working hours (Article 104, Labour Code) — Additional working hours (Article 106, Labour Code) — Rest breaks during working periods (Article 108, Labour Code) — Rest breaks in order to transfer between shifts (Article 109, Labour Code) — Weekly days off (Article 110, Labour Code) — Violation of regulations on working hours, resting hours (Article 14, Decree 95/2013/ND-CP)
	They are beaten if they try to take a rest or leave the site during working hours.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Conduct which is strictly prohibited (Article 8, Labour Code) — Rest breaks during working periods (Article 108, Labour Code) — Illegal arrest, custody or detention of people (Article 123, Penal Code) — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating other persons (Article 110, Penal Code)
	On sunny days, they have to work in the blazing sun for almost 10 hours. Their bodies get badly sunburnt.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Health care for employees (Article 152, Labour Code) — Obligations of employers and employees for occupational safety and hygiene work (Article 138, Labour Code) — Violations of regulations on occupational safety, occupational health (Article 16, Decree 95/2013/ND-CP)
	Serious accidents occur: One man falls and breaks his arm, another one breaks his leg, two men get injured as they step on nails left lying around on the construction site. None of them receives any care or medical treatment.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Health care for employees (Article 152, Labour Code) — Work-related accident (Article 142, Labour Code) — Allowance in kind to employees working in a dangerous or toxic environment (Article 141, Labour Code) — Responsibilities of employers owed to employees who contract an occupational disease or are injured in a work-related accident (Article 144, Labour Code) — Conduct which is prohibited in the occupational safety and hygiene sector (Article 146, Labour Code) — Work-related accident (Article 142, Labour Code) — Responsibilities of employers owed to employees who contract an occupational disease or are injured in a work-related accident (Article 144, Labour Code) — Violation of regulations on occupational safety and hygiene sector (Clause 2, Clause 3 Article 16 Decree 95/2013/ND-CP)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	Any time an administrative inspector comes by, the site manager bribes him with enough money to make the inspector look around and leave without asking any questions of the workers.	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Offering bribes (Article 289, Penal Code) <p>FOR THE ADMINISTRATIVE INSPECTOR</p> <ul style="list-style-type: none"> — Contents of State administration of labour (Article 235, Labour Code) — Receiving bribes (Article 279, Penal Code)
ORIGINAL PROVINCE: THE RETURN HOME	After some months of working, a few people escape from the construction site as they realize that they won't receive any payment.	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Wages (Article 90, Labour Code) — Minimum wage rate (Clause 1, Article 91, Labour Code) — Periodic payment of wages (Article 95, Labour Code) — Principle of salary payment (Article 96, Labour Code) — Wages for working overtime and for night work (Article 97, Labour Code) — Wages for ceasing work (Clause 1, Article 98 Labour Code) — Violation of regulations on wages (Article 13, Decree 95/2013/ND-CP)

SCENARIO 3 – LABOUR TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
ORIGINAL PROVINCE: MEKONG DELTA	A 16-year-old boy from the Mekong Delta comes to Ho Chi Minh City, seeking employment. As he is waiting at the bus station, a man approaches him and starts a conversation.	
	The boy tells the man that he is looking for a job. The man offers his help by taking him around the city to visit labor agencies. The fee for taking him around the city is 50,000 VND (~US\$2.50). The man also asks for the boy's identification card and keeps it.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP)
	They visit several labor agencies, but none of them can offer the boy a suitable job.	
	Finally the man tells the boy about a vacancy as a gardener in Lam Dong, a province in the highlands of Vietnam. He offers to pay for the boy's accommodation, food and travel expenses. The boy shall receive salary at the end of each month.	
	The boy agrees to go with the man to the labor agency where he is to be referred to the farm's owner who announced the vacancy.	
	The man receives a commission from the labor agency and hands the boy's identification documents over. Afterwards he leaves.	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> — Human trafficking (Article 119, Penal Code) — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP)
DESTINATION PROVINCE: HO CHI MINH CITY (INITIATION)	An agent at the labor agency remembers the boy because he had previously referred the boy for a job in Lam Dong. At that time the boy accepted the job offer but quit immediately as the job offered was too hard for him.	
	The labor agent promises that this time the job offered has much better conditions than previous job.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Human trafficking (Article 119, Penal Code) — Appropriating property through swindling (Article 139, Penal Code)
DESTINATION PROVINCE: HO CHI MINH CITY AND LAM DONG (EXPLOITATION PERIOD)	The boy is badly scolded and threatened when he rejects the offer	
	He is forced to accept the offer. He asks for a written labor contract, but people at the labor agency refuse and threaten him.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Principles for signing labour contract (Article 17, Labour Code) — Responsibility to sign labour contracts (Article 18, Labour Code) — Violation of regulations on entering into labour contract (Clause 1, Article 8, Decree 95/2013/ND-CP) — Forms of labour contract (Article 16, Labour Code)
	After an oral agreement has been made, the boy waits inside the garage for a car to take him to the farm in Lam Dong.	

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	He is not allowed to leave the garage until the car arrives.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code) — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating other persons (Article 110, Penal Code) — Conduct which is strictly prohibited (Article 8, Labour Code)
	Some other boys waiting in the garage are in the same situation.	
	Finally a car comes by to pick them up and take them to the farm. All of their identification documents are handed over to the driver. After some hours of travelling, they arrive at Lam Dong.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/ND-CP)
	In Lam Dong, the boy and the others are locked in a dark room. The room has only one entrance and one window that are welded with steel plates in order to prevent escape.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code) — Prohibited conduct of employer while implementing the labour contract (Article 20, Labour Code) — Violation of regulations on entering into labour contract (Article 5, Decree 95/2013/ND-CP)
	The room is a size of just 25m ² , but is crowded by more than 10 workers. The workers are badly scolded when they ask for water.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Illegal arrest, custody or detention of people (Article 123, Penal Code) — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating other persons (Article 110, Penal Code)
	The boy is informed that the farm owner has paid 1,850,000 VND (~ US\$90) for him. His main responsibilities are taking care of the farm's garden and a herd of more than 1,000 pigs.	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> — Human Trafficking (Article 119, Penal Code) — Define the acts of human trafficking (Article 1, Joint Circular No. 01/2013)
	The boy is forced to work 7 days a week, 17 hours per day and offered very little food and water. When he stops working due to exhaustion, he is badly beaten.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Conduct which is strictly prohibited (Article 8, Labour Code) — Normal working hours (Article 104, Labour Code) — Additional working hours (Article 106, Labour Code) — Rest breaks during working periods (Article 108, Labour Code) — Rest breaks in order to transfer between shifts (Article 109, Labour Code) — Weekly days off (Article 110, Labour Code) — Principle to employ the underage employee (Article 163, Labour Code) — Violation of regulations on underage employee (Article 19, Decree 95/2013/ND-CP) — Violation of regulations on working hours, resting hours (Article 14, Decree 95/2013/ND-CP) — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating other persons (Article 110, Penal Code)

ORIGINAL PROVINCE: THE RETURN HOME	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
	After working for one month, the boy requests the farm owner's permission to leave. The farm owner tells the boy that he must first repay the farm owner the purchase price of 1,850,000 VND (~ US\$90) paid for him or else he will not be permitted to leave.	
	He promises to ask his family to send the money.	
	After some days the boy learns that some workers keep mobile phones unnoticed by the farm owner. He borrows a phone and calls his family who immediately come to his rescue.	

SCENARIO 4 – MARRIAGE TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
ORIGINAL COUNTRY: CAMBODIA	A Cambodian woman is enticed by her neighbor to go to Vietnam to sell green tea.	
	Since she does not have any money to cover the travel costs, she did not accept the offer. However her neighbor assures her that she will take care of the travel costs and asks to split the profit 50/50.	
	She agrees and both follow a path through the forest to Vietnam. On the way, they get caught by Vietnamese police and have to return to Cambodia three times.	FOR THE PERPETRATOR — Illegally leaving or entering the country, illegally staying in Vietnam (Article 274, Penal Code)
	Finally, the fourth attempt is successful.	FOR PERPETRATOR: — Illegally leaving or entering the country, illegally staying in Vietnam (Article 274, Penal Code)
DESTINATION COUNTRY: VIETNAM (INITIATION)	They arrive in Vietnam.	
	A Vietnamese man picks them up and takes them to a village. The trip takes one whole day.	
	She is waiting outside a house while her neighbor enters and talks to a man.	
	After a while, her neighbor comes out, tells her that she intends to run some errands, and leaves immediately. A moment later, the man takes her inside the house. She is told that she is now married to that man and she is expected to take care of him and all other people living at this place.	FOR THE TRAFFICKER/PERPETRATOR — Human Trafficking (Article 119, Penal Code) — Define the acts of human trafficking (Article 1, Joint Circular No. 01/2013)
	The man starts shouting at her and threatening her when she resists.	FOR THE PERPETRATOR — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) — Ill-treating or persecuting grand-parents, parents, spouses, children, grandchildren and/or fosterers (Article 151, Penal Code)
	At that time she understands that she was sold to become the man's wife.	
DESTINATION COUNTRY: EXPLOITATION PERIOD	Every single day she has to get up early at 3am to cook and follow the man to the sugarcane field afterwards until dark. Once home she has to serve his big family until midnight.	FOR THE PERPETRATOR — Ill-treating or persecuting grand-parents, parents, spouses, children, grandchildren and/or fosterers (Article 151, Penal Code)
	During the first couple of days, he keeps her under strict supervision, even staying close to her when she goes to the restroom.	FOR THE PERPETRATOR — Ill-treating or persecuting grand-parents, parents, spouses, children, grandchildren and/or fosterers (Article 151, Penal Code)
	After about 3 months, she meets a Cambodia woman who has also been sold to a man living in the village. Both of them try to escape but do not succeed.	
	She is badly beaten by her husband and his family members.	FOR THE PERPETRATOR — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code)
ORIGINAL COUNTRY: THE RETURN HOME	More than one year later, she escapes in an attempt to find her way to her hometown with very little money.	
	After 3 days, she arrives at the border guard station and receives assistance to return home.	

SCENARIO 5 – DOMESTIC TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
ORIGINAL COUNTRY: PHILIPPINES	A single mother decides to leave the Philippines to work abroad in order to take care of her young daughter and her old mother.	
	She gets to know a Vietnamese woman who is an illegal labor broker in the Philippines.	
	She borrows money from a bank to cover the placement fee.	
	She pays the woman a total fee of US\$2,200 for her help to get a job in Vietnam.	
	She is promised a salary of US\$350 per month for a job in an industrial zone in Vietnam.	
	She flies to Vietnam.	
DESTINATION COUNTRY: VIETNAM (INITIATION)	She arrives in Vietnam. Another woman in Vietnam picks her up at the airport and takes her to a labor agent.	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance) — Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance) — Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) — Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) FOR THE VICTIM <ul style="list-style-type: none"> — Landing without permission (s38(1)(a), Immigration Ordinance) — Remaining without permission (s38(1)(b), Immigration Ordinance) — Making false statement to immigration officer (s42(1), Immigration Ordinance)
	Her travel documents (including her passport) are taken away immediately.	FOR THE TRAFFICKER/PERPETRATOR <ul style="list-style-type: none"> — Recovery and detain the identity card (Article 10, Consolidated Document No. 03/VBHN-BCA) — The competence to recovery and detain the identity card (Article 11, Consolidated Document No. 03/VBHN-BCA) — Violate the regulations on management and using of identity cards (Clause 2 Article 9, Decree 167/2013/NĐ-CP)
	The agent tells her she will work as a maid for a family in Ho Chi Minh City and she will receive a salary of US\$150 per month (not US\$350 as promised in the Philippines).	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Violation of the provisions of the Employment Service (Article 4, Decree 95/2013/ND-CP)
	When she complains, she is threatened with a beating. As a result, she is forced to accept the job offer.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code)
	She is forced to sign a labor contract in Vietnamese though she does not understand the language.	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rights and Obligations of Employers (Clause 2, Article 6, Labour Code) — Responsibility to sign labour contracts (Article 18, Labour Code) — Violation of regulations on entering into labour contract (Clause 1, Article 8, Decree 95/2013/ND-CP) FOR THE VICTIM <ul style="list-style-type: none"> — Rights and Obligations of Employees (Clause 2, Article 5, Labour Code) — Responsibility to sign labour contracts (Article 18, Labour Code)
	The man tells her that the term of the contract is 3 years.	

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD		At the beginning, she is treated well by the family she works for.	
		During the first 3 months she receives a monthly salary of US\$150 as agreed. She transfers some money to her family in the Philippines through the agent. However, her family in her hometown receives only half of the money she actually sends. The agent keeps the other half. After the first 3 months, she does not get paid regularly anymore.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Extortion of property (Article 135, Penal Code) Appropriating property through swindling (Article 139, Penal Code) Illegally holding property (Article 141, Penal Code) Violation of regulations on salary (Clause 3, Article 13, Decree 95/2013/ND-CP)
		Within the period of 3 years working in Ho Chi Minh City, she only earned a total of US\$550. During this time she was able to transfer her salary to her family only twice.	
		Subsequently, she returns to the agent, expecting to go back to her hometown.	
		The agent tells her to wait because there are no flights to the Philippines. The agent also takes all her money and tells her that he will give it back to her when she returns to the Philippines.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Violation of regulations on salary (Clause 3, Article 13, Decree 95/2013/ND-CP) Extortion of property (Article 135, Penal Code) Illegally holding property (Article 141, Penal Code)
		Week after week, the agent keeps postponing her return home.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Violation of regulations on salary (Clause 3, Article 13, Decree 95/2013/ND-CP) Extortion of property (Article 135, Penal Code) Appropriating property through swindling (Article 139, Penal Code) Illegally holding property (Article 141, Penal Code)
		For almost 8 months, she has to work at the agent's house and for other families that are in contact with him without being paid.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Labour contract for domestic servant (Article 180, Labour Code) Obligations of employer (Article 181, Labour Code) Violation of regulations on salary (Clause 3, Article 13, Decree 95/2013/ND-CP)
		She is treated badly while working for other families. She is not allowed to leave the places of work on her own. She is not allowed to go outside unless accompanied by somebody else. During this time, food and articles of daily use that are provided are very limited.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Illegal arrest, custody or detention of people (Article 123, Penal Code) Intentionally inflicting injury on or causing harm to the health of other persons (Article 104, Penal Code) Ill-treating other persons (Article 110, Penal Code)
		The agent does not keep his promise to take her back to the Philippines. Instead, he forces her to work without any salary for 3 more years.	FOR THE PERPETRATOR <ul style="list-style-type: none"> Violation of regulations on salary (Clause 3, Article 13, Decree 95/2013/ND-CP) Violations of regulations on labor is the family maid (Article 20, Decree 95/2013/ND-CP) Extortion of property (Article 135, Penal Code) Illegally holding property (Article 141, Penal Code)
		She cannot contact her family in the Philippines.	
ORIGINAL COUNTRY: THE RETURN HOME		One day out of pity one of the families she is working for allows her to make a phone call to her family in the Philippines.	
		Due to assistance from different Vietnamese and Filipino authorities, she safely returns to the Philippines.	
		After all, she has been away from home for 6 years and has earned only US\$550 total. She cannot even repay her debts to the bank.	

LAWS OF VIETNAM

ABBREVIATED NAME OF THE LEGAL PROVISIONS

1. **"PENAL CODE"** Law No. 15/1999/QH10 of the National Assembly dated December 21, 1999, Amended on 19 June 2009 on Penal Code
2. **"LAW ON SOCIAL INSURANCE"** Law No. 71/2006/QH11 of the National Assembly dated May 29, 2006 on Social Insurance
3. **"LAW ON HEALTH INSURANCE"** Law No. 25/2008/QH12 of the National Assembly dated November 14, 2008 on Health Insurance
4. **"LABOUR CODE"** Law No. 10/2012/QH13 of the National Assembly dated June 18, 2012 on Labour
5. **"CONSOLIDATED DOCUMENT NO. 03/VBHN-BCA"** the Consolidated Document of Decrees on Identification Card (includes Decree 05/1999/NĐ-CP dated 03 February 1999, Decree 170/2007/NĐ-CP dated 19 November 2007 and Decree 106/2013/NĐ-CP dated 17 September 2013)
6. **"DECREE 167/2013/NĐ-CP"** Decree No. 167/2013/ND-CP of the Government dated November 12, 2013 on sanction of administrative violation in social security, order and safety, prevention and fighting of social evils, fire and domestic violence.
7. **"DECREE 95/2013/ND-CP"** Decree No. 95/2013/ND-CP of the Government dated 22 August 2013 on Penalties for administrative violations against regulations on labour, social insurance, and overseas manpower supply.
8. **"DECREE 27/2014/ND-CP"** Decree No. 27/2014/ND-CP of the Government dated 07th April 2014 on detailing the implementation of a few Articles of the Labour Code on Domestic servant.
9. **"JOINT CIRCULAR NO. 01/2013"** Joint Circular No. 01/2013/TTLT-TANDTC -VKSNDTC-BCA-BQP- BTP dated July 23, 2013 guiding the penal liability examination against persons who commit acts of human trafficking; trading in, fraudulently exchanging or appropriating children;

APPROPRIATING PROPERTY THROUGH SWINDLING

1. Those who appropriate through fraudulent tricks other persons' property valued between two million dongs and under fifty million dongs, or under two million dongs but causing serious consequences, or who have been administratively sanctioned for acts of appropriation or sentenced for the property appropriation, not yet entitled to criminal record remission but repeat their violations, shall be subject to non-custodial reform for up to three years or a prison term of between six months and three years.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between two and seven years of imprisonment:
 - a. In an organized manner;

- b. Being of professional nature;
 - c. Dangerous recidivism;
 - d. Abusing positions and/or powers or abusing the names of agencies or organizations;
 - e. Employing perfidious tricks;
 - f. Appropriating property valued between fifty million dong and under two hundred million dong;
 - g. Causing serious consequences.
3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
- a. Appropriating property valued between two hundred million dong and under five hundred million dong;
 - b. Causing very serious consequences.
4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve and twenty years or life imprisonment:
- a. Appropriating property valued at five hundred million dong or higher;
 - b. Causing particularly serious consequences.
5. The offenders may also be subject to a fine of between ten million dong and one hundred million dong, the confiscation of part or whole of property, a ban from holding certain posts, practicing certain occupations or doing certain jobs for one to five years. [\(ARTICLE 139, PENAL CODE\)](#)

ADDITIONAL WORKING HOURS

Employers have the right to require employees to work overtime when the following conditions are satisfied:

- a. the employees agrees;
- b. The employer ensures the number of overtime hours of the employee does not exceed 50% of the normal working hours in one day, and if the employer stipulates work on a weekly basis then the total of normal working hours plus overtime hours must not exceed twelve (12) hours in one day, and does not exceed 30 hours in one month, and the total overtime hours must not exceed two hundred (200) hours in one year, except in a number of special cases regulated by the Government where the number of overtime hours worked must not exceed three hundred (300) hours in one year;
- c. After an overtime working period over successive days in a month, the employer must arrange for the employee to take extra leave for the period of time for which he or she was unable to take leave [\(CLAUSE 2 ARTICLE 106, LABOUR CODE\)](#)

Violation of this regulation shall be subject to a fine of up to fifty (50) million dongs and an additional penalty of suspension of operation of the employer from 01 to 03 months. (ARTICLE 14, DECREE 95/2013/ND-CP)

ALLOWANCE IN KIND TO EMPLOYEES WORKING IN A DANGEROUS OR TOXIC ENVIRONMENT

An employer must pay an allowance in kind to employees working in a dangerous or toxic environment in accordance with regulations of the Ministry of Labour, War Invalids and Social Affairs. (ARTICLE 141, LABOUR CODE)

Violation of this regulation shall be subject to a fine of up to 30 million dongs (ARTICLE 17, DECREE 95/2013/ND-CP)

CONDUCT WHICH IS STRICTLY PROHIBITED

Including

1. Discrimination on the basis of gender, race, colour, social class, marital status, beliefs, region, HIV infection, disability, or because of establishing, joining or participating in activities of a trade union; or
2. Maltreatment or sexual harassment of employee at the workplace; or
3. Labour coercion; or
4. Taking advantage of an apprenticeship or trade-training program to seek profit or exploit an employee or to entice or compel an apprentice or trainee to conduct an illegal act; or
5. Employing workers who have not yet passed training courses or who do not yet have national trade or technical certificates in the case of any trade or work for which the law requires employees to have passed such courses or have such certificates; or
6. Seducing, making false promises or conducting false advertising in order to deceive employees, or taking advantage of employment services or labour export to foreign countries pursuant to contracts in order to conduct an illegal act; or
7. Employing juniors contrary to law (ARTICLE 8, LABOUR CODE)

CONDUCT WHICH IS PROHIBITED IN THE OCCUPATIONAL SAFETY AND HYGIENE SECTOR

Including

1. Monetary payment in lieu of allowances in kind; or
2. Concealing or making a false declaration or report about a work-related accident or occupational disease. (ARTICLE 146, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 30 million dongs
([ARTICLE 16](#), [ARTICLE 17](#), [DECREE 95/2013/ND-CP](#))

CONTENTS OF STATE ADMINISTRATION OF LABOUR

Including

1. Issuing and organizing the implementation of the legal normative documents on labour;
2. Monitoring, making statistics and providing information about supply and demand and labour supply and demand volatility; making decision on policies, planning, human resource planning, job training, skills development, building of the frame of the national vocational level, distribution and use of social employees. Specifying the list of the trades that only employ the employees who have been trained the trade or have the certificate of national vocational skills;
3. Organizing and conducting scientific research on labour, statistics, information on labour and labour market, living standards and incomes of the employees;
4. Developing the mechanisms and institutions to support the development of the harmonious, stable and progressive labour relations;
5. Inspecting, examining and settling complaints and denunciations and handling legal violations on labour; settling labour disputes in accordance with the law;
6. Implementing the international cooperation on labour. ([ARTICLE 235](#), [LABOUR CODE](#))

DEFINE THE ACTS OF HUMAN TRAFFICKING

Human trafficking is the act of using money, assets or other material benefit in order to exchange a human (which is 16 or older) as a kind of good; particularly including one of the following acts:

1. Selling a person to another person regardless of the purpose of the buyer; or
2. Buying a person in order to resell to other person, regardless of who the buyer is and his purpose;
3. Using human as an asset for exchanging, making payment; or
4. Buying human for Labour abuse, coercive or for other illegal purposes; or
5. Being the organizers, the instigators, the helpers for the person who conducts one of the acts regulated in clause 1, 2, 3 of this Article shall all be examined for penal liability for human trafficking.

([ARTICLE 1](#), [JOINT CIRCULAR NO. 01/2013](#))

EXTORTION OF PROPERTY

1. Those who threaten to use force or other tricks to spiritually intimidate other persons in order to appropriate property shall be sentenced to between one and five years of imprisonment.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:
 - a. In an organized manner;
 - b. In a professional way;
 - c. Dangerous recidivism;
 - d. Appropriating property valued at between fifty million dong and under two hundred million dong;
 - d. Causing serious consequences.
3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
 - a. Appropriating property valued at between two hundred million and under five hundred million dong;
 - b. Causing very serious consequences.
4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve and twenty years of imprisonment:
 - a. Appropriating property valued at five hundred million dong or more;
 - b. Causing particularly serious consequences.
5. The offenders may also be subject to a fine of between ten million and one hundred million dong, the confiscation of part or whole of property. ([ARTICLE 135, PENAL CODE](#))

ENTERING INTO LABOUR CONTRACT

1. When the labor contract is concluded with an illiterate worker, the employer must read the whole labor contract out loud for the worker to hear and agree before it is signed. If necessary, the worker may request the employer to invite a person that is not a family member to witness before the labor contract is signed.
2. If the employer hires multiple domestic servants, each of them must have a separate labour contract.
3. The labour contract shall be made into two copies, one of which is kept by the employer and the other is kept by the worker.
4. Within 10 days from the day on which the labour contract is signed, the employer must notify the employment of a domestic servant to the People's Committee of the commune, ward or town where the worker works. ([ARTICLE 05, DECREE 27/2014/ND-CP](#))

FORMS OF LABOUR CONTRACT

must be in accordance with the regulation of

1. A labour contract must be concluded in writing and made into 02 copies, the employee shall keep 01 copy, the employer shall keep 01 copy, except for the case of the clause 2 of this Article
2. Temporary jobs with terms under 03 months, the parties may conclude verbal contracts. (ARTICLE 16, THE LABOUR CODE)

Failure to comply with this regulation shall be subject to a fine of up to 20 million dong. (ARTICLE 5 DECREE 95/2013/ND-CP)

HUMAN TRAFFICKING

1. Those who traffic in human shall be sentenced to between 2 and 7 years of imprisonment.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between 5 and 20 years of imprisonment:
 - a. For the purpose of prostitution;
 - b. In an organized manner;
 - c. Being of professional characters;
 - d. To get the body parts of victims;
 - d. For the purpose of sending them overseas;
 - e. Trafficking in more than one person;
 - f. Trafficking more than once.
3. The offenders may also be subject to a fine of between 5 million and 50 million dong, to probation or residence ban for 1 to 5 years.

(ARTICLE 119, PENAL CODE)

HAVING SEXUAL INTERCOURSE WITH CHILDREN

1. Any adults having sexual intercourse with children aged from full 13 to under 16 shall be sentenced to between one and five years of imprisonment.
2. Committing the crime in one of the following circumstances, the offender shall be sentenced to between three and ten years of imprisonment:
 - a. Committing the crime more than once;
 - b. Against more than one person;
 - c. Being of an incestuous nature;
 - d. Making the victim pregnant;
 - d. Causing harms to the victim's health with an infirmity rate of from

31% to 60%.

3. Committing the crime in one of the following circumstances, the offender shall be sentenced to between seven and fifteen years of imprisonment:
 - a. Causing harm to the victim's health with an infirmity rate of 61% or higher;
 - b. Committing the crime even though the offenders know that they are infected with HIV

(ARTICLE 115, PENAL CODE)

HEALTH CARE FOR EMPLOYEES

Employer must comply with the regulations on health care for employee, the content of health care for employees shall be as follows:

1. The employer must rely on the health standards regulated for each type of work for recruitment and arrangement of employees.
2. Each year, the employer must organize periodic health examinations for the employee, including the trade apprentice, trainee, female employees must receive the gynaecology examination, person who performs hard and hazardous work, the disabled and juvenile employee, elderly employee health must be examined health at least once for every 6 months.
3. The employees working in conditions at risk of occupational disease must be examined the occupational disease as prescribed by the Ministry of Health.
4. The employee with occupational accident and disease must receive a medical examination for disability rating, determination of the degree of reduction of working capacity and shall be under the treatment, working rehabilitation and in convalescence in accordance with the law.
5. The employee after suffering from occupational accident and disease, if being able to keep on working, he shall be arranged a job suitable to his health in accordance with the conclusions of the Medical Examination Council on labour.
6. The employer must manage the health records of employees and a general monitoring record in accordance with the regulations of the Ministry of Health.
7. The employee working at the place where there are toxic and infectious factors, upon the end of the working hours, the employer must guarantee the measures of decontamination and sterilization. (ARTICLE 152, THE LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 15 million dongs (CLAUSE 3, ARTICLE 17 DECREE 95/2013/ND-CP)

ILLEGAL ARREST, CUSTODY OR DETENTION OF PEOPLE

1. Those who illegally arrest, hold in custody or detain other persons shall be subject to warning, non-custodial reform for up to two years or a prison term of between three months and two years.

2. Committing the crimes in one of the following circumstances, the offenders shall be sentenced to between one and five years of imprisonment:
 - a. In an organized manner;
 - b. Abusing their positions and/or powers;
 - c. Against persons who are performing their official duties;
 - d. Committing the crime more than once;
 - d. Against more than one person.
3. Committing the crimes and causing serious consequences, the offenders shall be sentenced to between three and ten years of imprisonment.
4. The offenders may also be banned from holding certain posts for one to five years.
(ARTICLE 123, PENAL CODE)

INTENTIONALLY INFLECTING INJURY ON OR CAUSING HARM TO THE HEALTH OF OTHER PERSONS

1. Those who intentionally injure or causes harm to the health of other persons with an infirmity rate of between 11% and 30%, or under 11% but in one of the following circumstances, shall be sentenced to non-custodial reform for up to three years or between six months and three years of imprisonment:
 - a. Using dangerous weapons or tricks, causing harm to more than one person;
 - b. Causing minor permanent maim to the victims;
 - c. Committing the crime more than once against the same person or against more than one person;
 - d. Committing the crime against children, pregnant women, old and weak or sick persons or other persons incapable of self-defense;
 - d. Committing the crime against their own grand fathers, grand mothers, fathers, mothers, fosterers, teachers;
 - e. Committing the crime in an organized manner;
 - g. Committing the crime during time of custody, detention or whilst resident at re-education establishments;
 - h. Hiring other persons to cause injury or being hired to cause injury;
 - i. Being of hooligan character or dangerous recidivism;
 - k. In order to obstruct the person performing official duty or for the reasons of the victim's official duty.
2. Committing the crime of inflicting injury on or causing harm to the health of, other persons with an infirmity rate of between 31% and 60%, or 11% and 30% but in one of the cases defined at Points from a to j, Clause 1 of this Article, the offenders shall be sentenced to between two and seven years of imprisonment.

3. Committing the crime of injuring or causing harm to the health of other persons with an infirmity rate of 61% or higher or leading to human death, or from 31% to 60% but in one of the cases defined at Points from a to j, Clause 1 or this Article, the offenders shall be sentenced to between five and fifteen years of imprisonment.
4. Committing the crime, thus leading to the death of more than one person or in other particularly serious cases, the offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment [\(ARTICLE 104, PENAL CODE\)](#)

ILL-TREATING OTHER PERSONS

1. Those who cruelly treat persons dependent on them shall be subject to warning, non-custodial reform for up to one year or imprisonment of between three months and two years.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between one year and three years of imprisonment:
 - a. Against aged persons, children, pregnant women or disabled persons;
 - b. Against more than one person [\(ARTICLE 110. PENAL CODE\)](#)

INFORMATION ABOUT OCCUPATIONAL SAFETY AND HYGIENE

The employer must announce the complete information on the situation of occupational accidents, occupational diseases, dangerous and harmful factors, and measures to ensure the labour safety and hygiene at workplace for the employee. [\(ARTICLE 151, LABOUR CODE\)](#)

Violation of these regulations shall be subject to a fine of up to 15 million dongs [\(CLAUSE 3, ARTICLE 17, DECREE 95/2013/ND-CP\)](#)

ILLEGALLY HOLDING PROPERTY

1. Those who deliberately refuse to return to the lawful owners or managers or to surrender to responsible authorities property valued between ten million dongs and under two hundred million dongs, antiques or objects of historical and/or cultural value mistakenly assigned to them or discovered or found by them, after the lawful owners or managers or the responsible authorities request to receive back such property according to the provisions of law, shall be subject to non-custodial reform for up to three years or a prison term of between three months and two years.
2. Those who illegally hold property valued at two hundred million dong or higher, or antiques or objects of historical and/or cultural value shall be sentenced to between one and five years of imprisonment. [\(ARTICLE 141, PENAL CODE\)](#)

ILLEGALLY LEAVING OR ENTERING THE COUNTRY, ILLEGALLY STAYING IN VIETNAM

Those who illegally leave or enter the country or stay in Vietnam, have already been administratively sanctioned for such act but continue the violation, shall be subject to a fine of between five million dong and fifty million dong or a prison term of between three months and two years. ([ARTICLE 274, PENAL CODE](#))

ILL-TREATING OR PERSECUTING GRAND-PARENTS, PARENTS, SPOUSES, CHILDREN, GRANDCHILDREN AND/OR FOSTERERS

Those who ill-treat or persecute their grand-parents, parents, spouses, children, grand-children or fosterers, thus causing serious consequences or who have already been administratively sanctioned for such acts but repeat their violations, shall be subject to warning, non-custodial reform for up to three years or a prison term of up to and three years. ([ARTICLE 151, PENAL CODE](#))

LABOUR CONTRACT FOR DOMESTIC SERVANT

including

1. The employer must sign a labor contract in writing with the housemaid;
2. The time limit of the labor contract for the employee as a housemaid shall be agreed by both parties. One party has the right to unilaterally terminate the labor contract at any time but has to give a notice 15 days in advance;
3. Both parties shall agree and specify in the labor contract on the form of salary payment, term of payment, daily working hours, accommodation... ([ARTICLE 180, LABOUR CODE](#))

MINIMUM WAGE RATE

The minimal salary rate is the lowest rate that is paid to the employee who performs the simplest work in the normal working conditions and that must ensure the minimal living needs of the employees and their families. The minimal salary rate is determined by month, day, hour and shall be established by region and sector. ([CLAUSE 1, ARTICLE 91 LABOUR CODE](#))

NORMAL WORKING HOURS

shall be in compliance with the regulations as follows:

1. Working hours shall not exceed 08 hours per day or forty eight (48) hours per week.

2. The employer shall have the right to determine the working hours on a daily or a weekly basis; in case of weekly basis, the normal working hours shall not exceed 10 hours/1 day, but not exceed 48 hours/1 week.
3. The working hours shall not exceed 06 hours in 01 day for those whose works are extremely hard, harmful and dangerous under the list issued by the Ministry of Labour – Invalids and Social Affairs in coordination with the Ministry of Health.
(ARTICLE 104, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 25 million dongs
(ARTICLE 14, DECREE 95/2013/ND-CP)

OBLIGATIONS OF EMPLOYERS AND EMPLOYEES FOR OCCUPATIONAL SAFETY AND HYGIENE WORK

1. The employer has the following obligations:
 - a. To ensure the workplace meets the requirements of space, ventilation, dust, steam, toxic gas, radiation, electromagnetic field, heat, humidity, noise, vibration and other harmful elements specified in the relevant technical regulations and those factors must be tested and measured periodically.
 - b. To ensure the conditions on labour safety and hygiene for machinery, equipment, workshop to reach the national technical regulations on labour safety and hygiene or standards on labour safety and hygiene at the workplace that has been published and applied.
 - c. Testing and assessing the dangerous and harmful factors, harmful at workplace of the facility to set out the exclusion measures to minimize hazards, harmfulness and improve the working conditions and health care for the employees;
 - d. Periodically testing and maintaining the machinery, equipment, workshops and warehouses;
 - d. There must be instruction table on labour safety and hygiene for the machinery, equipment and workplace and it should be put at the legible and visible place labour safety and hygiene the workplace;
 - e. Gathering opinions of the representative organization of labour collective at the grassroots level when making a plan and implementing the activities to guarantee the labour safety and hygiene.
2. The employee has the following obligations:
 - a. To comply with the regulations, procedures and rules on the labour safety and hygiene related to the work and duties assigned.
 - b. To use and maintain the personal protective equipment already equipped; the equipment of labour safety and hygiene at the workplace;

- c. To promptly report to the responsible person upon detecting the risk of occurrence of occupational accident and disease, toxic or dangerous incident, to participate in emergency and remedy the consequence of occupational accident upon the employer's order.
(ARTICLE 138, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 10 million dongs and remedial measures (ARTICLE 16, DECREE 95/2013/ND-CP)

OBLIGATIONS OF EMPLOYER

including

1. Fully implementing all agreements already signed in the labor contract;
2. Paying the housemaid an amount of social insurance, health insurance as prescribed by law for employee to buy insurance herself;
3. Respecting the honor and dignity of the housemaid;
4. Arranging the clean and hygienic accommodation for the housemaid if agreed;
5. Creating opportunities for the housemaid to participate in education, vocational training;
6. Paying fares when the housemaid terminates work and get home except for the case the housemaid terminates the labor contract ahead of time. (ARTICLE 181, LABOUR CODE)

OFFERING BRIBES

1. Those who offer a bribe which has a value of between two million dongs and under ten million dongs, or under two million dongs but cause serious consequences or commit it more than once, shall be sentenced to between one and six years of imprisonment.
2. Committing the offense in one of the following circumstances, the offenders shall be sentenced to between six months and thirteen years of imprisonment:
 - a. In an organized manner;
 - b. Employing treacherous tricks;
 - c. Using State property to offer bribes;
 - d. Committing the offense more than once;
 - d. The bribe has a value of between ten million dong and under fifty million dong;
 - e. Causing other serious consequences.
3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between thirteen and twenty years of imprisonment:
 - a. The bribe has a value of between fifty million dong and under three

hundred million dong;

- b. Causing other very serious consequences.
- 4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to twenty years of imprisonment or life imprisonment:
 - a. The bribe has a value of three hundred million dong or more;
 - b. Causing other particularly serious consequences.
- 5. The offenders may also be subject to a fine of between one and five times the value of the bribe.
- 6. Persons who are coerced to offer bribes but take initiative in reporting them before being detected may be exempt from penal liability and have part of or the entire property offered as bribes returned. (ARTICLE 289, PENAL CODE)

PARTICIPATION IN SOCIAL INSURANCE AND HEALTH INSURANCE

- 1. The employer and the employee must participate in the mandatory social insurance and health insurance and unemployment insurance and shall enjoy the regimes as prescribed by the law on the social insurance and health insurance.

Encouraging the employer and employee to perform other forms of social insurance for the employees.

- 2. During the leave with the enjoyment of the social insurance, the employer shall not pay salary to employees.
- 3. For employees not subject to participation in mandatory social insurance, mandatory health insurance, unemployment insurance, in addition to payment by the work, the employer shall pay at the same time of the employee's payment period an additional amount equivalent to the rate of mandatory social insurance premium and mandatory health insurance, unemployment insurance and the amount of annual leave as prescribed.

(ARTICLE 186, LABOUR CODE)

PERSONAL PROTECTIVE FACILITIES FOR WORKERS

must be in compliance with the regulation of

- 1. employee who performs work with the toxic and dangerous factors shall be fully equipped with the means of personal protection by the employer and must use them during the working process in accordance with the Ministry of Labour – Invalids and society; and
- 2. the means of personal protection must meet the standard of quality. (ARTICLE 149, LABOUR CODE)

PERIODIC PAYMENT OF WAGES

must be in compliance with the regulation of

1. employee whose salary based on hour, day and week shall be paid by hour, day and week or a lump sum agreed upon by both parties, but a lump sum must be paid once at least 15 days; or
2. employee whose salary based on month shall be paid once a month or once a fortnight; or
3. employee whose salary based on the product and piecework shall be paid as agreed upon by both parties; if the work has to be done in many months, the monthly salary shall be advanced by the volume of work done during the month.

(ARTICLE 95, LABOUR CODE)

PRINCIPLES FOR SIGNING LABOUR CONTRACT

shall be

1. Voluntary, equitable, affable, cooperative and truthful; and
2. The contract is freely concluded without violating the law, the collective labour agreement and social ethics. (ARTICLE 17, LABOUR CODE)

PROHIBITED CONDUCT OF EMPLOYER

including

1. Maltreatment, sexual harassment, forced labor, force using for the employee as a housemaid;
2. Assigning the housemaid the work not specified in the labor contract;
3. Keeping the housemaid's personal papers (ARTICLE 183, LABOUR CODE)

PROHIBITED CONDUCT OF EMPLOYER WHILE IMPLEMENTING THE LABOUR CONTRACT

including

1. Keeping the originals of the identity papers, certificates and qualifications of the employee;
2. Requesting the employee to mortgage cash or property for the labor contract performance. (ARTICLE 20, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 25 million dong and being required to return all the identity documents, certificate and qualification of the employee or the money or asset gained from the employee along with the interest of such amount of money. (ARTICLE 5, DECREE 95/2013/ND-CP)

PRINCIPLE TO EMPLOY THE UNDERAGE EMPLOYEE

including

1. Do not employ the underage employee to perform heavy, hazardous and dangerous jobs or the jobs negatively affecting his personality under the list issued by the Ministry of Labour – Invalids and Social Affairs in coordination with the Ministry of Health;
2. The working hours of the underage employee from full 15 years of age to under 18 years must not exceed 08 hours in 01 days and 40 hours in 01 week, the working hours of person under 15 years must not exceed 4 hours in 01 days and 20 hours in 01 week without working overtime and at night;
3. The person from full 15 years of age and under 18 years is entitled to work overtime and at night in some occupations and jobs in accordance with the Ministry of Labour – Invalids and Social Affairs;
4. Do not employ the underage employee to produce and trade in alcohol, wine, beer, tobacco, substances affecting mind and other drugs;
5. The employer must provide opportunities for the underage employee and person under 15 years old to take part in labor and cultural learning. (ARTICLE 163, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 25 million dongs.

(ARTICLE 19, DECREE 95/2013/ND-CP)

PRINCIPLE OF SALARY PAYMENT

The employee is paid directly, fully and in a timely manner. In special case the salary may not be paid in a timely manner, it must not be later than 01 month and the employer must pay the employee an additional amount at least equal to the deposit interest rates by the State Bank of Vietnam announced at the time of payment. (ARTICLE 96, LABOUR CODE)

Failure to comply with these regulations shall be subject to a fine of up to 50 million dongs. Employer violating these regulations may also be subject to the additional administrative penalty of being required to pay the employee in accordance with the laws along with the interest of the amount which are not paid on time (CLAUSE 3 ARTICLE 13, DECREE 95/2013/ND-CP)

RECOVERY AND DETAIN THE IDENTITY CARD

Identity card shall only be recovered or detained in the following cases:

1. Recovery of Identity card: (a) being deprived of Identity card or renunciation of nationality of Vietnam; or (b) residing abroad.
2. Detain of Identity card: (a) conducting an administrative violation for which identity card has to be detained in accordance with the law; or (b) being detained, in the

process of imprisonment enforcement, abiding the decision of being sent to the reformatory school, establishment for helping giving up drug addiction. (ARTICLE 10, CONSOLIDATED DOCUMENT NO. 03/VBHN-BCA)

RIGHTS AND OBLIGATIONS OF EMPLOYERS

Employers are responsible to

- a. Perform the labour contract, collective labour agreement and other agreements with employees, respect the honour and dignity of employees;
- b. Establish the mechanism and discuss with the labour collective at the enterprise and strictly observe the internal democratic regulations;
- c. Make the labour management book, salary book and present them at the request from competent agencies;
- d. Declare the employment within 30 days as from starting the operation, periodically make and send reports on the change in the labour status during the operation to local State labour management agencies;
- d. Implement the law provisions on social insurance and law provisions on medical insurance. (CLAUSE 2, ARTICLE 6 LABOUR CODE)

RESPONSIBILITY TO SIGN LABOUR CONTRACTS

1. Before accepting a worker to work, the employer and such worker must directly enter into a labour contract.
If the worker is from 15 years up to under 18 years of age, then the legal representative of the worker must consent to the entering into the labour contract.
2. For seasonal work or a specific job with a duration of less than twelve (12) months, a group of workers may authorize one of the workers in their group to enter into a written labour contract; and in this case, the labour contract has the same validity as if it was signed with each worker.

A labour contract signed by an authorized person must enclose a list setting out the full name, age, sex, residential addresses, trade or occupation, and signature of each worker. (ARTICLE 18, LABOUR CODE)

RESPONSIBILITY TO PROVIDE INFORMATION BEFORE SIGNING A LABOUR CONTRACT

The employer must provide information for employees about the work, work location, work conditions, working hours, break time, labour safety, labour hygiene, salary, method of salary payment, social insurance, the provisions on business secret protection, technical know-how and other issues directly related to the labour contract conclusion requested by the employee. (CLAUSE 1 ARTICLE 19, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 15 million dong (DECREE 95/2013/ND-CP)

RESPONSIBILITY OF EMPLOYERS

Employers are responsible to pay social insurance premiums and to make monthly deduction from salaries or remuneration of their employee for simultaneous payment into the social insurance fund. (ARTICLE 18, LAW ON SOCIAL INSURANCE)

RIGHTS AND OBLIGATIONS OF EMPLOYEES

Employees are responsible to (a) Perform the labour contract and the collective labour agreement; (b) Observe the labour discipline, labour regulations and obey the lawful management of the employer; (c) Implement the law provisions on Social insurance and law provisions on Health insurance. (CLAUSE 2, ARTICLE 5 LABOUR CODE)

RESPONSIBILITY OF THE EMPLOYEE

employees are responsible to pay social insurance premiums in accordance with the provision of Law on Social Insurance. (ARTICLE 16, LAW ON SOCIAL INSURANCE)

REST BREAKS DURING WORKING PERIODS

shall be as follows

1. employee who works for 08 or 06 hours consecutively shall be entitled to a break of at least half an hour which shall be included in the number of working hours;
2. In case of working nightshift, the employee shall be entitled to a break of at least forty five (45) minutes which shall be included in the number of working hours.
(CLAUSE 1 & 2 ARTICLE 108, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 5 million dong (ARTICLE 14, DECREE 95/2013/ND-CP)

REST BREAKS IN ORDER TO TRANSFER BETWEEN SHIFTS

The employee who works by shift is entitled to a break at least 12 hours before starting another shift (ARTICLE 109, LABOUR CODE)

Violation of these regulations shall be subject to a fine of up to 5 million dong (ARTICLE 14, DECREE 95/2013/ND-CP)

RESPONSIBILITIES OF EMPLOYERS OWED TO EMPLOYEES WHO CONTRACT AN OCCUPATIONAL DISEASE OR ARE INJURED IN A WORK-RELATED ACCIDENT

shall include:

1. Making the payment of the co-payment costs and the costs not included under the list paid by the health insurance for the employee participating in health insurance and making full payment of all medical expenses from the first aid, emergency to the stable treatment for the employees not participating in health insurance.
2. Making full payment of salary under the labour contract to the employee suffering the occupational accident and disease and having to take leave during treatment.
3. Making compensation to the employee suffering the occupational accident and disease as prescribed in the Article 145 of this Code. [\(ARTICLE 144, LABOUR CODE\)](#)
4. Failure to comply with these regulations shall be subject to a fine of up to 10 million dongs and additional administrative penalties of making payment of the cost and compensation as above mentioned which has not been paid along with the interest of these amount. [\(ARTICLE 16, DECREE 95/2013/ND-CP\)](#)

RECEIVING BRIBES

1. Those who abuse their positions and/or power, have accepted or will accept directly or through intermediaries money, property or other material interests in any form valued between two million dongs and under ten million dongs, or under two million dongs but in one of the following circumstances in order to perform or not to perform certain jobs for the benefits or at the request of the bribe offerers, shall be sentenced to between two and seven years of imprisonment:
 - a. Serious consequences are caused;
 - b. The offenders have already been disciplined for such acts but continue to commit them;
 - c. The offenders have already been sentenced for one of the crimes stipulated in Section A, this Chapter, not yet been entitled to criminal record remission but continue to commit them.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
 - a. In an organized manner;
 - b. Abusing positions and/or powers;
 - c. Committing the offense more than once;
 - d. Knowing clearly that the bribes are the State's property;
 - d. Asking for bribes, harassing or employing treacherous tricks for bribes;
 - e. The bribe is valued between ten million dong and under fifty million dong;

- f. Causing other serious consequences.
- 3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between fifteen and twenty years of imprisonment:
 - a. Appropriating property valued between fifty million dong and under three hundred million dong;
 - b. Causing other very serious consequences.
- 4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to twenty years of imprisonment, life imprisonment or capital punishment:
 - a. Appropriating property with valued at three hundred million dong or more;
 - b. Causing other particularly serious consequences.
- 5. The offenders shall also be banned from holding certain posts for one to five years, may be subject to a fine between one and five times the value of the bribe, and/or the confiscation of part or whole of property. [\(ARTICLE 279, PENAL CODE\)](#)

THE COMPETENCE TO RECOVERY AND DETAIN THE IDENTITY CARD

the competent bodies for recovering detaining of Identity card of a Vietnamese citizen only includes the following authorities:

1. The Police office where such person being issued, replaced with, reissued Identity card has the right to recover Identity card.
2. Person who has the right to handle administrative violations shall have the right to detain Identity card of citizen.
3. Police office of provincial district, ward, town, city where such person has permanent address, the body of enforcement the decision of detaining, sending to reformatory school, establishment for compulsory education, helping giving up drug addiction shall have the right to detain Identity card.

[\(ARTICLE 11, CONSOLIDATED DOCUMENT NO. 03/VBHN-BCA\)](#)

TRAINING ON OCCUPATIONAL SAFETY AND HYGIENE

must be in compliance with these regulations: (1) Employer must organize the training on labour safety and hygiene to the employee, trade apprentice, trainee upon recruitment and personnel arrangement; making guidance of regulations on labour safety and hygiene to the person visiting and working at the facility under the scope of management of the employer. (2) Employees performing work with strict requirements on labour safety and hygiene must attend a training course of labour safety and hygiene, taking examination and receiving the certificate. [\(ARTICLE 150, LABOUR CODE\)](#)

Failure to comply with these regulations shall be subject to a fine of up to 20 million dong (CLAUSE 2, ARTICLE 17 DECREE 95/2013/ND-CP)

VIOLATION OF REGULATIONS ON MANAGEMENT AND USING OF IDENTITY CARDS

conducting the following act shall be subject to a fine from 01 million dong up to 02 million dong:

- Using Identity card of other people for conducting illegal act; (CLAUSE 2 ARTICLE 9, DECREE 167/2013/ND-CP)

VIOLATION OF REGULATIONS ON ENTERING INTO LABOUR CONTRACT (ARTICLE 5, DECREE 95/2013/ND-CP)

1. A fine shall be imposed on any employer who commits any of the following acts: failure to sign a written labour contract with respect to a full-time job with a term of more than three (3) months; failure to sign the correct type of labour contract with an employee in accordance with article 22 of the Labour Code with one of the following amounts:
 - a. A fine of from five hundred thousand (500,000) to two (2) million dong shall apply in cases of an offence in respect of from one (1) to ten (10) employees;
 - b. A fine of from two (2) to five (5) million dong shall apply to an offence in respect of from eleven (11) to fifty (50) employees;
 - c. A fine of from five (5) to ten (10) million dong shall apply to an offence in respect of from fifty one (51) to one hundred (100) employees;
 - d. A fine of from ten (10) to fifteen (15) million dong shall apply to an offence in respect of from one hundred and one (101) to three hundred (300) employees;
 - d. A fine of from fifteen (15) to twenty (20) million dong shall apply to an offence in respect of three hundred and one (301) employees or more.
2. A fine of from twenty (20) to twenty five (25) million dong shall apply to any employer who commits any of the following acts:
 - a. Retains originals of personal papers, degrees and certificates of an employee;
 - b. Forces an employee to provide security measures by way of cash or other assets to guarantee performance of the labour contract.
3. Measures for remedying consequences:
 - a. Compulsory return of originals of personal papers, degrees and certificates of the employee which were retained, shall apply to the breach stipulated in clause 2(a) above;

- b. Compulsory return of the amount or assets of the employee which were retained plus interest on the retained amount of the employee at a maximum rate applicable to on-call deposits as published by the State Bank of Vietnam at the time of imposing penalties for the breach stipulated in clause 2(b) above.

VIOLATION OF REGULATIONS ON PAYING COMPULSORY SOCIAL INSURANCE, JOB LOSS INSURANCE

(ARTICLE 26, DECREE 95/2013/ND-CP)

1. A warning or a fine of from five hundred thousand (500,000) to one (1) million dong shall apply to any employee who reaches an agreement with the employer on not participating in compulsory social insurance or job loss insurance.
2. A fine at a rate of from twelve (12) to fifteen (15) per cent of the total amount of money payable for compulsory social insurance or job loss insurance at the time of preparing the minutes of administrative offence but not exceeding seventy five (75) million dong shall apply to any employer who commits any of the following acts:
 - a. Payment of compulsory social insurance or job loss insurance not on schedule;
 - b. Payment of compulsory social insurance or job loss insurance not at the stipulated levels;
 - c. Payment of social insurance or job loss insurance below the level required for the number of people subject to payment of compulsory social insurance or job loss insurance premiums.
3. A fine at a rate of from eighteen (18) to twenty (20) per cent of the total amount of money payable for compulsory social insurance or job loss insurance at the time of preparing the minutes of administrative offence but not exceeding seventy five (75) million dong shall apply to any employer who fails to pay compulsory social insurance or job loss insurance for all employees subject to payment of compulsory social insurance or job loss insurance premiums.
4. Measures for remedying consequences:
 - a. Compulsory payment of contributions to compulsory social insurance or job loss insurance which have not yet been made or have not been made on schedule, shall apply to the breaches stipulated in clauses 1, 2 and 3 of this article;
 - b. Compulsory payment of interest on the amount of compulsory social insurance or job loss insurance not yet paid or not paid on schedule at the interest rate on investment activities from the social insurance fund within a year, shall apply to the breaches stipulated in clauses 2 and 3 of this article.

VIOLATION OF OTHER REGULATIONS SOCIAL INSURANCE

(ARTICLE 28 DECREE 95/2013/ND-CP)

1. A warning or a fine of from three hundred (300) to eight hundred (800) thousand dong shall apply to any employer who commits any of the following acts:
 - a. Fails to provide documents or information about compulsory social insurance or job loss insurance upon request of competent State bodies;
 - b. Fails to provide information about payment of compulsory social insurance or job loss insurance by employees upon request of employees or the trade union.
2. A fine of from two hundred (200) to five hundred (500) thousand dong in case of an offence with respect to each employee shall apply to any employer who commits any of the following acts:
 - a. Fails to settle sickness and maternity regimes and of convalescence and health rehabilitation allowances after sickness or maternity within three (3) working days from date of receipt of complete and valid documents from the employee;
 - b. Fails to settle the work-related accident and occupational disease regime within fifteen (15) days from the date of receipt of a decision on settlement from the social insurance agency;
 - c. Loses, damages, amends or erases a social insurance book.
3. A fine of from five hundred thousand (500,000) to one (1) million dong in case of an offence with respect to each employee shall apply to any employer who commits any of the following acts:
 - a. Fails to prepare a compulsory social insurance or job loss participation file for the employee within thirty (30) days from the date of concluding a labour contract, work or recruitment contract;
 - b. Fails to prepare a file or a document requesting the social insurance agency to settle the retirement regime thirty (30) days prior to the date on which the employee is qualified to be on leave and entitled to the retirement regime, and/or to settle the work-related accident and occupational disease regime after thirty (30) days from the date of receipt of complete and valid documents from the employee;
 - c. Fails to recommend the employee be assessed for his or her working capacity decrease at the Medical Assessment Council to settle social insurance benefits for the employee.
4. A fine of from twenty (20) to thirty (30) million dong shall apply to any employer who uses the social insurance fund for wrong purposes.
5. Measures for remedying consequences:
 - a. Compulsory settlement of all social insurance benefits for the employee shall apply to the breaches stipulated in clauses 2(a) and 2(b) of this article;

- b. Compulsory payment [to the State] of proceeds from use of the social insurance fund for wrong purposes shall apply to the breach stipulated in clause 4 of this article.

VIOLATION OF REGULATIONS ON PREVENTING WORK-RELATED ACCIDENT AND OCCUPATIONAL

(ARTICLE 17 DECREE 95/2013/ND-CP)

1. The worker shall be liable to a fine of from 500,000 VND to 1,000,000 VND when committing one of the following acts:
 - a. Failing to responsively report the risk or occupational accidents, occupational illness, harm, or danger to responsible persons;
 - b. Failing to participate in giving first aid and repair damage caused by occupational accidents at the order of the employer;
 - c. Failing to use the personal safety equipment provided or using the personal safety equipment improperly.
2. When failing to provide training in occupational safety and occupational hygiene for workers, apprentices, and interns during recruitment and assignment, the employer shall be liable to:
 - a. A fine of from 1,000,000 VND to 3,000,000 VND, if the violation concerns 01–10 workers.
 - b. A fine of from 3,000,000 VND to 5,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 51–100 workers.
 - d. A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 101–300 workers.
 - d. A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 301 workers or more.
3. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when committing one of the following acts:
 - a. Failing to promptly take appropriate measures or suspend the machines or facility posing risk of occupational accidents, occupational illness;
 - b. Failing to provide treatment or periodic check-ups or make separate health profile for workers that suffer from occupational illness;
 - c. Failing to obtain the certificate of training in occupational safety and occupational hygiene;
 - d. Appointing the persons that do not have the certificate in training in occupational safety and occupational hygiene to take charge of occupational safety and occupational hygiene;

- e. Failing to report the occupational accidents, occupational illness, dangers, harms, and measures for ensuring occupational safety and occupational hygiene at the workplace;
 - f. Failing to provide periodic check-ups for workers as prescribed;
 - g. Failing provide test for occupational illness for workers as prescribed;
 - h. Failing to assign the works suitable for the condition of the workers suffering from occupational illness or occupational accidents according to the conclusion of the Medical Examination Council
 - i. Failing to decontaminate the workers working in places at risk of contamination and infection after work.
4. When committing one of the following acts: failing to provide adequate or providing substandard personal safety equipment for workers working under dangerous and harmful conditions; paying money in stead of providing benefits in kind, the employer shall be liable to:
- a. A fine of from 3,000,000 VND to 6,000,000 VND, if the violation concerns 01–10 workers.
 - b. A fine of from 6,000,000 VND to 10,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 51–100 workers.
 - d. A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 101–300 workers.
 - d. A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 301 workers or more.

9. ADDITIONAL PENALTIES:

- a. Suspending the provision of training for 01–03 months, applicable to the providers of training in occupational safety and occupational hygiene that commit the violations in Point b Clause 6 of this Article;
- b. Revoking the Certificate of eligibility to provide training in occupational safety and occupational hygiene for 01–06 months, applicable to the providers of training in occupational safety and occupational hygiene that commit the violations in Point c and Point d Clause 6 of this Article;
- c. Suspending the operation for 01–03 months, applicable to the providers of occupational safety inspection services that commit the violations in Point b Clause 7 of this Article;
- d. Revoking the Certificate of eligibility for occupational safety inspection for 01–06 months, applicable to the providers of providers of occupational safety inspection services that commit the violations in Point c and Point d Clause 7 of this Article;
- d. Revoking the Inspector’s certificate for 01–03 months, applicable to

the violations in Point a Clause 8 of this Article.

10. REMEDIAL MEASURES:

- a. Compelling the provision of benefits in kind that were converted to cash, applicable to the violations against regulations on provision of benefits in kind mentioned in Clause 4 of this Article;
- b. Compelling the provision of qualified personal safety equipment for the persons doing dangerous and harmful works, applicable to the violations against regulations on provision of personal safety equipment mentioned in Clause 4 of this Article;
- c. Compelling the suspension of the machines, instruments, and workplace posing risks of occupational accidents and occupational illness, applicable to the violations in Point a Clause 3 of this Article;
- d. Compelling the suspension of the machines, instruments, and supplies subject to strict safety requirements, applicable to the violations in Point c and Point d Clause 5 of this Article;
- d. Revoking the certificate of training in occupational safety and occupational hygiene, applicable to the violations in Point c Clause 6 of this Article;
- e. Revoking the inspection results, applicable to the violations in Point c and Point dd Clause 7 of this Article;

VIOLATION OF REGULATIONS ON WORKING HOURS, RESTING HOURS

(ARTICLE 14, DECREE 95/2013/ND-CP)

1. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when failing to grant workers sufficient rest breaks during working hours and between shifts, personal leaves, and unpaid leaves as prescribed.
2. When committing violations against regulations on weekly rest, annual leave and holidays, the employer shall be liable to:
 - a. A fine of from 500,000 VND to 1,000,000 VND, if the violation concerns 01–10 workers.
 - b. A fine of from 1,000,000 VND to 3,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 3,000,000 VND to 7,000,000 VND, if the violation concerns 51–100 workers.
 - d. A fine of from 7,000,000 VND to 10,000,000 VND, if the violation concerns 101–300 workers.
 - d. A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 301 workers or more.
3. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 VND when committing one of the following acts:

- a. Imposing more hours of work than the hours prescribed in Article 104 of the Labor Code;
 - b. Mobilizing workers to work overtime without their consent, except for the cases in Article 107 of the Labor Code.
4. The employer shall be liable to a fine of from 25,000,000 VND to 50,000,000 VND when mobilizing workers to work overtime more than the maximum working hours prescribed in Point b Clause 2 Article 106 of the Labor Code, or more than 12 hours in a day during holidays and weekends.
5. **ADDITIONAL PENALTY:** suspending the operation for 01–03 months if the employer commits the violations in Clause 4 of this Article.

VIOLATIONS OF REGULATIONS ON OCCUPATIONAL SAFETY, OCCUPATIONAL HEALTH

(CLAUSE 1 & 2 ARTICLE 16, DECREE 95/2013/ND-CP)

1. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following acts:
 - a. Failing to consult the representative of workers when establishing the plans for ensuring occupational safety and occupational hygiene;
 - b. Failing to check and assess the dangers and harms at the workplace;
 - c. Failing to appoint persons in charge of occupational safety and occupational hygiene;
 - d. Failing to make periodic statistics and reports, or making false reports on occupational accidents, occupational illness, and severe accidents as prescribed by law.
2. The employer shall be liable to a fine of from 5,000,000 VND to 10,000,000 VND when committing one of the following acts:
 - a. Failing to periodically assess the harms at the workplace;
 - b. Failing to make plans for ensuring occupational safety and occupational hygiene in the workplace when building, extending, or upgrading the constructions and facilities for producing, using, preserving machinery, equipment, supplies, and substances subject to strict hygiene and safety requirements;
 - c. Failing to provide safe and hygienic conditions in facilities;
 - d. Violating the National Technical Regulations on occupational safety, occupational hygiene, or standards of occupational safety and occupational hygiene applicable to the production, use, preservation, and transport of machinery, equipment, supplies, energy, electricity, chemicals, pesticides, change in technology, and import of new technologies;
 - d. Failing to periodically inspect, maintain machinery, equipment, facilities, and warehouses as prescribed;

- e. Failing to provide instructions on occupational safety and occupational hygiene, or the instructions are not put up at noticeable at the workplace;
- f. Failing to provide adequate technical and medical instruments to respond to occupational accidents;
- g. Failing to appoint competent persons to take charge of occupational safety and occupational hygiene in fields facing high risks of occupational accidents and occupational illness;
- h. Failing to classifying works as arduous, harmful, dangerous, and extremely arduous, harmful, dangerous to provide benefits;
- i. Failing to report and investigate severe occupational accidents;
- j. Failing to defray the costs incurred by both the employer and worker, and the costs that are not covered by health insurance; failing to defray the whole medical cost from first-aid to recovery that is incurred by the worker that does not have health insurance.
- k. Failing to provide benefits and compensation for the workers that suffer from occupational accidents and occupational illness as prescribed.

3. REMEDIAL MEASURES:

- a. Compelling the employer to make plans for ensuring occupational safety and occupational hygiene in the workplace when building, extending, or upgrading the constructions and facilities for producing, using, preserving machinery, equipment, supplies, and substances subject to strict hygiene and safety requirements when then the employer commits the violation mentioned in Point b Clause 2 of this Article;
- b. Compelling the employer to comply with the applicable National Technical Regulations and standards on occupational safety and occupational hygiene, applicable to the violations in Point c and Point d Clause 2 of this Article;
- c. Compelling the employer to provide technical and medical instruments, applicable to the violations in Point g Clause 2 of this Article;
- d. Compelling the employer to defray the costs incurred by both the employer and worker, and the costs that are not covered by health insurance; pay the whole medical cost from first-aid to recovery, which is incurred by the worker that does not have health insurance, applicable to the violations in Point 1 Clause 2 of this Article;
- đ. Compelling the employer to provide benefits and compensation for the worker, together with an interest on the amount at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the violation is imposed, applicable to the violations in Point m Clause 2 of this Article.

VIOLATION OF THE PROVISIONS OF THE EMPLOYMENT SERVICE

(ARTICLE 4, DECREE 95/2013/ND-CP)

1. The employment agency shall carry a fine of from 1,000,000 VND to 3,000,000 VND for each worker that is charged beyond the following limits:
 - a. A fine of from 5,000,000 VND to 10,000,000 VND for misinformation or causing confusion as to the work position;
 - b. A fine of from 45,000,000 VND to 60,000,000 VND for running the employment agency without being licensed by a competent authority, or using an expired license.
2. **REMEDIAL MEASURES:**
 - a. Compelling the return of employment service charge that exceeds the limits, applicable to the violations in Clause 1 of this Article;
 - b. Compelling the remittance of the inordinate charges collected from workers to government budget, applicable to the violations in Clause 3 of this Article.

VIOLATION AGAINST REGULATIONS ON SALARY

(ARTICLE 13, DECREE 95/2013/ND-CP)

1. The employer shall be liable to a fine of from 500,000 VND to 1,000,000 VND when failing to report the pay scale, payroll, and work limits to the labor relations authority of the district.
2. The employer shall be liable to a fine of from 2,000,000 VND to 5,000,000 VND when committing one of the following acts:
 - a. Failing to establish the pay scale, payroll, work limits, and reward scheme in accordance with law;
 - b. Failing to consult the representative of workers when establishing the pay scale, payroll, work limits, and reward scheme;
 - c. Failing to announce the pay scale, payroll, work limit, and reward scheme at the workplace;
 - d. Failing to notify the method of wage payment to workers at least 10 days before the payment is made.
3. When committing one of the following acts: failing to pay wages on time according to Article 96 of the Labor Code; paying wages at a lower rate than that in the pay scale or payroll sent to the labor relations authority of the district; paying for overtime work or night shift at a lower rate than prescribed in Article 97 of the Labor Code; deducting wages of workers in contravention of Article 101 of the Labor Code; failing to provide severance pay for workers according to Article 98 of the Labor Code, the employer shall be liable to:
 - a. A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 01–10 workers.

- b. A fine of from 10,000,000 VND to 20,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 51–100 workers.
 - d. A fine of from 30,000,000 VND to 40,000,000 VND, if the violation concerns 101–300 workers.
 - e. A fine of from 40,000,000 VND to 50,000,000 VND, if the violation concerns 301 workers or more.
4. When paying their workers at a lower rate than the minimum wages decided by the Government, the employer shall be liable to:
- a. A fine of from 20,000,000 VND to 30,000,000 VND, if the violation concerns 01–10 workers.
 - b. A fine of from 30,000,000 VND to 50,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 50,000,000 VND to 75,000,000 VND, if the violation concerns 51 workers or more.
5. Additional penalty: suspending the operation for 01–03 months if the employer commits the violations in Clause 4 of this Article.
6. **REMEDIAL MEASURES:**
- a. Compelling the worker to pay sufficient wages to workers, applicable to the violations in Clause 3 and Clause 4 of this Article;
 - b. Compelling the employer to pay the deferred wages to workers, together with an interest on such amount at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the payment is made, applicable to the violations in Clause 3 of this Article.

VIOLATIONS OF REGULATIONS ON LABOUR IS THE FAMILY MAID

(ARTICLE 20, DECREE 95/2013/ND-CP)

1. The employer shall be given a warning when committing one of the following acts:
 - a. Failing to sign written labor contracts with domestic servants;
 - b. Failing to pay for the travel fees of domestic servants that are laid off, unless they terminate the labor contract ahead of time.
 2. The employer shall be liable to a fine of from 5,000,000 VND to 7,000,000 when impounding ID papers of domestic servants;
3. **REMEDIAL MEASURES:**
- a. Compelling the worker to pay for the travel fees of the domestic servants, applicable to the violations in Point b Clause 1 of this Article;
 - b. Compelling the employer to return the ID papers to the domestic servants, applicable to the violations in Clause 2 of this Article.

VIOLATION OF REGULATIONS ON ENTERING INTO LABOUR CONTRACT

(ARTICLE 5, DECREE 95/2013/ND-CP)

1. When committing one of the following acts: failing to conclude written labor contracts for permanent jobs that last for more than 3 months; failing to conclude the right types of contracts with workers according to Article 22 of the Labor Code, the employer shall be liable to:
 - a. A fine of from 500,000 VND to 2,000,000 VND, if the violation concerns 01–10 workers.
 - b. A fine of from 2,000,000 VND to 5,000,000 VND, if the violation concerns 11–50 workers.
 - c. A fine of from 5,000,000 VND to 10,000,000 VND, if the violation concerns 51–100 workers.
 - d. A fine of from 10,000,000 VND to 15,000,000 VND, if the violation concerns 101–300 workers.
 - e. A fine of from 15,000,000 VND to 20,000,000 VND, if the violation concerns 301 workers or more.
2. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 VND when committing one of the following acts:
 - a. Keeping the original copies of ID papers, qualifications and certificates of workers;
 - b. Forcing workers to put up money or other assets as collateral for the execution of labor contracts.

3. REMEDIAL MEASURES:

- a. Compelling the return of the ID papers, qualifications and certificates to the workers, applicable to the violations in Point a Clause 2 of this Article;
- b. Compelling the return of the money or assets to the workers, together with an interest on the money at the maximum rate of interest on demand deposits announced by the State bank of Vietnam when the violation is imposed, applicable to the violations in Point b Clause 2 of this Article.

VIOLATION OF REGULATIONS ON UNDERAGE EMPLOYEE

(ARTICLE 19, DECREE 95/2013/ND-CP)

1. The employer that fails to make a logbook when employing underage workers, or fails to present the logbook at the request of competent authorities shall be given a warning.
2. The employer shall be liable to a fine of from 10,000,000 VND to 15,000,000 VND when committing one of the following acts:
 - a. Employing people under 15 years of age without signing written contracts with legal representatives;

- b. Requiring underage workers to longer than the working hours prescribed in Clause 2 Article of the Labor Code;
 - c. Requiring people from 15 years of age to under 18 years of age to work overtime or on night shift, except for the jobs and works permitted by law.
- 3. The employer shall be liable to a fine of from 20,000,000 VND to 25,000,000 when committing one of the following acts:
 - a. Employing underage people to do the prohibited works or to work at prohibited places according to Article 165 of the Labor Code;
 - b. Employing people under 15 years of age to do other works than those permitted by law according to Clause 1 and Clause 3 Article 164 of the Labor Code.

WEEKLY DAYS OFF

In every week, each employee shall be entitled to a rest of at least twenty four consecutive hours. In special cases, due to the work cycle, the employee cannot take weekly rest, then the employer shall ensure that employees is entitled to at least 04 days/01 months on average. [\(CLAUSE 1, ARTICLE 110, LABOUR CODE\)](#)

Failure to comply with this regulation shall be subject to a fine of up to 15 million dong. [\(ARTICLE 14, DECREE 95/2013/ND-CP\)](#)

WORK-RELATED ACCIDENT

is an accident that causes injury to any part and function of the body or death to employee occurring during the working process associated with the implementation of work and labour tasks. The person suffering occupational accident must receive a timely emergency and considerate treatment. All occupational accidents and diseases and other serious incidents at the workplace must be declared, investigated, recorded, satisfied and periodically reported as prescribed by the Government. [\(ARTICLE 142, LABOUR CODE\)](#)

WAGES

must be in compliance with the following regulations:

1. Wages is an amount that the employer pays to the employee for the performance of work as agreed.
2. Wages includes the salary rate based on the work or the title, salary allowance and other additions
3. Wage rate of the employee must not be lower than the minimal salary rate as prescribed by the Government.
4. Wages paid to the employee is based on the labour productivity and work quality.

5. The employer must guarantee to pay equally without the gender discrimination for the employee performing work with the same value

(ARTICLE 90, LABOUR CODE)

WAGES FOR WORKING OVERTIME AND FOR NIGHT WORK

must be in compliance with the following regulations:

1. The employee who works overtime is paid according to salary unit price or the salary by the job duties as follows:
 - a. On weekdays, at least 150%;
 - b. On weekly days-off, at least 200%;
 - c. On holidays and days-off with pay, at least 300% not including the salary of holiday and days-off for employee enjoying daily salary.
2. Employee working at night shall be additionally paid at least 30% of the salary calculated by the salary unit price or the work salary under a normal working day
3. The employee working overtime at night, in addition to the salary as prescribed in Clause 1 and Clause 2 of this Article, the employee shall also be paid an additional 20% of salary calculated by the salary unit price or the salary of work done in the day time (ARTICLE 97, LABOUR CODE)

Failure to comply with these regulations shall be subject to a fine of up to 50 million dong. Employer violating these regulations may also be subject to the additional administrative penalty of being required to pay the employee in accordance with the law along with the interest of the amount which are not paid on time. (CLAUSE 3, ARTICLE 13, DECREE 95/2013/ND-CP)

WAGES FOR CEASING WORK

In cases where the employee has to cease working, he shall be paid as follows:

1. If due to the fault of the employer, the employee shall be entitled to payment of the full salary;
2. If due to the fault of the employee, that employee shall not be entitled to salary payment; other employees in the same unit who have to cease work shall be paid the salary at the rate agreed on by the two parties provided that this salary rate is not less than the regional minimal salary rate as prescribed by the Government; (CLAUSE 1, ARTICLE 98 LABOUR CODE)

Failure to comply with these regulations shall be subject to a fine of up to 50 million dong. Employer violating these regulations may also be subject to the additional administrative penalty of being required to pay the employee in accordance with the law along with the interest of the amount which are not paid on time. (CLAUSE 3, ARTICLE 13, DECREE 95/2013/ND-CP)

MALAYSIA



MALAYSIA

Viewed as a hub that can offer better employment opportunities and a better life, Malaysia attracts migrant workers from several countries. Many arrive for legitimate job opportunities but are exploited by unscrupulous employers in domestic work, on construction sites, on fishing boats, in garment factories and in agriculture. Debt bondage, coercion, restricted freedom of movement, withholding of wages and identity documents are common features of the working life of many migrant workers in Malaysia. This situation is further compounded by the existence of a hierarchy where contractors employ workers and subsequently source them to different employers. This creates accountability concerns and a range of issues from a worker protection perspective. More stringent regulation and enforcement is required to hold accountable those guilty of exploiting and those guilty of facilitating exploitation of workers. Many genuine migrant workers particularly females found that in actual fact they were being forced to work in prostitution.

The Malaysian counter-trafficking strategy should focus on isolating the pressure points where effective interventions can be made. For example, recruitment agencies and contractors should be more strictly regulated and be held liable for the protection of the workers they place with different employers. A well-supported victim is more likely to be collaborative with law enforcement and shelters should not become another form of detention.

Poor law enforcement, a failure to comply with the basic requirements of international law in relation to victim protection and lack of political will to fight human trafficking led to the recent downgrade of Malaysia to Tier 3 in the US Department of State Trafficking in Persons' Report 2014. Asylum seekers and the large population of illegal (and likely undocumented) workers constitute the bulk of trafficking victims. The Government must work much harder to honour these vulnerable peoples' rights under international and domestic law.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Malaysian law) involved in five trafficking scenarios: sex trafficking, construction trafficking, forced labour trafficking, marriage trafficking and domestic trafficking.

SCENARIO 1 – SEX TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A young Indonesian woman hears about a possible job in Malaysia working in a restaurant	
	She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	
	The statements he makes to her are false and intended to deceive her	
	He helps her to get a passport and a visa in exchange for a fee	
	This is done by bribing government officials in the Philippines to get the proper papers in order	
	Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	
	She flies to Malaysia	
	Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE VICTIM <ul style="list-style-type: none"> — Making false statement or misleading answer to immigration officer (s28(3)(a); s56(1)(f), Immigration Act 1959/63 “Immigration Act”))
DESTINATION COUNTRY: MALAYSIA (INITIATION)	She arrives in Malaysia	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Assist any person to enter into Malaysia contrary to the Passport Act (s12(1)(g), Passport Act 1966) — Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act (s55A(1), Immigration Act) — Offence of trafficking in persons for the purpose of exploitation (s12/s14, Anti-Trafficking In Persons and Anti-Smuggling of Migrants Act 2007 or “ATPA”) – ‘trafficking in persons’ is defined under the ATPA as all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, transporting, transferring, harboring, providing or receiving a person for the purpose of the ATPA. — Under false pretense or fraudulent or deceitful means, brings in any person with intention that the person is to be used for purpose of prostitution (s372(1)(b), Penal Code) — Importation of a person under 18 by false pretenses for purposes of prostitution (s43(1)(c), Child Act 2001)
	A man is waiting for her in the airport	FOR THE VICTIM <ul style="list-style-type: none"> — Unlawful entry/overstaying (s15, Immigration Act)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	He takes her passport/entry permit/pass	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Having a passport or internal travel document issued for the use of other person other than himself (s12(1)(f), Passport Act) — Obtaining fraudulent travel or identity document for the purpose of trafficking in person (s18, ATPA) — Possession of any Entry Permit, Pass without lawful authority (s56(1)(l), Immigration Act) — Obtaining property by deception (s415; s417; s420, Penal Code) — Wrongfully restrain any person with intention that the person will be used for purpose of prostitution (s372(1)(d), s372(2)(d), Penal Code) FOR THE VICTIM <ul style="list-style-type: none"> — Living in Malaysia without a valid passport/pass/permit (s6(1)(c); s6(3), Immigration Act) — Failure to produce passport, travel document or entry permit upon demand (s56(4)(a), Immigration Act)
	She is taken to an apartment in Kuala Lumpur	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Providing facilities in support of trafficking in persons (s20, ATPA) — Keeps, manages or assist in the management of a brothel (s373(1), Penal Code) — Wrongfully restrains any person for the purpose of prostitution (s372(1)(d), Penal Code) — Wrongfully confining a person (s340; s342, Penal Code) — Detains a person under age 18 against her will with intent for her to be used for prostitution (s43(1)(g), Child Act 2001) — False imprisonment (common law offence)
	She begins to get nervous and starts to ask questions	
	The man becomes angry and slaps her several times and offers threats against her and her family	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Causing hurt with intent to cause illegal acts to be done (s327, Penal Code)
	He explains that if she doesn't do what she is told, she will be hurt	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503; s506, Penal Code) — Soliciting for prostitution (s372B, Penal Code) — Assault in attempt wrongfully to confine a person (s357, Penal Code)
	She is held against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongfully restrains any person for the purpose of prostitution (s372(1)(d), Penal Code) — Wrongfully confining a person (s340; s342, Penal Code) — False imprisonment (common law offence) — Detains a person under age 18 against her will with intent for her to be used for prostitution (s43(1)(g), Child Act 2001)
DESTINATION COUNTRY: EXPLOITATION PERIOD	She is confined in a room for two days – with little food or water	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongfully restrains any person for the purpose of prostitution (s372(1)(d), Penal Code) — Wrongful restraint (s339; s341, Penal Code) — Wrongfully confining a person (s340; s342, Penal Code) — False imprisonment (common law offence) — Voluntary causing hurt (s321; s323, Penal Code) — Detains a person under age 18 against her will with intent for the her to be used for prostitution (s43(1)(g), Child Act 2001)
	She is forced to drink a juice cocktail that is laced with a sedative	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Administering poison, etc to cause hurt or to obtain or facilitate intercourse (s328, Penal Code)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	In this intoxicated state, men come and have sex with her against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s375; s376, Penal Code) — Carnal intercourse against the order of nature (s377C, Penal Code) — Exploiting for purpose of prostitution (s372(1)(a), Penal Code) — Living on earnings of prostitution of others (s372A(1), Penal Code) — Procures a person under age 18 for purposes of prostitution or for the purposes of having sexual intercourse with any other person (s43(1)(b), Child Act 2001)
	Photos are taken of her with several men in compromising positions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault with intent to dishonor a person (s355, Penal Code) — Has possession of any obscene pictures (s292(a), Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	She is told that these photos shall be sent to her family if she doesn't comply with the trafficker	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503; s506, Penal Code)
	She is forced to have sex with up to three men a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s375; s376, Penal Code) — Carnal intercourse against the order of nature without consent (s377C, Penal Code) — Exploiting for purpose of prostitution (s372(1)(a), Penal Code) — Living on earnings of prostitution of others (s372A(1), Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	She is not allowed to leave the apartment without an escort She is not allowed to communicate with anyone at any time	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongfully confining a person (s340; s342, Penal Code) — False imprisonment (common law offence)
	She is forced to drink whatever the client offers, even if she doesn't want it	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Administering certain dangerous drugs (s14(1), Dangerous Drugs Act 1952) — Administering poison, etc to cause hurt or to obtain or facilitate intercourse (s328, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	If the person doesn't want to wear a condom, she can't deny him sex	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s375; s376, Penal Code) — Carnal intercourse against the order of nature (s377A, Penal Code) — Exploiting for purpose of prostitution (s372(1)(a), Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	She does not receive any payment – whatever they think she needs (food, clothing) is provided to her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Habitually dealing with slaves (s371, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Excessive interest for the loan (s17A, Moneylenders Act 1951)
	Bribes are paid to a local police officer to turn the other way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering gratification to an agent (s11(b); s16, Anti-Corruption Act 1997) — Abetting a public servant in taking gratification (s109; s161, Penal Code) FOR THE POLICE OFFICER <ul style="list-style-type: none"> — Accepting gratification (s11(a); s16, Anti-Corruption Act 1997) — Taking gratification (s161, Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	The apartment is rented using money from drug trafficking profits	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Trafficking in a dangerous drug (s39B, Dangerous Drugs Act) — Engage in money laundering (s4(1), Anti-Money Laundering and Anti-Terrorism Act 2001)
	The trafficker has a vice establishment and forces the girl to solicit clients	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Providing facilities in support of trafficking in persons (s20, ATPA) — Keeps, manages or assist in the management of a brothel (s373, Penal Code) — Soliciting for purposes of prostitution (s372B, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
SOURCE COUNTRY: THE RETURN HOME	<p>After 18 months, she is given her freedom to leave and be replaced by a new trafficked person</p> <p>She returns home, but out of shame she does not communicate what had happened to her</p> <p>She makes up a story that she tried to contact her home but couldn't get through</p> <p>She explains that she earned a lot of money but was used up before she was coming back</p>	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Soliciting for purposes of prostitution (s372B, Penal Code)

SCENARIO 2 – CONSTRUCTION TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A 16-year-old Mainland Chinese boy learns of a construction project in Malaysia that hires workers	
	He is given instructions on how to get to Hong Kong on a supply boat	
	He pays the boat owner a smuggling fee	
	When the boat is stopped and he and others are found to be without papers, the captain pays the marine police a bribe	FOR THE OWNER, OPERATOR OR MASTER OF CONVEYANCE <ul style="list-style-type: none"> — Assist any person to enter into Malaysia contrary to the Passport Act (s12(1)(g), Passport Act 1966) — Knowingly permits a person to travel without travel documents required for lawful entry into Malaysia (s23(2)(A), ATPA) — Entry into Malaysia at an unauthorized landing place (s5, Immigration Act) FOR THE MARINE OFFICER <ul style="list-style-type: none"> — Accepting gratification (s11(a); s16, Anti-Corruption Act 1997) — Taking gratification (s161, Penal Code)
DESTINATION COUNTRY: HONG KONG (INITIATION)	This is added to his debt He is told he will be paid, but not for the first three months	
	The man is greeted at the border	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Assist any person to enter into Malaysia contrary to the Passport Act (s12(1)(g), Passport Act 1966) — Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act (s55A(1), Immigration Act) — Offence of trafficking in person (a child) for the purpose of exploitation (s14, ATPA) — Importation of a person under 18 by false pretenses (s49, Child Act 2001) FOR THE VICTIM <ul style="list-style-type: none"> — Entering Malaysia without a valid passport or entry permit (s6, Immigration Act) — Remaining without permission (s15, Immigration Act) — Entry into Malaysia at an unauthorized landing place (s5, Immigration Act)
	He is taken to an apartment that is shared by ten other men	
	They are all from different parts of Mainland China	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Permitting illegal immigrant to enter or remain at premises (s55E(1);(2), Immigration Act) — Employing a person not having a valid pass or permit (s55B(1), Immigration Act)
	All of his documents are taken away and withheld from him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having a passport or internal travel document issued for the use of other person other than himself (s12(1)(f), Passport Act) — Obtaining fraudulent travel or identity document for the purpose of trafficking in person (s18, ATPA) — Possession of any Entry Permit, Pass without lawful authority (s56(1)(l), Immigration Act) — Obtaining property by deception (s415, s417 & s420, Penal Code) FOR THE VICTIM <ul style="list-style-type: none"> — Living in Malaysia without a valid passport/pass/permit (s6(1)(c); s6(3), Immigration Act) — Failure to produce passport, travel document or entry permit upon demand (s56(4)(a), Immigration Act)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	They are told not to leave the apartment unless to go to the work site	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339; s341, Penal Code) — Wrongfully confining a person (s340; s342, Penal Code) — False imprisonment (common law offence)
	They are threatened with deportation and imprisonment if they don't follow instructions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503; s506, Penal Code)
	One of the men breaks the rules and gets severely beaten	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each morning, they are all taken to the construction site Their services are subcontracted through a Malaysian construction agent	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to furnish information on foreign employees (s60K(1);(5), Employment Act) — Unlawful compulsory labour (s374, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001) FOR THE VICTIM <ul style="list-style-type: none"> — Remaining without permission /overstaying (s15(4), Immigration Act)
	His supervisor physically and verbally abuses him over and over again	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Assault (s351, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	After two months of work, when he asks for his payment he is hit across the face	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Assault (s351, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	He works 14 hours a day, seven days a week	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having the employee work more than 8 hours in a day / 48 hours in a week (s60A, Employment Act 1955) — Not providing at least 1 rest day (s59, Employment Act) — Compelling employee to work on rest day (s60, Employment Act) — Failure to pay wages (s19; s91, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Failure to grant holidays or failure to pay holiday pay (s60D(1); s60D(3); s100 Employment Act) — Failure to grant 8 days annual leave (s60E(1); s100, Employment Act) — Failure to pay annual leave pay (s60E; s100, Employment Act) — Failure to grant sick leave (s60F; s100, Employment Act) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	After seven months of this work, he begins to feel he'll never be paid – the others are asking the same thing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Profiting from exploitation of a trafficked person (s15, ATPA) — Cheating (s415; s417, Penal Code) — Cheating with knowledge of wrongful loss caused to a person whose interest the offender is bound to protect (s418, Penal Code)
	After an accident takes place where one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	Major loans for the project were approved by several international banks to cover construction materials, equipment and staffing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Engage in money laundering (s4(1), Anti-Money Laundering and Anti-Terrorism Act 2001)
	One day immigration police visit the site and meet the foremen (a bribe is paid to the immigration police to arrest and deport them)	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering gratification to an agent (s11(b); s16, Anti-Corruption Act 1997) — Abetting a public servant in taking gratification (s109; s161, Penal Code) — Making false statement to immigration officer (s28(3)(a); s56(1)(f), Immigration Act) FOR THE POLICE OFFICER <ul style="list-style-type: none"> — Accepting gratification (s11(a); s16, Anti-Corruption Act 1997) — Taking gratification (s161, Penal Code)
	An hour later all of the men are arrested and brought to an immigration centre	
SOURCE COUNTRY: THE RWETURN HOME	<p>The man is deported with no money paid</p> <p>Despite trying to explain that he was deceived, no one listens to his story</p>	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages (s19; s91, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Failure to pay holiday pay (s60D(3); s100, Employment Act) — Failure to pay on termination of contract (s21; s91, Employment Act) — Unlawful deductions from wages (s24; s91(c), Employment Act)

SCENARIO 3 – LABOUR TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Mainland Chinese woman with sewing skills learns of a good-paying sewing job in Malaysia	
	She is given instructions by her sponsor (a trafficker) on how to get a tourist visa to visit the island	
	She is told she will be paid a good salary which is not true – no payment will be offered	
	No written contract is offered	
	Upon arriving at the border the immigration officer pulls her aside because of the size of her bag	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Assist any person to enter into Malaysia (s12(1)(g), Passport Act 1966) — Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act (s55A(1), Immigration Act) — Offence of trafficking in persons for the purpose of exploitation by deception (s13, ATPA) FOR THE VICTIM <ul style="list-style-type: none"> — Entering Malaysia without a valid passport or entry permit (s6, Immigration Act) — Remaining without permission (s15, Immigration Act)
	As instructed, she offers a small envelope that includes money to bribe the officer which is accepted	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offering gratification to an agent (s11(b); s16, Anti-Corruption Act 1997) — Abetting a public servant in taking gratification (s109; s161, Penal Code) — Making false statement to immigration officer (s28(3)(a), s56(1)(f), Immigration Act) FOR THE OFFICER <ul style="list-style-type: none"> — Accepting gratification (s11(a); s16, Anti-Corruption Act 1997) — Taking gratification (s161, Penal Code)
DESTINATION COUNTRY: MALAYSIA (INITIATION)	The garments made are going to a major retailer	
	Upon arriving, she is picked up by an agent who offers her contract to sign in an unknown language	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Offence of trafficking in persons for the purpose of exploitation by deception (s13, ATPA) — Employing a person not having a valid pass or permit (s55B(1), Immigration Act)
	The details are explained to her	
	She signs	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employing a person not having a valid pass or permit (s55B(1), Immigration Act) — Failure to furnish information on foreign employees (s60K(1);(5), Employment Act)
	She is asked to hand over her documents so copies can be made	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Obtaining property by deception (s415; s417; s420, Penal Code)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)		When she asks for them back, she is told she can't have them	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having a passport or internal travel document issued for the use of other person other than himself (s12(1)(f), Passport Act) — Obtaining fraudulent travel or identity document for the purpose of trafficking in person (s18, ATPA) — Possession of any Entry Permit, Pass without lawful authority (s56(1)(l), Immigration Act) — Obtaining property by deception (s415; s417; s420, Penal Code) FOR THE VICTIM <ul style="list-style-type: none"> — Living in Malaysia without a valid passport/pass/permit (s6(1)(c); s6(3), Immigration Act) — Failure to produce passport, travel document or entry permit upon demand (s56(4)(a), Immigration Act)
		She is taken to a small apartment that has 25 other women from different locations (only one speaks Mandarin) – attached to the apartment is a sewing workshop	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employing a person not having a valid pass or permit (s55B(1), Immigration Act)
DESTINATION COUNTRY: EXPLOITATION PERIOD		Each day she is forced to work 16 hours a day, seven days a week – sewing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Profiting from exploitation of a trafficked person (s15, ATPA) — Having the employee work more than 8 hours in a day / 48 hours in a week (s60A, Employment Act 1955) — Not providing at least 1 rest day (s59, Employment Act) — Compelling employee to work on rest day (s60, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Failure to grant holidays or failure to pay holiday pay (s60D(1); s60D(3); s100, Employment Act) — Failure to grant 8 days annual leave (s60E(1); s100, Employment Act) — Failure to grant sick leave (s60F; s100, Employment Act)
		If she makes a mistake or is short on her quota, she is hit	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Voluntary causing hurt (s321; s323, Penal Code) — Voluntary causing grievous hurt (s322; s325, Penal Code) — Assault (s351, Penal Code)
		She is given two meals a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Doing an act which endangers life (s336, Penal Code)
		She is not allowed to leave the premise for any reason	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339; s341, Penal Code) — Wrongfully confining a person (s340; s342, Penal Code) — False imprisonment (common law offence)
		She is told that she owes money as outlined in the contract – the amount is unclear	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Cheating (s415; s417, Penal Code) — Cheating with knowledge of wrongful loss caused to a person whose interest the offender is bound to protect (s418, Penal Code)
		She is told she will not be paid until this amount is paid back in full After six months, she is told she will get money from that point on, but the money will be held by the manager	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages (s19; s91, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Cheating (s415; s417, Penal Code)
		Bribes are paid to local labor inspectors to ignore the business and the zoning breaches	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Intentional omission to give information (s24, ATPA) — Offering gratification to an agent (s11(b); s16, Anti-Corruption Act 1997) — Abetting a public servant in taking gratification (s109; s161, Penal Code) FOR THE OFFICER <ul style="list-style-type: none"> — Accepting gratification (s11(a); s16, Anti-Corruption Act 1997) — Taking gratification (s161, Penal Code)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	<p>Loans were taken to pay for the sewing equipment, running costs (e.g. water and electricity) and the raw textiles used in the business</p> <p>Purchases are made from local wholesale shops</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Engage in money laundering (s4(1), Anti-Money Laundering and Anti-Terrorism Act 2001)
SOURCE COUNTRY: THE RETURN HOME	<p>The woman is told she can go and visit her family. The arrangements are made</p> <p>She is told she will get a payment on that day</p> <p>She is dropped off at the border site and given her papers, but the van drives away without paying her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to pay wages (s19; s91, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Failure to pay on termination of contract (s21; s91, Employment Act) — Unlawful deductions from wages (s24; s91(c), Employment Act) — Cheating (s415; s417, Penal Code)

SCENARIO 4 – MARRIAGE TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Cambodian woman hears about a marriage brokering service	
	She reads an ad in a local paper and applies hoping she might be able to support her extended family financially	
	She is asked to provide a profile	
	A video is taken of her in a short dress	
	Once a prospective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US\$2,600)	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Criminal conspiracy (s120A; s120B(2), Penal Code)
	She borrows money from her parents to cover the expenses	
	Money is paid by the broker to bribe government officials to secure the proper papers	
	She flies to Malaysia	
DESTINATION COUNTRY: MALAYSIA (INITIATION)	She arrives in Malaysia A man and a woman are waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Assist any person to enter into Malaysia (s12(1)(g), Passport Act 1966) — Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act (s55A(1), Immigration Act) — Offence of trafficking in persons for the purpose of exploitation by deception (s13, ATPA) — Procures a person under age 18 for purposes of prostitution or for the purposes of having sexual intercourse with any other person (s43(1)(b), Child Act) FOR THE VICTIM <ul style="list-style-type: none"> — Entering Malaysia without a valid passport or entry permit (s6, Immigration Act) — Remaining without permission (s15, Immigration Act)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Having a passport or internal travel document issued for the use of other person other than himself (s12(1)(f), Passport Act) — Obtaining fraudulent travel or identity document for the purpose of trafficking in person (s18, ATPA) — Possession of any Entry Permit, Pass without lawful authority (s56(1)(l), Immigration Act) — Obtaining property by deception (s415; s417; s420, Penal Code) FOR THE VICTIM <ul style="list-style-type: none"> — Living in Malaysia without a valid passport/pass/permit (s6(1)(c), s6(3), Immigration Act) — Failure to produce passport, travel document or entry permit upon demand (s56(4)(a), Immigration Act)

		EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)		<p>She is driven to another agency office where she is presented with a set of papers to sign in a foreign language</p> <p>She is told to sign – that it is routine</p> <p>Once this is done, she is taken to a house</p> <p>She is told she is married</p> <p>Upon entering, she finds an elderly widower who is feeble</p> <p>She is told that she is already married and she is expected to take care of him and others who live in the house</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Profiting from exploitation of a trafficked person (s15, ATPA) Cheating (s415; s417, Penal Code) Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (s493, Penal Code) Marriage ceremony gone through with fraudulent intent without lawful marriage (s496, Penal Code)
		<p>When she explains that this was not the young person who was in the photo, they shout and threaten her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Criminal intimidation (s503; s506, Penal Code)
		<p>She is told that she will be arrested and put in jail if she tries to leave</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Criminal intimidation (s503; s506, Penal Code)
DESTINATION COUNTRY: EXPLOITATION PERIOD		<p>Each day she is forced to wake up at 6am and work until 11pm</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Unlawful compulsory labour (s374; Penal Code) Having the employee work more than 8 hours in a day / 48 hours in a week (s60A, Employment Act 1955) Not providing at least 1 rest day (s59, Employment Act) Compelling employee to work on rest day (s60, Employment Act) Failure to pay overtime work (s60A; s100, Employment Act) Failure to grant holidays or failure to pay holiday pay (s60D(1); s60D(3); s100, Employment Act) Failure to grant 8 days annual leave (s60E(1); s100, Employment Act) Failure to grant sick leave (s60F; s100, Employment Act)
		<p>She services the needs of a large extended family</p>	
		<p>If she does something wrong, she is hit repeatedly</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Voluntary causing hurt (s321; s323, Penal Code) Voluntary causing grievous hurt (s322; s325, Penal Code) Assault (s351, Penal Code) Ill treatment of a person under age 18 (s31(1), Child Act 2001)
		<p>She is not allowed to leave the house unless a family member accompanies her</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Wrongful confinement (s340; s342, Penal Code) False imprisonment (common law offence)
		<p>While the man is physically handicapped, he still demands that she sleeps with him</p>	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (s493, Penal Code) Rape (s375; s376, Penal Code) Carnal intercourse against the order of nature (s377A, Penal Code) Exploiting for purpose of having sexual intercourse with any person (s372(1)(a), Penal Code) Procures a person under age 18 for purposes of prostitution or for the purposes of having sexual intercourse with any other person (s43(1)(b), Child Act 2001) Assault with intent to outrage modesty (s354, Penal Code) Ill treatment of a person under age 18 (s31(1), Child Act 2001)
		<p>She is forced to do whatever any of the family member demands of her, no matter what that might be</p>	

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	She is given no money or freedom of movement	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to pay wages (s19; s91, Employment Act) — Failure to pay overtime work (s60A; s100, Employment Act) — Wrongful restraint (s339; s341, Penal Code) — Wrongful confinement (s340; s342, Penal Code) — False imprisonment (common law offence) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
	When she gets very sick, no medical care is offered – even when she was near death	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Doing an act which endangers life (s336, Penal Code) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)
SOURCE COUNTRY: THE RETURN HOME	She feels she was cheated	
	She is not allowed to return to her home country She is not allowed to communicate with her family in any way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful confinement (s340; s342, Penal Code) — False imprisonment (common law offence) — Ill treatment of a person under age 18 (s31(1), Child Act 2001)

SCENARIO 5 – DOMESTIC TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	An Indonesian woman hears about a domestic job in Malaysia	
	She reads an ad in a local paper and applies	
	She is given a contract in her own language that she reads and signs	
	The agency helps her to get a passport and a visa in exchange for a fee (US\$3,200)	
	She borrows money from her husband's family to cover the expenses	
	The process is legal	
	She flies to Malaysia	
DESTINATION COUNTRY: MALAYSIA (INITIATION)	<p>She arrives in Malaysia</p> <p>A woman is waiting for her at the airport</p>	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> Assist any person to enter into Malaysia (s12(1)(g), Passport Act 1966) Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act (s55A(1), Immigration Act) Offence of trafficking in persons for the purpose of exploitation by deception (s13, ATPA) <p>FOR THE VICTIM</p> <ul style="list-style-type: none"> Entering Malaysia without a valid passport or entry permit (s6, Immigration Act) Remaining without permission (s15, Immigration Act)
	Her travel documents are taken immediately	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Having a passport or internal travel document issued for the use of other person other than himself (s12(1)(f), Passport Act) Obtaining fraudulent travel or identity document for the purpose of trafficking in person (s18, ATPA) Possession of any Entry Permit, Pass without lawful authority (s56(1)(l), Immigration Act) Obtaining property by deception (s415; s417; s420, Penal Code) <p>FOR THE VICTIM</p> <ul style="list-style-type: none"> Living in Malaysia without a valid passport/pass/permit (s6(1)(c); s6(3), Immigration Act) Failure to produce passport, travel document or entry permit upon demand (s56(4)(a), Immigration Act)
	She is driven to another agency office where she is presented with a second contract that is in a foreign language	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Profiting from exploitation of a trafficked person (s15, ATPA) Cheating (s415; s417, Penal Code)
	She is told to sign	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Cheating (s415; s417, Penal Code)
	When she resists, she is shouted at	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Criminal intimidation (s503; s506, Penal Code)
	<p>She signs</p> <p>A middle-aged couple come to the office</p> <p>The couple and the agent take her to an apartment</p>	
	The agent explains she is not to talk to anyone or leave the apartment or she will get punished	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> Criminal intimidation (s503; s506, Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to wake up at 6am and work until 11pm	FOR THE PERPETRATOR <ul style="list-style-type: none"> Profiting from exploitation of a trafficked person (s15, ATPA) Unlawful compulsory labour (s374, Penal Code) Having the employee work more than 8 hours in a day / 48 hours in a week (s60A, Employment Act 1955) Not providing at least 1 rest day (s59, Employment Act) Compelling employee to work on rest day (s60, Employment Act) Failure to pay overtime work (s60A; s100, Employment Act) Failure to grant holidays or failure to pay holiday pay (s60D(1); s60D(3); s100, Employment Act) Failure to grant 8 days annual leave (s60E(1); s100, Employment Act) Failure to grant sick leave (s60F; s100, Employment Act)
	She services the needs of a large extended family	
	She gets Sunday afternoon off but she is not allowed to leave	FOR THE PERPETRATOR <ul style="list-style-type: none"> Unlawful compulsory labour (s374, Penal Code) Having the employee work more than 8 hours in a day / 48 hours in a week (s60A, Employment Act 1955) Not providing at least 1 rest day (s59, Employment Act) Compelling employee to work on rest day (s60, Employment Act) Wrongful restraint (s339; s341, Penal Code) Wrongfully confining a person (s340; s342, Penal Code) False imprisonment (common law offence)
	If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly	FOR THE PERPETRATOR <ul style="list-style-type: none"> Voluntary causing hurt (s321; s323, Penal Code) Voluntary causing grievous hurt (s322; s325, Penal Code) Assault (s351, Penal Code)
	She is only paid RM60 a month because room, food, agency fees, and any other expenses are deducted	FOR THE PERPETRATOR <ul style="list-style-type: none"> Failure to pay wages (s19; s91, Employment Act) Failure to pay overtime work (s60A; s100, Employment Act)
	When she tries to ask any questions, she is hit	<ul style="list-style-type: none"> Voluntary causing hurt (s321; s323, Penal Code) Voluntary causing grievous hurt (s322; s325, Penal Code) Assault (s351, Penal Code)
	She is allowed to cook two meals a day for herself	
	Now and then, one of the uncles who visits the house fondles her – if she resists she is scolded and slapped	FOR THE PERPETRATOR <ul style="list-style-type: none"> Assault with intent to outrage modesty (s354, Penal Code)
	She is forced to sleep in a tiny room that is no more than a broom closet	FOR THE PERPETRATOR <ul style="list-style-type: none"> Doing an act which endangers life (s336, Penal Code)

LAWS OF MALAYSIA

IMMIGRATION ACT 1959/63

Employing a person not having a valid pass or permit

Any person who employs one or more persons, other than a citizen or a holder of an Entry Permit who is not in possession of a valid Pass shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each such employee. (S55B(1), IMMIGRATION ACT 1959/63)

PUNISHMENT: Fine of not less than RM10,000 and not more than RM50,000 or to imprisonment for a term not exceeding 12 months or to both for each such employee

Entry into Malaysia at an unauthorized landing place

The Minister may, by notification in the Gazette, prescribe approved routes and declare such immigration control posts, landing places, airports or points of entry, as he may consider to be necessary for the purposes of this Act, to be immigration control posts, authorized landing places, authorized airports or authorized points of entry, as the case may be, and no person shall, unless compelled by accident or other reasonable cause, enter or leave Malaysia except at an authorized landing place, airport or point of entry. (2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act. (S5, IMMIGRATION ACT 1959/63)

PUNISHMENT: Any person guilty of an offence against this Act for which no special penalty is provided shall, on conviction, be liable to a fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years or to both (S57, IMMIGRATION ACT 1959/63)

Involved directly or indirectly, in conveying a person to Malaysia contrary to the Immigration Act

Any person involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person contrary to this Act shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit and to imprisonment for a term of not less than two years but not more than five years and shall also be liable to whipping of not more than six strokes. (S55A, IMMIGRATION ACT 1959/63)

PUNISHMENT: Fine not less than RM10,000 but not more than RM50,000 and to imprisonment for a term of not less than 2 years but not more than 5 years and shall also be liable to whipping of not more than six strokes

Living in Malaysia without a valid passport/pass/permit

1. No person other than a citizen shall enter Malaysia unless—

- a. he is in possession of a valid entry permit lawfully issued to under section 10;
 - b. his name is endorsed upon a valid entry permit in accordance with section 12, and he is in the company of the holder of the permit;
 - c. he is in possession of a valid pass lawfully issued to him to enter Malaysia; or
 - d. he is exempted from this section by an order made under section 55.
2. ...
3. Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction be liable to whipping of not more than 6 strokes
4. The burden of proof that a person entered Malaysia without contravening subsection (1) shall lie upon that person, and in any prosecution for an offence under subsection (1), it shall not be necessary to specify in the charge the date, time, place or manner of the entry of such person into Malaysia, or the means of travel used for such entry, and such prosecution may be held at any place in Malaysia. [\(S6\(1\)\(C\), S6\(3\), IMMIGRATION ACT 1959/63\)](#)

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years and shall also be liable for whipping of not more than six strokes

Failure to produce passport, travel document or entry permit upon demand

Where in any proceedings under this Act it is proved that the defendant has failed to produce on demand by an immigration officer or a police officer any valid Permit, Pass or Certificate issued to him under

this Act it shall be presumed, until the contrary is proved, that he has, as the case may be, entered or re-entered or remained in Malaysia unlawfully. [\(S56\(4\)\(A\), IMMIGRATION ACT 1959/63\)](#)

Making false statement or misleading answer to immigration officer

Any person who—

- a. refuses to answer any question or inquiry put to him under subsection (1)¹ or knowingly gives any false or misleading answer to any such question or inquiry; or (b) refuses or fails to produce any document in his possession when required so to do under subsection (1) or knowingly produces any false or misleading document, shall be guilty of an offence against this Act. [\(S28\(3\)\(A\), IMMIGRATION ACT 1959/63\)](#)

OR

Any person who makes or causes to be made any false report, false statement or false representation in connection with any obligation imposed by this Act. [\(S56\(1\)\(F\), IMMIGRATION ACT 1959/63\)](#)

¹ Any person who arrives in Malaysia or who is about to leave Malaysia shall fully and truthfully answer all questions and enquiries put to him by an immigration officer, or a senior police officer, tending directly or indirectly to establish his identity, nationality or occupation or bearing on any of the restrictions contained in this Act or any absolute or conditional liability on his part to any military, naval or air force service under any state or country whatsoever, and shall disclose and produce to any such officer on demand all documents in his possession relating to those matters.

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years

Permitting illegal immigrant to enter or remain at premises

1. No occupier shall permit any illegal immigrant to enter or remain at any premises.
2. An occupier who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than five thousand ringgit and not more than thirty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each illegal immigrant found at the premises and, in the case of a second or subsequent conviction, to a fine of not less than ten thousand ringgit and not more than sixty thousand ringgit or to imprisonment for a term not exceeding two years or to both for each illegal immigrant found at the premises. [\(S55E\(1\);\(2\), IMMIGRATION ACT 1959/63\)](#)

PUNISHMENT: Fine of not less than RM10,000 and not more than RM60,000 or to imprisonment for a term not exceeding 2 years or to both for each illegal immigrant found at the premises

Possession of any Entry Permit, Pass without lawful authority

Any person who, uses or without lawful authority has in his possession any forged, unlawfully altered or irregular Entry Permit, Pass,

Internal Travel Document or Certificate or other document issued under this Act, or any Permit, Pass, Internal Travel Document or Certificate or other document so issued on which any endorsement has been forged or unlawfully altered, shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years. [\(S56\(1\)\(L\), IMMIGRATION ACT 1959/63\)](#)

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years

Unlawful entry/overstaying

Without prejudice to any other provision of this Act prohibiting a person from remaining in Malaysia, a person shall not remain in Malaysia after the expiration of the period of any Pass relating to or issued to him. [\(S15, IMMIGRATION ACT 1959/63\)](#)

PUNISHMENT: Fine of not less than RM10,000 or to imprisonment for a term not exceeding 5 years or to both

ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007

Intentional omission to give information

Any person who knowing or having reason to believe, that any offence under this Act has been or will be committed, intentionally omits to give any information respecting that offence, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years, or to both. (S24, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Fine not exceeding RM250,000 or to imprisonment for a term not exceeding 5 years, or to both

Knowingly permits a person to travel without travel documents required for lawful entry into Malaysia

1. Any person being the owner, operator or master of any conveyance, that engages in the transportation of goods or people for commercial gain shall ensure that every person travelling on board is in possession of travel documents for lawful entry of that person into the receiving country or transit country.
2. Any owner, operator or master of any conveyance mentioned in subsection (1) who-
 - a. knowingly permits or has reasonable grounds to believe that such conveyance is used for purposes of bringing a person into a receiving country or transit country without travel documents required for the lawful entry of that person into the receiving country or transit country; or
 - b. knowingly permits or has reasonable grounds to believe that such conveyance is being used for purposes of committing any offence of trafficking in persons, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both. (S23(2)(A), ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Fine not exceeding RM250,000 or to imprisonment for a term not exceeding 5 years or to both

Obtaining fraudulent travel or identity document for the purpose of trafficking in person

Any person who makes, obtains, gives, sells or possesses a fraudulent travel or identity document for the purpose of facilitating an act of trafficking in persons commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years, and shall also be liable to a fine of not less than fifty thousand

ringgit but not exceeding five hundred thousand ringgit. (S18, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not exceeding 10 years, and shall also be liable to a fine of not less than RM50,000 but not exceeding RM500,000

Offence of trafficking in children for the purpose of exploitation

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine. (S12, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not less than 3 years but not exceeding 20 years, and shall also be liable to fine

Offence of trafficking in persons for the purpose of exploitation

Any person, who traffics in persons not being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to fine. (S12, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not exceeding fifteen years, and also liable to a fine

Offence of trafficking in persons for the purpose of exploitation by deception

Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:

- a. threat;
- b. use of force or other forms of coercion;
- c. abduction;
- d. fraud;
- e. deception;
- f. abuse of power;
- g. abuse of the position of vulnerability of a person to an act of trafficking in persons; or
- h. the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine. (S13, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not less than 3 years but not exceeding 20 years, and shall also be liable to fine

Profiting from exploitation of a trafficked person

Any person who profits from the exploitation of a trafficked person commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to a fine of not less than five hundred thousand ringgit but not exceeding one million ringgit and shall also be liable to forfeiture of the profits from the offence. (S15, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not exceeding 15 years, and shall also be liable to a fine of not less than RM500,000 but not exceeding RM1,000,000

Providing facilities in support of trafficking in persons

Any person being-

- a. the owner, occupier, lessee or person in charge of any premises, room or place, knowingly permits a meeting to be held in that premises, room or place; or
- b. the owner, lessee or person in charge of any equipment or facility that allows for recording, conferencing or meetings via technology, knowingly permits that equipment or facility to be used, for the purpose of committing an offence under this Act, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding ten years, and shall also be liable to fine.

(S20, ANTI TRAFFICKING IN PERSONS AND ANTI SMUGGLING OF MIGRANTS ACT 2007)

PUNISHMENT: Imprisonment for a term not exceeding 10 years, and shall also be liable to fine

PASSPORT ACT 1966

Assist any person to enter into Malaysia contrary to the Passport Act

Any person who – (g) wilfully assists any person to enter Malaysia contrary to this Act shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both. (S12(1)(G), PASSPORT ACT 1966)

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years or to both

Having a passport or internal travel document issued for the use of other person other than himself

Any person who – (f) without lawful authority, has in his possession any passport or internal travel document issued for the use of some person other than himself. (S12(1)(F), PASSPORT ACT 1966)

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years or to both

PENAL CODE

Abetting a public servant in taking gratification

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence

ILLUSTRATIONS: (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161. (S109, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 3 years or with fine or with both

Administering poison, etc to cause hurt or to obtain or facilitate intercourse

Whoever administers to, or causes to be taken by any person, any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(S328, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 10 years, and shall also be liable to fine

Assault in attempt wrongfully to confine a person

Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand ringgit or with both. (S357, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 1 year or with fine which may extend to RM2,000 or with both.

Assault with intent to outrage modesty

Whoever assaults or uses criminal force to any person, intending to outrage or knowing it to be likely that he will thereby outrage the modesty of that person, shall be punished with imprisonment for a term which may extend to ten years or with fine or with whipping or with any two of such punishments. (S354, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to ten years or with fine or with whipping or with any two of such punishments

Carnal intercourse against the order of nature without consent

Whoever voluntarily commits carnal intercourse against the order of nature on another person without the consent, or against the will, of the other person, or by putting the other person in fear of death or hurt to the person or any other person, shall be punished with imprisonment for a term of not less than five years and not more than twenty years, and shall also be liable to whipping. (S377C, PENAL CODE)

PUNISHMENT: Imprisonment for a term of not less than five years and not more than twenty years, and shall also be liable to whipping

Causing hurt with intent to cause illegal acts to be done

Whoever, voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer, or any person interested in such sufferer, to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine or to whipping. (S327, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to whipping

Cheating

Whoever by deceiving any person, whether or not such deception was the sole or main inducement –

- a. fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property; or
- b. intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived and which act or omission causes or is likely to cause damage or harm to any person in body, mind, reputation, or property, is said to “cheat”. (S415, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to five years or with fine or with both. (S417, PENAL CODE)

Cheating with knowledge of wrongful loss caused to a person whose interest the offender is bound to protect

Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound either by law, or by a legal contract, to protect, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both. (S418, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to five years or with fine or with both. (S417, PENAL CODE)

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine. (S493, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to ten years, and shall also be liable to fine

Criminal intimidation

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

PUNISHMENT: Imprisonment for a term which may extend to two years or with fine or with both; and if the threat is to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both. (S506, PENAL CODE)

Criminal Conspiracy

When two or more persons agree to do, or cause to be done—

- a. an illegal act; or
- b. an act, which is not illegal, by illegal means, such an agreement is designated a criminal conspiracy.

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof. (S120A, PENAL CODE)

PUNISHMENT: Imprisonment for a term not exceeding six months or with fine or with both. (S120B(2), PENAL CODE)

Doing an act which endangers life

Whoever does any act so rashly or negligently as to endanger

human life or the personal safety of others, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred ringgit or with both. (S336, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to three months or with fine which may extend to RM500 or with both

Exploiting for purpose of prostitution

(1) Whoever – (a) sells, lets for hire or otherwise disposes of, or procures, buys or hires or otherwise obtains possession of, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used; shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to a fine. (S372(1)(A), PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 15 years and with whipping, and shall also be liable to a fine.

Habitually dealing with slaves

Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine. (S371, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Keeps, manages or assist in the management of a brothel

(1) Whoever (a) keeps, manages or assists in the management of a brothel; (b) being the owner of any place or the agent of such owner, or being the occupier of any place, lets the place or any part thereof with the knowledge that such place or part is to be used as a brothel or permits such place or part to be used as a brothel or is wilfully a party to the continued use of such place or part as a brothel, shall be punished with imprisonment which may extend to fifteen years, and shall also be liable to fine. (S373(1), PENAL CODE)

PUNISHMENT: Imprisonment which may extend to 15 years, and shall also be liable to fine

Living on earnings of prostitution of others

Whoever knowingly lives wholly or in part on the earnings of the prostitution of another person shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to a fine. (S372A(1), PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 15 years and with whipping, and shall also be liable to a fine

Marriage ceremony gone through with fraudulent intent without lawful marriage

Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

PUNISHMENT: Imprisonment for a term which may extend to 7 years, and shall also be liable to fine

Obtaining property by deception

Whoever by deceiving any person, whether or not such deception was the sole or main inducement,—

- a. fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property; or
- b. intentionally induces the person so deceived to do or omit to do anything which he would not do or omit to do if he were not so deceived and which act or omission causes or is likely to cause damage or harm to any person in body, mind, reputation, or property, is said to “cheat”. (S415, PENAL CODE)

Whoever cheats shall be punished with imprisonment for a term which may extend to five years or with fine or with both. (S417, PENAL CODE)

Whoever cheats and thereby dishonestly induces the person deceived, whether or not the deception practised was the sole or main inducement, to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment for a term which shall not be less than one year and not more than ten years and with whipping, and shall also be liable to fine. (S420, PENAL CODE)

PUNISHMENT: Imprisonment for a term which shall not be less than 1 year and not more than 10 years and with whipping, and shall also be liable to fine

Rape

A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions:

- a. against her will;
- b. without her consent;
- c. with her consent, when her consent has been obtained by putting her in fear of death or hurt to herself or any other person, or obtained under a misconception of fact and the man knows or has reason to believe that the consent was given in consequence of such misconception;
- d. with her consent, when the man knows that he is not her husband, and her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married or to whom she would consent;
- e. with her consent, when, at the time of giving such consent, she is unable to understand the nature and consequences of that to which she gives consent;

- f. with or without her consent, when she is under sixteen years of age. (S375, PENAL CODE)

PUNISHMENT: Imprisonment for a term of not less than five years and not more than twenty years, and shall also be liable to whipping. (S376, PENAL CODE)

Soliciting for prostitution

Whoever solicits or importunes for the purpose of prostitution or any immoral purpose in any place shall be punished with imprisonment for a term not exceeding one year or with fine or with both. (S372B, PENAL CODE)

PUNISHMENT: Imprisonment for a term not exceeding 1 year or with fine or with both.

Under false pretense or fraudulent or deceitful means, brings in any person with intention that the person is to be used for purpose of prostitution

(1) Whoever – (b) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out or assists in taking out of, Malaysia, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used; shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to a fine. (S372(1)(B), PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 15 years and with whipping, and shall also be liable to a fine.

Unlawful compulsory labour

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

PUNISHMENT: Imprisonment for a term which may extend to 1 year or with fine or with both.

Taking Gratification

Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Government, or with any member of the Cabinet or of Parliament or of a State Executive Council or Legislative Assembly, or with any public servant, as such, shall be punished with imprisonment for a term which may extend to three years or with fine or with both. (S161, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 3 years or with fine or with both

Voluntary causing grievous hurt

Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”. (S322, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to seven years, and shall also be liable to fine (S325, PENAL CODE)

Voluntary causing hurt

Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”. (S321, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to one year or with fine which may extend to two thousand ringgit or with both (S323, PENAL CODE)

Wrongfully confinement

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person. (S340, PENAL CODE)

PUNISHMENT: Imprisonment for a term which may extend to 1 year or with fine which may extend to RM2,000 or with both (S342, PENAL CODE)

Wrongfully restrain any person with intention that the person will be used for purpose of prostitution

1. Whoever – (d) wrongfully restrains any person in any place with such intention that the person will be used or employed for the purpose of prostitution or of having sexual intercourse with any other person; shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and shall also be liable to a fine. (S372(1)(D), PENAL CODE)
2. For the purpose of paragraph (d) of subsection (1), it shall be presumed until the contrary is proved that a person wrongfully restrains a person if he (d) without any lawful authority, detains that person’s identity card issued under the law relating to national registration or that person’s passport.

PUNISHMENT: Imprisonment for a term which may extend to 15 years and with whipping, and shall also be liable to a fine

EMPLOYMENT ACT 1955

Compelling employee to work on rest day

Except as provided in subsection 60A(2), no employee shall be compelled to work on a rest day unless he is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts: Provided that in the event of any dispute the Director General shall have power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously or continually by two or more shifts. (S60, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000 (S100, EMPLOYMENT ACT 1955)

Failure to furnish information on foreign employees

An employer who employs a foreign employee shall, within fourteen days of the employment, furnish the Director General with the particulars of the foreign employee by forwarding the particulars to the nearest office of the Director General in such manner as may be determined by the Director General. (S60K(1), EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000 (S60K(5), EMPLOYMENT ACT)

Failure to grant holidays or failure to pay holiday pay

Every employee shall be entitled to a paid holiday at his ordinary rate of pay on a gazetted public holiday. (S60D, EMPLOYMENT ACT); any employee may be required by his employer to work on any paid holiday to which he is entitled under the said subsections and in such event he shall, in addition to the holiday pay he is entitled to for that day—

- (i) in the case of an employee employed on a monthly, weekly, daily, hourly, or other similar rate of pay, be paid two days' wages at the ordinary rate of pay; or
- (ii) in the case of an employee employed on piece rates, be paid twice the ordinary rate per piece, regardless that the period of work done on that day is less than the normal hours of work.

PUNISHMENT: Fine not exceeding RM10,000 and any employer who fails to pay to any of his employees wages for work done by his employee on a rest day or pays wages less than the rate provided under section 60 commits an offence, and shall also, on conviction, be ordered by the court before which he is convicted to pay to the employee concerned the wages due for work done on every rest day at the rate provided under section 60, and the amount of such wages shall be recoverable as if it were a fine imposed by such court (S100, EMPLOYMENT ACT 1955)

Failure to grant sick leave

An employee shall, after examination at the expense of the employer— (a) by a registered medical practitioner duly appointed by the employer; or (b) if no such medical practitioner is appointed or, if having regard to the nature or circumstances of the illness, the services of the medical practitioner so appointed are not obtainable within

a reasonable time or distance, by any other registered medical practitioner or by a medical officer, be entitled to paid sick leave. (S60F, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000

Failure to grant 8 days annual leave

An employee shall be entitled to paid annual leave of (a) eight days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of less than two years. (S60E(1), EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000

Failure to pay annual leave pay

An employee shall be entitled to paid annual leave of (a) eight days for every twelve months of continuous service with the same employer if he has been employed by that employer for a period of less than two years. (S60E, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000

Failure to pay overtime work

For any work carried out in excess of the normal hours of work on a rest day by an employee he shall be paid at a rate which is not less than two times his hourly rate of pay. (S60A, EMPLOYMENT ACT 1955)

PUNISHMENT: Fine not exceeding RM10,000 and any employer who fails to pay to any of his employees wages for work done by his employee on a rest day or pays wages less than the rate provided under section 60 commits an offence, and shall also, on conviction, be ordered by the court before which he is convicted to pay to the employee concerned the wages due for work done on every rest day at the rate provided under section 60, and the amount of such wages shall be recoverable as if it were a fine imposed by such court (S100, EMPLOYMENT ACT 1955)

Failure to pay wages

Subject to subsection (2), every employer shall pay to each of his employees not later than the seventh day after the last day of any wage period the wages, less lawful deductions earned by such employee during such wage period. (S19, EMPLOYMENT ACT) and any employer who (a) fails to pay the wages or indemnity due to any employee within the time prescribed in sections 19, 20 and 21 commits an offence. (S91, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000 and any employer who fails to pay to any of his employees wages for work done by his employee on a rest day or pays wages less than the rate provided under section 60 commits an offence, and shall also, on conviction, be ordered by the court before which he is convicted to pay to the employee concerned the wages due for work done on every rest day at the rate provided under

section 60, and the amount of such wages shall be recoverable as if it were a fine imposed by such court (S100, EMPLOYMENT ACT 1955)

Having the employee work more than 8 hours in a day / 48 hours in a week

Except as hereinafter provided, an employee shall not be required under his contract of service to work –

- a. more than five consecutive hours without a period of leisure of not less than thirty minutes duration
- b. more than eight hours in one day;
- c. in excess of a spread over period of ten hours in one day;
- d. more than forty-eight hours in one week. (S60A, EMPLOYMENT ACT 1955)

PUNISHMENT: Fine not exceeding RM10,000 (S100, EMPLOYMENT ACT 1955)

Not providing at least 1 rest day

Every employee shall be allowed in each week a rest day of one whole day as may be determined from time to time by the employer, and where an employee is allowed more than one rest day in a week the last of such rest days shall be the rest day for the purposes of this Part. (S59, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000 (S100, EMPLOYMENT ACT 1955)

Unlawful deductions from wages

No deductions shall be made by an employer from the wages of an employee otherwise than in accordance with this Act. (S24, EMPLOYMENT ACT) and any employer who makes deductions from the wages of an employee other than such deductions as are authorized by section 24 commits an offence (S91, EMPLOYMENT ACT)

PUNISHMENT: Fine not exceeding RM10,000

ANTI-MONEY LAUNDERING AND ANTI-TERRORISM ACT 2001

Engage in money laundering

1. Any person who –
 - a. engages in, or attempts to engage in; or
 - b. abets the commission of, money laundering, commits an offence and shall on conviction be liable to a fine not exceeding five million ringgit or to imprisonment for a term not exceeding five years or to both. (S4(1), ANTI-MONEY LAUNDERING AND ANTI-TERRORISM ACT 2001)

PUNISHMENT: Fine not exceeding RM5 million or to imprisonment for a term not exceeding 5 years or to both

CHILD ACT 2001

Ill treatment of a person under age 18

Any person who, being a person having the care of a child —

- a. abuses, neglects, abandons or exposes the child in a manner likely to cause him physical or emotional injury or causes or permits him to be so abused, neglected, abandoned or exposed; or
- b. sexually abuses the child or causes or permits him to be so abused, commits an offence and shall on conviction be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding ten years or to both. (S31(1), CHILD ACT)

PUNISHMENT: Fine not exceeding RM20,000 or to imprisonment for a term not exceeding 10 years or to both

Importation of a person under 18 by false pretenses for purposes of prostitution

Any person who — (c) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out of or assists in taking out of, Malaysia, a child with intent that the child is to be employed or used for purposes of prostitution, either within or outside Malaysia, or knowing or having reason to believe that the child will be so employed or used; be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding fifteen years or to both; (S43(1)(C), CHILD ACT)

PUNISHMENT: Fine not exceeding RM50,000 or to imprisonment for a term not exceeding 15 years or to both

Importation of a person under 18 by false pretenses

Any person who — (a) by or under any false pretence or representation made; or (b) by fraudulent or deceitful means used, either within or outside Malaysia, brings or assists in bringing a child into Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both (S49, CHILD ACT)

PUNISHMENT: Fine not exceeding RM10,000 or to imprisonment for a term not exceeding 5 years or to both

Procures a person under age 18 for purposes of prostitution or for the purposes of having sexual intercourse with any other person

Any person who — procures a child for purposes of prostitution or for the purposes of having sexual intercourse with any other person, either within or outside Malaysia; commits an offence and shall on conviction a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding fifteen years or to both; (S43(1)(B), CHILD ACT)

PUNISHMENT: Fine not exceeding RM50,000 or to imprisonment for a term not exceeding 15 years or to both

ANTI-CORRUPTION ACT 1997

Offering gratification to an agent

If any person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or a reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; he shall be guilty of an offence. (S11(B), ANTI CORRUPTION ACT)

PUNISHMENT: (a) imprisonment for a term of not less than fourteen days and not more than twenty years; and (b) a fine of not less than five times the sum or value of the gratification which is the subject matter of the offence where such gratification is capable of being valued or is of a pecuniary nature, or ten thousand ringgit, whichever is the higher (S16, ANTI CORRUPTION ACT)

MYANMAR



MYANMAR

Economic hardships, limited opportunities, religious persecution and minority repression in Myanmar are responsible for one of the largest cross-border movements of migrants in South East Asia as well as significant internal trafficking within its own border.

Thailand and China are two popular international destinations. A large number of Burmese migrants work in Thailand illegally and some are trafficked to work in agriculture, fishing, construction, domestic work and the sex industry. Male Myanmar nationals are also forced to work in factories in the south of China while Burmese women and children are trafficked to marry Chinese men at the willingness of their parents looking for a better life for their children and themselves.

For decades, Myanmar's military regime has been committing human rights violations against its own people, destroying ethnic minority communities, and enslaving hundreds of thousands as forced labourers. The military junta itself is considered to be one of the main perpetrators of human trafficking within Myanmar, engaging in conscription of child soldiers particularly in the conflict-prone ethnic areas or remote borders. Communities such as the Kachins, the Shans, the Rakhines and the Rohingyas are all at great risk due to an ongoing conflict with the Myanmar Army.

Despite the political and economic reforms by the civilian government, there has reportedly been no significant changes in human rights abuses carried out by Myanmar's military particularly the notorious use of child soldiers and forced labourers. Although Myanmar's laws present a fairly robust response to human trafficking, efforts to enforce these laws must gather momentum and these laws must be applied to protect all communities present in Myanmar.

GENERIC EXPLOITATION PROFILES

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Myanmar law) involved in five trafficking scenarios: sex trafficking, construction trafficking, forced labour trafficking, marriage trafficking and domestic trafficking.

SCENARIO 1 – SEX TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A young Filipino woman hears about a possible job in Myanmar working in a restaurant	
	She is introduced by a friend to a man who says he can arrange the trip (a trafficker)	
	The statements he makes to her are false and intended to deceive her	
	He helps her to get a passport and a visa in exchange for a fee (US\$1,900)	
	This is done by bribing government officials in the Philippines to get the proper papers in order	
	Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)	
	She flies to Myanmar	
DESTINATION COUNTRY: MYANMAR (INITIATION)	Upon arriving, she is told to say she is a tourist who shall be staying for ten days, if asked by the immigration officials	FOR THE TRAFFICKER & VICTIM <ul style="list-style-type: none"> — Making false statement with intent to obtain an immigration permit (s13(7) of Myanmar Immigration (Emergency Provisions) Act, 1947)
	She arrives in Myanmar	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code) — Criminal conspiracy for trafficking in woman (s24 of the Anti-Trafficking in Persons Law 2005/s120A of the Penal Code) — Abetment of trafficking in woman (s24 of the Anti-Trafficking in Persons Law/s107 of the Penal Code)
	A man is waiting for her in the airport	
	He takes her passport	FOR THE TRAFFICKER / PERPETRATOR <ul style="list-style-type: none"> — Theft (s378 of the Penal Code) — Extortion (s383 of the Penal Code) — Robbery (s390 of the Penal Code)
	She is taken to an apartment in Yangon	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Failure to register visitors (s27 of Wards and Village Tracts Administration Act, 2012)
	She begins to get nervous and starts to ask questions	
	The man becomes angry and slaps her several times and offers threats against her and her family	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Hurt (s319 of the Penal Code) — Grievous hurt (s320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (s322 of the Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
INITIATION (CONT.)	He explains that if she doesn't do what she is told, she will be hurt	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503 of the Penal Code)
	She is held against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)
DESTINATION COUNTRY: EXPLOITATION PERIOD	She is confined in a room for two days – with little food or water	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongfully concealing or keeping in confinement kidnapped or abducted person (s368 of the Penal Code)
	She is forced to drink a juice cocktail that is laced with a sedative	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Attempting to commit offences punishable with transportation or imprisonment (s511 of the Penal Code)
	In this intoxicated state, men come and have sex with her against her will	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Rape (s375 of the Penal Code)
	Photos are taken of her with several men in compromising positions	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Assault or use criminal force to woman with intent to outrage her modesty (s354 of the Penal Code)
	She is told that these photos shall be sent to her family if she doesn't comply with the trafficker	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503 of the Penal Code) — Word, gesture or act intended to insult the modesty of a woman (s509 of the Penal Code)
	She is forced to have sex with up to three men a day	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Unlawful compulsory labour (s374 of the Penal Code) — Employed or used for the purpose of prostitution or illicit intercourse with any person (s6 of the Suppression of Prostitution Act, 1949) — Rape (s375 of the Penal Code)
	She is not allowed to leave the apartment without an escort She is not allowed to communicate with anyone at any time	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)
	She is forced to drink whatever the client offers, even if she doesn't want it	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code)
	If the person doesn't want to wear a condom, she can't deny him sex	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Negligent act likely to spread infection of disease dangerous to life (s269 of the Penal Code) — Malignant act likely to spread infection of disease dangerous to life (s270 of the Penal Code) — Disobedience to quarantine rule (s271 of the Penal Code)
	She does not receive any payment – whatever they think she needs (food, clothing) is provided to her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Exploitation, receipt of money or benefit from the prostitution (s5 of Suppression of Prostitution Act)
	She is told she must pay back a debt that was incurred when the trafficker bought her – she does not know how much this is	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Buying or disposing of any person as a slave (s370 of the Penal Code) — Habitual dealing in slaves (s371 of the Penal Code) — Selling minor for purpose of prostitution (s372 of the Penal Code) — Buying minor for purpose of prostitution (s373 of the Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
EXPLOITATION PERIOD (CONT.)	Bribes are paid to a local police officer to turn the other way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Taking gratification in order, by corrupt or illegal means, to influence public servant (s162 of the Penal Code) — Taking gratification for exercise of personal influence with public servant (s163 of the Penal Code) FOR THE POLICE OFFICER <ul style="list-style-type: none"> — Public servant taking gratification other than legal remuneration in respect of an official act (s161 of the Penal Code) — Abetment by public servant of offences defined in section 162 and 163 (s164 of the Penal Code) — Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant (s165 of the Penal Code) — Bribery of Authority (s56 of Anti-Bribery Law, 2013)
	The apartment is rented using money from drug trafficking profits	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Converting, transferring or disguising of money and property (s22 of The Control of Money Laundering Law, 2002)
	The trafficker has a vice establishment and forces the girl to solicit clients	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Soliciting for immoral purpose (s3 of the Suppression of Prostitution Act) — Keeping a vice establishment (s9 of the Suppression of Prostitution Act) — Letting premises for use as a vice establishment (s8 of the Suppression of Prostitution Act)
SOURCE COUNTRY: THE RETURN HOME	After 18 months, she is given her freedom to leave and be replaced by a new trafficked person	
	She returns home, but out of shame she does not communicate what had happened to her	
	She makes up a story that she tried to contact her home but couldn't get through	
	She explains that she earned a lot of money but was used up before she was coming back	

SCENARIO 2 – CONSTRUCTION TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY SOURCE COUNTRY (CONT.)	A 16-year-old Mainland Chinese boy learns of a construction project in Myanmar that hires workers	
	He is given instructions on how to get to Hong Kong on a supply boat	
	He pays the boat owner a smuggling fee	
	When the boat is stopped and he and others are found to be without papers, the captain pays the marine police a bribe	FOR THE TRAFFICKER <ul style="list-style-type: none"> Entry without immigration permit or duly visaed passport (s3 of the Myanmar Immigration (Emergency Provisions) Act, 1949) Whoever being the carrier (Captain in this case) knowingly brings or attempts to bring into Myanmar any person not authorized to enter Myanmar shall be liable to imprisonment for a term which may extend from a minimum of six months to a maximum of five years or to a fine of a minimum of Kyat 1500 for every such person brought or attempted to be brought into Myanmar or to both. (s13 (2) of the Myanmar Immigration (Emergency Provisions) Act) Taking gratification in order, by corrupt or illegal means, to influence the public servant (s162 of the Penal Code)
	This is added to his debt	
	He is told he will be paid, but not for the first three months	
DESTINATION COUNTRY: MYANMAR (INITIATION)	The man is greeted at the border	FOR THE TRAFFICKER <ul style="list-style-type: none"> Criminal conspiracy for cheating (s420/s120A of the Penal Code) Abetment of cheating (s420/s107 of the Penal Code) Criminal conspiracy for trafficking in woman, child and youth (s24 of the Anti-Trafficking in Persons Law, 2005/s120A of the Penal Code) Abetment of trafficking in woman, child and youth (s24 of the Anti-Trafficking in Persons Law/s107 of the Penal Code)
	He is taken to an apartment that is shared by ten other men	<ul style="list-style-type: none"> Failure to register visitors (s.27 of Wards and Village Tracts Administration Act, 2012)
	They are all from different parts of Mainland China	
	All of his documents are taken away and withheld from him	FOR THE PERPETRATOR <ul style="list-style-type: none"> Theft (s378 of the Penal Code) Extortion (s383 of the Penal Code) Robbery (s390 of the Penal Code)
	They are told not to leave the apartment unless to go to the work site	FOR THE PERPETRATOR <ul style="list-style-type: none"> Wrongful restraint (s339 of the Penal Code) Wrongful confinement (s340 of the Penal Code)
	They are threatened with deportation and imprisonment if they don't follow instructions	FOR THE PERPETRATOR <ul style="list-style-type: none"> Criminal intimidation (s503 of the Penal Code)
	One of the men breaks the rules and gets severely beaten	FOR THE PERPETRATOR <ul style="list-style-type: none"> Assault or criminal force in attempt wrongfully to confine a person (s357 of the Penal Code) Hurt (s319 of the Penal Code) Grievous hurt (320 of the Penal Code) Voluntarily causing hurt (s321 of the Penal Code) Voluntarily causing grievous hurt (S322 of the Penal Code)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each morning, they are all taken to the construction site	
	Their services are subcontracted through a Myanmar construction agent	
	His supervisor physically and verbally abuses him over and over again	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Unlawful compulsory labour (s374 of the Penal Code)
	After two months of work, when he asks for his payment he is hit across the face	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code) — Assault (s351 of the Penal Code) — Hurt (s319 of the Penal Code) — Grievous hurt (320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (S322 of the Penal Code)
	He works 14 hours a day, seven days a week	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Hours of Work (s7 of the Shops and Establishments Act, 1951)
	After seven months of this work, he begins to feel he'll never be paid – the others are asking the same thing	FOR THE PERPETRATOR (EMPLOYER) <ul style="list-style-type: none"> — Responsibility for payment of wages (s3 of the Payment of Wages Act, 1936) — Time of payment of wages (s5 of the Payment of Wages Act) — Deductions which may be made from wages (s7 of the Payment of Wages Act)
	After an accident takes place where one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Employer's liability for compensation (s3 of the Workmen's Compensation Act, 1923) — Amount of compensation (s4 of the Workmen's Compensation Act) — Medical examination (s11 of the Workmen's Compensation Act)
	Major loans for the project were approved by several international banks to cover construction materials, equipment and staffing	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Money Laundering (s25, Organised and Serious Crimes Ordinance)
SOURCE COUNTRY: THE RETURN HOME	One day immigration police visit the site and meet the foremen (a bribe is paid to the immigration police to arrest and deport them)	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Taking gratification in order, by corrupt or illegal means, to influence public servant (s162 of the Penal Code) — Taking gratification for exercise of personal influence with public servant (s163 of the Penal Code) FOR THE GOVERNMENT OFFICIALS <ul style="list-style-type: none"> — Bribery of Authority (s56 of the Anti-Bribery Law, 2013) — Public servant taking gratification other than legal remuneration in respect of an official act (s161 of the Penal Code) — Abetment by public servant of offences defined in section 162 or 163 (s164 of the Penal Code)
	An hour later all of the men are arrested and brought to an immigration centre	
	The man is deported with no money paid Despite trying to explain that he was deceived, no one listens to his story	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Responsibility for payment of wages (s3 of the Payment of Wages Act, 1936) — Time of payment of wages (s5 of the Payment of Wages Act) — Deductions which may be made from wages (s7 of the Payment of Wages Act) — Cheating (s415 of the Penal Code) — Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)

SCENARIO 3 – LABOUR TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Mainland Chinese woman with sewing skills learns of a good-paying sewing job in Myanmar	
	She is given instructions by her sponsor (a trafficker) on how to get a tourist visa to visit the island	
	She is told she will be paid a good salary which is not true – no payment will be offered	
	No written contract is offered	
	Upon arriving at the border the immigration officer pulls her aside because of the size of her bag	
	As instructed, she offers a small envelope that includes money to bribe the officer which is accepted	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Taking gratification in order, by corrupt or illegal means, to influence public servant (s162 of the Penal Code) — Taking gratification for exercise of personal influence with public servant (s163 of the Penal Code) <p>FOR THE GOVERNMENT OFFICIALS</p> <ul style="list-style-type: none"> — Bribery of Authority (s56 of the Anti-Bribery Law, 2013) — Public servant taking gratification other than legal remuneration in respect of an official act (s161 of the Penal Code) — Abetment by public servant of offences defined in section 162 or 163 (s164 of the Penal Code)
	The garments made are going to a major retailer	
DESTINATION COUNTRY: MYANMAR (INITIATION)	Upon arriving, she is picked up by an agent who offers her contract to sign in an unknown language	<p>FOR THE TRAFFICKER</p> <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code) — Criminal conspiracy for trafficking in woman (s24 of the Anti-Trafficking in Persons Law, 2005/s120A of the Penal Code) — Abetment of trafficking in woman (s24 of the Anti-Trafficking in Persons Law/s107 of the Penal Code) <ul style="list-style-type: none"> — [Agreements void for uncertainty (s29 of the Contract Act, 1872)] — [Voidability of agreements without free consent (s19 of the Contract Act)]
	The details are explained to her She signs	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Employers to inspect documents of new employee (s17J, Immigration Ordinance)
	She is asked to hand over her documents so copies can be made	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)
	When she asks for them back, she is told she can't have them	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)
	She is taken to a small apartment that has 25 other women from different locations (only one speaks Mandarin) – attached to the apartment is a sewing workshop	<p>FOR THE PERPETRATOR</p> <ul style="list-style-type: none"> — Failure to register visitors (s27 of Wards and Village Tracts Administration Act, 2012)

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to work 16 hours a day, seven days a week – sewing	FOR THE PERPETRATOR <ul style="list-style-type: none"> Hours of Work (s7 of the Shops and Establishments Act, 1951)
	If she makes a mistake or is short on her quota, she is hit	FOR THE PERPETRATOR <ul style="list-style-type: none"> Force (s349 of the Penal Code) Criminal force (s350 of the Penal Code) Assault (s351 of the Penal Code) Hurt (s319 of the Penal Code) Grievous hurt (s320 of the Penal Code) Voluntarily causing hurt (s321 of the Penal Code) Voluntarily causing grievous hurt (s322 of the Penal Code)
	She is given two meals a day	
	She is not allowed to leave the premise for any reason	FOR THE PERPETRATOR <ul style="list-style-type: none"> Wrongful restraint (s339 of the Penal Code) Wrongful confinement (s340 of the Penal Code)
	She is told that she owes money as outlined in the contract – the amount is unclear	FOR THE PERPETRATOR <ul style="list-style-type: none"> Cheating (s415 of the Penal Code) Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)
	She is told she will not be paid until this amount is paid back in full After six months, she is told she will get money from that point on, but the money will be held by the manager	FOR THE PERPETRATOR <ul style="list-style-type: none"> Cheating (s415 of the Penal Code) Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)
	Bribes are paid to local labor inspectors to ignore the business and the zoning breaches	FOR THE PERPETRATOR <ul style="list-style-type: none"> Taking gratification in order, by corrupt or illegal means, to influence public servant (s162 of the Penal Code) Taking gratification for exercise of personal influence with public servant (s163 of the Penal Code) FOR THE GOVERNMENT OFFICIALS <ul style="list-style-type: none"> Bribery of governmental officials (s56 of the Anti-Bribery Law, 2013) Public servant taking gratification other than legal remuneration in respect of an official act (s161 of the Penal Code) Abetment by public servant of offences defined in section 162 or 163 (s164 of the Penal Code)
SOURCE COUNTRY: THE RETURN HOME	Loans were taken to pay for the sewing equipment, running costs (e.g. water and electricity) and the raw textiles used in the business Purchases are made from local wholesale shops	(official loan is not concerned with the Law)
	The woman is told she can go and visit her family. The arrangements are made	
	She is told she will get a payment on that day	
	She is dropped off at the border site and given her papers, but the van drives away without paying her	FOR THE EMPLOYER <ul style="list-style-type: none"> Cheating (s415 of the Penal Code) Cheating and dishonestly inducing delivery of property (s420 of the Penal Code) FOR THE VAN DRIVER <ul style="list-style-type: none"> Theft (s378 of the Penal Code) Extortion (s383 of the Penal Code) Robbery (s390 of the Penal Code)

SCENARIO 4 – MARRIAGE TRAFFICKING

	EVENTS	POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	A Cambodian woman hears about a marriage brokering service	
	She reads an ad in a local paper and applies hoping she might be able to support her extended family financially	
	She is asked to provide a profile	
	A video is taken of her in a short dress	
	Once a prospective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US\$2,600)	
	She borrows money from her parents to cover the expenses	
	Money is paid by the broker to bribe government officials to secure the proper papers	
	She flies to Myanmar	
DESTINATION COUNTRY: MYANMAR (INITIATION)	She arrives in Myanmar A man and a woman are waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code) — Criminal conspiracy for trafficking in woman (s24 of the Anti-Trafficking in Persons Law, 2005/s120A of the Penal Code) — Abetment of trafficking in woman (s24 of the Anti-Trafficking in Persons Law/s107 of the Penal Code)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Cheating and dishonestly inducing delivery of property (s420 of the Penal Code)
	She is driven to another agency office where she is presented with a set of papers to sign in a foreign language She is told to sign – that it is routine Once this is done, she is taken to a house She is told she is married Upon entering, she finds an elderly widower who is feeble She is told that she is already married and she is expected to take care of him and others who live in the house	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Marriage ceremony fraudulently gone through without lawful marriage (s496 of the Penal Code) — (Voidability of agreement without free consent (s19 of the Contract Act)
	When she explains that this was not the young person who was in the photo, they shout and threaten her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503 of the Penal Code)
	She is told that she will be arrested and put in jail if she tries to leave	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503 of the Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to wake up at 6am and work until 11pm	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Disposing of any person as a slave (s370 of the Penal Code)
	She services the needs of a large extended family	
	If she does something wrong, she is hit repeatedly	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code) — Assault (s351 of the Penal Code) — Hurt (s319 of the Penal Code) — Grievous hurt (s320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (s322 of the Penal Code)
	She is not allowed to leave the house unless a family member accompanies her	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)
	While the man is physically handicapped, he still demands that she sleeps with him	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Attempt to rape (s375 and s376 of the Penal Code/s511 of the Penal Code) — Assault or criminal force to woman with intent to outrage her modesty (s354 of the Penal Code) — Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (s493 of the Penal Code)
	She is forced to do whatever any of the family member demands of her, no matter what that might be	
	She is given no money or freedom of movement	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Responsibility for payment of wages (s3 of the Payment of Wages Act, 1936) — Time of payment of wages (s5 of the Payment of Wages Act) — Deductions which may be made from wages (s7 of the Payment of Wages Act) — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)
SOURCE COUNTRY: THE RETURN HOME	When she gets very sick, no medical care is offered – even when she was near death	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Attempt to murder (s307 of the Penal Code) — Attempt to commit culpable homicide (s308 of the Penal Code)
	She feels she was cheated	
	She is not allowed to return to her home country She is not allowed to communicate with her family in any way	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)

SCENARIO 5 – DOMESTIC TRAFFICKING

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
SOURCE COUNTRY	An Indonesian woman hears about a domestic job in Myanmar	
	She reads an ad in a local paper and applies	
	She is given a contract in her own language that she reads and signs	
	The agency helps her to get a passport and a visa in exchange for a fee (US\$3,200)	
	She borrows money from her husband's family to cover the expenses	
	The process is legal	
	She flies to Myanmar	
DESTINATION COUNTRY: MYANMAR (INITIATION)	She arrives in Myanmar A woman is waiting for her at the airport	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code) — Criminal conspiracy for trafficking in woman (s24 of the Anti-Trafficking in Persons Law, 2005/s120A of the Penal Code) — Abetment of trafficking in woman (s24 of the Anti-Trafficking in Persons Law/s107 of the Penal Code)
	Her travel documents are taken immediately	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Theft (s378 and s379 of the Penal Code) — Extortion (s383 and s384 of the Penal Code) — Robbery (s390 of the Penal Code)
	She is driven to another agency office where she is presented with a second contract that is in a foreign language	FOR THE TRAFFICKER <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code) <ul style="list-style-type: none"> — [Agreement void for uncertainty (s29 of the Contract Act)]
	She is told to sign	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal conspiracy for cheating (s420/s120A of the Penal Code) — Abetment of cheating (s420/s107 of the Penal Code)
	When she resists, she is shouted at	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Criminal intimidation (s503 of the Penal Code) — Intentional insult with intent to provoke breach of the peace (s504 of the Penal Code)
	She signs A middle-aged couple come to the office The couple and the agent take her to an apartment	<ul style="list-style-type: none"> — (Voidability of agreement without free consent - s19 of the Contract Act)
	The agent explains she is not to talk to anyone or leave the apartment or she will get punished	FOR THE PERPETRATOR <ul style="list-style-type: none"> — Wrongful restraint (s339 of the Penal Code) — Wrongful confinement (s340 of the Penal Code)

EVENTS		POSSIBLE CRIMINAL OFFENCE(S) & MAXIMUM PENALTIES
DESTINATION COUNTRY: EXPLOITATION PERIOD	Each day she is forced to wake up at 6am and work until 11pm	FOR THE PERPETRATOR — Unlawful compulsory labour (s374 of the Penal Code)
	She services the needs of a large extended family	
	She gets Sunday afternoon off but she is not allowed to leave	FOR THE PERPETRATOR — Unlawful compulsory labour (s374 of the Penal Code)
	If she does something wrong (which is often because she doesn't understand the language), she is hit repeatedly	FOR THE PERPETRATOR — Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code) — Assault (s351 of the Penal Code) — Hurt (s319 of the Penal Code) — Grievous hurt (s320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (s322 of the Penal Code)
	She is only paid 7,500MMK a month because room, food, agency fees, and any other expenses are deducted	FOR THE PERPETRATOR — Deductions which may be made from wages (s7 of the Payment of Wages Act)
	When she tries to ask any questions, she is hit	— Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code) — Assault (s351 of the Penal Code) — Hurt (s319 of the Penal Code) — Grievous hurt (s320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (s322 of the Penal Code)
	She is allowed to cook two meals a day for herself	
	Now and then, one of the uncles who visits the house fondles her – if she resists she is scolded and slapped	FOR THE PERPETRATOR — Assault or criminal force to woman with intent to outrage her modesty (s354 of the Penal Code) — Force (s349 of the Penal Code) — Criminal force (s350 of the Penal Code) — Assault (s351 of the Penal Code) — Hurt (s319 of the Penal Code) — Grievous hurt (s320 of the Penal Code) — Voluntarily causing hurt (s321 of the Penal Code) — Voluntarily causing grievous hurt (s322 of the Penal Code)
	She is forced to sleep in a tiny room that is no more than a broom closet	

LAWS OF MYANMAR

MYANMAR PENAL CODE 1860

S.107 ABETMENT OF A THING

A person abets the doing of a thing, who-

FIRST. – Instigates any person to do that thing; or

SECONDLY. – Engages with one or more other person or person in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy and in order the doing of that thing; or

THIRDLY. – Intentionally aids, by any act or illegal omission, the doing of that thing.

EXPLANATION 1. – A person who, by willful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B knowing that fact and also that C is not Z, willfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

EXPLANATION 2. – Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

S. 120A DEFINITION OF CRIMINAL CONSPIRACY

When two or more persons agree to do, or cause to be done, –

1. an illegal act, or
2. an act which is not illegal by illegal means. Such an agreement is designated a criminal conspiracy;

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

EXPLANATION – It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

S.161 PUBLIC SERVANT TAKING GRATIFICATION OTHER THAN LEGAL REMUNERATION IN RESPECT OF AN OFFICIAL ACT

Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing

or forbearing to do any official act or for showing or for bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine, or with both.

EXPLANATIONS – “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

“Gratification”. The word “gratification” is not restricted to pecuniary gratification, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government to accept.

“A motive or reward for doing.” A person who receives a gratification as a motive for doing what he does not intended to do, or a reward for doing what he has not done, comes within these words.

S.162 TAKING GRATIFICATION IN ORDER, BY CORRUPT OR ILLEGAL MEANS, TO INFLUENCE PUBLIC SERVANT

Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatsoever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine, or with both.

S.163 TAKING GRATIFICATION FOR EXERCISE OF PERSONAL INFLUENCE WITH PUBLIC SERVANT

Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official function of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Union Parliament or the Government or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with a fine, or with both.

S.164 PUNISHMENT FOR ABETMENT BY PUBLIC SERVANT OF OFFENCES DEFINED IN

SECTION 162 OR 163

Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine, or with both.

S.165 PUBLIC SERVANT OBTAINING VALUABLE THINGS, WITHOUT CONSIDERATION, FROM PERSON CONCERNED IN PROCEEDING OR BUSINESS TRANSACTED BY SUCH PUBLIC SERVANT

Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to likely to be, concerned in any proceeding or business transacted or about to be transacted by such public servant, or himself having any connection with the official functions or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with a fine, or with both.

S.269 NEGLIGENT ACT LIKELY TO SPREAD INFECTION OF DISEASE DANGEROUS TO LIFE

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description for a term which may extend to six months, or with a fine, or with both.

S.270 MALIGNANT ACT LIKELY TO SPREAD INFECTION OF DISEASE DANGEROUS TO LIFE

Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both.

S.271 DISOBEDIENCE TO QUARANTINE RULE

Whoever knowingly disobeys any rule made and promulgated by the Government for putting any vessel into a state of quarantine, or for regulating the interaction of vessels in a state of quarantine with the shore or with other vessels, or for regulating the interaction between places where an infectious disease prevails and other place, shall be punished with imprisonment of either description for a term which may extend to six month, or with a fine, or with both.

S.307 ATTEMPT TO MURDER, ATTEMPT BY LIFE-CONVICTS

Whoever does any act with such intention and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine and, if hurt is caused to any person by such act, the offender

shall be liable either to transportation for life, or to such punishment as is here in before mentioned.

When any person offending under this section is under sentence of transportation for life he may, if hurt is caused, be punished with death.

S.308 ATTEMPT TO COMMIT CULPABLE HOMICIDE

Whoever does any act with such intention and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide or amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with a fine, or with both.

S.319 HURT

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

S.320 GRIEVOUS HURT

The following kinds of hurt only are designated as "grievous"

FIRST. – Emasculation.

SECONDLY. – Permanent deprivation of the sight of either eye.

THIRDLY. – Permanent deprivation of the hearing of either ear.

FOURTHLY. – Deprivation of any limb or joint.

FIFTHLY. – Destruction or permanent impairing of the powers of any limb or joint.

SIXTHLY. – Permanent disfiguration of the head or face.

SEVENTHLY. – Fracture or dislocation of a bone or tooth.

EIGHTHLY. – Any hurt which endangers life or which causes the sufferer to be for a period of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

S.321 VOLUNTARILY CAUSING HURT

Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt"

S.322 VOLUNTARILY CAUSING GRIEVOUS HURT

Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be 'likely' to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

EXPLANATION – A person is not said to voluntarily cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt.

But he is said to voluntarily cause grievous hurt if intending or knowing himself to be likely to cause grievous hurt of one kind he actually causes grievous hurt of another kind.

S.339 WRONGFUL RESTRAINT

Whoever voluntarily obstructs any person, so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

EXCEPTION – The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

S.340 WRONGFUL CONFINEMENT

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said “wrongfully to confine” that person.

S.349 FORCE

A person is said to use force on another if he causes motion, change of motion or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other’s body, or with anything which that other is wearing or carrying, or with anything situated that such contact affects that other’s sense of balance, provided that the person is causing the motion, or change of motion, or cessation of motion in one of the three ways herein after described.

FIRST. – By his own bodily power.

SECONDLY. – By disposing any substance in such a manner that the motion or change or cessation of motion takes place without further act on his part, or on the part of any other person.

THIRDLY. – By inducing any animal to move, to change its motion, or to cease to move.

S.350 CRIMINAL FORCE

Whoever intentionally uses force on any person, without that person’s consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom force is used, is said to use criminal force to that other.

S.351 ASSAULT

Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

EXPLANATION – Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

S.354 ASSAULT OR CRIMINAL FORCE TO WOMAN WITH INTENT TO OUTRAGE HER MODESTTY

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both.

S.357 ASSAULT OR CRIMINAL FORCE IN ATTEMPT WRONGFULLY TO CONFINE A PERSON

Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person shall be punished with imprisonment of either description for a term which may extend to one year, or with a fine which may extend to one thousand Kyats, or with both.

S.368 WRONGFULLY CONCEALING OR KEEPING IN CONFINEMENT KIDNAPPED OR ABDUCTED PERSON

Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

S.370 BUYING OR DISPOSING OF ANY PERSON AS A SLAVE

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

S.371 HABITUAL DEALING IN SLAVES

Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to a fine.

S.372 SELLING MINOR FOR PURPOSES OF PROSTITUTION, ETC.

Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine.

EXPLANATION 1. – When a female under the age of eighteen years is, sold, let for hire or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

EXPLANATION 2. – For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.

S.373 BUYING MINOR FOR PURPOSES OF PROSTITUTION, ETC.

Whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

EXPLANATION 1. – Any prostitute or any person keeping or managing a brothel who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

EXPLANATION 2. – “Illicit intercourse” has the same meaning as in section 372.

S.374 UNLAWFUL COMPULSORY LABOUR

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

S.375 RAPE

A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions

FIRST. – Against her will.

SECONDLY. – Without her consent.

THIRDLY. – With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

FOURTHLY. – With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

FIFTHLY. – With or without her consent, when she is under fourteen years.

EXPLANATION – Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

EXCEPTION – Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

S.376 PUNISHMENT FOR RAPE

Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine, unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

S.378 THEFT

Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to take it is said to commit theft.

EXPLANATION 1. – A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft, but it becomes capable of being the subject of theft as soon as it is severed from the earth.

EXPLANATION 2. – A motion effected by the same act which effects the severance may be a theft.

EXPLANATION 3. – A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

EXPLANATION 4. – A person who by any means causes an animal to move is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

EXPLANATION 5. – The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

EXPLANATION 6. – Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

S.379 PUNISHMENT FOR THEFT

Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine, or with both.

S.383 EXTORTION

Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits “extortion.”

S.384 PUNISHMENT FOR EXTORTION

Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine, or with both.

S.390 ROBBERY

In all robbery there is either theft or extortion.

Theft is “robbery” if, in order to the commit the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

EXPLANATION – The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongfully restraint.

S.415 CHEATING

Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat.”

EXPLANATION – A dishonest concealment of facts is a deception within the meaning of this section.

S.420 CHEATING AND DISHONESTLY INDUCING DELIVERY OF PROPERTY

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine.

S.493 COHABITATION CAUSED BY A MAN DECEITFULLY INDUCING A BELIEF OF LAWFUL MARRIAGE

Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine.

S.496 MARRIAGE CEREMONY FRAUDULENTLY GONE THROUGH WITHOUT LAWFUL MARRIAGE

Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine.

S.503 CRIMINAL INTIMIDATION

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

EXPLANATION – A threat to harm the reputation of any deceased person in whom the person threatened is interested is within this section.

S.504 INTENTIONAL INSULT WITH INTENT TO PROVOKE BREACH OF THE PEACE

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both.

S.509 WORD, GESTURE OR ACT INTENDED TO INSULT THE MODESTY OF A WOMAN

Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with a fine, or with both.

S.511 PUNISHMENT FOR ATTEMPTING TO COMMIT OFFENCES PUNISHABLE WITH TRANSPORTATION OR IMPRISONMENT

Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence for a term of transportation

or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

MYANMAR IMMIGRATION (EMERGENCY PROVISIONS) ACT 1947

S.3 PROHIBITION OR ENTRY WITHOUT IMMIGRATION PERMIT OR DULY VISAED PASSPORT

1. No foreigner shall enter the Union of Myanmar without an immigration permit issued by the Controller or by any Official authorized to issue such permits or a valid passport duly visaed or endorsed by or on behalf of the President.
2. No citizen of the Union of Myanmar shall enter the Union without a valid Union of Myanmar passport, or a certificate in lieu thereof, issued by a competent authority:

Provided that this section shall not apply to a person, who, in proceeding from one place in the Union of Myanmar, traverses in the course of that journey any extra-territorial water.

S.13 OFFENCES AND PENALTIES

2. Whoever being the carrier knowingly brings or attempts to bring into the Union of Myanmar any person not authorized to enter the Union of Myanmar shall be liable to imprisonment for a term which may extend from a minimum of six months to a maximum of five years or to a fine of a minimum of Kyats 1500 for every such person brought or attempted to be brought into Myanmar or to both.
7. Whoever:-
 - a. impersonates or falsely represents himself to be or not to be a person to whom an immigration permit has been issued, or
 - b. makes any false statement with intent to obtain an immigration permit for himself or for any other person, or
 - c. forge, alters or tampers with any immigration permit, or
 - d. uses or has in his possession any forged immigration permit, or any immigration permit which bears any illegal obliteration, tampering or alteration in respect of any material particulars,

shall be punished with imprisonment for a term not exceeding two years, or with a fine, or with both.

ANTI-TRAFFICKING IN PERSONS LAW 2005 (UNOFFICIAL TRANSLATION)

S.24 OFFENCES AND PENALTIES

Whoever is guilty of trafficking in persons especially women, children and youth shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of imprisonment for life and may also be liable to a fine.

WARDS AND VILLAGE TRACTS ADMINISTRATION LAW 2012

S.27 Whoever fails to perform sections 17, 18 and 19 shall be fined not exceeding of 5000 Kyats and if he fails to pay fine he shall be imprisoned for a term not exceeding of (7) days.

S.17 Any person living in a Ward or a Village tract shall report the following facts to the relevant Ward or Village tract Administrative Officer -

- a. the arrival and staying overnight of a visitor who lives in other Ward or Village tract and who is not a member of Household Member List;
- b. the departure of the said visitor.

SUPPRESSION OF PROSTITUTION ACT, 1949 (UNOFFICIAL TRANSLATION)

S.3 Any person who tempts for the purpose of prostitution in the public places by viva or physical manner, shall be punished with imprisonment for a term up to one year with rigorous work or with a fine or with both.

S.5 Any person who lives off the benefits from prostitution of other person(s) shall be punished with imprisonment for a term up to three years with rigorous work.

S.6 Any person who tempts a woman with the intention to become a prostitute shall be punished with imprisonment for a term up to three years along with a fine.

S.8 Any person who uses a house or premise or who permits the use of a house or premise as a brothel shall be punished with imprisonment for a term up to three years or with fine or with both.

S.9 Any person who administers a brothel house shall be deemed as a person defined in section 8.

ANTI-BRIBERY LAW, 2013

S.56 Any person except public office holder, who is found guilty of bribery, shall be punished with imprisonment for a term not exceeding ten years and/or a fine.

CONTROL OF MONEY LAUNDERING LAW, 2002

S.22 Whoever commits any of the following acts in committing any offence contained in the Narcotic Drugs and Psychotropic Substances Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of an unlimited period:

- a. concealing or obliterating of money and property obtained by commission of an offence, so that action may not be taken.
- b. converting, transferring or disguising of money and property, relating

to an offence so as to appear to have been acquired from a legitimate source.

S.23 Whoever converts, transfers, conceals, obliterates or disguises money and property obtained by committing any offence contained in sub-sections (a) and (b) of section 5, so as to appear to have been acquired from a legitimate source except any offence contained in section 22 shall, on conviction, be punished with imprisonment for a term which may extend to 10 years and may also be liable to a fine.

SHOPS AND ESTABLISHMENT ACT, 1951 (UNOFFICIAL TRANSLATION)

S.7 (2) Any employee who works at a shop or trade establishment or public entertainment establishment shall not be assigned or be permitted to work more than 8 hours a day and 48 hours a week.

PAYMENT OF WAGES ACT, 1936

S.3 RESPONSIBILITY FOR PAYMENT OF WAGES

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)-

- a. in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (I) of section 9 of the Factories Act (Indian Act XXV, 1934),
- b. in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- c. at railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment:

Provided further that for the purpose of this section a maistry shall not be deemed to be a contractor or an employer.

EXPLANATION – In this section “maistry” means a person who supplies labourers under a contract, expressed or implied, for performance of any work.

S.5 TIME OF PAYMENT OF WAGES

1. The wages of every person employed upon or in –
 - a. any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the

expiry of the seventh day

- b. any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day

after the last day of the wage-period in respect of which the wages are payable.

- 2. Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

S.7 DEDUCTIONS WHICH MAY BE MADE FROM WAGES

- 1. Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890 (9 of 1890), the wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under this Act.

EXPLANATION – Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

- 2. Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:–
 - a. fines;
 - b. deductions for absence from duty;
 - c. deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
 - d. deductions for house-accommodation supplied by the employer (or Government or Local Authority or any Housing Corporation approved by the Government);
 - e. deductions for such amenities and services supplied by the employer as the President of the Union may, by general or special order, authorize.

EXPLANATION – The word “services” in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment:

- f. deductions for recovery of advances or for adjustment of over-payments of wages;
- g. deductions of income-tax payable by the employed person;
- h. deductions required to be made by order of a Court or other authority competent to make such order;
- i. deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925 (India Act XIX, 1925), applies or any recognized provident fund as defined in section 58A of the Indian Income-tax Act, 1922 (Indian Act XI, 1922),

- or any provident fund approved in this behalf by the President of the Union, during the continuance of such approval;
- j. deductions for payments to co-operative societies approved by the President of the Union or to a scheme of insurance maintained by the Post Office;
 - k. deductions, made with the written authorization of the employed persons, in furtherance of any Savings Scheme approved by the Government; and
 - l. deductions of subscriptions to any Trade Union registered under the Trade Union Act made with the written authorization of the employed person, and by agreement between the employer and the Trade Union concerned.
3. All sums collected in accordance with clause (e) of sub-section (2) shall be handed over to the Trade Union concerned within fourteen days of the collection.
 4. The total deduction for any wage period, exclusive of deductions on account of absence from duty, shall not exceed 50 per cent of the wages payable to the employed person during that wage period:

Provided that the President of the Union may, by general or special order and subject to such conditions as may be specified therein, permit an increase in the percentage mentioned above, if the President of the Union is satisfied that the amenities and services supplied by the employer justified such an increase.

WORKMEN'S COMPENSATION ACT, 1923

S.3 EMPLOYER'S LIABILITY FOR COMPENSATION

1. If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:
- Provided that the employer shall not be so liable in respect of any injury, not resulting in death, caused by an accident which is directly attributable to –
- i. the workman having been at the time thereof under the influence of drink or drugs, or
 - ii. the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - iii. the willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.
2. If a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in List A of Schedule III, contracts any disease specified therein as an occupational disease particular to that employment, the contracting of the disease

shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

EXPLANATION – For the purpose of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

3. If a workman contracts any disease specified in List B of Schedule III, and it is certified by a qualified medical practitioner that the disease is directly due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of disablement, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section, and unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment aforesaid:

Provided that the compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due.
4. The President, after giving, by notification in the Gazette, not less than three months' notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in List A of Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases particular to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such disease had been declared by this Act to be occupational diseases particular to those employments.
5. The President, after giving, by notification, not less than three months' notice of his intention to do so, may, by a like notification, add any diseases to the occupational disease specified in List B of Schedule III, and provisions of sub-section (3) shall there upon apply as if such diseases had been declared by this Act to be occupational diseases.
6. Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.
7. Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—
 - a. if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
 - b. if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

S.4 AMOUNT OF COMPENSATION

1. Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:-

- a. Where death results from the Injury—
 - i. in the case of an adult, a sum equal to 36 times the workman's monthly wages calculated in accordance with this Act:
Provided that the minimum and the maximum payment in such a case shall be Kyats 2,160 and Kyats 7,200 respectively, and
 - ii. in the case of minor two hundred Kyats;
- b. Where permanent total disability results from the injury—
 - i. in the case of an adult, a sum equal to 36 times 140 percent of the workman's monthly wages calculated in accordance with this Act:
Provided that the minimum and the maximum payment in such a case shall be Kyats 3,024 and Kyats 10,080 respectively, and
 - ii. in the case of minor twelve hundred Kyats;
- c. Where permanent partial disability results from the injury—
 - i. in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disability as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
 - ii. in the case of an injury not specified in Schedule I, such percentage of compensation payable in the case of permanent total disability as is proportionate to the loss of earning capacity permanently caused by the injury;

EXPLANATION – Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disability had resulted from the injuries;

- d. Where temporary disability, whether total or partial, results from the injury, a half-monthly payment on the sixteenth day from the date of the disability, and thereafter half-month during the disability or during a period of five years, whichever period is shorter,
 - i. in the case of an adult – of a sum equivalent to one-third of the workman's monthly wages calculated in accordance with this Act, and
 - ii. in the case of a minor – of one half of his monthly wages, subject to a maximum of thirty Kyats:

Provided that—

- (a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disability prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be: and
 - (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident; and
 - (c) no compensation shall be payable in respect of the first four days of the disability if the period of the workman's disability is ten days or less.
- e. In cases where the injury results in incapacity of such a nature that the injured workman must have the constant help of another person, additional compensation equivalent to twenty-five percent of the compensation payable in respect of the injury shall be paid to the injured workman; and
- 2. On the ceasing of the disability before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disability in that half-month.
- 3. Where the injury sustained is of such a nature as would entitle the injured workman to the supply and renewal by the employer of such artificial limbs and surgical appliances as are recognized to be necessary, the injured workman shall be paid a lump sum compensation representing the probable cost of the supply and renewal of such appliances. This sum, which shall not exceed ten percent of the compensation payable in respect of the injury, shall be decided at the time when the amount of compensation payable in respect of the injury is settled or revised.

S.11 MEDICAL EXAMINATION

1.
 - a. Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination; and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:
 - b. If the Commissioner considers it necessary for the settlement of any question arising in any proceedings under this Act, he may require a workman who has given notice of an accident to submit himself for examination by a medical practitioner, and the cost of such medical examination, if any, shall be payable by the employer;

Provided that a workman shall not be required to submit himself for

examination by a medical practitioner other than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

2. If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.
3. If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.
4. Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.
5. Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension.
6. Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge, or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case, and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

CONTRACT ACT, 1872

S.19 VOIDABILITY OF AGREEMENT WITHOUT FREE CONSENT

When consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

EXCEPTION – If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of section 17, the contract, nevertheless, is not voidable, if the party whose consent was so caused had the means of discovering the truth with ordinary diligence.

EXPLANATION – A fraud or misrepresentation which did not cause the consent to a contract of the party on whom such fraud was practiced, or to whom such misrepresentation was made, does not render a contract voidable.

S.29 AGREEMENT VOID FOR UNCERTAINTY

Agreements the meaning of which is not certain, or capable of being made certain, are void.



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