



CAMBODIA/ MALAYSIA

“They Deceived Us at Every Step”

Abuse of Cambodian Domestic Workers Migrating to Malaysia

HUMAN
RIGHTS
WATCH



“They Deceived Us at Every Step”

Abuse of Cambodian Domestic Workers Migrating to Malaysia

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Printed in the United States of America
ISBN: 1-56432-823-6
Cover design by Rafael Jimenez

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NOVEMBER 2011

ISBN: 1-56432-823-6

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Summary and Key Recommendations



A training center in Phnom Penh, owned and managed by a private recruitment agency for domestic workers migrating to Malaysia. Human Rights Watch research found that prospective migrant workers are typically locked inside these training centers, usually for three to six months before their departure. Trainees often do not have access to adequate health care, food, and water inside the center. Some women and girls experience verbal, psychological, and sometimes physical abuse.

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A woman shows a picture of her relative who has not contacted her family since she migrated to Malaysia in September 2009. She said her relative wanted to be a domestic worker in Malaysia to earn enough money to build a house for her family in Cambodia.

A broker said that the company is looking for women to work in Malaysia. When I asked if there is anyone who will help my daughter if she is in trouble, the broker said that if something happens to the girl, if she dies for example, the company would pay the compensation....He said, "You can rest all your life with that money."

NHEAN, FATHER OF CHAMPEL, A 21-YEAR-OLD DOMESTIC WORKER WHO DIED IN THE PHNOM PENH TRAINING CENTER OF VC MANPOWER, CAMBODIA, APRIL 2011

When 16-year-old Nhon Yanna migrated to Malaysia from Cambodia as a domestic worker in 2010, all she had hoped was to earn some money to take care of her five younger siblings, an ailing mother, and an elderly grandmother. A broker promised a job that would be easy and pay her US\$3,000 over two years. But things quickly soured after she signed a contract with a recruitment agency, which immediately confined Yanna to a training center in Phnom Penh for three months, and denied contact with her family. After she reached Malaysia, her employer gave her work that would have taken several people to complete.

I woke up at 4 a.m., cleaned my employer's house, his two cars, bathed and fed the children.... Then I worked in his office and cleaned four rooms, tables and floors. After that, he took me to his mother's house where I worked until 9 p.m. Then I returned to my employer's house and worked until 2 a.m., but they still hit me and told me I was lazy. They didn't give me food. I slept hungry two or three times a week.

Despite working for eight months, Yanna never received her salary. She ran away from her employer's house and eventually returned to Cambodia with the help of a non-governmental organization (NGO).

In Cambodia, such stories are common. With one-third of the population living below the national poverty line of 60 US cents a day, many Cambodians struggle to survive. Poverty is deepest in rural areas. In the poorest and most marginalized sectors of Cambodian society women face the greatest discrimination. Yet they also often shoulder the responsibility of earning a living for their families. With few opportunities at home, many women and girls migrate abroad as domestic workers—most often to Malaysia. Between 40 and 50 thousand Cambodian women and girls have traveled to Malaysia for domestic work.

Demand for Cambodian domestic workers has sharply increased in Malaysia since 2009, when the Indonesian government responded to several high-profile abuse cases by imposing a moratorium on its nationals working as domestic workers there. Recruitment agencies immediately turned to workers from Cambodia to fill the shortage.

Large cash advances to impoverished families, wages that greatly exceed what can be earned in villages, and the promise of work in a home rather than a sweatshop or brothel, are attractive incentives. And there are Cambodian women who have positive employment experiences in Malaysia and whose earnings contribute significantly to family income.

But the already difficult prospect of migrating to a foreign country, far from home and without any contact with family, is too often compounded by poor and illegal practices of recruitment agencies, which fail to disclose the tasks workers will be expected to perform, their lack of rest days, and avenues of assistance should they encounter problems or abuse. As a result, Cambodian women and girls risk suffering a harsh and isolating experience in Malaysia.

This report, based on research conducted in Cambodia and Malaysia in April and May 2011—including 80 interviews with migrant domestic workers, their families, government officials, NGOs, and recruitment agents—finds abuse at every step of the migration cycle for Cambodian domestic workers, with little or no protection from the Cambodian government.

Private labor recruitment agencies in Cambodia control most aspects of the migration process, including recruitment of prospective domestic workers, training, employment placement, transit and return. Through imposed debts, forced confinement for months in training centers, and threats, some labor agents in Cambodia coerce women and girls to migrate, even if they no longer wish to work abroad.

Once they reach Malaysia, Cambodian migrant domestic workers risk a wide range of labor exploitation and serious abuses, including non-payment of wages, excessive working hours with little rest, forced labor, and psychological, physical, and sexual abuse at the hands of their employers.

Domestic workers who experience abuse have little opportunity to seek redress either in Malaysia or Cambodia. Despite the death of three women in training centers in the past year; complaints filed directly with the government; and credible reports of child recruitment, abuses in training centers, and practices that are akin to debt bondage, the Cambodian government has not taken concrete steps to investigate fully or punish those responsible. In the first case of a successful prosecution, a Cambodian court in September 2011 convicted a manager of the VC Manpower Recruitment Agency and sentenced him to 13 months in prison for illegally detaining underage workers. However, the government has not yet arrested and prosecuted other recruitment agents

involved in similar abuses, nor has it revoked the license of a single recruitment agency.

The Cambodian government's interest in promoting migrant work, together with its poor record of holding recruitment agencies accountable for migrant worker abuse, fosters a climate of impunity that exacerbates human rights abuses against prospective migrant domestic workers. According to one domestic worker, for example, two women attempted suicide when the agency refused their request to return home. The agency then held a meeting attended by two police officials. "The police officials told us that if we [attempted to] commit suicide, then they would put us in jail. They also said that we should never try to escape. Even if we escape, the police will find [us] and we will still be sent to Malaysia," she said.

Gaps in Malaysia's labor laws leave domestic workers without key protections. In order to address the exploitation of migrant domestic workers, stronger regulation and monitoring of recruitment agencies is needed in Cambodia, as are labor law reforms in Malaysia, and effective access to support services and channels of redress in both countries.





The house of Phhoung (real name withheld), who died in the Phnom Penh training center of T&P Company recruitment agency. Many of the women and girls who migrate to Malaysia come from rural areas and an impoverished economic background. Phhoung wanted to migrate to Malaysia to support her three children. Her eldest daughter, 17, also migrated to Malaysia. Phhoung's two remaining children are living with relatives who struggle to pay their school expenses.

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A woman holds a photograph of her sister, who migrated to Malaysia to support her three young children. She said that her sister left her two older children with one relative, and her three-year-old daughter (pictured above) with her. Her sister has not contacted any of her relatives since she left for Malaysia in March 2010. None of her relatives know her whereabouts or how to contact her.

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L.A.T Cambodia Co., Ltd

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(opposite) Advertisement distributed to villagers by a recruitment agency, listing application requirements. Many agencies compete for prospective domestic workers by offering cash incentives, cell phones and cattle.

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(above) Photographs of families receiving bags of rice, mobile phones, and cattle as incentives for migrating to Malaysia displayed in a Cambodian recruitment agency. These items are actually loans that indebt migrants early in the recruitment process. The pressure to repay these loans can trap migrant workers in abusive conditions in training centers in Cambodia or employment in Malaysia.

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RECRUITMENT

The recruitment process is riddled with problems. Our research found that recruitment agencies recruit children and young women below the minimum age of 21 to migrate to Malaysia and facilitate the forging of fraudulent identity documents. Some agents mislead women about their work arrangements or fail to provide important information on seeking assistance in case of a problem in Malaysia. None of the women and girls interviewed received a copy of their employment contract with the recruitment agencies in Cambodia or their employers in Malaysia.

Onerous recruitment fees and deceptive lending practices set the stage for exploitation. Recruitment agents target the poorest families and sometimes provide upfront loans of cash and sacks of rice as incentives for migrating. Migrants must repay these loans, along with exorbitant recruitment and training fees, by handing over the first six to seven months of their salary once they begin work in Malaysia. This arrangement makes it difficult for a worker to leave her workplace in Malaysia if she encounters abuse.

If a worker changes her mind about migrating while still in the training center in Cambodia, she must repay the initial loan, along with the cost of living in the training center and document processing fees. Recruitment agents often calculate fees much higher than the actual cost, inflating a migrant's total debt. Most prospective migrants come from impoverished households and cannot pay the amount—usually \$300 to \$900—leaving them no choice but to migrate.

In the training centers in Cambodia, labor agents restrict prospective migrants' freedom of movement and limit their communication with relatives until they leave for Malaysia. They may experience verbal, psychological, and sometimes physical abuse. Recruits interviewed by Human Rights Watch described the centers as overcrowded and having poor living conditions without access to adequate food, water, or medical care. They said labor agents regularly deny sick domestic workers proper medical care, and if they are taken for treatment in a clinic, agents add the medical expenses to the workers' debts.

A photo of a woman shared with Human Rights Watch by her mother. Maly (real name withheld) is a single mother who migrated to Malaysia in April 2010 and has not been in contact with her family since. She left her six-year-old daughter and seven-year-old son with her mother, and promised to send money back from Malaysia to support them.

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IN MALAYSIA

Once in Malaysia, Cambodian women and girls are at risk of abuse and exploitation. They often have limited or no ability to communicate in English or Malay, must relinquish their passports to their agent or employer, and lack information to negotiate employment conditions and salary. The most common workplace abuses that Cambodian domestic workers reported to authorities, NGOs, and Human Rights Watch include excessive work hours with no rest days, lack of food, and irregular or non-payment of wages.

Cambodian and Indonesian domestic workers typically earn monthly wages of 400 to 600 ringgit (\$133 to \$200). Some workers reported to Human Rights Watch physical and sexual abuse, and restrictions on their freedom of communication and movement. In some cases, women and girls become trapped in situations of forced labor and trafficking. Those who escape from abusive employers risk being treated as immigration offenders in Malaysia, making it difficult to reclaim unpaid wages and leaving them vulnerable to arrest, detention, and deportation.

The Cambodian embassy in Malaysia lacks adequate staff, skills, and resources to deal with domestic workers coming forward with complaints of abuse. The embassy received 80 such complaints in 2010, has only one part-time staff member to handle them, and only began planning for an on-site shelter in September 2011. One of the most serious problems is the embassy's practice of sending abused workers back to their agents instead of handling the case themselves. Some agents make these women work for a second or third employer against their will.

Malaysia offers few minimum guarantees to domestic workers. The Malaysian Employment Act excludes them from key labor protections such as compensation for workplace injuries, weekly rest days, overtime payment, and weekly limits on hours of work. There are no limits to salary deductions, enabling the exploitative practice of deducting the first six to seven months of a Cambodian domestic worker's salary—out of a two-year contract—to repay recruitment fees. The Malaysian government concluded a Memorandum of Understanding (MoU) with Indonesia in May 2011 to guarantee migrant domestic workers the ability to keep their passports and have a weekly rest day, but has not extended these protections to Cambodian domestic workers.







THE CAMBODIAN GOVERNMENT

The Cambodian government is strongly pushing migrant work abroad as a strategy to increase foreign remittances, cope with unemployment and alleviate poverty.

However, it has abdicated most of its responsibility to safeguard migrants to private recruitment agencies. Some large recruitment agencies are reportedly either owned or affiliated with powerful government officials. Such close affiliations and influence make it difficult for labor inspectors, police, or other officials to investigate complaints fully or hold agencies accountable for exploitative practices. Domestic workers, either fearing reprisal, or lacking the resources or belief in Cambodian government institutions to address their problems, have virtually no avenues for effective redress.

Against this backdrop, the Cambodian government squandered an opportunity to improve human rights protections for migrant workers when it issued a revised labor regulation on recruitment agencies in August 2011. Although the government invited input from the Association of Cambodian Recruitment Agencies, an industry group, it did not consult domestic or international organizations while revising the 1995 regulation. The sub-decree assigns the Ministry of Labor and Vocational Training responsibility for inspecting recruitment agencies and introduced some positive changes, such as requiring recruitment agencies to supply contracts in the Khmer language and lawyers for migrants facing legal proceedings abroad. However, it fails to specify minimum requirements for training centers and does not create effective complaints or monitoring systems.

On October 14, 2011, the Cambodian government announced a ban on sending domestic workers to Malaysia. However, at the time of writing, human rights groups in Cambodia reported that some recruitment agencies were ignoring the ban.

While a temporary ban can be a positive measure if used to negotiate and implement more comprehensive reforms, such bans imposed in other countries have rarely been effective on their own. Bans restrict women's job opportunities, fail to address the causes of exploitation such as gaps in legal protections, and may spur domestic workers to migrate outside of formal channels where they face a higher risk of abuse.

A cremation ceremony of Chhim Sopheap, a 36-year-old woman who died in a Phnom Penh training center in February 2011. Her son holds Chhim's photo as he bids final farewell to his mother. Three women have died in training centers in the past year. As of this writing, none of these deaths have been investigated fully.

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OBLIGATIONS

Cambodia and Malaysia have each ratified the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). As parties to these treaties, as well as customary international law protections, Cambodia and Malaysia are obligated to protect the rights of women and children migrating as domestic workers, including against discrimination in employment, forced labor, human trafficking, and the exploitation of children.

New global standards address the specific obligations of governments to protect domestic workers, a group historically neglected by labor laws. In June 2011, the International Labour Organization (ILO) adopted Convention No. 189 Concerning Decent Work for Domestic Workers. Although Cambodia and Malaysia have yet to ratify this new treaty, it provides valuable guidance on the minimum standards the two countries should implement. These include equivalent labor protections provided to other workers, accessible complaints mechanisms, substantial penalties for agencies that violate standards, and prohibitions on salary deductions for recruitment fees.

The Cambodian and Malaysian governments should institute comprehensive labor and migration policy reforms and effective access to support services and channels of redress in both countries to ensure protection of migrant domestic workers' rights and conformity with international law.

KEY RECOMMENDATIONS

TO THE GOVERNMENT OF CAMBODIA

- **Adopt a comprehensive migration law addressing lack of oversight of recruitment agencies, recruitment fees and debts, lack of freedom of movement in training centers, child recruitment and other problems identified in this report. Ensure extensive consultation with domestic and international organizations working on migration and trafficking and establish substantial penalties for violations with detailed methods for enforcement.**
- **Establish confidential, and easily and safely accessible, complaint mechanisms at the Ministry of Labor and Vocational Training for families and workers to report cases of abuse during recruitment and training in Cambodia, and non-payment of salaries and workplace abuse in Malaysia. Ensure prompt investigation and follow-up to complaints.**
- **Arrange for independent investigations into allegations of human rights abuses against migrant workers by recruitment agencies, particularly the deaths and serious injuries of prospective domestic workers as well as allegations of collusion between government officials, including the police, with recruitment agents.**

TO THE GOVERNMENT OF MALAYSIA

- **Amend the Employment Act of 1955 and the Workmen’s Compensation Act to provide comprehensive and equal labor protections for domestic workers, including regulations on hours of work, rest days, and compensation for workplace injuries.**
- **Prohibit salary deductions from workers’ remuneration to repay recruitment fees.**
- **Investigate and prosecute criminal abuses against migrant domestic workers such as physical and sexual abuse, forced labor, and trafficking into domestic servitude. Ensure fair, prompt, and accessible mechanisms to resolve labor disputes.**

TO INTERNATIONAL DONORS

- **Raise strong concerns about the abuses faced by migrant domestic workers in bilateral and multilateral meetings with the governments of Cambodia and Malaysia and publicly advocate for effective reforms.**
- **Sponsor an independent report on conflicts of interest between the recruitment industry and officials in the Cambodian government**



A woman shows a picture of her daughter Chhorn Malen, which was taken just before she left for Malaysia in 2009. She was physically and psychologically abused by her employer in Malaysia and eventually attempted suicide. She survived but was seriously injured, after which her employer sent her back to Cambodia. Her father said that when Malen returned home, she behaved “abnormally” and did not even recognize her mother. Many Cambodian women and girls face exploitation and abuse from their employers or recruitment agents in Malaysia, and have very limited access to legal aid and health care in Cambodia and Malaysia.

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Methodology

Human Rights Watch conducted 80 in-depth interviews in Cambodia and Malaysia with migrant domestic workers and members of their families, representatives of local and international organizations, and government officials between April and May 2011. In Cambodia, Human Rights Watch conducted detailed interviews in the capital, Phnom Penh, and in the provinces of Siem Reap, Battambang, Pursat, Kampong Chhnang, and Kampong Cham. These provinces were chosen because local nongovernmental organizations (NGOs) indicated that they were the origin of a significant number of Cambodian women and girls migrating to Malaysia as domestic workers. In Malaysia, we interviewed domestic workers in NGO shelters, the Cambodian embassy in Kuala Lumpur, and labor recruitment agencies.

Human Rights Watch interviewed 28 Cambodian domestic workers who had escaped or were rescued by NGOs from training centers in Cambodia; who had left their employers in Malaysia because of alleged abuse and were living in NGO shelters or labor recruitment agencies in Malaysia; or who had returned from employment in Malaysia in the previous two years. There were eight among them who were children either when they were interviewed or recruited, or whose names or ages were changed by the recruiting agents to make it appear that they were at least 21 years old at the time of recruitment. Human Rights Watch also interviewed 15 family members of domestic workers.

Researchers interviewed all migrant domestic workers and members of their families individually in private settings. All interviews, with one exception, were conducted in Khmer with the assistance of interpreters. All names and identifying information of workers and their families have been changed to protect their privacy and safety. All interviewees were informed of the purpose of the research and how the information would be used. They were also told they were free to end the interview at any point.

In Cambodia, researchers interviewed representatives from United Nations agencies, donors, domestic and international NGOs, labor recruiting agents, officials from the Ministry of Women's Affairs and the Ministry of Labour and Vocational Training, and commune and village chiefs.¹ Researchers also visited the training center of Philimore Cambodia, a local recruitment agency.

¹ Communes of Cambodia are the lowest level of public administrative in Cambodia. They are subdivisions of districts, which are subunits of provinces. Based on the population, communes can consist of as few as three or as many as 30 villages.

In Malaysia, we interviewed officials of the Cambodian embassy and local NGOs. Human Rights Watch also contacted officials of the Ministry of Women, Family, and Community Development and the National Human Rights Commission (SUHAKAM) in Malaysia.

In May 2011, Human Rights Watch wrote to the Cambodian Ministry of Interior and to the Ministry of Labor and Vocational Training to request information on the migration of Cambodian women as domestic workers to Malaysia and to solicit their response to the violations we had documented. These letters are attached in the Appendix of this report. As of September 2011, Human Rights Watch had received no response to these letters.

I. Background

Migration of Cambodian Women and Girls

I have seven brothers and sisters. I couldn't go to school because my family is poor. My mother is sick and she can't work. I wanted to go [to] Malaysia and earn money to repay my mother's debt and build a house for my family.

—Nhon Yanna, age 16, child domestic worker, Pursat province, Cambodia, May 2011

Cambodia is one of the poorest countries in Southeast Asia and ranked 124th out of 182 countries on the United Nations Human Development Index in 2010.² Poverty is deepest in rural areas. Girls are one of the most marginalized, discriminated and impoverished sectors of Cambodian society. According to the 2010 UN Human Development Gender Inequality Index (GII), Cambodia ranked 95th out of 138 countries.³ Education rates are low across the country and even lower among women: 12 percent of adult women have a secondary or higher level of education compared to 21 percent of adult men.⁴ The largest sectors of employment for women are in the garment and informal sectors,⁵ which were negatively impacted by the global economic crisis with over 30,000 garment workers laid off in Cambodia in 2009.⁶

Lacking economic opportunity at home and desperate to help themselves and their families survive poverty, many women and girls have migrated to Malaysia as domestic workers. Cambodian women interviewed by Human Rights Watch described many “push”

² United Nations Development Program Human Development Report 2010, Cambodia, <http://hdrstats.undp.org/en/countries/profiles/KHM.html> (accessed July 5, 2011). According to the Human Development Report, more than half of Cambodians are estimated to be “multi dimensionally poor, mostly because of a lack of electricity, sanitation and cooking fuel.” Human Development Report, 2010, http://hdr.undp.org/en/media/HDR_2010_EN_Complete_reprint.pdf, p 86 (accessed July 5, 2011).

³ Human Development Report, 2010, “Explaining HDI value and rank changes in Human Development Report 2010,” <http://hdrstats.undp.org/images/explanations/KHM.pdf> (accessed July 5, 2011) p. 6. Gender inequality is widespread in Cambodia's labor market. For example, only 23 percent of all public sector employees are women and on average, are paid 30 percent less than men for the same work. CSO Report on Cambodian Gender Issues, April 8, 2009, http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KH/JS4_KHM_UPR_So6_2009_JointSubmission4.pdf (accessed July 25, 2011).

⁴ Human Development Report, 2010, “Explaining HDI value and rank changes in Human Development Report 2010,” <http://hdrstats.undp.org/images/explanations/KHM.pdf> (accessed July 5, 2011) p. 6.

⁵ UNIFEM, the World Bank, ADB, UNDP and DFID/UK, in cooperation with the Cambodian Ministry of Women's and Veterans' Affairs, “A Fair Share for Women: Cambodia Gender Assessment,” April 2004, <http://www.adb.org/Documents/Reports/Country-Gender-Assessments/cga-cam.pdf> (accessed July 7, 2010) p. 90.

⁶ World Bank “Swimming Against the Tide: How Developing Countries are Coping with the Global Crisis,” Background paper prepared by World Bank staff, 13–14 March, 2009, <http://www.un.org/ga/president/63/PDFs/WorldBankreport.pdf> (accessed on July, 2011).

factors prompting migration, including poverty, landlessness, unemployment, a lack of education, and the need to pay off micro-credit loans.

Migrant domestic workers are one sector among many Cambodians migrating abroad, through both formal and informal channels. These migrants contribute significantly to Cambodia's economy. According to a World Bank estimate, remittances from Cambodians working abroad have more than doubled from US\$138 million in 2003 to \$364 million in 2010.⁷ While Thailand has long been the primary destination country for Cambodians seeking work abroad, migration patterns are diversifying. Since 2007, an increasing number of Cambodians are migrating to Malaysia, South Korea, and Japan for work through legal channels, mostly in manufacturing, followed by domestic work and agriculture.⁸ For instance, women accounted for 85 percent of Cambodian migration to Malaysia between 1998 and 2008; and 47 percent to Thailand between 2006 and 2008.⁹

Migration of Cambodian Domestic Workers to Malaysia

Large scale migration of Cambodian workers to Malaysia started in 1998. However, the number of domestic workers increased dramatically in 2009 following an Indonesian moratorium on sending their own workers to Malaysia.¹⁰ Until this moratorium, Malaysia was host to 300,000 domestic workers, mostly from Indonesia and the Philippines. These numbers dropped during the two-year Indonesian ban and Malaysia faced a shortage of domestic workers.¹¹

Recruitment agencies turned to Cambodia to make up for the shortage. According to media reports, the Malaysian embassy in Phnom Penh estimated that the number of visas issued

⁷ World Bank, *Migration and Remittances Factbook 2011* (Washington DC: World Bank, 2011), p. 84, <http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf> (accessed July 5, 2011).

⁸ Cambodian National Institute of Statistics, International Labour Organization, "Labour and Social Trends in Cambodia," September 2010, p. 28.

⁹ Ibid.

¹⁰ A series of high-profile abuse cases led Indonesia in June 2009 to ban new recruitment of Indonesian domestic workers for jobs in Malaysia until new protections were put in place. After two years of repeatedly stalled negotiations, the countries concluded a Memorandum of Understanding (MoU) that had some positive improvements but fell short of many of the protections Indonesia had been demanding. The 2011 MoU provides for domestic workers to have a weekly rest day and to be able to keep their passports, but does not guarantee a minimum wage nor prohibit the practice of salary deductions to repay recruitment fees. "Indonesia/Malaysia: New Pact Shortchanges Domestic Workers," Human Rights Watch news release, May 31, 2011, <http://www.hrw.org/news/2011/05/31/indonesiamalaysia-new-pact-shortchanges-domestic-workers>.

¹¹ Liz Gooch, "A Cry for More (Domestic) Help in Malaysia," *New York Times*, February 22, 2011, <http://www.nytimes.com/2011/02/23/world/asia/23iht-maids23.html> (accessed July 25, 2011); "Maid shortage worsening, says agencies' association," *The Malaysian Insider*, January 17, 2011, <http://www.themalaysianinsider.com/malaysia/article/maid-shortage-worsening-says-agencies-association/> (accessed July 25, 2011).

to Cambodian domestic workers more than tripled between 2008 and early 2010.¹² They granted 20,909 Cambodians visas between January and August 2010, of whom 18,038 (86 percent) were domestic workers. In comparison, they issued a total of 12,682 visas in 2009 and 5,304 in 2008.¹³ An official in the Cambodian embassy in Kuala Lumpur told Human Rights Watch that approximately 40,000 Cambodians, including 25,000 domestic workers, were working in Malaysia between 2008 and April 2011.¹⁴

The Migration Cycle

Some women and girls approach a recruitment agency directly after hearing advertisements over the radio or television for jobs as “housemaids” in Malaysia, but most of those interviewed for this report learned about employment opportunities in Malaysia through a broker or local labor recruiter in their village.¹⁵ Recruiters often target the most impoverished families, presenting them with attractive employment opportunities in Malaysia.¹⁶ Most of the women and girls we interviewed said that the broker or a local labor recruiter promised them a monthly salary of 400 to 600 ringgit (\$133 to \$200) and offered loans, usually ranging from \$100 to \$200 cash, as incentives to register with a recruitment company. In some cases, brokers offered women and their families sacks of rice, mobile phones, or cattle.

For many rural Cambodian women, cash payments, a deferred cost of recruitment, and a promised monthly salary of \$133 to \$200 is an attractive opportunity. However, our interviews with the workers show that women must repay the initial loan, along with exorbitant recruitment and training fees (roughly \$900 to \$1,300), by foregoing the first six to seven months of their salary in Malaysia. Employers in Malaysia pay the upfront recruitment costs to the recruitment agency and recoup these fees by withholding the first several months of a worker’s salary.

¹² Brooke Lewis and Mom Kunthear, “Staff Rush for Malaysia,” *AsiaViews*, Edition: 27/ VII/ October 2010, http://asiaviews.org/index.php?option=com_content&view=article&id=134:headlinealias134&catid=1:headlines&Itemid=2 (accessed August 12, 2011).

¹³ *Ibid.*

¹⁴ Human Rights Watch interview with Ung Vantha, second secretary, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011. Estimates also vary. Tenaganita, a migrant rights NGO in Malaysia, cited Cambodian embassy estimates of over 50,000 Cambodian domestic workers in Malaysia, “Malaysian Employers Continue to Act with Impunity in the Abuse, Torture & Ill-treatment of Cambodian Workers,” Tenaganita news release, August 11, 2011.

¹⁵ The president of the Cambodian Association of Recruitment Agencies (ACRA) told Human Rights Watch that recruitment agencies in Cambodia have started to issue identification cards and licenses to the local recruiters. Human Rights Watch interview with An Bun Hak, president of the Association of Cambodian Recruitment Agencies, April 28, 2011.

¹⁶ Human Rights Watch interview with CLEC, Phnom Penh, Cambodia, April 21, 2011; Human Rights Watch interview with Un Kot, broker, Siem Reap province, Cambodia, 2011.

Once a woman or girl decides to migrate, the village-level broker accompanies her to a labor agent either in a branch office or the main office of a recruitment agency. Village-level recruiters typically receive finder's fees of \$50 to \$100 from the recruitment agencies for bringing new recruits to the office.¹⁷ Chey Srey Lina, who was 16 years old when she was recruited, describes her experience, typical of many we spoke to:

The broker said that the work in Malaysia won't be difficult. I will cook, wash and clean floors. When I register, I will get 500,000 riel (\$125) and after I fly, my family will receive another 500,000 riel. He [the broker] told me that the agency will deduct six months' salary and I will receive a salary of \$185 per month in Malaysia.¹⁸

In the office of the recruitment agency, the staff gathers information about the socio-economic background of a recruit, collects her identity documents, and once she has signed a two-year employment contract, sends her to a training center in Phnom Penh, or another location in Cambodia. Most of those we spoke to did not receive a copy of the contract they signed. Typically, the employment contract stipulates a two-year work agreement and a six or seven month salary deduction.

Prospective workers, including children, are required to stay in the often overcrowded training centers for a period of three to six months or longer until their departure to Malaysia. During that period, the recruitment company provides pre-departure training and arranges the worker's medical clearance and travel documents. The labor agents restrict recruits' freedom of movement and limit their communication with their relatives until they depart to Malaysia. Some workers we interviewed said that labor agents required them to perform daily chores, including cooking and washing dishes for staff and the hundreds of other workers. Chey Srey Lina, who stayed for three months in a training center in Phnom Penh, said, "I was not allowed to go out of the training center. Everything was difficult inside the training center: eating, sleeping, taking showers. It was very difficult. I wanted to return home but the agency did not allow me."¹⁹

When workers arrive by airplane to Malaysia, a local Malaysian labor agent or Cambodian agent escorts them from the airport to the recruiter's office in Kuala Lumpur. Sometimes

¹⁷ Human Rights Watch interview with CLEC, Phnom Penh, Cambodia, April 21, 2011; Human Rights Watch interview with Un Kot, broker, Siem Reap province, Cambodia, 2011; Human Rights Watch interview with Sous Borin, broker, Kampong Cham province, Cambodia, April 28 and May 2, 2011.

¹⁸ Human Rights Watch interview with Chey Srey Lina, underage domestic worker, Pursat province, Cambodia, May 1, 2011.

¹⁹ Ibid p. 11.

the workers stay in the office for a few days until they are sent to their employers, during which time they may have to clean and cook for office staff.

At their employers' house, domestic workers usually carry out tasks such as cooking and serving meals, cleaning, washing and ironing clothes, taking care of children, elderly family members and washing cars. Some domestic workers described having to work in more than two houses and at their employers' offices. In many cases we documented, domestic workers were expected to work long hours, sometimes more than 20 hours each day without any rest, while communication with their family or neighbors was denied or limited. Many we spoke to were forced to sleep in storerooms, kitchens, hallways or open spaces and were provided inadequate food and no health care or medical treatment in cases of injury during their work. While many of those we interviewed suffered verbal abuse, such as insults, harsh remarks and condemnation, others experienced physical violence and sexual abuse.

When workers need assistance, often their labor agents are the only known point of contact. In some cases, we found that agents in Malaysia and Cambodia demanded payment from a worker when she wanted to return to Cambodia before the end of her two-year contract. Since many of those we interviewed could not afford such payments, they were left with a choice of finding a new employer as an undocumented migrant or working for the same employer even if they were experiencing abuse. Chey Srey Lina, decided to run away:

My employer slapped me on my face, kicked me and pulled my hair, and threw shoes at me. Sometimes they hit me with [a] stick. They said I was too slow. I worked all the time. I had no rest day. Sometimes they would give me dinner but I would not get lunch. I went to bed without food sometimes. My neighbors saw this and they used to give me bread. One day, I jumped from the fence and ran away.²⁰

While some workers we interviewed found assistance from NGOs and returned to Cambodia, others who escaped from abusive employers found themselves vulnerable to arrest and exploitation. For instance, in the case of Chey Srey Lina, the police arrested her after she escaped from her employer because she did not have her passport.²¹ She was released after six months in detention after her parents obtained the assistance of an NGO in Cambodia.

²⁰ Ibid p. 12.

²¹ Ibid p. 12.

In other cases, women and girls who had left abusive employers received help from NGOs in Malaysia, went to the Cambodian embassy in Kuala Lumpur, or returned to their recruitment agency's office. In some cases domestic workers receive assistance to negotiate unpaid wages with their employer or to report abuse, but in other cases they must find the money to pay for their ticket home. The obstacles that migrant domestic workers face at each point in the migration cycle are discussed below.

II. Recruitment-Related Exploitation and Abuse in Cambodia

The broker came to my house and promised me a maid job in Malaysia, where I would earn US\$2,000 in two years. He said the job would be easy. I would not have to pay anything and they would prepare my passport. He said I would get five bags of rice and 600,000 riel [\$150] after I register and my family would get 600,000 riel after I fly to Malaysia. If I leave my job before six months, I would have to pay \$500. The next day he took me to the agency. I had to thumbprint some documents. Then I had to stay in a training center to learn housework and English until my departure to Malaysia.

—Son Souen, age 30, Siem Reap province, Cambodia, April 2011

Labor recruitment agencies handle most aspects of the migration process, including recruitment, filing applications for passports and work permits, pre-departure orientation and training, medical examinations, transit, negotiation of contracts with foreign recruiting agents, and placement with employers. There are 30 registered recruitment companies specializing in domestic workers from Cambodia.²² An estimated 60 smaller firms operate under these license holders.²³ The Association of Cambodian Recruitment Agencies (ACRA), a trade group of Cambodian recruitment agencies established in 2007, trains and sends around 10,000 domestic workers to Malaysia every year.²⁴ ACRA has sent around 40,000 workers to Malaysia since 2007.²⁵

A strong demand for foreign domestic workers in Malaysia, along with weak regulation of private recruitment agencies and lack of penalties for human rights abuses in Cambodia, has fostered a ripe environment for labor agents to engage in unscrupulous activities. These include offering cash and food incentives that leave migrants and their families heavily indebted, charging migrants exorbitant recruitment fees, forging identity documents to recruit children and young women below the minimum age of 21—a requirement to labor as a migrant domestic worker in Malaysia—and confining prospective recruits in training centers for months.

²² Human Rights Watch interview with Chuop Narath, deputy director of the Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²³ Phorn Bopha and Paul Vrieze, “Concern Over Increase in Maids Sent to Malaysia,” *The Cambodia Daily*, March 23, 2011.

²⁴ Human Rights Watch interview with An Bun Hak, president of the Association of Cambodian Recruitment Agencies, April 28, 2011.

²⁵Ibid.

Recruitment Fees and Illegal Lending Practices

The staff told me that once I decide to send my daughter to Malaysia, the company will give an assistance package for the family: one million riels, five sacks of rice, and one phone set. After I agreed to send my daughter to Malaysia, I received half a million riels (\$125), three sacks of rice and one phone set from the company. The staff offered to give me the remaining amount after my daughter takes a flight to Malaysia. Before receiving this package, I had to thumbprint several documents, around five or six, but I did not receive any copies of the documents.

—Thaht Ny, family member of a domestic worker, Kampong Cham province, Cambodia, April 2011

Labor agencies commonly provide cash advances for recruitment fees, of \$100 to \$200 to the family or prospective domestic worker after she registers and agrees to stay in the training center. The family or worker is promised another payment of \$150 to \$200 after the worker departs to Malaysia. Additionally, labor agents provide mobile phones, bags of rice, or a cow at the time of registration as incentive. For instance, Srey Mey, a 25-year-old domestic worker said, “The broker told us that the company will offer five sacks of rice and \$100 each if we register.”²⁶ The relative of another domestic worker told Human Rights Watch, “Kaom gave me some money before she left for Malaysia. When I asked her how she got the money, she said that the company gave it to her but [she] did not know why. The company had promised to give us one cow at the time of registration but they did not give it to us.”²⁷

What workers may not realize is that these “incentives” of food, cattle, and sometimes cash, are not gifts, but are instead loans and advances that must be paid back, along with recruitment fees of \$900 to \$1,300, through six to seven months of salary deductions in Malaysia. If domestic workers wish to return home from the training center or before completion of their contract in Malaysia, agents sometimes inflate the amount of money they must repay. For example, domestic workers reported having to repay up to \$1,500.

Labor agents then forbid workers from leaving the training centers unless they can repay these initial loans, the document processing fees, and living expenses in the training centers. Human Rights Watch obtained copies of the “loan agreement” and “receipt of full payment”. All the workers we interviewed were required to sign with the recruiting agents.

²⁶ Human Rights Watch interview with Srey Mey, Siem Reap province, Cambodia, August 21, 2011.

²⁷ Human Rights Watch interview with Rous Mlissa, relative of a domestic worker who has lost contact in Malaysia, Siem Reap province, Cambodia, April 29, 2011.

The agreement requires workers to reimburse all expenses, including return airfare, if she leaves the training center, leaves her employer in Malaysia, or is deported from Malaysia for “whatever reasons.”²⁸

Human Rights Watch research found that these financial burdens can prevent workers, indebted from the beginning of the recruitment process, from freely leaving training centers in Cambodia or employment in Malaysia, even if they are experiencing abuse. For instance, Srey Leak told Human Rights Watch:

Two weeks after I started living in the training center, I fell sick. I called my mother and asked her to bring money and pay back the loan so that I [could] return home. But the company asked my mother to pay them \$450. We were penniless. How could we pay the money?²⁹

These practices violate Cambodian laws and regulations. Article 16 of the 1997 Labor Code prohibits hiring people to work off debts.³⁰ As described in the section on labor regulation, the Ministry of Labour and Vocational Training issued a circular to the directors of Cambodian labor recruitment agencies in August 2010 prohibiting forced labor and hiring people to pay off debts, or offering money to workers before departing for work abroad.³¹ Article 8 of Cambodia’s anti-trafficking law includes deception and enticement among methods of “unlawful removal of a person” that contributes to trafficking.³²

Deception and Lack of Information during Recruitment

I arrived in the office of T&P Company with four other women. Then the agent called my name and asked me to thumbprint some documents written in Khmer. But I did not get a chance to read them. She did not give me a copy or explain what was written.

—Re Ngoun, age 32, prospective domestic worker, Siem Reap province, Cambodia, April 2011

²⁸ Documents on file with Human Rights Watch.

²⁹ Human Rights Watch interview with Srey Leak, domestic worker, Phnom Penh, Cambodia, April 26, 2011.

³⁰ Labor Law, *Kingdom of Cambodia*, Royal Decree No CS/RKM/0397/01, March 13, 1997.

³¹ “Guidance on the Recruitment, Training, Transfer, and Management of the Cambodian Worker to Work Abroad,” Ministry of Labor and Vocational Training circular to the director of Cambodian labor recruitment agencies, August 25, 2010, Phnom Penh, Cambodia, arts. 6 and 7. Circulars are directives for ministerial implementation and are referenced in the Law on the Organization and Functioning of the Council of Ministers, article 13 and 29. They provide clarification of legal issues, instructions or administrative requirements and are used to give authoritative instructions or provide information about the work or affairs of a ministry.

³² Law on Suppression of Human Trafficking and Sexual Exploitation, *Kingdom of Cambodia*, No. 140 c.l., February 15, 2008, art. 8.

Recruiters and agents gave incomplete, false, or misleading information to the domestic workers interviewed by Human Rights Watch about the working conditions in Malaysia, including the type of work, working hours, and timing of salary payments. One domestic worker, Chain Channi, said, “The broker told me that the work would be very easy and I would earn a lot of money. I would only have to cook in the morning and the evening for the family. He said that the employers leave for work in the morning and I could sleep all day after they leave.”³³ Once Chain Channi was in Malaysia, she had to work 19 hours each day and her employer made her work in two homes.

None of the workers interviewed by Human Rights Watch received information about where they could seek help in the event of any problems. They did not know about the Cambodian embassy in Kuala Lumpur or that they could approach the embassy for assistance. Recruiters consistently told the workers we spoke to that they should contact only their agency in Malaysia or Cambodia if they faced any problems. Although providing little information on ways to seek help, recruiting agents constantly instructed workers not to steal or run away from their employer’s home and to work hard in Malaysia.

Some women reported to Human Rights Watch that recruitment agents searched their belongings before their departure to Malaysia and confiscated their diaries, notebooks, and any contact information of their relatives and friends.³⁴

Typically, the women and girls we interviewed signed two or three documents with the agent in Cambodia: i) an employment contract; ii) an agreement to live in the training center until departure to Malaysia and not to leave the center; and iii) a loan contract. Agents also ask families to verify that the prospective migrant is above 18 years of age, the minimum age for migration in Cambodia, and that they agree to send her to Malaysia. Once in Malaysia, many workers we spoke to were obliged to sign a new employment contract, different from the one they signed in Cambodia. They were also obliged to sign a statement agreeing not to return home, leave or escape from the employer’s home before the completion of their employment contract, to not marry Malaysian citizens, change employers, or engage in “immoral behaviors.” Agents did not explain employers’ obligations to any of the workers we interviewed even if these were stipulated in the work contract in Malaysia.

³³ Human Rights Watch interview with Chain Channi, Kuala Lumpur, Malaysia, April 13, 2011.

³⁴ Human Rights Watch interview with Srey Pha, domestic worker, Phnom Penh, Cambodia, April 26, 2011, Srey Leak, domestic worker, Siem Reap province, Cambodia, April 28, 2011, and Chea Chun, domestic worker, Kuala Lumpur, Malaysia, April 12, 2011.

Although women recalled signing multiple documents, none of the women interviewed by Human Rights Watch received copies of the various agreements. Sometimes their request to read the documents or receive copies was denied. Often, the agents did not explain the content of the documents or give workers a chance to ask important questions. Agents did not usually provide information on a worker's ability to change her decision to migrate to Malaysia and the consequences of failing to repay the initial loan.

Recruitment of Girls

I told the broker that I am still underage. The broker told me that because of my physical appearance, I look older than my real age, and being underage will not be a problem. I applied to work in Malaysia to earn income for my family who is very poor.

—Thy Thip, age 16, prospective domestic worker, Battambang province, Cambodia, April 2011

It is illegal under both Cambodian and Malaysian law for children to be recruited to travel internationally to engage in work.³⁵ However, NGOs and local media have reported recruitment by labor recruitment agencies of children as young as 13.³⁶ Human Rights Watch documented eight cases of Cambodian children under 18 recruited by labor recruitment agencies. The majority of the former and prospective domestic workers interviewed by Human Rights Watch reported the presence of other children in the training centers they attended in Cambodia prior to traveling to Malaysia.

Presented with upfront cash, promises of a better life, greater income, and “easy” work, families can be lured into sending their children to a foreign country despite concerns about their welfare abroad. But as Human Rights Watch research on migrant domestic workers in several countries demonstrates, girls are often at a higher risk of abuse during recruitment and employment, since they have less access to information, may be more easily intimidated, and are less likely to know where to turn for help.

³⁵ According to Sub-Decree on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (Sub-Decree 190) issued in August 2011, only Cambodians who are 18 years of age and above can apply for work abroad in Malaysia.

³⁶ Integrated Regional Information Networks (IRIN), “Cambodia: Trafficking domestic workers to Malaysia,” March 17, 2011, <http://www.unhcr.org/refworld/docid/4d82fb10e.html> (accessed August 2011); Licadho, “Underage Cambodian Domestic Workers Rescued from Malaysia,” September 30, 2010, <https://licadho-cambodia.org/articles/20100930/125/index.html> (accessed July 25, 2011); Vincent MacIsaac, “Cambodia’s recruitment ‘nightmare’,” *Bangkok Post*, May 29, 2011, <http://www.bangkokpost.com/news/investigation/239474/cambodia-recruitment-nightmare> (accessed July, 26, 2011).

The poor social and economic conditions in Cambodia's rural areas provide a ripe environment for local agents to recruit girls despite laws banning the practice. The majority of children interviewed by Human Rights Watch said that they had never attended school or dropped out of school before completing primary education to work and support their families. For instance, Som Baen, a 17-year-old girl, described her situation:

I have never been to school because my family is very poor. My sisters and I have been working as maids for a Cambodian family in different places since we were 11 years old. Earlier this year, a broker came to the village and told us about the job in Malaysia where people can earn a lot of money. He said the job is easy. So we wanted to go to earn money and support my family. The broker told us that even if girls are young, if they are tall or look older, they can travel to Malaysia.³⁷

Human Rights Watch found that some brokers and officials at recruitment centers falsified documents to list children as 18, the minimum legal age required in Cambodia to migrate for employment. When the girls apply for passports, staff at recruitment centers increase their age to 21, the minimum legal age for recruitment into domestic work in Malaysia. The companies prepare fraudulent travel documents usually by replacing the name of the girl with that of her older sister, by using a name of a girl from another village, or by changing the date of birth. A staff member of a labor recruitment agency explained:

Girls under 18 can also go but they need to organize the documents. It could be a family book or an identification card. If the girl has an older sister and there is no photograph in the family book, the agency changes the underage girl's name to her older sister's name while filling in the form. If the family [does not] have these documents, the agency or the broker suggests the family get a letter from the village chief or commune, verifying that she is above 18.³⁸

Interviews with community activists indicate that some village commune chiefs agree to certify that the girl is above 18 out of sympathy for poor families.³⁹ In other cases, recruitment agencies paid some commune chiefs to produce the desired age

³⁷ Human Rights Watch interview with Som Baen, prospective domestic worker, Battambang province, Cambodia, April 30, 2011.

³⁸ Human Rights Watch interview with a former recruitment agency trainee (name withheld), Phnom Penh, Cambodia, April 21, 2011.

³⁹ Human Rights Watch interview with the Community Legal Education Centre (CLEC), Phnom Penh, Cambodia, April 18, 2011.

certification.⁴⁰ Some girls reported that their broker and the agency increased their age without the knowledge or participation of their family. One underage worker said, “I went to the office of the agency in Phnom Penh and handed over the birth certificate to the agency. The agency gave the paper to the broker who said that he would take it to the commune and increase my age. I don't know what they did with the documents but I got my passport and my age was written as 21 years.”⁴¹

Families interviewed by Human Rights Watch said that brokers promised them that the recruitment agency would change girls' ages to “make it legal.” The mother of a 16-year-old girl said, “I told the broker that my daughter is only 16 years and asked if the agency would allow my daughter to migrate. He said that it is not a problem and the agency would increase her age.”⁴² Srey Nit, who was 16 years old when she was recruited said, “When I went to the agency to register, the staff asked for my age and I said that I was 16. They registered me under someone else's name and increased my age to 21. The staff also told me that if there is any inspection in the office, I should say that my age is 20.”⁴³

NGO workers told Human Rights Watch that the falsification of names and residences of children makes it extremely difficult to track them later if their families either report them missing, want to investigate abuses against them, or rescue them.⁴⁴

NGOs have rescued several underage Cambodian domestic workers in Malaysia. Tenaganita, a migrants' rights NGO in Malaysia, reported that 48 percent of the domestic workers rescued by the organization were younger than 21 years.⁴⁵ In 2010, the Cambodian human rights organization Licadho helped to repatriate 10 girls from Malaysia. Upon the girls' return to Cambodia, recruitment companies have sometimes attempted to take the rescued workers back to the agencies instead of returning them home or facilitating access to support services. In one case, in June 2010, Licadho and Tenaganita sent back three girls from Kuala Lumpur to Phnom Penh. The staff of Ung Rithy recruitment agency tried to take custody of the girls upon their return, stating that they paid for the girls' travel and therefore

⁴⁰ Human Rights Watch interview with NGO worker (name withheld), Phnom Penh, Cambodia, April 19, 2011, and with human rights activist (name withheld), Phnom Penh, Cambodia, April 18, 2011. See IRIN, “Cambodia: Trafficking Domestic Workers to Malaysia,” March 17, 2011.

⁴¹ Human Rights Watch interview with Prak Boupcha, underage domestic worker, Pursat province, Cambodia, May 1, 2011.

⁴² Human Rights Watch interview with Vann Kannitha, the mother of a prospective domestic worker, Battambang province, Cambodia, April 30, 2011.

⁴³ Human Rights Watch interview with Srey Nit, underage domestic worker, Pursat province, Cambodia, May 1, 2011.

⁴⁴ Human Rights Watch interview with Tola Moeum, head of labor program at Community Legal Education Centre (CLEC), Phnom Penh, Cambodia, April 18, 2011.

⁴⁵ “Malaysian Employers Continue to Act with Impunity in the Abuse, Torture & Ill-treatment of Cambodian Workers,” Tenaganita media statement, August 11, 2011.

had the authority to take them. Licadho was eventually able to maintain custody of the girls and returned them home to their families. The head of the Association of Cambodian Recruitment Agencies (ACRA) publicly accused Licadho of “kidnapping” the girls, alleging that Licadho’s staff did not have proper identification. Licadho rejected the accusation.⁴⁶

Jeffery Foo, deputy president of the Malaysian Association of Foreign Maid Agencies (PAPA), said they protested the practice of underage recruitment with their counterparts in Cambodia and noted that the Cambodian government took some action against the child recruitment, including several raids of training centers and arrests of some agents in 2009. However, he says, “These agents might be back in the business. They are more careful now but the exploitation continues. They are all businessmen and they want to make excessive profit.”⁴⁷

Collusion between Agencies and Government Authorities

Some women were so sad in the training center that they did not want to live. Two women attempted suicide when the agency refused their request to return home. After this, the agency invited two police officials and held a meeting with everyone. The police officials told us that if we [attempted to] commit suicide, then they would put us in jail. They also said that we should never try to escape. Even if we escape, the police will find [us] and we will still be sent to Malaysia.

—Sien Sopea, a prospective domestic worker, Battambang province, Cambodia, April 2011

When prospective domestic worker Sien Sopea escaped from an abusive training center in Phnom Penh, the police came looking for her in her village. She said, “I recognized the policemen. They were from Phnom Penh [and] used to come to the training center. I was so scared I hid behind my house.”⁴⁸

Interviews with domestic workers, NGO workers, and lawyers who have filed lawsuits on behalf of the agencies, indicate that such collusion between the police and recruitment agencies exists both at the local and national levels. Some agencies enjoy the backing of powerful government officials. Several NGOs expressed concern that the police are

⁴⁶ David Boyle and Mom Kunthear, “Escaping Hard Labour: Maids In Malaysia Return,” *Phnom Penh Post*, April 13, 2011, <http://www.phnompenhpost.com/index.php/2011041348530/National-news/escaping-hard-labour-maids-in-malaysia-return.html> (accessed June 26, 2011); Human Rights Watch interview with Licadho, Phnom Penh, Cambodia, April 22, 2011.

⁴⁷ Human Rights Watch interview with Jeffery Foo, deputy president, Association of Foreign Maid Agencies (PAPA), Kuala Lumpur, Malaysia, April 13, 2011.

⁴⁸ Human Rights Watch interview with Sien Sopea, domestic worker, Battambang province, Cambodia, April 30, 2011.

unwilling to pursue investigations against labor agencies owned by or linked with high-ranking officials.

In some cases, Human Rights Watch found that anti-trafficking police warned or threatened workers and their families against pursuing legal charges against the recruitment company or being publicly critical about company abuses. One NGO worker said, “Our experience has shown that the anti-trafficking police unit works as a tool to threaten families and workers who file complaints.”⁴⁹

For instance, Prak Channary, a domestic worker physically abused in Malaysia, was eventually repatriated with the help of an NGO. The NGO had helped her family to file a complaint against a Cambodian agent before Prak’s arrival. As soon as Prak’s arrived at the Phnom Penh airport, the staff of her well-known labor agency took her into their custody and threatened her unless she withdrew the complaint.

The staff then took her to the police station. Prak’s told Human Rights Watch:

I told everything to the police about how I was mistreated in Malaysia by my employer. The police called the madam of the company in front of me and told her that I was filing a complaint against the company. The police went to the corner of the room and spoke to the madam for a while. He then came back and said, “I don't want to threaten you but if you want to file a complaint, make sure you win the case.” I was scared and I told the police I didn’t want to pursue the case. [I said] “I just want to be safe.” The police then said, “If you think this way, it is good.” The agency took me back to the owner’s house from the police office.⁵⁰

The next day, the agent sent her back to the Anti-Trafficking Police Unit at the Ministry of Interior to withdraw charges against the company owner.⁵¹

In another case, Heng Hak, a 31-year old prospective domestic worker, was severely injured on March 2, 2011, while trying to escape from the training center of T&P Company in Phnom Penh after the company refused her requests to visit her two children. The company instead demanded thousands of dollars or a land title in exchange for her release from the training center.⁵² Two neighbors found the injured Heng Hak in the street and took

⁴⁹ Human Rights Watch interview with human rights activist (name withheld), Phnom Penh, Cambodia, April 27, 2011.

⁵⁰ Human Rights Watch interview with Prak Channary, domestic worker, Battambang province, Cambodia, April 30, 2011.

⁵¹ Ibid; Human Rights Watch interview with human rights NGO (name withheld), Phnom Penh, Cambodia, April 19, 2011.

⁵² Human Rights Watch interview with CLEC, Phnom Penh, Cambodia, April 19, 2011.

her to their house. The staff of T&P Company came looking for her at the neighbor's house, and called the commune police the same day.⁵³ The police, accompanied by T&P staff, came to the house and took Heng Hak.⁵⁴ On March 4, 2011, two anti-trafficking police officers who had come to the T&P compound to investigate the case accused the neighbors who had assisted Heng Hak of hiding her from the company, and took them to the commune police station for further questioning.⁵⁵ NGO activists learned about the case and went to the police station to monitor the arrest and interrogation.⁵⁶ According to the activists, the police changed their aggressive tone and subsequently released the neighbors without charge.⁵⁷

According to an NGO staff member, in one case involving physical abuse and non-payment of wages in Malaysia, the owner of the recruitment agency threatened the domestic worker in the presence of a three-star general of police. "The [worker's] family withdrew the complaint due to fear and the police did not say or do anything to protect the family and the worker," said the NGO staff member.⁵⁸

Anti-trafficking police threatened some workers who got sick, or who were injured while attempting to escape from a training center, and told them to remain silent about the agency's abuse. In one case, a domestic worker told Human Rights Watch, "The police visited me while I was in the hospital and asked me in a threatening tone, 'Do you have anything to say against the company?' I said I have nothing to say about the company. He said, 'Then it is good.' He told me not to say anything bad about the company and instructed a lower ranking official and hospital staff to monitor what I tell other people about the company."⁵⁹ An NGO staff member who witnessed this incident confirmed that the officials were high-ranking officers from the anti-trafficking police and military who had come to the hospital along with a public prosecutor.⁶⁰

Accounts from the workers suggest that some police officials tip off agencies about planned police raids in the training centers, undermining the effectiveness of such raids.

⁵³ Licadho, "The Cases of Ms. Soeung Sina & Ms. Heng Hak: unpublished report," March 21, 2011.

⁵⁴ Ibid p. 25.

⁵⁵ Ibid p. 25.

⁵⁶ Human Rights Watch interview with CLEC, Phnom Penh, Cambodia, April 19, 2011, and Licadho, Phnom Penh, Cambodia, April 27, 2011.

⁵⁷ Licadho, "The Cases of Ms. Soeung Sina & Ms. Heng Hak," unpublished report, March 21, 2011. Human Rights Watch interview with human rights NGO (name withheld), Phnom Penh, Cambodia, April 20, 2011.

⁵⁸ Human Rights Watch interview with human rights NGO (name withheld), Phnom Penh, Cambodia, April 19, 2011.

⁵⁹ Human Rights Watch interview with Pan Veata, Battambang province, Cambodia, April 30, 2011.

⁶⁰ Human Rights Watch interview with human rights activist (name withheld), Phnom Penh, Cambodia, April 23, 2011.

For instance, one worker said, “Some police worked for the agency while others came to inspect. Once a police officer visited the training center and told all underage [recruits] that if someone comes to the center and asks their age, they should say that they are above 18 years old. Other police officials who came to inspect could not find any underage or sick workers.”⁶¹ Seng Phuong, a 17-year-old domestic worker told Human Rights Watch, “Each time the police came to check for the underage people, the company moved [them] to a new office location. It happened a few times during my stay there.”⁶²

As in many business sectors in Cambodia, in the recruitment agencies corruption and other illegal practices have flourished as a strategy to tackle bureaucratic hurdles, such as to avoid delays in the recruitment process. A labor agent in Phnom Penh told Human Rights Watch that he pays extra money to speed up the pre-departure process, so even though the “[p]rocessing fee is lower, legally to expedite the process, we pay over \$100 for each passport.”⁶³ Jeffery Foo, deputy president of the Association of Foreign Maid Agencies in Malaysia, said, “Many agents have connections with the immigration officials for paperwork. How is it possible to recruit young children, as young as 13 years old, without the collaboration of the government officials? Some girls are 12 years old.”⁶⁴

Human Rights Watch interviewed workers between the ages of 15 and 18 who reported that they obtained their passports without having to answer any questions from the presiding officials at the Ministry of Interior who processed their passports, even though they looked well below the age of 21.

A few large recruitment agencies are either owned by or affiliated to powerful government officials.⁶⁵ Such close affiliation with powerful officials makes it difficult for labor inspectors, police, or other officials to conduct proper investigations or hold these agencies accountable for recruitment-related abuses.

Although local organizations have brought several written complaints of human rights abuses, perpetrated by companies like the Ung Rithy Group, to the National Committee to Suppress Human Trafficking, Smuggling, Labor, and Sexual Exploitation—a body under the Ministry of Interior—the Cambodian government has not prosecuted any officials of the labor recruiting agencies. For instance, NGOs brought complaints that the Ung Rithy Group

⁶¹ Human Rights Watch interview with Prak Boupha, prospective domestic worker, Battambang province, Cambodia, April 30, 2011.

⁶² Human Rights Watch interview with Seng Phuong, underage domestic worker, Battambang province, Cambodia, April 30, 2011.

⁶³ Human Rights Watch interview with a labor supplier (name withheld), Phnom Penh, Cambodia, May 5, 2011.

⁶⁴ Jeffery Foo, deputy president, Association of Foreign Maid Agencies, Kuala Lumpur, Malaysia, April 21, 2011.

⁶⁵ Human Rights Watch interviews with human rights workers (names withheld), Phnom Penh, Cambodia, April 22, 2011.

has been involved in human rights abuses, including recruitment of children.⁶⁶ Human Rights Watch also interviewed two girls recruited by this agency. In April 2011, the *Phnom Penh Post* published a story on the recruitment of underage girls by the Ung Rithy Group:

Soy and two other girls with her were under the minimum legal working age in Cambodia –18-years-old– and well below the required [age of] 21 to work in Malaysia, according to photocopies of their birth certificates obtained from the rights group Licadho and seen by The [Phnom Penh] Post. The documents show the girls were between [the ages of] 15 and 16 at the time of departure, an assertion that the company that sent them there, Ung Rithy Group, strongly denies.⁶⁷

The United States Department of State, *Trafficking in Persons Report 2011 - Cambodia*, notes that:

In some cases, Cambodian police were reportedly unwilling to pursue investigations of several suspected trafficking establishments during the year because the establishments were thought to be owned by or affiliated with high-ranking officials. Information leaks by law enforcement authorities to traffickers were reported to significantly harm efforts to enforce anti-trafficking laws.⁶⁸

Migrant Domestic Workers Who Have Lost Contact

My granddaughter left for Malaysia in September 2009 to work as a maid. Since then, I have not heard from her. I went to the agency in Siem Reap in July 2010 to get some news. The agency staff shouted at me and said, “You are worried that she will get lost? If she disappears, we will pay you. We sent her to Malaysia to earn money, not to die. She will come back with money.” I went back to the agency again after three months. I was really worried about her. This time, the staff member told me that she [was] fine. When I asked him if I could call her and speak to her, he said, “You don't

⁶⁶ Human Rights Watch interviews with Tenaganita, Kuala Lumpur, Malaysia, April 11, 2011, Licadho, Phnom Penh, Cambodia, April 22, 2011, CLEC, Phnom Penh, Cambodia, April 22, 2011, and an NGO staff member (name withheld), Phnom Penh, Cambodia, April 22, 2011; See David Boyle and Mom Kunthear, “Escaping Hard Labour: Maids in Malaysia Return,” *Phnom Penh Post*, April 13, 2011, <http://www.phnompenhpost.com/index.php/2011041348530/National-news/escaping-hard-labour-maids-in-malaysia-return.html> (accessed June 26, 2011).

⁶⁷ See David Boyle and Mom Kunthear’s, “Escaping Hard Labour: Maids in Malaysia Return,” *Phnom Penh Post*, April 13, 2011, <http://www.phnompenhpost.com/index.php/2011041348530/National-news/escaping-hard-labour-maids-in-malaysia-return.html> (accessed June 26, 2011).

⁶⁸ The U.S. Department of State, “Trafficking in Persons Report 2011: Cambodia,” June 27, 2011, p. 110.

need to call her. She is fine.” They said if I need more information about her, I need to go to Phnom Penh, but I don't have money to go there.

—Rous Mliss, relative of Rous Kaom—a 22-year-old woman who migrated to Malaysia as a domestic worker, Siem Reap province, Cambodia, April 29, 2011.

There is no systematic collection of data about domestic workers who have lost contact with their families upon migration, but the problem appears to be significant. Southeast Asia Investigations into Social and Humanitarian Activities (SISHA), an NGO in Cambodia, reports there are hundreds of families who have not heard from their relatives since migrating to Malaysia.⁶⁹ Tenaganita, a migrants' rights NGO in Malaysia, said that at the time of this writing, they had received 25 reports of missing Cambodian women and girls.⁷⁰ The fate of these migrant women and girls is unknown.

Human Rights Watch documented seven cases of missing relatives in Malaysia. In these cases, missing migrant domestic workers had left Cambodia months earlier, in some cases, as far back as 2009. In many cases, the women had left their young children with their relatives promising to send money home for their children. For instance, Sourn Chhoeun, a 35-year-old single mother, left her village in December 2009 to travel to Malaysia and work as a domestic worker. Sourn Chhoeun left her three young children with her relatives and promised to send money home. Some of the relatives who spoke of their missing family members with Human Rights Watch were reporting their case for the first time.

Sourn Chhoeun's nephew takes care of her youngest child. He told Human Rights Watch, “My auntie went to Malaysia for more than one year, we haven't heard from her. Others hear from their relatives in six months. Our family is worried.”⁷¹ He went to the Cambodian Labor Supply, the local agency that had recruited Chhoeun to inquire about her. “I went to the company for three nights to get some news. The company staff said, ‘We'll try to keep contact.’ They responded to me in a good way. They said they would try to find her. However, we have no news from her. I am afraid I've lost my aunt.”⁷²

Human Rights Watch found that labor recruiting agents often tell migrants' families that their relatives will not be allowed to call home for the first three to six months and therefore, the families patiently wait for months for news from their relatives in Malaysia.

⁶⁹ Vincent Maclsaac, “Cambodia's recruitment ‘nightmare’,” *Bangkok Post*, May 29, 2011, <http://www.bangkokpost.com/news/investigation/239474/cambodia-recruitment-nightmare> (accessed July 26, 2011).

⁷⁰ Human Rights Watch interview with Tenaganita, Kuala Lumpur, Malaysia, April 11, 2011.

⁷¹ Human Rights Watch interview with Prak Sothy, relative of a missing domestic worker, Kampong Cham province, Cambodia, April 23, 2011.

⁷² *Ibid.* p. 29.

When they start their search after three to six months, the families approach the local recruitment agencies, often the only point of contact, seeking news about their relatives.

In the majority of the cases Human Rights Watch documented, when families approached local agencies, the agents promised to find their relatives, but did not provide them with the necessary assistance nor follow up on their complaints. Vann Bourey, father of 26-year-old Vann Srey Nit, told Human Rights Watch:

The company staff told me that I should contact my daughter in Malaysia only after six months because calling her immediately would make her miss home. After six months, when I called the company in Phnom Penh to ask about my daughter, the staff told me that they will contact my daughter and will call me back. They did not call me back. Every time I called the company, I was told the same thing and it has been a year and I have not heard back from my daughter.⁷³

Agencies have an incentive to make sure that domestic workers do not leave before they complete six months, as they may be required to provide a “free replacement” to the Malaysian employer. In some cases, the agents either verbally insulted the families or assured them that their relatives are “fine,” without providing them the necessary information or contact details. Some families told Human Rights Watch that they have not been able to continue the search for their relatives as they have no money to call back the agent or travel to their office. For instance, Rous Mliss told Human Rights Watch, “I called the agency once and they told me that if I want to find out more about Kaom, then I need to go to the agency office in Phnom Penh. I want to visit there but I don’t have money for the transportation.”⁷⁴

Medical Tests without Informed Consent or Counseling

The agency told me that I have to pass the blood test and that if I have any illness, then they will not allow me to go to Malaysia. The next day, the doctor came to the company and took the blood. I didn't get the result but they said I passed the test.

—Srey Mum, prospective domestic worker, Siem Reap province, Cambodia, April 2011

⁷³ Human Rights Watch interview with Vann Bourey, Pursat province, Cambodia, May 1, 2011.

⁷⁴ Human Rights Watch interview with Rous Mliss, relative of a domestic worker, Siem Reap province, Cambodia, April 29, 2011.

All migrants travelling to Malaysia are required under Malaysian law to be tested for pregnancy, HIV, hepatitis A,B, and C, syphilis, tuberculosis, malaria and other diseases before they are sent to Malaysia.⁷⁵ Migrant workers are required to undergo a second test within a month of their arrival in Malaysia for all these conditions, including HIV to confirm the results, after which they are either issued a work pass or deported if they test positive.⁷⁶

Private recruitment agents facilitate the health exam for the workers in Cambodia.⁷⁷ However, none of the workers interviewed by Human Rights Watch were informed about the type of tests they had to undergo in Cambodia. They only recalled going through a blood test, totally unaware that they were being tested for pregnancy, HIV, or other health conditions. Sen Chrek, a 20-year-old domestic worker said, “The staff did not tell me anything. They just took my blood. Later, she said that I passed the test and that I can go to Malaysia.”⁷⁸ Furthermore workers we spoke to were not fully informed about the costs of medical tests and procedures. A staff member of one recruitment agency told Human Rights Watch that management tells them to persuade pregnant women to get an abortion. However, the “fee of abortion is deducted from the workers’ salary but we would not tell them. The management told us not to give this information to the workers.”⁷⁹

Malaysian law requiring testing of HIV and other diseases of migrant workers does not advance public health and may violate human rights. As the World Health Organization has declared, HIV-related restrictions on entry, stay, and residence are not beneficial from a public health standpoint.⁸⁰ These restrictions contribute to and reinforce stigma and discrimination against migrants with HIV by lending credence to the idea that non-nationals are a danger from which the national population must be protected, and by prejudicially

⁷⁵ See CARAM-CAMBODIA, “State of Health of Migrant Report – Mandatory Testing,” 2007, p. 5. <http://caramcambodia.org/uploads/SoH%20Country%20Report%202007-Cambodia%20Eng.pdf>. Under the Malaysian Immigration Act 1959/63 (Act 155), migrant workers with HIV may be deported and can be required to submit to a medical examination. Art. 8 (3b) - (3c) and 39 (A). The Malaysian Prevention and Control of Infectious Diseases Act of 1988 (Act 342) requires notification of infectious disease, including HIV, to the nearest Medical Officer of Health. In addition, the Malaysian AIDS action plan requires that all foreign workers should be subject to medical examination on a regular basis (upon renewal of the work permit). Section 13.4.2, Plan of Action for the Prevention and Control of HIV Infection, AIDS/STD Section, Disease Control Division, Dept of Public Health, Ministry of Health, Malaysia, 2000.

⁷⁶ ILO, *Mandatory HIV Testing for Employment of Migrant Workers in Eight Countries of South-East Asia: From Discrimination to Social Dialogue*, (Geneva: ILO, 2009) p. 34.

⁷⁷ Article 19 of the new labor regulation, Sub-decree No. 190, assigns the primary responsibility of health exams to the recruitment agencies without specifying minimum standards and obligations of the recruitment agents to ensure human rights of migrant workers are protected in the process.

⁷⁸ Human Rights Watch interview with Sen Chrek, Pursat province, Cambodia, April 21, 2011.

⁷⁹ Human Rights Watch interview with (name withheld), recruiting agency staff member, Phnom Penh, Cambodia, April 21, 2011.

⁸⁰ World Health Organization, “Statement on Screening of International Travelers for Infection with Human Immunodeficiency Virus,” WHO/GPA/INF/88.3, 1988.

implying that they will act irresponsibly in transmitting the infection. The restrictions also make it difficult to discuss HIV issues in public, decreasing prevention, testing, treatment opportunities and uptake, further isolating and marginalizing people with HIV.⁸¹

National restrictions on entry, stay, and residence that single out people living with HIV broadly violate international human rights law provisions banning discrimination and upholding equality before the law.⁸² The Universal Declaration of Human Rights, widely recognized as reflective of customary international law, guarantees all persons the right to equal protection of the law without discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.⁸³ The UN Commission on Human Rights has interpreted this provision to include discrimination based on HIV status.⁸⁴ States should respect this right for all individuals within their territory which are subject to their jurisdiction, regardless of citizenship. In commenting on similar language in the International Covenant on Civil and Political Rights, the Human Rights Committee has noted that while a state has in principle the authority to determine whom to admit to its territory, in the context of discrimination considerations, aliens still enjoy protections against discrimination in relation to entry or residence.⁸⁵ Restrictions against entry, stay, and residence based on HIV status also run contrary to related human rights principles. As UNAIDS has noted, the implementation of these restrictions may violate obligations to protect the family, protection of the best interests of the child, the right to privacy, the right to freedom of association, the right to information, and the rights of migrant workers.⁸⁶

Private recruitment companies that impose these tests on prospective migrant workers in Cambodia are violating Cambodian law. Article 19 of Cambodia's Prevention and Control of

⁸¹ See Human Rights Watch, *Discrimination, Denial, and Deportation: Human Rights Abuses Affecting Migrants Living with HIV*, June 18, 2009.

⁸² Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948); Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981.

⁸³ UDHR, art. 2.

⁸⁴ Commission on Human Rights, "The Protection of Human Rights in the Context of Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)," Resolution 1995/44, March 3, 1995.

⁸⁵ Human Rights Committee, "General Comment No. 18: Non-Discrimination," 1989; Human Rights Committee, "General Comment No. 15: The Position of Aliens Under the Covenant," 1986.

⁸⁶ UNAIDS and International Organization for Migration (IOM), "UNAIDS/IOM Statement on HIV/AIDS-Related Travel Restrictions." June, 2004.

HIV/AIDS (2002) provides that all testing for HIV shall be done with the “voluntary and informed consent from all the individuals.”⁸⁷

Most of the workers who spoke to Human Rights Watch said their blood tests were undertaken inside the premises of the recruitment agencies in Cambodia, including the test for HIV/AIDS without any pre-test counseling. A labor recruiting agent confirmed this.⁸⁸ One local activist told Human Rights Watch, “Most agencies hire private doctors for initial blood tests to reduce costs and only those workers who are tested HIV negative are taken to the Voluntary Confidential Counseling and HIV testing center (VCCT) to make it appear that they were tested in the government-recognized testing centers.”⁸⁹

CARAM-Asia notes this practice in its report:

In terms of testing process, the recruitment agencies firstly hired doctors/medical personnel or other private/public hospital [staff] to do testing for HIV/AIDS, hepatitis, tuberculosis and urine [exams] with migrants before referring them to be tested by the Department of Occupations and Health due to different prices. The contents of test[s] responded by migrant[s] show that they were tested on HIV/AIDS, hepatitis, lung x-ray, urine, eyes, ears, etc...⁹⁰

Testing of HIV in private premises is illegal as well as criminal under Cambodian law. The law on Prevention and Control of HIV/AIDS (2002) specifically says that all testing centers offering the HIV/AIDS testing services must seek accreditation from the Ministry of Health.⁹¹ It guarantees confidentiality of all persons who have HIV/AIDS and requires that everyone, including employers, recruitment agencies and testing centers maintain confidentiality of reports and pay attention to the maintenance of confidentiality in handling medical information, especially the identity and personal status of persons with HIV/AIDS. The law carries punishments of one to six months in prison, which could be doubled in the case of repeated offenses.⁹²

⁸⁷ Law on the Prevention and Control of HIV/AIDS, *Kingdom of Cambodia*, June 14, 2002, art. 19. The VCCT Policy, Strategy, and Guidelines of Cambodia also state HIV testing should be conducted on a voluntary basis following the fully informed consent of the individual, and accompanied by pre- and post- test counseling and confidentiality of HIV test results.

⁸⁸ Human Rights Watch interview with labor recruiting agent (name withheld), Phnom Penh, Cambodia, May 5, 2011.

⁸⁹ Human Rights Watch interview with NGO worker (name withheld), Phnom Penh, Cambodia, April 26, 2011.

⁹⁰ CARAM-CAMBODIA, “State of Health of Migrant Report – Mandatory Testing,” 2007.

⁹¹ Law on the Prevention and Control of HIV/AIDS, *Kingdom of Cambodia*, June 14, 2002, arts. 19 and 23.

⁹² *Ibid.*, arts. 19 and 51.

None of the workers interviewed by Human Rights Watch received their medical report. The recruitment agents in Cambodia received and retained medical reports directly, typically not sharing the full results but only telling domestic workers whether they passed the medical test and if they were “fit” to travel to Malaysia. The United Nations Joint Programme on HIV/AIDS, UNAIDS and the United Nations Office of the High Commissioner for Human Rights have consistently emphasized the importance of high quality, voluntary counseling, informed consent, and confidentiality in HIV testing and care as essential parts of HIV prevention strategies.⁹³ This approach emphasizes respect for the right to privacy, nondiscrimination, and the highest attainable standard of health.

Prospective workers who are tested HIV positive do not have access to post-test counseling. A staff member of a recruitment agency said, “Women with HIV or other diseases are notified they are unfit to work abroad and often sent home, without further referral for counseling or treatment.”⁹⁴ A labor recruitment agent confirmed this: “Workers who pass the test are sent to Malaysia while unfit workers are sent home.”⁹⁵ The law on Prevention and Control of HIV/AIDS stipulates that all testing centers “shall provide pre-test and post-test counseling services for those who request HIV/AIDS testing.”⁹⁶ However, contrary to the law, recruitment agencies in Cambodia commonly require domestic workers to undergo HIV/AIDS testing without any pre- or post-test counseling.

⁹³ UNHCHR and UNAIDS, *United Nations International Guidelines on HIV/AIDS and Human Rights*, (Geneva: UNAIDS, 2006).

⁹⁴ Human Rights Watch interview with former recruitment agency trainer (name withheld), Phnom Penh, Cambodia, April 21, 2011.

⁹⁵ Human Rights Watch interview with labor recruiting agent (name withheld), Phnom Penh, Cambodia, May 5, 2011.

⁹⁶ Law on the Prevention and Control of HIV/AIDS, *Kingdom of Cambodia*, June 14, 2002, art. 24.

III. Abuses in Cambodia's Training Centers

There were around four hundred people in the training center and the door was locked. We had to take turns and clean dishes, wash clothes or cook for 400 to 500 people. The food wasn't enough, we had rice and soup every day. Many people, even if they were sick or wanted to leave, weren't allowed to go. Many people fell sick. Some women were so weak that they couldn't even walk. I saw two women who couldn't walk and the agency called their family to take them home. Those who fell seriously sick were sent to the hospital and given some IV fluid [intravenous infusion] and brought back to the agency.

—Ngoun Re, age 32, Siem Reap province, Cambodia, April 2011

Prospective domestic workers must stay in training centers, located mostly in Phnom Penh, for three to six months to complete an orientation course before their departure to Malaysia. Most of the workers we interviewed said that labor agencies lock workers inside the training centers and do not allow them to visit their family or friends during their training. Although a few recruitment agencies have allowed NGOs, such as CARAM-Cambodia,⁹⁷ to conduct pre-departure training and orientations for the workers, these trainings are largely managed by the recruitment agencies.

Human Rights Watch conducted interviews with prospective and returned migrant workers, NGO workers, and the staff of one training center. Our investigation found that a range of abuses take place in these training centers including forced confinement, psychological and physical harassment, and poor living conditions, such as overcrowding, inadequate food, poor sanitation, and lack of medical care.

Deaths in the Training Centers

My wife got very ill and the agency finally took her to a hospital but kept her only for one day. The doctor told me that it was a very short time to treat her and only God can save her. I requested the director [of the agency] to allow me to take my wife home so that I could take her for treatment. He said that he would allow me to take her home only if I paid some money. He said as my wife is a little old, he would take only US\$600 as a deposit.

⁹⁷ Human Rights Watch interview with Ya Navuth, executive director, CARAM-Cambodia, Phnom Penh, Cambodia, April 21, 2011.

When I told him that I didn't have that much money, he asked me how I was planning to take my wife for treatment. I told him that I would ask for [a] loan in the village. Then he said, "If you can get [a] loan why don't you try to get the money and pay the company?" I tried very hard to take her home but I failed. I could not save her.

—Chea Meng, family member of a prospective domestic worker who died in the training center without receiving proper medical care, Phnom Penh, Cambodia, April 2011

Three deaths of workers were reported in training centers between July 2010 and February 2011. In one case, the recruiting agents denied the worker's family's repeated requests to take her to a hospital for treatment while in the other two cases, when the agency called the families to the agency premises, the workers had already died. While there is no conclusive evidence that the deaths could have been prevented by timely medical attention, a proper forensic examination was not conducted in any of the three recorded cases and Human Rights Watch found that workers in training centers have limited access to health care.

A family member of one of the deceased workers repeatedly requested, in the presence of police, the staff of the hospital to conduct an autopsy.⁹⁸ Chhim Sopheap, a 36-year-old prospective domestic worker, was recruited by a recruitment agency, International Investment Services (IIS), in early February 2011, but she fell ill after she arrived at the agency's training center. The director of the agency did not allow her to leave without making a payment of US\$600.⁹⁹ Her condition worsened and she died in the training center on February 26, 2011. The recruiting agent did not transfer her to a hospital but waited for her family members to arrive at the agency and insisted that relatives take the body away themselves. Licadho and Human Rights Watch found that a forensic police officer and a medical official issued a death certificate listing her cause of death as "heart failure" without a forensic examination.¹⁰⁰

No independent investigation has been conducted into the three deaths. The government's internal investigation into the death of another domestic worker, Sam Savi, who died in the compound of the T&P Company, concluded that she died of a "heart

⁹⁸ Human Rights Watch interview with the relative of the victim (name withheld), Phnom Penh, Cambodia, April 22, 2011.

⁹⁹ Human Rights Watch interview with the witness (name withheld), Phnom Penh, Cambodia, April 22, 2011; "Silence After Recruitment Firm Settles in Death of Woman," Voice of America-Khmer, March 3, 2011, <http://www.voanews.com/khmer-english/news/Silence-After-Recruitment-Firm-Settles-in-Death-of-Woman-117313138.html> (accessed June 7, 2011).

¹⁰⁰ Licadho, "The Case of Ms. Chhim Sopheap," unpublished report, March 7, 2011; Human Rights Watch interview with the relative present in the hospitals (name withheld), Phnom Penh, Cambodia, April 22, 2011.

attack” but did not provide any details as to how they reached that conclusion.¹⁰¹ Despite additional findings that the company had recruited children and illegally confined workers in its premises, the Ministry of Interior’s anti-trafficking police did not arrest any employee of T&P Company. The Labor Ministry merely ordered the company to close one of its training centers but failed to cancel or even suspend its license.¹⁰²

Forced Confinement and Restrictions on Communication

The women couldn’t leave the building. The walls are high, the workers cannot see outside, security is tight, the door is locked and only a staff member considered very reliable by the director keeps the door keys.¹⁰³

—Former staff member, recruitment agency, Phnom Penh, Cambodia, April 2011

The majority of domestic workers interviewed by Human Rights Watch reported that recruitment agents confined them in the training facility during their entire training period with limited access to their families or telephones, and that a guard was always present. Women who changed their mind about migrating and wished to leave the training center were prohibited from doing so unless they could repay the initial loans given to their families.

Women and girls who spoke to Human Rights Watch consistently said that they were not allowed to leave the training center even when they or their family members fell sick. Chain Channi, an 18-year-old domestic worker, told us about her time in a training center:

I got the news that my mother was sick and asked the female staff if I could visit her. She said that I could leave the center only if my mother pays back the US\$100 loan to the company. My family is poor and they could not pay the money. I couldn't visit home to see my sick mother.¹⁰⁴

Out of 28 migrant workers interviewed, only one woman reported that she was allowed an unsupervised trip to the market or for a family visit once a week for limited hours; the rest reported that they were forced to stay inside the center, under guard, during their entire stay. Some workers reported that the labor agents allowed them to make calls to their family or

¹⁰¹ Hul Reaksmeay and Paul Vrieze, “T&P Retains License after Closure Order,” *The Cambodia Daily*, March 21, 2011.

¹⁰² Ibid; Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

¹⁰³ Human Rights Watch interview with a former staff member (name withheld), Phnom Penh, Cambodia, April 21, 2011.

¹⁰⁴ Human Rights Watch interview with Chain Channi, domestic worker, Kuala Lumpur, Malaysia, April 13, 2011.

allowed their family to visit briefly. Such visits were sometimes monitored and their time limited. Srey Mum, the mother of 16-year-old Soukem Reaten, told Human Rights Watch:

The staff forced me to leave the office building after I spoke to my daughter for a brief time. I saw her living conditions and I felt so sad. I felt like I had sent my daughter to a big prison. I wanted to take my daughter back but I didn't have money to repay the loan the agency had given me.¹⁰⁵

Many workers reported that they were unaware that they would be confined in the center for so long. Kum Sirup, a 17-year-old domestic worker said, "I did not know that I would be there for four months. I felt sad. I was not happy to be there for so long."¹⁰⁶ A few workers said that cameras were installed in the training center, including in the sleeping area and they were constantly monitored.

Some agents confine workers in the training center at any cost. Several workers reported that those who tried to run away from the training centers were brought back and detained in a separate room, and sometimes were beaten. Sok Srey Lina, a returned domestic worker said, "So many girls wanted to return home from the training center. Some escaped but were caught. The staff would lock those women in a separate room and beat them. There was a separate room to keep workers who commit such mistakes."¹⁰⁷

In some cases, the officials of the recruitment agencies warned that if workers escaped from the center or failed to pay back the loan, a police complaint would be filed.¹⁰⁸ Sen Chrek told Human Rights Watch, "I did not ask the agency staff if I could return home. We were told that no one is allowed to leave the training center and if we did so, the agency said that they will file a police complaint against us."¹⁰⁹

Some workers recalled that a few women in the training center were so desperate after the agency refused their requests to visit home that they attempted to commit suicide by jumping from the building.¹¹⁰ Workers described that those who were injured during their unsuccessful attempts to escape from the training center were brought back to the agency

¹⁰⁵ Human Rights Watch interview with Srey Mum, the mother of a domestic worker, Pursat province, Cambodia, May 1, 2011.

¹⁰⁶ Human Rights Watch interview with Kum Sirup, returned domestic worker, Kampong Speu province, Cambodia, April 22, 2011.

¹⁰⁷ Human Rights Watch interview with Sok Srey Lina, Siem Reap province, Cambodia, April 29, 2011.

¹⁰⁸ Human Rights Watch interview with Re Ngoun, domestic worker, Siem Reap province, Cambodia, April 28, 2011.

¹⁰⁹ Human Rights Watch interview with Sen Chrek, Pursat province, Cambodia, May 1, 2011.

¹¹⁰ Human Rights Watch interviews with Ngim Vath, returned domestic worker, Siem Reap province, Cambodia, April 29, 2011; and Srey Nit, domestic worker, Siem Reap province, Cambodia, April 29, 2011.

and re-confined without proper medical care. San Souen recalls how she had to take care of a girl who was seriously injured when she attempted to escape from the building:

She was 16 or 17 years old. She broke her leg, her arm as well as hurt her head. The company didn't send her home. She was left in the building and the staff asked us to take care of her. One person would take care during the day and the other one at night. I also took care of her too, fed her and washed her. She often cried because of pain and asked for help. Two weeks later, she disappeared from the building.¹¹¹

Labor agents also restrict workers' movements by retaining personal and family identity documents at the time of registration. Domestic workers interviewed by Human Rights Watch said that the agents required them to bring their identity documents at the time of registration and then retained them until they departed to Malaysia. Their families were able to collect family identity documents only after the worker's departure. Human Rights Watch interviewed some workers who escaped from the training center who have not been able to retrieve their personal identification documents because the agents have refused to return them. In some cases, workers were afraid to approach the company to ask for their documents, fearing that the company would demand they repay outstanding loans.

Amid increased media scrutiny and pressure from NGOs following the death of Sam Savi as well as the case of Heng Hak, a trainee who broke both legs while trying to escape the T & P premises, Phnom Penh military police questioned eight women living on the premises of T & P Company regarding Sam Savi's death.¹¹² The women interviewed requested military police and court officials to help them leave the T & P Company.¹¹³ At least five recruits were released, including two girls; one of the girls told the media that the company had demanded US\$500 for her release.¹¹⁴ Tola Moeun, a labor rights activist with CLEC, told Human Rights Watch, "Lack of prosecution is a serious problem. Despite finding evidence of underage recruitment and forced confinement, the MoLVT [Ministry of Labour and Vocational Training] did not take any serious action against T&P. The ministry closed one of its centers and the company found a new location and transferred all the girls."¹¹⁵

¹¹¹ Human Rights Watch interview with San Souen, 17-year old prospective domestic worker, Battambang province, Cambodia, April 30, 2011.

¹¹² "T&P workers questioned over death," *Phnom Penh Post*, March 8, 2011.

¹¹³ *Ibid.*

¹¹⁴ Licadho, "The Cases of Ms. Soeung Sina & Ms. Heng Hak," unpublished report, March 21, 2011.

¹¹⁵ Human Rights Watch interview with Tola Moeun, Phnom Penh, Cambodia, April 18, 2011.

The detention of prospective workers by recruitment companies violates Cambodian law. Under Cambodia's Penal Code, it is a criminal offense to illegally arrest, detain, or confine someone. The offense is punishable by imprisonment up to 10 years if the confinement lasts for longer than one month; three to five years if the confinement lasts less than one month; and one to three years if the detention lasts less than 48 hours.¹¹⁶

Poor Living Conditions and Denial of Health Care

There was no way we could talk about our condition to people outside. One day a group of us wrote a letter, mentioned that there are underage girls [and] sick people inside the center, and the company does not allow them to leave. In the letter, we appealed to NGOs and humanitarian agencies to help. We threw the letter from our window to the roadside, hoping that someone would get it and come for help. Unfortunately, we could not throw the letter too far. The next morning, the agency staff found it, called a meeting and threatened everyone that if anyone tries to write such letters again, they will send the person to jail.

—Srey Keo, a domestic worker who escaped from a training center, Battambang province, Cambodia, April 2011

The migrant workers, NGO staff members and even former staff of the recruitment agencies who were interviewed by Human Rights Watch reported that conditions at the training center were poor. The centers are typically overcrowded, the food is inadequate and health care is virtually non-existent.¹¹⁷ Many said that they were sick during their stay in the training center due to poor nutrition, excessive work, and inadequate sleep. They said they usually slept on the floor, sometimes without any mattresses or blankets,¹¹⁸ and received insufficient portions of food with little variety. For example, several women told Human Rights Watch that they had only rice and sour soup almost every day.

Re Ngoun, a 32-year-old domestic worker recalled:

There were around 400 women in the training center. The sleeping area was narrow and we slept head to head. Sometimes we did not have enough

¹¹⁶ Penal Code, *Kingdom of Cambodia*, October 2009, art. 253.

¹¹⁷ The findings about the conditions of training centers are based on the statements of women migrant workers, staff of the training center, and NGO workers. Human Rights Watch visited one training center in Phnom Penh, Cambodia in May 2011.

¹¹⁸ Human Rights Watch visited one training center in Phnom Penh, Cambodia in May 2011, which was keeping around 100 prospective domestic workers. When Human Rights Watch asked staff and workers regarding the trainee sleeping arrangements, they explained that workers sleep on floors and there were no mattresses for the workers.

blankets. There was just one bathroom and we took our shower in a group. It was awkward. It was also difficult to eat the food they gave us. We received a small portion of rice and sour soup for dinner and lunch every day.¹¹⁹

Thy Thip, a 16-year-old domestic worker said:

Everyone was made to sleep on the floor, without any pillow[s], mattress[es], mosquito nets or blanket[s]. There were around 250 people living there and only five rooms. There was not enough space for everyone in the rooms and those who didn't fit in the rooms had to sleep in an open area outside. There were only three bathrooms for everyone. There were a lot of mosquitoes. It was so dirty. We got little food to eat. The condition of living was terrible.¹²⁰

According to an official at the Cambodian Labor Ministry, the ministry started inspecting the conditions in training centers in late 2010.¹²¹ However, it had not developed minimum standards for space, food, sanitation, and medical care. At the time of this writing, the ministry was still in the process of developing a standard checklist of issues to monitor in the centers.¹²²

Workers also reported limited access to basic health care. Out of 28 domestic workers Human Rights Watch interviewed, 22 reported that they were sick in the training centers. Women and girls complained that they frequently experienced stomach aches, nosebleeds, diarrhea, headaches, and high fevers. When workers complained that they were sick, or requested medical care, the staff at the agency would typically give them a few tablets of paracetamol pain reliever. This was the only medicine available in the training centers according to the workers. Sometimes, the staff accused them of being “lazy” or “pretending to be sick.” Labor agents took workers to a hospital only when they failed to recover or fell seriously ill.

The cost of the medicine and hospital expenses was typically deducted either from the final loan payment the workers received before their departure to Malaysia or their salary in Malaysia. Sometimes, workers were asked to buy medicine from the money they

¹¹⁹ Human Rights Watch interview with Re Ngoun, domestic worker, Siem Reap province, Cambodia, April 29, 2011.

¹²⁰ Human Rights Watch interview with Thy Thip, age 16, domestic worker, Battambang province, Cambodia, April 30, 2011

¹²¹ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

¹²² Ibid.

received as a loan during their recruitment. A trainer employed at one training center told Human Rights Watch, “There are no doctors in the training centers. Some trainers have paracetamol for simple illnesses. The agency takes them to a private clinic if the women are seriously sick, but the medical expenses are deducted from the loan they receive before going to Malaysia.”¹²³

Women told Human Rights Watch that they had to cook for hundreds of workers on a rotational basis, clean the building, carry food supplies, including heavy sacks of rice, and wash clothes for the staff as “job training.” They said agents made women and girls work unpaid in the training center to reduce management and living costs. Sok Chan, a 27-year-old returned migrant worker recalled her experience in the training center: “We had to carry bags of rice around 50 kilograms from the ground floor to fifth floor in the kitchen. They were very heavy and it was difficult to carry. We carried water buckets. We had to wash the clothes of the teachers.”¹²⁴ Several workers reported that they had to work even if they were sick or had informed staff that they were suffering from an abdomen or gynecological problem.

Some current and former domestic workers interviewed said they experienced psychological and physical abuse at the hands of labor agents in Cambodia. Women and girls reported verbal abuse or physical abuse, such as beatings with sticks, mostly for failure to learn English or Chinese words. One domestic worker said, “We had to learn words for vegetables, utensils, babysitting. If we made a mistake, they would punish us by making us stand for one hour, stand with a water bucket on our head. This would happen about two or three times a month.”¹²⁵

Paying the Price of Freedom

The workers are not allowed to return to their village[s] once they register. If they want to go back, the agency asks them to deposit something valuable, such as a gold necklace, bracelet or a land title. They also need to sign an agreement that they will come back within a certain number of days. If they don't, the agency keeps those valuables. Poor people can't afford to deposit anything so they either don't leave or attempt to escape,

¹²³ Human Rights Watch interview with a former staff of a recruitment center [name withheld], Phnom Penh, Cambodia, April 23, 2011.

¹²⁴ Human Rights Watch interview with Sok Chan, Battambang province, Cambodia, April 25, 2011.

¹²⁵ Human Rights Watch interview with Thai Srey Mach, Kampong Chhnang province, Cambodia, April 25, 2011.

sometimes injur[ing] themselves. If they escape, the agency staff goes to their village and looks for them and tries to bring them back to the agency.

—A former recruitment agency trainer, Phnom Penh, Cambodia, April 21, 2011

If migrant workers wish to return home, they must pay back the initial cash or “loans” they had received during the recruitment to the agencies. This outstanding debt, which is the cost of ransoming workers from the training center, is often calculated based on the number of days the worker has stayed in the center, the document processing fees, and the amount of the loan she received during the recruitment. The amount demanded by the agents is often inflated, which makes it almost impossible for workers to repay the loan.

A director of one recruitment agency told Human Rights Watch, “There are very few workers who want to return home. The actual living expense varies depending upon how many days she has stayed in the training center. The living expenses for each worker in the training center usually cost \$3 per day. So if the worker stays for 90 days, the total cost is \$270. Then we add the cost of [her] passport and other document processing fees in the total cost she has to repay.”¹²⁶ However Human Rights Watch research found that the agencies demand between \$600 and \$900 from the workers if they want to return home from the training centers.

Human Rights Watch documented instances of labor recruitment agencies engaging in illegal practices and harassment of prospective migrant domestic workers and their families in regard to loan repayments. Recruitment agencies intimidate families regarding repayment of “loans,” coerce them to return to the agency, or try to stop them from seeking the assistance of NGOs, lawyers, or the media. In some cases, documented by Human Rights Watch, agents enlisted corrupt police or judges to intimidate the workers and recover loans. Decree No. 38 on the Law Referring to Contract and Other Liabilities obliges the borrower of the loan to repay the amount.¹²⁷ However, as one lawyer with experience on filing civil and criminal cases against the recruiting companies said, “Cambodian law is also clear that the damage must be settled by courts and the recruitment agencies cannot detain, force them to sell their property, or [have workers sent] to prison for their failure to pay the loan.”¹²⁸

¹²⁶ Human Rights Watch interview with labor recruiting agent (name withheld), Phnom Penh, Cambodia, May 5, 2011.

¹²⁷ Decree No. 38 on the Law Referring to Contracts and Other Liabilities, *Kingdom of Cambodia*, October 1998.

¹²⁸ Human Rights Watch interview with lawyer (name withheld), Phnom Penh, Cambodia, May 6, 2011.

Decree No. 38 has a number of provisions that could be applied to protect the rights of domestic workers during their recruitment. For instance, article 5 states that the contract is “deemed void when it is illegal, and not consistent with public order or good customs” and when “made by a party lacking capacity to contract.”¹²⁹ Thus, in cases of underage recruitment and recruitment of workers through debt obligations, both illegal under labor laws of Cambodia, the contract could be deemed void.¹³⁰

Some families were left with no choice but to sell off their property or take on new debts to repay the loan to the recruitment agencies. A village chief told Human Rights Watch, “There were two cases in my village this year. The family came to me and requested to certify the sale of their farmland. The family did not tell me the reason they wanted to sell the land but later I heard that they sold it to pay the agency for the return of their daughters [from the training center]. I did not know how much the family had to pay the agency to get back the girls. However, I observed that the girls are back in the village. Now this family has no more farmland.”¹³¹

Sometimes, unable to endure the stringent and poor living conditions in the training center, women try to escape by jumping out of windows, often risking their lives and injuring themselves.¹³² Human Rights Watch interviewed five domestic workers who managed to escape from the training centers. For instance, one prospective domestic worker described her experience and fear after she escaped from the training center:

I jumped from the fence and escaped from the agency around midnight. I ran as fast as I could with four other friends who had also escaped along with me. I was very scared while I was running. I was worried that the agency people would follow me, find me, arrest me and take me back to the agency.¹³³

In all these cases, the recruitment agency came to their homes searching for them, demanded repayment of the loan and in three cases, threatened them with imprisonment if they failed to repay the money.

¹²⁹ Decree No. 38 on the Law Referring to Contracts and Other Liabilities, *Kingdom of Cambodia*, October 1998, article 5 & 6.

¹³⁰ For instance, article 16 of the Labor Law of Cambodia prohibits hiring people to work off debts. See The Asia Foundation, “Cambodia’s Labor Migration: Analysis of the Legal Framework,” April 2011, p 48.

¹³¹ Human Rights Watch interview with a village chief (name withheld), Kampong Cham province, Cambodia, April 24, 2011.

¹³² IRIN, “Poaching Cambodians,” Mar 29, 2011, <http://www.theasiamag.com/patterns/poaching-cambodians> (accessed June 15, 2011).

¹³³ Human Rights Watch interview with Srey Da, prospective domestic worker, Siem Reap province, Cambodia, April 28, 2011.

Chey Chanda and her sister received \$100 and five sacks of rice each when they registered to migrate to Malaysia to labor as domestic workers. They could not endure the harsh living conditions in the training center and managed to escape. Fearing that the company would arrest and take them back to the agency if they returned home, they went to their relative's house. A week later, the staff from the agency came looking for them in the village and ordered their mother, Nhek Sothy, to bring her daughters back to the agency or pay \$600 if they wished to return to the village. At the time Human Rights Watch visited them, the agency had already visited three times demanding payment. Nhek said:

I am very worried if the company will come back again. They told me that if I don't pay, they would file a police complaint and bring police to arrest me. They said they run a business legally and they are very powerful. If they push me, I need to deposit my land title and pay back the money. I am sick. I have no idea how I can pay this loan otherwise.¹³⁴

As of mid August, 2011, according to the information Human Rights Watch received, the agency staff still visits their house demanding payment from the family.¹³⁵ Nhek and her two daughters have no regular income. They survive on vegetables from the land they plan to hand over in order to pay off the agency.

In another case, a recruitment agency filed a formal complaint of "breach of contract" after a worker named Keo Pich escaped from a training center. The police investigated, visited the family, and threatened them with prosecution. Sok Sen, a fisherman and father of a six-year old, said his wife, Keo Pich, decided to migrate to Malaysia as a domestic worker to repay a microcredit loan. After a few weeks at the training center, she ran away. "She didn't want to leave but she was exhausted due to hard work. She had to clean, iron, wash clothes, and cook for people. She wanted to return home but the agency demanded that she pay them \$1,000.... I tried to find her but I don't know where she is."¹³⁶

A labor agent came to Sok's house and demanded that he pay \$980. "The representative from the company said if my wife doesn't return he will auction this house and land. And if the auction is not enough they will arrest me and put me in jail."¹³⁷ The agent gave him 10 days to pay the money and threatened him with imprisonment. Subsequently, the police

¹³⁴ Human Rights Watch interview with Nhek Sothy, a domestic worker, Siem Reap province, Cambodia, April 28, 2011.

¹³⁵ Email communication from CLEC to Human Rights Watch, August 17, 2011.

¹³⁶ Human Rights Watch interview with Sok Sen husband of a prospective domestic worker, Kampong Cham province, Cambodia, April 24, 2011.

¹³⁷ Ibid.

summoned him for “violation of trust [breaking contract].” Sok reported to the police office after he received the letter. He told Human Rights Watch:

The police order[ed] me to pay \$980 and if not, they will sue me in court and there could be a criminal case of breaking trust and imprisonment for six months.... The police didn’t say anything about helping to find my wife. The police told me that the company is not responsible for my missing wife. They said if the company takes the case to court, they will ask [for] more compensation, more than this current amount.¹³⁸

Sok Sen expressed his concern about the whereabouts of his wife who was still missing at the time of the interview in April 2011, “I am very worried about my wife. I have no money. But if the company can find my wife, I will repay what we received.”¹³⁹ Human Rights Watch subsequently learned that Sok Sen, unable to pay and fearing repercussions from the recruitment agency, fled his village.¹⁴⁰

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Email communication from CLEC to Human Rights Watch, June 1, 2011.

IV. Abuses in Malaysia

I feel like I was blessed with a new life when I returned to Cambodia.
Malaysia was like a prison for me.

—Lay Lim, a 31-year-old domestic worker who migrated to Malaysia to support her disabled brother and elderly parents, was regularly beaten and denied food by her employers.
Kampong Cham province, Cambodia, April 2011

Cambodian women and girls risk a range of abuses and forms of exploitation in Malaysia, including excessively long hours of work with no rest days, non-payment of wages, poor living conditions, including food deprivation, psychological, physical, and sexual abuse, and restrictions on freedom of movement and communication. Some workers may be trafficked into situations of forced labor.

Not all domestic workers suffer abuse. Human Rights Watch interviewed Cambodian domestic workers who had positive employment experiences in Malaysia and plan to renew their contracts. We spoke to workers who said their employers treated them well, paid them on time, and allowed them to remain in touch with their families. However, gaps in Malaysia's labor laws mean there are few minimum standards and a domestic worker's employment conditions depend on the discretion of her employer. When cases of abuse do occur, domestic workers have little recourse for protection from the Malaysian government.

The Cambodian embassy in Malaysia told Human Rights Watch that they have received “around 50 to 60 cases” of physical abuse, including cases of “minor” abuse such as slapping and around five cases of sexual abuse of Cambodian women between January and April 2011.¹⁴¹ Tenaganita, the Malaysian migrants' rights NGO, reported that it handled 41 cases of abuse of Cambodian domestic workers between January and August 2011. In all these cases, the passports were held by their employers, they were not given a single rest day, and all of them were “overworked” with 42 percent made to work illegally in two different premises.¹⁴² Among Tenaganita's caseload, 56 percent reported physical abuse, 20 percent reported sexual abuse, and 25 percent were malnourished due to food deprivation.¹⁴³

¹⁴¹ Human Rights Watch interview with Norodom Arunrasmy, ambassador to Malaysia, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

¹⁴² “Malaysian Employers Continue to Act with Impunity in the Abuse, Torture & Ill-treatment of Cambodian Workers,” Tenaganita media statement, August 11, 2011.

¹⁴³ Ibid.

Unfamiliarity with their legal rights and limited ability to communicate in English or Malay exacerbates workers' vulnerability in Malaysia. Many workers lack basic information, such as on the payment of their salary or whom to approach for help if they face abuse. A Cambodian embassy official told Human Rights Watch that, "When the women run away and come to the embassy, it is often a challenge to track their agents and employers as most of them don't even know or remember the names of their employer, agent [or] their addresses."¹⁴⁴

None of the workers Human Rights Watch interviewed received a copy of their employment contract in Malaysia, although they said that they were made to sign or thumbprint several documents by their recruitment agents in Malaysia. Many of them were unaware of the content of the contract either because it was written in English or they were not allowed to read it. Neoun Khun Thear, a domestic worker, said, "At the end of every month I was asked to sign a document. I could not read it as it was written in English and Chinese. When I asked for my salary, madam told me that I don't need to know that. I did not get any money for 19 months."¹⁴⁵

When workers flee from their employers' homes to escape abusive conditions, they have few avenues to seek redress or shelter (discussed further in chapter VI). Workers may turn to their local agents, who are often their only point of contact. While some agencies make their best effort to assist the workers, others intimidate and abuse workers for leaving their employers.¹⁴⁶

Unpaid Wages

According to an official at the Cambodian Ministry of Labor, under-payment or non-payment of wages and physical abuse are the most common complaints the ministry receives from returned domestic workers.¹⁴⁷ None of the domestic workers interviewed for this report received their full salary while most said they received wages that were much lower than what was promised by their labor agent. These women worked for periods ranging from three months to two years.

Most of the women interviewed by Human Rights Watch said that they were not paid on a monthly basis but were told either by agents or employers that they would be paid at the

¹⁴⁴ Human Rights Watch interview with Norodom Arunrasmy, ambassador to Malaysia, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

¹⁴⁵ Human Rights Watch interview with Neoun Khun Thear, Battambang province, Cambodia, April 30, 2011.

¹⁴⁶ See section on Agency Abuses in Malaysia.

¹⁴⁷ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Cambodia, May 6, 2011.

end of their two-year contract. Some workers reported that their employers deducted from their salary expenses for items such as broken dishes, soap, shampoo, and medical treatment if they needed to see a doctor. Others reported that they did not receive their full salary because their employers refused to pay them or made unreasonable deductions.

Cambodian domestic workers are usually promised a monthly salary of 400 to 600 Malaysian ringgit (\$133 to \$200), a wage lower than the amount workers from other countries typically receive. For example Filipina domestic workers are the highest paid foreign domestic workers, receiving about \$400 a month. Human Rights Watch interviewed workers whose agents told them that they would receive their salary only at the end of their two-year contract and after a six-month salary deduction, and sometimes instructed them not to ask for their salary from their employers. For example, Tu Kim, who migrated to Malaysia to support her eight siblings, said she had not received any salary for two years of work: “My agent in Cambodia told me not to ask for a salary. My agent in Cambodia said that I would be paid at the end of [the] two-year period and I was scared to ask for my salary.”¹⁴⁸

Pong Shou, a 19-year-old woman from Kampong Cham province, went to Malaysia as a domestic worker in September 2009. She worked from 6:30 a.m. to 2 or 3 p.m. for 10 months. She never received a salary. She said, “When I asked for my salary and passport, madam told me that I have to work in her shop. She threatened to sell me to another person if I refused. When I resisted and asked her to take me to my agent, she locked me inside a room and didn’t give me any food for a week. I survived by eating food given [to me by] my neighbor.”¹⁴⁹

Pong Shou contacted her agent for help who then sent her to work for a second employer. She was beaten by her second employer, after which she ran away from the house. Afraid to go to her agent, she went to a police station. The police took her to the Cambodian embassy in Kuala Lumpur, and although an embassy official promised to help recover her salary, he sent Pong to her agent, assuring her she would be repatriated to Cambodia within a week. However, the agent did not send her back to Cambodia and made her work without pay in his mother’s house for six months. Pong managed to escape from the agent’s house and went back to the Cambodian embassy for assistance. This time, the embassy sent her to an NGO shelter.¹⁵⁰

¹⁴⁸ Human Rights Watch interview with Tu Kim, domestic worker, Kuala Lumpur, Malaysia, April 15, 2011.

¹⁴⁹ Human Rights Watch interview with Pong Shou, domestic worker, Kuala Lumpur, Malaysia, April 15, 2011.

¹⁵⁰ Ibid.

When Human Rights Watch interviewed her, she had been unable to return to Cambodia as she had no money for a return ticket and had not been paid for almost 19 months. At the time of this writing, the NGO in Malaysia was working with the Cambodian embassy to recover her salary.¹⁵¹

Physical, Sexual and Psychological Abuse

One day, my female employer got very angry and tried to stab my neck with a knife. Fortunately, her husband stopped her. During that time, she tore my passport and said that she would not pay me even if I worked for two years.

—Ang Vanna, domestic worker, Pursat province, Cambodia, 2011

Among the 28 women interviewed by Human Rights Watch, almost half reported that they experienced some form of physical or psychological abuse. They said their employers kicked and slapped them, pulled their hair, pinched them, shaved their heads, threw food at them, including hot soup, and beat them severely. Some said their employers pushed them downstairs or stabbed them with knives.

They described their employers beating them with wooden planks, tree branches, broomsticks, iron bars, and wires even for small “errors” in their work. Lay Lim described her experience in Malaysia: “One day my employer asked me to bring a bowl and I did not understand and brought a plate. Sir got very angry, took off his belt and hit me everywhere on my body. Sometimes, I had to hold a heavy iron chair and kneel down for an hour. This was the punishment I would get three times every week for my mistakes. When I cried, they used to say that I am stupid, crazy and lazy.”¹⁵² In one case, a domestic worker attempted to kill herself, citing continued psychological and physical abuse.¹⁵³

Vann Tevy, 29, said, “Madam beat me with wooden planks on my legs and thighs. She shouted and scolded me all the time for being slow. When she got really angry, she used to stab me with a knife on my fingers.”¹⁵⁴

Women domestic workers, with whom Human Rights Watch spoke, typically did not receive access to health care if they sustained injuries after beatings. Some said they received medical care only after they were rescued by the NGOs. Some bore the scars of abuse.

¹⁵¹ Ibid.

¹⁵² Human Rights Watch interview with Lay Lim Heang, domestic worker, Kampong Cham province, Cambodia, April 23, 2011.

¹⁵³ Human Rights Watch interviews with Chea Sorpheny, domestic worker, Kampong Cham province, Cambodia, April 23, 2011 and May 2, 2011.

¹⁵⁴ Human Rights Watch interview with Vann Tevy, Kuala Lumpur, Malaysia, April 15, 2011.

Women also faced verbal insults. Employers insulted, shouted, scolded, belittled and sometimes threatened them with death or physical harm. Neoun Khun Thear recalled that her employer humiliated her every day by calling her a “fool” and “unlucky” and insulting her: “My male boss would say that my face is so ugly that no man would sleep with me. He used to say this all the time and I used to cry a lot.”¹⁵⁵

Three of the women Human Rights Watch interviewed had been raped either by their employer or men on the streets when they ran away from their employer’s home. In one case, a domestic worker was raped by her employer.¹⁵⁶ Chey Malis, a 36-year-old domestic worker, escaped from the home of an abusive employer and was gang-raped by five men when she was living under a bridge. She said, “The five men held me. They were carrying a knife. One of them took off my clothes. When I tried to stop him, another man punched me on my ear. I felt dizzy. Then they hurt me.”¹⁵⁷ Unable to find help and with nowhere to go, she ended up living in a jungle for three months without any support, surviving on garbage and wild fruit.

The number of Cambodian migrant domestic workers who are sexually abused or harassed is not known, but is likely underreported, not only due to the stigma attached to such abuse, but also to isolation, intimidation by employment agencies, and the lack of accessible complaint mechanisms in Malaysia and Cambodia (See Barriers to Justice in Malaysia and Protection Failures in Cambodia).

Restrictions on Freedom of Movement and Poor Working Conditions

I could never make any calls to my family in Cambodia. My employer told [me] that if I call my family in Cambodia, she would call the police.

—Chun Kolab, domestic worker, Kuala Lumpur, Malaysia, April 2011

I used to take care of the children, feed them, clean the house and the garden, wash two cars and help another maid in the kitchen. I would wake up at 5 a.m. in the morning and sleep at 11 p.m. and I never got any rest during the day. I dared not to ask for rest. I was scared.

—Om Chanda, age 19, domestic worker, Kuala Lumpur, Malaysia, April 2011

¹⁵⁵ Human Rights Watch interview with Neoun Khun Thear, domestic worker, Kampong Cham province, Cambodia, April 13, 2011.

¹⁵⁶ Human Rights Watch interviews with Chey Malis, domestic worker, Kuala Lumpur, Malaysia, April 14, 2011 and the staff of recruitment agency (name withheld), Kuala Lumpur, Malaysia, April 14, 2011.

¹⁵⁷ Human Rights Watch interview with Chey Malis, Kuala Lumpur, Malaysia, April 13, 2011.

Cambodian domestic workers said employers confiscated their passports, restricted them inside the workplace or did not allow them to leave the house unsupervised, and prohibited them from talking to the neighbors. Most who spoke to Human Rights Watch reported that their employers prohibited them from remaining in contact with their families in Cambodia. Chang Channy said, “I was not allowed to go to the market alone or even talk to my neighbor. They never allowed me to make calls to my parents in Cambodia. Once my boss saw me talking to someone on the phone while I was answering a call and he shouted at me.”¹⁵⁸

None of the workers interviewed received any day off in a week or rest breaks between their working hours. Being forced to work long hours is one of the most frequently reported complaints to the Cambodian embassy. The Cambodian ambassador said, “Domestic workers often report that they work...more than 16 hours each day.”¹⁵⁹

Workers frequently spoke about their employer depriving them of adequate food. Practices reported included offering only small portions of rice or bread without any vegetables, refusing to provide additional food, and in some cases giving them leftover or spoiled food or only one meal per day. Nhon Yanna, a 16-year-old worker at the time of her arrival in Malaysia said, “I was always given food that was left over by my employer’s children. Sometimes, I was given only breakfast and lunch but no dinner, and sometimes, they did not give me any food. An Indonesian domestic worker who lived close to the house used to give me some bread to eat.”¹⁶⁰ Several workers reported that their employers withheld meals as a form of punishment.

Agency-Related Abuses in Malaysia

I saw very bad treatment by the agency staff. I also saw two mentally ill workers being treated badly. One of them was pregnant. When women come for help in the agency, they often beat them badly.

—Chet Mao, age 21, domestic worker, Siem Reap province, Cambodia, April 29, 2011

Some recruiting agents operating in Malaysia maintain tight control over the workers through threats of violence, confiscation of identify documents such as passports, restrictions on communication and ability to return home, and loan arrangements.

¹⁵⁸ Human Rights Watch interview with Chang Channy, domestic worker, Kampong Cham province, Cambodia, April 13, 2011.

¹⁵⁹ Human Rights Watch interview with Norodom Arunrasmy, ambassador to Malaysia, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

¹⁶⁰ Human Rights Watch interview with Nhon Yanna, domestic worker, Pursat province, Cambodia, May 1, 2011.

Not knowing where else to turn, workers frequently seek assistance from their recruitment agency in Malaysia. However, Human Rights Watch interviewed several workers whose agency sent them back to work for the same employer or a second employer against their will. One domestic worker, Chet Mao, told us:

One day I threw out a rotten orange without asking my madam. She got [really] angry and threatened to cut my fingers with a knife. I was scared that she would cut my fingers so I asked her to take me back to the agency. She agreed to take me. When I told everything to the agency, they told me that I was wrong and they beat me. They said that I cannot change my employer and I was sent back to the same house. After this, sir and madam started to threaten me more and treated me even more badly.¹⁶¹

Several workers reported that agency staff physically abused them in response to employers complaining about their work performance. Chey Channary, age 17, described her experience with her agent in Malaysia:

When I had a problem, the employer would call the agency. When the employer called the agency, they would come and beat me or slap me. They would say “If you don’t finish [your] two-year contract, you will meet another type of trouble.”¹⁶²

Another domestic worker, Se Nhgon from Siem Reap, ran away from her employer after five months due to regular beatings. She tried to find her agent’s office for assistance, and, unable to locate it, she started working in a flower shop. Two months later, her new employer took her to the agency. She told Human Rights Watch:

When my second employer told my agent that I had ran away from my first employer, a female employee took me to a “counseling” room. There were three male employees and all of them “interviewed” me. One of them asked me questions while the other one hit me. A Khmer trainer was also there. Every time I tried to explain something, they would tell me that I was wrong. They made me stand all day without any food.¹⁶³

¹⁶¹ Human Rights Watch interview with Chet Mao, domestic worker, Siem Reap province, Cambodia, April 29, 2011.

¹⁶² Human Rights Watch interview with Chey Channary, domestic worker, Phnom Penh, Cambodia, April 25, 2011.

¹⁶³ Human Rights Watch interview with Se Nhgon, domestic worker, Siem Reap province, Cambodia, April 29, 2011.

V. Forced Labor and Practices Akin to Debt Bondage

A domestic worker's migration from Cambodia to Malaysia may involve a wide range of abuses, and in some cases, these combine to create situations that amount to forced labor, trafficking, or debt bondage. Abuses include deception during recruitment, child recruitment, forced confinement, indebtedness and exploitative loan repayment arrangements, confiscation of identity documents, threats of retaliation for escaping or failing to pay debts, unpaid wages, poor working conditions, confinement in their workplace, physical, psychological, and sexual abuse, and limited access to assistance or redress.

Domestic workers' exclusion from Malaysia's labor law and the lack of effective regulation and monitoring of private recruitment agencies by the Cambodian authorities leave women and child domestic workers at risk of grave abuses.

Practices Akin to Debt Bondage

Oum Chenda's employer in Malaysia confined her in the house, physically abused her and threatened her to keep working until the end of her two-year employment contract. She called her recruitment agency for assistance but she said the agent refused to assist her. Instead, he threatened her:

First I thought I would run away and report to the agency but when I arrived, I had seen [the] agency treating workers who had escaped from their employers very badly. They detained the girls in the room and beat them. [When] I called my agency (agency's name withheld) and asked them to change my employer, the agency said that, "It is not easy. If you change your employer, you will not get your salary and you still have to pay the agency if you want to return to Cambodia." When I asked how much I had to pay, the agent demanded \$2,000.¹⁶⁴

Oum Chenda could not pay this amount, which also appears to be an amount much larger than the actual cost of recruitment. She had to continue working involuntarily in Malaysia with her employer in order to repay her debts.

¹⁶⁴ Human Rights Watch interview with Oum Chenda, Siem Reap province, Cambodia, April 29, 2011.

The UN Supplementary Convention on the Abolition of Slavery defines debt bondage as:

The status of condition arising from a pledge by a debtor of his/her personal service or those of a person under his/her control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.¹⁶⁵

In Cambodia, recruitment agents link loans to a migrant domestic worker's training and employment abroad, imposing a large initial debt that can only be repaid by the domestic worker's labor. Many domestic workers are not aware of the terms of initial advances of cash, rice, or cows until they are locked in a training center, unable to leave unless they can somehow produce \$600, a huge sum for poor migrants. Each day in the training center increases their debts, up to \$1,500, which can then only be repaid through six to seven months of employment in Malaysia.

Cambodian domestic workers become trapped both physically and financially. Release is only possible through risky, sometimes life-threatening escapes from training centers, and even then, unscrupulous recruitment agents in collusion with the police and other government officials can intimidate workers and their families and retaliate against them by taking their land and in some cases, threatening them with prison. Migrant women and girls may feel they have no option but to work in Malaysia, voluntarily or involuntarily, to repay initial cash incentives and recruitment fees. As Prak Srey Lina, a 27-year-old domestic worker, said,

Before I took the plane to Malaysia, the labor agent took my passport as well as confiscated all my notebooks where I had noted useful telephone numbers. I thought I was in a big problem when the agent searched me and took everything, including the phone numbers. I wanted to return home but could not as I didn't have money to pay my loan back to the agent.¹⁶⁶

¹⁶⁵ UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted September 7, 1956, 226 U.N.T.S. 3, entered into force April 30, 1957.

¹⁶⁶ Human Rights Watch interview with Prak Srey Lina, Siem Reap province, Cambodia, April 29, 2011.

Child Trafficking

A broker came to our village and told me about a job in Malaysia. He said that I would receive two sacks of rice and one cell phone from the company if I agreed to work in Malaysia as a housemaid. I told him that I am 16 years old. He said that my appearance looks like I am older than my real age so I won't have any problem. He also told my mother that the company would accept me and my name and age could be fixed. The next day, the broker took me and my mother to (name withheld) company in Phnom Penh.... The staff made me thumbprint some documents. She then took me to another floor and told my mother to return to the village.

—Thy Thip, 16-year-old domestic worker, Battambang province, Cambodia, April 30, 2011

Human Rights Watch learned of instances where children – anyone under age 18 – were sent to be domestic workers in Malaysia in violation of international legal prohibitions against human trafficking.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines human trafficking to include whenever a child is recruited, transported, transferred, harbored, or received for the purpose of exploitation. When a child is involved, it is considered human trafficking even if there is no threat or use of force or other forms of coercion.¹⁶⁷

As described earlier, recruitment agents, village elders, and family members may all coordinate to falsify a child's travel documents. These girls then undergo the same abusive practices as adult domestic workers such as having recruitment agents take their passports, imposing heavy debts and threatening them with retaliation if they do not repay, confining them to overcrowded training centers with inadequate food for months, and sending them to precarious employment conditions in Malaysia with no minimum guarantees for their safety. In Malaysia, girls are especially vulnerable to highly exploitative work situations where they are forced to work around the clock with no rest for little or no pay. They are often isolated, prohibited from leaving the workplace

¹⁶⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered into force December 25, 2003.

unaccompanied or from communicating with their families, and some experience physical, sexual, or psychological abuse.

Malaysia's anti-trafficking response, with respect to women as well as girls, continues to be focused on forced prostitution to the exclusion of trafficking into domestic servitude, with poor screening mechanisms to differentiate victims of abuse from undocumented migrants considered to be immigration offenders.¹⁶⁸

Forced Labor

I started working for the employer around October 2009. I woke up at 5 a.m., cleaned the house and made breakfast for the children and worked all day. I went to sleep at 3 a.m. I never got a chance to rest. If I finished my job quickly, my boss made me clean the house again. The wife of the employer shouted and beat me every day. She said I was slow. She kicked, slapped me, pulled my hair and beat me all over my body. She told me I was ugly and stupid. The employer also beat me with his hands and kicked me. They threw at me whatever they found – metal tiffin box, hot soup, dishes. The employer had my passport. The door was locked. I was not allowed to go out or even talk to the neighbors. I never received my salary. When I asked for my salary, the employer told me that I don't need to know. The employer made me sign some papers every month. I don't know what it was but I never got my salary.

—Chain Channi, domestic worker, Kuala Lumpur, Malaysia, April 12, 2011

Human Rights Watch learned of cases of Cambodian domestic workers in Malaysia that amounted to forced labor in violation of international law. ILO Convention No. 29 on forced labor, which both Cambodia and Malaysia have ratified, defines forced or compulsory labor as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."¹⁶⁹ Examples provided by the ILO of the involuntary nature of work include:

¹⁶⁸ Human Rights Watch "World Report," 2011, <https://www.hrw.org/world-report-2011/malaysia>; U.S. Department of State, "Trafficking in Persons Report 2011: Malaysia," June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm>; See Amnesty International "Trapped: The exploitation of migrant domestic workers in Malaysia," March 24, 2010.

¹⁶⁹ ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, art. 2(1). Cambodia ratified the convention in February 1969; Malaysia in November 1957.

physical confinement at the workplace, order to work backed up by a credible threat of a penalty, induced indebtedness including through falsification of accounts, deception about types and terms of work, withholding and non-payment of wages, and retention of identity documents or other valuable personal possessions.¹⁷⁰

Many of the women interviewed by Human Rights Watch experienced situations of apparent forced labor, including confrontations with recruitment agents who committed or threatened physical violence and working for employers who withheld their passports, withheld months or years of wages, confined them inside the house, restricted their communication, and threatened them with physical violence or imprisonment if they attempted to escape. Even when Cambodian migrant domestic workers arrive in Malaysia voluntarily and with sufficient information, they may end up in situations of forced labor because of these reasons. The ILO recognizes this situation and notes that it is possible for workers to revoke freely given consent: "many victims enter forced labour situations initially of their own accord... only to discover later that they are not free to withdraw their labour. They are subsequently unable to leave their work owing to legal, physical or psychological coercion."¹⁷¹

¹⁷⁰ ILO, *A Global Alliance against Forced Labour*, (Geneva: ILO, 2005) p. 6.

¹⁷¹ Ibid p. 60.

VI. Barriers to Justice in Malaysia

When Cambodian domestic workers flee from their employers' home or recruitment agencies to escape abusive conditions, they have few avenues in Malaysia to seek protection and redress. Malaysia rigorously enforces stringent immigration laws. Women and girls fleeing abuse may be arrested, detained, and deported as immigration offenders, or can end up in precarious situations as undocumented workers at risk of a range of abuses. There are no clear mechanisms to resolve labor disputes such as unpaid wages or airfare – instead these are negotiated informally by recruitment agents, the Cambodian embassy, or NGOs. Given the uneven bargaining power between workers and employers, workers often do not get their fair due.

The Cambodian embassy in Kuala Lumpur is understaffed and often passes off workers with complaints to their recruitment agencies, even in cases of alleged criminal abuse. Those who find legal aid and other assistance from NGOs and register legal complaints face slow procedures and multiple delays in the Malaysian judicial system. Criminal proceedings may stretch for years and, during this time, domestic workers are often unable to work and have to stay in an NGO shelter. Abused domestic workers have given up on seeking redress through the justice system in order to return home to Cambodia more quickly.

Cambodian Embassy Response

I ran away from my employer's home and went to the Cambodian embassy. I met with the male officer and told him how my employer mistreated me. He asked me to go to my agent because my employer wanted to talk to me. I told him that if I go back to the agency, my employer will hit me and [the] agency will not help. They hit women and I am scared to go there. The next day, the official called my agent to the embassy and asked me to go with him.

—Vann Chanthou, 19-year-old domestic worker, Kuala Lumpur, Malaysia, April 15, 2011

Dozens of Cambodian domestic workers flee to the Cambodian embassy in Kuala Lumpur each year to seek assistance. An official at the Royal Embassy of Cambodia told Human Rights Watch that they received 80 cases involving domestic workers in 2010.¹⁷² The Malaysian police and migrants' rights NGOs also refer domestic workers to the embassy.

¹⁷² Human Rights Watch interview with Ung Vantha, second secretary, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

Although the embassy is providing some assistance to the domestic workers, it is inconsistent and inadequate. Human Rights Watch documented serious gaps and protection concerns, including a troubling practice of returning abused workers, among them those who had experienced sexual and physical abuse, back to their recruitment agency or employers.

In 2010 the embassy repatriated approximately 45 workers to Cambodia and eight during the first four months of 2011.¹⁷³ The embassy typically assists Cambodian domestic workers to recover their unpaid wages and to get their passports back from employers or labor agents.¹⁷⁴ They also issue new travel documents and assist Cambodian domestic workers jailed in Malaysia. For instance, Human Rights Watch interviewed an 18-year-old domestic worker who was arrested for an immigration violation after she fled from her abusive employer. She was released from a prison in Malaysia with the help of the embassy and repatriated to Cambodia.¹⁷⁵

One embassy official told us, “We bring together the workers, the employers and agents in the embassy and try to make them understand each other and negotiate the dispute. If it is a minor abuse case, such as scolding or a few slaps, we suggest the worker goes back to the house. Then the agency follows-up the treatment of the workers with their respective employers.”¹⁷⁶

However, Human Rights Watch found that the embassy sent three survivors of rape back to their recruiters. In one case, the recruiter eventually sent the rape victim back to the same employer who abused her.¹⁷⁷ None of the three workers had access to any medical or psychological care after they were raped. The two other victims were forced to work against their will on the recruitment company premises.¹⁷⁸ Chey Malis, a survivor of gang-rape, described her experience living in the office of the recruitment agency: “I don’t want to live in the agency. The agency staff makes me work all day. I have to clean, cook and wash. I do whatever they say so that I can go back to Cambodia. I am afraid that the young man [referring to the embassy official] will get angry and won’t send me home.”¹⁷⁹

¹⁷³ Ibid.

¹⁷⁴ The embassy in Kuala Lumpur is currently working with NGOs, such as Tenaganita and Pusat Kebajikan Good Shepherd, to improve their services for migrant workers.

¹⁷⁵ Human Rights Watch interview with Nhon Yanna, domestic worker, Pursat province, Cambodia, May 2, 2011.

¹⁷⁶ Human Rights Watch interview with Ung Vantha, second secretary, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

¹⁷⁷ Human Rights Watch interview with Malaysian labor agent (name withheld), Kuala Lumpur, Malaysia, April 13, 2011.

¹⁷⁸ Human Rights Watch interviews with Chey Malis, Kuala Lumpur, Malaysia, April 13, 2011, and Veata, Kuala Lumpur, Malaysia, April 14, 2011.

¹⁷⁹ Human Rights Watch interviews with Chey Malis, Kuala Lumpur, Malaysia, April 13, 2011.

Chey Malis was rescued by an NGO, but the Cambodian embassy requested the NGO bring her to the embassy for follow-up and then took her into their custody. The embassy then sent her to the office of a friend of the owner of the Ung Rithy Group, a Cambodian recruitment agency. The Ung Rithy Group had made arrangements with the embassy for the transfer.¹⁸⁰ In two cases of sexual abuse, despite advocacy efforts by Tenaganita, the embassy refused to transfer the workers to NGO shelters or to allow NGO access to the workers.¹⁸¹

On July 7, 2011, the *Phnom Penh Post* reported the story of Va Sokhoeun, who took refuge in the Cambodian embassy after alleging her employer sexually assaulted her and that T & P Company mistreated and forcefully detained her in Malaysia.¹⁸² According to the report, T & P Company had demanded \$650 to recover the cost of recruitment and training and the flight back to Cambodia and her husband made a desperate plea for authorities to help repatriate his wife. This same article quoted the spokesman for the Ministry of Foreign Affairs, Koy Kuong, confirming that Va Sokhoeun had filed a sexual harassment complaint with Malaysian police against her employer and that the “embassy will try to coordinate for her return home very soon,” once the investigation was complete.¹⁸³ Despite this assurance by the Ministry of Foreign Affairs, Va Sokhoeun was reportedly sent back to T&P Company by the embassy official.¹⁸⁴

When Human Rights Watch questioned the practice of sending back the workers to the agencies, an embassy official responded: “We need to make the recruitment agencies... take responsibility for the workers. Not all the agencies are bad. You should understand this.”¹⁸⁵ However, the Cambodian government is abdicating its protection responsibilities by returning victims of abuse to recruitment agencies. When some workers go back to their agency, they may face further abuse and be coerced into working for a second employer to pay for their repatriation expenses to Cambodia.

Human Rights Watch received information that agents at times coerced women to exchange sexual favors for expediting repatriation to Cambodia. Pong Shou reported that

¹⁸⁰ Human Rights Watch interview with a Malaysian business supplier (name withheld), Kuala Lumpur, Malaysia, April 14, 2011.

¹⁸¹ Human Rights Watch interviews with Tenaganita, Kuala Lumpur, Malaysia, April 11, 2011; and Ung Vantha, second secretary, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

¹⁸² Mom Kunthear and David Boyle, “Woman Flees Labour Firm,” *Phnom Penh Post*, July 7, 2011.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Human Rights Watch interview with Ung Vantha, second secretary, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

she started living in her agent's home after the embassy sent her there, along with two other Cambodian workers. She told us, "The agent pressured one of my friends to sleep with him and treat him as her husband if she wanted to return to Cambodia. She slept with him for three months and finally the agent sent her back to Cambodia. My friend said that she felt very guilty for doing this but she did this so that she could return home soon."¹⁸⁶

Instead of helping migrant workers who have been physically or sexually abused to pursue their cases in court or refer the cases on to qualified NGOs, some recruitment agencies are involved in settling rape cases out of court. This can severely affect a woman's right to seek effective remedy or deny her justice should she wish to pursue a formal complaint. A director of a large recruitment agency in Cambodia told Human Rights Watch:

Few women disclose they have been raped and when they disclose, we settle such cases out of the court system. Sometimes, if the employer agrees, we demand more than \$5,000 as compensation. Sometimes we don't have proof that she was raped. If the employer does not settle the case with us, we take the case to the Cambodian embassy.¹⁸⁷

The Cambodian government also delegates primary responsibility of returning workers back to Cambodia to the labor agents. The Deputy Director of the Department of Employment and Manpower at the Ministry of Labor reported that recruitment agencies should pay for return tickets in case a worker has to be repatriated.¹⁸⁸ But virtually all of the repatriated domestic workers who spoke to Human Rights Watch reported that they either had to work for a second employer to pay the expenses or the agents made additional deductions from their salary to pay for their air tickets to Cambodia.

The Cambodian embassy lacks adequate capacity to address the problems of migrant domestic workers in Malaysia. It has only four officials, of whom only one is dedicated, part-time, to handling labor disputes and complaints. Unlike other embassies from countries providing large numbers of domestic workers, the Cambodian embassy does not have a temporary shelter for domestic workers in distress or counseling services available for those who have experienced trauma. Although workers are involved in the initial negotiations regarding their cases—the embassy staff sit together with the employers,

¹⁸⁶ Human Rights Watch interview with Pong Shou, domestic worker, Kuala Lumpur, Malaysia, April 12, 2011.

¹⁸⁷ Human Rights Watch interview with recruitment agency director (name withheld), Phnom Penh, Cambodia, May 5, 2011.

¹⁸⁸ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

agents and workers and discuss the case — Human Rights Watch interviews with domestic workers found that workers are often excluded in the follow-up consultations.

At the time of this writing, the Cambodian government announced that it would build a shelter at the Cambodian embassy in Kuala Lumpur.¹⁸⁹ While this is a significant step toward assisting domestic workers fleeing abusive employers, the embassy should coordinate with Malaysian NGOs on operating such a shelter and dealing with cases of abuse. In particular, the Cambodian government should provide an adequate budget and trained personnel to the embassy.

Legal Protection for Domestic Workers in Malaysia

The combination of gaps in Malaysia’s labor laws and restrictive immigration laws place migrant domestic workers, including those from Cambodia, in a precarious position. The Employment Act of 1955 defines domestic workers as “domestic servants” and excludes them from key labor protections, such as limits to hours of work, a weekly day off, overtime pay, annual leave, and maternity protections.¹⁹⁰ Despite announcements by the Ministry of Human Resources in 2009 that the law would be amended to provide domestic workers a weekly day of rest, no changes have been made.¹⁹¹

Migrants’ work permits and entry visas are tied to their employers. If a worker leaves their employer without permission, they may lose their legal status and be imprisoned, fined, and ultimately deported under Malaysia’s Immigration Act.¹⁹² Police and immigration officials often fail to screen for workers who have faced abuse, preferring to treat them as immigration offenders.¹⁹³

Some provisions of the Employment Act provide protection to domestic workers, including migrants. Sections 18 and 19 of the Employment Act state that, “a contract of service shall specify a wage period not exceeding one month,” and that “[e]very 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.”¹⁹⁴

¹⁸⁹ “Embassy in Malaysia to host shelter for mistreated maid,” *The Cambodia Daily*, September 8, 2011.

¹⁹⁰ See Employment Act of 1955, sections 12, 14, 16, 22, 61, 64 and parts IX, XII, and XIII.

¹⁹¹ The Malaysian Bar, “The Time is Ripe for Fair and Equal Rights for Domestic Workers,” May 31, 2011; Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, 1-56432-625-X, April 27, 2010, <http://www.hrw.org/node/90055>, p. 15.

¹⁹² See Amnesty International “Trapped: The exploitation of migrant domestic workers in Malaysia,” March 24, 2010. Migration Working Group (MWG) and Northern Network for Migrants and Refugees (JUMP), “Malaysia—Joint Submission for the 4th Session of the Universal Periodic Review,” February 2009; Fair Labor Association and Bar Council Malaysia, “Migrant Workers Rights Multi-Stakeholders Discussion,” August 5, 2009.

¹⁹³ *Ibid* p. 66; Human Rights Watch “World Report,” 2011, <https://www.hrw.org/world-report-2011/malaysia>;

¹⁹⁴ 1955 Employment Act, *Government of Malaysia*, sections 18 & 19.

Malaysia's Anti-Trafficking in Persons Act of 2007 (ATIP), which came into effect in 2008, criminalizes trafficking into forced prostitution and into forced labor. In August 2010, the Malaysian parliament approved amendments to the ATIP that included a new section on the "smuggling of migrants," which criminalizes the facilitation of irregular migration into or out of Malaysia.¹⁹⁵ The amendments risk conflating human trafficking with immigration violations, and raises concerns that law enforcement officials will treat trafficking victims as undocumented migrants and summarily deport them without screening for abuse or providing access to services and redress.¹⁹⁶

Response by the Malaysian Authorities

Under existing law and practice it is extremely difficult for migrant domestic workers who experience abuse in Malaysia to obtain justice and redress. The Malaysian NGO Tenaganita, which handles hundreds of complaints of domestic workers every year, recently stated:

The Anti-Trafficking in Persons Act (2007) has become more of a public relations exercise, rather than a tool to effectively end slavery and human trafficking in Malaysia. On the contrary, the policies and practices of the government have institutionalized a culture of abuse, violence and slavery-like conditions for domestic workers in Malaysia.¹⁹⁷

Malaysian authorities have shown that they can prosecute cases of severe abuses against migrant domestic workers. In the case of Nirmala Bonat, a Malaysian court sentenced Bonat's employer, Yim Pek Ha, to 18 years' imprisonment (reduced to 12 years in December 2009) for severe beatings and repeatedly burning her with an iron across her breasts and back.¹⁹⁸ But such examples remain rare.

More often domestic workers who face abuse find that obtaining justice in Malaysia is very difficult. "We file a police report and nothing happens," said one migrant rights advocate. "Police are not interested in following up the case. The protection for migrant domestic

¹⁹⁵ Anti-Trafficking in Persons Act of (Amendment) Act 2010, *Government of Malaysia*; See "Malaysia: Letter to the Prime Minister regarding amendments to the Anti-Trafficking in Persons Act," Human Rights Watch letter, September 8, 2010, <http://www.hrw.org/node/92953>.

¹⁹⁶ Ibid.

¹⁹⁷ "Malaysian Employers Continue to Act with Impunity in the Abuse, Torture & Ill-treatment of Cambodian Workers," Tenaganita media statement, August 11, 2011.

¹⁹⁸ Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, 1-56432-625-X, April 27, 2010, <http://www.hrw.org/node/90055>, p. 21.

workers is very weak in Malaysia.”¹⁹⁹ Even in Bonat’s case, the legal proceedings lasted several years, during which time she had to remain in Malaysia, living primarily in the overcrowded Indonesian embassy shelter in Kuala Lumpur.

Domestic workers who register complaints against their employers face various obstacles. The investigation, prosecution, and appeals process can be lengthy, and Malaysian law requires the complainants to remain in the country during the legal proceedings. For domestic workers from countries like Cambodia lacking an embassy shelter, they may not have a safe place to reside and access to services, such as counseling. These long waits can also be difficult for migrant women desperate to be working and earning money to support their families at home. For instance, one Cambodian domestic worker was raped by her employer and pursued a criminal case against him with the help of a recruitment agency. She had been living in the recruitment agency for the past eight months waiting for a decision on her case.²⁰⁰ Due to the uncertainty of the judgment and tired of the long wait, she finally requested the Cambodian embassy to send her home. She told Human Rights Watch, “I don’t want to live here. It is difficult. I have been living her for so long. I just want to go back to my family in Cambodia.”²⁰¹ She eventually returned to Cambodia before the case concluded.

Migrant workers in Malaysia typically hold two-year employment visas and their immigration status is dependent on their employer, as the worker’s permit can be cancelled anytime by the employer. Stringent immigration laws in Malaysia mean that domestic workers who flee their abusive employers lose their legal status and may end up being arrested, detained, or deported to Cambodia. The common practice of withholding workers’ passports increases their vulnerability to immigration penalties.²⁰² For instance, Human Rights Watch interviewed a domestic worker who left her employer’s home to escape abuse but was arrested by the Malaysian police and sent to immigration detention. Seventeen-year-old Chey Channary, detained for eight months in Pekan Nenas detention center in Malaysia, told us:

I escaped after five months [from the employer’s home]. I just sat on the street and cried and then a Chinese rice vendor came and he gave me food and called the police to get me. The police asked what happened, where is

¹⁹⁹ Human Rights Watch interview with a Tenaganita, Kuala Lumpur, Malaysia, April 11, 2011.

²⁰⁰ Human Rights Watch interview with Sok Veata, Kuala Lumpur, Malaysia, April 11, 2011.

²⁰¹ Ibid.

²⁰² See Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, 1-56432-625-X, April 27, 2010, <http://www.hrw.org/node/90055>, p. 21.

my employer, where is my passport. It was difficult to communicate. I didn't have my passport because my employer kept it. I gave the address of my employer to the police. The police said they didn't find the house. They detained me [for] one week. They made a paper and then they drove me to a detention center in Johor next to an airfield, the Pekan Nenas detention center.²⁰³

Despite her being only 16 years old, Malaysian immigration authorities kept Chey Channary with adult detainees and did not offer her special protection.²⁰⁴ She was eventually released after a relative made a payment of \$650 to the Malaysian immigration authorities, an arrangement brokered through a local recruitment agency in Cambodia.²⁰⁵

The police and NGOs send some domestic workers to shelters operated by the Malaysian Ministry of Women, Family, and Community Development.²⁰⁶ However, since 2008 these shelters have only handled five cases involving Cambodian domestic workers, raising questions about how rigorously the Malaysian government is screening for and assisting domestic workers who are victims of abuse.²⁰⁷

Both national and international organizations have criticized Malaysia's response to trafficking, and in particular their weak victim services.²⁰⁸ While the existence of shelters is a step forward from failing to distinguish trafficking victims from undocumented migrants, they are not part of a comprehensive, victim-centered approach to provision of support services. Unless the Malaysian government helps victims of trafficking to cooperate in the prosecution of their traffickers, for example by offering them work permits or extended stay visas, prosecution will remain difficult.²⁰⁹

²⁰³ Human Rights Watch interview with Chey Channary, domestic worker, Kuala Lumpur, Malaysia, April 25, 2011.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Email communication from Pathmanathan Rajoo, Ministry of Women, Family and Community Development, Kuala Lumpur, Malaysia, to Human Rights Watch, August 29, 2011.

²⁰⁷ Ibid.

²⁰⁸ See U.S. Department of State, "Trafficking in Persons Report 2011: Malaysia," June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm>; Migration Working Group (MWG) and Northern Network for Migrants and Refugees (JUMP), "Malaysia—Joint Submission for the 4th Session of the Universal Periodic Review," February 2009, http://www.wao.org.my/backup_v1_21.7.2011/Documents/MWG-JUMP%20-%20joint%20UPR%20submission%20-%20Malaysia%20-%20February%202009.pdf; La Fédération Internationale des Ligues des Droits de l'Homme (FIDH), "Undocumented Migrants and Refugees in Malaysia: Raids, Detention and Discrimination," March 19, 2008, <http://www.fidh.org/spip.php?article5357>.

²⁰⁹ U.S. Department of State, "Trafficking in Persons Report 2011: Malaysia," June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm>.

Victims of trafficking usually stay in the government shelter for three to six months, but are eventually sent back without adequate follow-up to see the prosecutions through or to ensure their access to support services for reintegration.²¹⁰

The 2010 US State Department “Trafficking in Persons Report” describes the conditions victims of trafficking face in Malaysia:

The government treated victims of trafficking as illegal aliens and turned them over to immigration authorities for deportation after they provided evidence to prosecutors, usually after a 90-day stay at a trafficking in-persons “shelter.” Victims were at times locked in their rooms, handcuffed to and from court appearances, and reported being subjected to body pat-downs and searches prior to entering the facilities. Victims were typically uninformed about the legal processes to which they were subjected, and the government did not make efforts to inform the victims of why or for how long they were being detained.²¹¹

²¹⁰ Human Rights Watch interview with Tenaganita, Kuala Lumpur, Malaysia, April 11, 2011; U.S. State Department, “Trafficking in Persons Report 2011: Malaysia,” June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm>.

²¹¹ Ibid p. 70.

VII. Protection Failures in Cambodia

Sending our abused workers back to Cambodia is not the end of the story as prosecution of employment agencies and employers who have violated the rights of workers must be strictly enforced. Like any criminal cases, the victims are entitled to financial compensation and for justice to be fully served, violators must face penalties stipulated in the laws.

—Mu Sochua, member of parliament, Sam Rainsy Party, *The Cambodia Daily*, August 15, 2011

The Cambodian government has failed to take adequate measures to ensure the safety of Cambodian migrant domestic workers both in Cambodia and Malaysia. Despite several rounds of negotiations with Malaysia to finalize a draft Memorandum of Understanding (MoU) to govern labor migration of Cambodians in Malaysia, the two countries have not reached an agreement. To date the draft MoU has not been made publicly available.

On October 14, 2011, the Cambodian government announced a ban on sending domestic workers to Malaysia. However, at the time of writing, human rights groups in Cambodia reported that some recruitment agencies were ignoring the ban. While a temporary ban can be a positive measure if used to negotiate and implement more comprehensive reforms, such bans imposed in other countries have rarely been effective on their own. Bans restrict women's job opportunities, fail to address the causes of exploitation such as gaps in legal protections, and may spur domestic workers to migrate outside of formal channels where they face a higher risk of abuse.

Existing laws and regulations could provide some measure of protection to domestic workers seeking to migrate, but they are poorly enforced. Current levels of protections remain inadequate compared to the scale and seriousness of abusive labor practices. Government corruption and sometimes collaboration with private recruitment agencies remain major obstacles to responding to abuses perpetrated by licensed recruitment agencies.

Regulation of Labor Migration in Cambodia

The Cambodian government is actively promoting overseas employment as a poverty-alleviation strategy and to increase employment opportunities for its rapidly growing labor force. However, the current legal framework does not adequately protect migrant workers.

With technical assistance from the International Labor Organization (ILO), the government formulated its first migration policy in 2010, the “Policy on Labor Migration for Cambodia.” The policy responded to the increasing number of Cambodians migrating to foreign countries and the increased emphasis on free movement of labor within the Association of Southeast Asian Nations (ASEAN) region.²¹² It outlines the main areas for intervention, policy options, and action plans.²¹³ However significant gaps remain, particularly the lack of meaningful penalties for abusive recruitment agencies that might have a deterrent effect.

The government also has shown an interest in promoting migration to the Middle East, though without providing for the relevant protection considerations.²¹⁴

While the migration policy document emphasizes the need to protect migrant workers, protection is not a central theme in the regulatory provisions the Cambodian government is developing. Provisions of the regulation, the Sub-Decree on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (Sub-Decree No. 190), revised in August 2011, illustrate this failure.

The Analysis of Sub-Decree No. 190

Sub-Decree No. 190 replaces Sub-Decree No. 57 on the Export of Khmer Labor to Work Overseas, issued in 1995, which was the primary regulation governing overseas employment of Cambodian workers. The new regulation, meant to regulate the country’s labor recruitment agency industry, was drafted without consulting civil society organizations or migrant worker advocates.²¹⁵ Migrant worker advocates repeatedly expressed concerns about the lack of participation in the drafting process; despite this, the government did not include them or other major stakeholders in the drafting process.²¹⁶ The Ministry of Labour and Vocational Training issued the sub-decree without ever making a draft available to the public.

The revised regulation fails to address key concerns about abuses associated with Cambodia’s labor migration process and recruitment industry, including the pervasive practice of months-long confinement of prospective migrant domestic workers, poor living and working conditions, overcrowded training centers, exploitative and deceptive loan practices, illegal recruitment of children, and the absence of confidential, accessible complaints mechanisms.

²¹² ILO and the Cambodian Ministry of Labour, “Policy on Labour Migration for Cambodia,” June, 2010.

²¹³ Ibid.

²¹⁴ Kingdom of Cambodia, “Policy on Labor Migration for Cambodia,” Ministry of Labour and ILO, June 2010.

²¹⁵ See “Cambodia: New Regulation Short-Changes Domestic Workers,” Human Rights Watch news release, August 30, 2011, <http://www.hrw.org/news/2011/08/30/cambodia-new-regulation-short-changes-domestic-workers>.

²¹⁶ David Boyle and Sen David, “Migrant legislation under fire,” *Phnom Penh Post*, August 23, 2011.

Agencies that commit violations are subject to sanctions that begin with a written warning and can culminate in the revocation of an agency's operating license. Penalties for non-compliance with the regulation usually depend upon the type of offense, its gravity and whether the perpetrator is a first-time or repeat offender. The provision dealing with penalties fails to outline clearly the conduct for which agencies will be liable to sanctions.

In the absence of clear procedures and a mechanism to impose sanctions, the new regulation is unlikely to be effective in deterring recruitment agencies from engaging in abusive or fraudulent practices. Like the previous sub-decree, the new version stipulates that agencies may lose all or part of a \$100,000 surety deposited with the government upon registration. However, despite credible reports of exploitative and illegal labor practices and deaths of prospective domestic workers in the training centers, the Ministry of Labor has not revoked the license of any recruiting agents or used portions of the \$100,000 surety deposit to compensate workers who have been cheated or abused.

The sub-decree assigns the Ministry of Labor the responsibility to inspect recruitment agencies and specifies "decent" living standards for the training centers, but it does not specify detailed minimum requirements. It provides authority for recruitment agencies to conduct health tests for Cambodian workers, but fails to specify minimum standards and conditions to ensure voluntariness, informed consent, confidentiality and referral for post-test counseling and care, particularly for HIV testing.²¹⁷

The sub-decree is also silent on the minimum standard of labor protections for migrant workers. It states that the work contract should specify job status, the terms and conditions of work, benefits, and key addresses.²¹⁸ However, the earlier Sub-Decree No. 57 had provided stronger protections, including the requirement that the contract specify insurance premiums, working hours, weekly and annual leave, and salaries and remuneration.²¹⁹

The new sub-decree requires recruitment agencies to supply lawyers for migrants in legal proceedings abroad and contracts in the Khmer language between agencies and workers. However, it does not require the workers receive a copy of the employment contract they sign with the recruitment agencies or foreign employers. Furthermore, it does not prohibit salary deductions for recruitment fees.

²¹⁷ For instance, Prakas on Education of HIV/AIDS, Safe Migration and Labour Rights for Cambodian Workers Abroad issued in May 2006 aims to promote pre-departure training for migrant workers on issues such as health, safe migration, and labor rights. However, the new regulation does not make any reference to this notification.

²¹⁸ Sub-Decree on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies No.190, *Kingdom of Cambodia*, August 17, 2011, art. 15.

²¹⁹ Sub-Decree No. 57, *Kingdom of Cambodia*, art. 9.

In August 2010, amid increased scrutiny and outcry over recruitment of underage domestic workers and exploitative debt repayment practices, the Ministry of Labor issued a circular to the directors of Cambodian labor recruitment agencies that prohibits forced labor and arrangements where people work off debts, including cash advances offered to workers before departing abroad.²²⁰ However, the circular is only advisory and does not have the power of legal enforcement. According to domestic NGOs, the Labor Ministry has not rigorously monitored compliance with this directive and abuses have continued. Consequently, the recruitment agencies have repeatedly flouted the circular and NGOs have documented a number of new cases of recruitment of children and forced confinement of workers since the directives were issued.

Other relevant sources of law include Cambodia's Law on Suppression of Human Trafficking and Sexual Exploitation of 2008, which prohibits trafficking, and the Labor Code of Cambodia of 1997, which prohibits forced labor.²²¹ According to its drafters, the trafficking law aimed to align Cambodia with several treaties it has ratified: the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography,²²² and the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons.²²³

The suppression of trafficking law provides law enforcement officials additional grounds to arrest and prosecute traffickers.²²⁴ It breaks down the individual elements of the act of trafficking in the Palermo Protocol and makes each wrongful element of the act a crime,²²⁵ such as cross-border transportation,²²⁶ the act of buying, selling or exchanging a human

²²⁰ Ministry of Labor and Vocational Training, "Circular to the director of Cambodian labor recruitment agencies," unofficial translation, Phnom Penh, Cambodia, August 25, 2010, arts. 6 and 7.

²²¹ Labor Law, *Kingdom of Cambodia*, Royal Decree No CS/RKM/0397/01, March 13, 1997. Another labor migration regulation is Sub-Decree No. 68 of 2009 on the cost of passports for migrant workers. This sub-decree formalized the reduction of passport costs to \$20 and expedited the issuance of passports within 20 days.

²²² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted May 25, 2000, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol. III (2000), entered into force January 18, 2002. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (the Palermo Protocol), G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp.No.49, at 60, U.N.Doc.A/45/49 (Vol.I) (2001), entered into force Dec. 25, 2003, ART. 3(c) & (d). Cambodia ratified the Palermo Protocol in July 2007.

²²³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (the Palermo Protocol), G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp.No.49, at 60, U.N.Doc.A/45/49 (Vol.I) (2001), entered into force Dec. 25, 2003, ART. 3(c) & (d). Cambodia ratified the Palermo Protocol in July 2007.

²²⁴ Human Rights Watch, *Cambodia - Off the Streets*, July 19, 2010, <http://www.hrw.org/reports/2010/07/20/streets>.

²²⁵ *Ibid* p. 74.

²²⁶ Law on Suppression of Human Trafficking and Sexual Exploitation 2008, *Kingdom of Cambodia*, art. 18. The law defines cross-border transportation as a person who transports (brings) another person outside of Cambodia knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported.

being,²²⁷ transportation with purpose,²²⁸ and abduction, detention or confinement.²²⁹ The law has been criticized for criminalizing soliciting by adult sex workers, and a broad definition of procurement that could be interpreted to include advocacy by sex workers.²³⁰ In terms of international cooperation and policy frameworks, Cambodia has pursued bilateral agreements with countries hosting migrant workers, including Thailand and South Korea. However, although Cambodia has been sending workers to Malaysia since 1998, it has been unable to conclude an agreement on the issue with Malaysia.²³¹

The absence of a bilateral agreement between Cambodia and Malaysia in the face of consistent reports of abuse is particularly troubling given that Phnom Penh is actively seeking to open new markets for Cambodian workers in the Middle East. “We plan to send workers to Qatar. Although we don’t have a particular target in terms of numbers, construction workers will be the first priority,” Chuop Narath, deputy director of the Department of Employment and Manpower, told Human Rights Watch.²³² The government signed a MoU on sending workers to Kuwait in 2010, although as of this writing the procedure on sending workers had not been finalized, according to an official at the Labor Ministry.²³³ The government sent a delegation to Qatar in May 2011 to assess employment opportunities there and is keen on sending more workers abroad, including domestic workers to Singapore and Hong Kong.²³⁴ However, there has been no effort to learn from the experiences of other countries that have large numbers of domestic workers in the Middle East, for example, the Philippines or Indonesia. These countries have valuable experience on the types of abuses that Cambodians may face, or the training, services, and processes they should consider developing to safeguard Cambodian migrants’ rights.

²²⁷ Law on Suppression of Human Trafficking and Sexual Exploitation 2008, *Kingdom of Cambodia*, art. 13 defines the act of selling, buying or exchanging a human being as unlawfully delivering the control over a person to another, or to unlawfully receive the control over a person from another, in exchange for anything of value including any services and human beings.

²²⁸ Law on Suppression of Human Trafficking and Sexual Exploitation 2008, *Kingdom of Cambodia*, art. 18 defines cross-border transportation as a person who transports (brings) another person to outside of the Kingdom of Cambodia knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported.

²²⁹ Law on Suppression of Human Trafficking and Sexual Exploitation 2008, *Kingdom of Cambodia*, art. 21 defines abduction (arrest), detention or confinement, as a person, who without legal authority, arrests, detains or confines another person.

²³⁰ For a detailed discussion on this see, Human Rights Watch, *Cambodia - Off the Streets*, July 19, 2010, <http://www.hrw.org/reports/2010/07/20/streets>.

²³¹ Joint Press Statement of the Second Meeting of the Joint Commission for Bilateral Cooperation between Cambodia and Malaysia, “Labour Cooperation,” Siem Reap, Cambodia. June 26-27, 2006, <http://www.mfaic.gov.kh/mofa/default.aspx?id=396>.

²³² Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²³³ *Ibid.*

²³⁴ *Ibid.*

Cambodia has not been actively involved in some key regional and global processes on labor migration, such as the Colombo Process, which brings together 11 labor-sending countries in Asia to share information and strategies on regulating labor migration. Cambodia did not participate in, nor vote on, the 2011 ILO Convention concerning Decent Work for Domestic Work, discussed below.

Implementation of Government Migration Policy

The Cambodian government worked closely with UNIFEM (now UN Women), the ILO, and the International Organization for Migration to formulate its first national policy on migration in 2010. The policy makes strong recommendations on improving protection and empowerment of migrant workers, including effective sanctions against those responsible for violating the rights of migrant workers and posting labor attachés to embassies.

A lack of resources to implement key reforms proposed in the migration policy remains a major challenge.²³⁵ For instance, Chuop Narath, a Labor Ministry official, told Human Rights Watch that their plan to send a labor attaché to their embassy in Malaysia was delayed because “a labor attaché costs a lot of money.”²³⁶ According to the Cambodian ambassador to Malaysia, when the embassy requested a staff increase to the Ministry of Foreign Affairs, the embassy was told to handle the complaints with the existing capacity.²³⁷

There is limited coordination among different ministries – Women’s Affairs, Labour, Social Affairs, and Veterans & Youth Rehabilitation – in carrying out activities related to the protection of migrant workers with the assistance of United Nations agencies and other international organizations. The Inter Ministerial Task Force on Migration, jointly led by the Ministries of Women’s Affairs and Labour, is inactive, although the Ministry of Women’s Affairs is seeking to revive it.²³⁸

Lack of Effective Government Oversight

The Ministry of Labour lacks a proper system to implement the directive and monitor its compliance. For instance, the Ministry of Labour’s deputy director-general conceded

²³⁵ Human Rights Watch interview with United Nations Inter Agency Project on Human Trafficking (UNIAP), Phnom Penh, Cambodia, May 5, 2011.

²³⁶ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²³⁷ Human Rights Watch interview with Norodom Arunrasmy, ambassador to Malaysia, Royal Embassy of Cambodia, Kuala Lumpur, Malaysia, April 11, 2011.

²³⁸ Human Rights Watch interview with Ministry of Women’s Affairs, Khieu Serei Vuthea, general director in charge of social development, Phnom Penh, Cambodia, May 5, 2011.

publicly that the government does not have a system to verify the authenticity of the identification documents presented by the recruitment agencies.²³⁹ And while a ministry official reported that the ministry started inspecting training centers in September 2010 based on a checklist of issues to be monitored, no comprehensive monitoring guidelines exist.²⁴⁰

Cambodian domestic workers and migrants' rights NGOs stated that many recruitment agencies do not offer adequate training or provide information on workers' rights in destination countries. A staff member from CARAM-Cambodia, one of the few NGOs, that provides training to the prospective domestic workers in some training centers run by private agencies, told Human Rights Watch, "The pre-departure trainings that agencies provide do not give any information on the rights of the workers or HIV. They just teach them how to clean the bedroom, wash clothes and instruct them not to steal."²⁴¹ Even when workers receive information on their rights and the contact numbers of the Cambodian embassy and NGOs in Malaysia, Human Rights Watch found that some Cambodian labor agencies confiscate training materials and contact information before their departure to Malaysia.²⁴²

Cambodian officials acknowledged to Human Rights Watch that there is insufficient pre-departure training for migrant domestic workers.²⁴³ The Labour Ministry recently partnered with the International Organization for Migration to produce a pre-departure training manual. The ministry is also purportedly designing a curriculum, which will be ready for implementation by the end of 2011. The ministry plans to issue a ministerial regulation—*parkas*—to standardize the training curriculum.²⁴⁴ However, until the new provisions are in place and implemented, labor agencies' trainings operate with little oversight by the government. Strong monitoring and enforcement of the new pre-departure manual and coordination with NGOs in delivering training will be essential in the effective implementation of the new training procedures.

²³⁹ Vincent Maclsaac, "Cambodia's Recruitment 'Nightmare'," *Bangkok Post*, May 29, 2011.

²⁴⁰ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011. The Ministry of Labor was unwilling to provide Human Rights Watch with a copy of the check-list of issues to monitor in the centers.

²⁴¹ Human Rights Watch interview with CARAM-Cambodia, Phnom Penh, Cambodia, April 21, 2011.

²⁴² A staff member from a migrant rights NGO expressed concern that the recruitment agencies in Malaysia often confiscate information NGOs distribute on HIV, rights of migrant workers, policy of the destination country, and contact numbers of the Cambodian embassy and NGOs in Malaysia. Human Rights Watch interview with CARAM-Cambodia, Phnom Penh, Cambodia, April 26, 2011.

²⁴³ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²⁴⁴ *Ibid.*

Failure to Investigate and Prosecute Abuses

Cambodian migrant domestic workers who face abuse during their recruitment and training in Cambodia or during their work in Malaysia have few options for seeking assistance and redress. Many obstacles impede their access to justice in Cambodia, including lack of avenues to submit complaints, threats by recruitment agencies, weak practical and legal protections against retaliation, and intimidation by the police who sometimes protect recruitment agencies, enabling effective impunity for labor agencies involved in abusive practices.

Impunity for human rights abuses committed by the recruitment agencies exacerbates migrant domestic workers' barrier to justice. Despite several NGO reports of recruitment of children, and official complaints of forced confinement, deaths, and injuries of women in training centers, there has been little accountability for those responsible or compensation for those affected. The Cambodian Association of Recruitment Agencies (ACRA) asserts that it promotes safer migration, but we are unaware of it taking any action against its members involved in human rights abuses.

At the time of this writing, the Phnom Penh Municipal Court sentenced a manager of the recruitment agency VC Manpower to 13 months in prison for illegally detaining 22 underage workers between the ages of 16 and 17 in its training center. In 2009, amid increased scrutiny of the industry, the police raided several training centers, including VC Manpower and found that more than 20 out of 57 recruits were under the age of 18.²⁴⁵ The manager of VC Manpower was subsequently arrested in September 2010. In the first case of a successful prosecution, a Cambodian court in September 2011 convicted the general manager of this recruitment agency and sentenced him to 13 months in prison for illegally detaining underage workers. This was the first time a recruitment agency was convicted for a human rights abuse in Cambodia.

Although this is the first example of a successful prosecution of the labor agents involved in human rights abuses, and therefore, a significant development, the Cambodian government has yet to investigate, arrest, or prosecute other recruitment agents, including members of ACRA who are allegedly involved in similar and other serious abuses. In addition, the government has not revoked the license of a single recruitment agency, including that of VC Manpower. In 2010, the Ministry of Labor temporarily banned Champa Manpower Group from sending workers to Malaysia after the police raids found that the

²⁴⁵ U.S. State Department, "Trafficking in Persons Report 2011: Malaysia," June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164232.htm>.

agency had detained 232 women in its houses in squalid conditions.²⁴⁶ However, the government did not take any action against the owner or officials of the agency.

The government also did not hold any officials of T&P Company accountable for the forced confinement of Heng Hak, who broke both her legs while trying to escape the training center.²⁴⁷ Rather, the government concluded that she was at fault for jumping from the window and not making a formal request with the company to leave.²⁴⁸ In addition, during the official investigation, the police found that the company had recruited children and illegally confined workers in its premises.²⁴⁹ The Labor Ministry ordered the company to close one of its training centers, but then failed to cancel or even suspend the agency's license.²⁵⁰

Domestic human rights groups have presented several cases of abuse, with supporting evidence, to the National Committee on Anti-Trafficking under the Ministry of Interior. NGOs have requested the Anti-Trafficking Committee investigate and prosecute alleged perpetrators of abuse. But impunity for abuses perpetrated by agencies against prospective migrant workers continues. As one human rights worker from Licadho put it, "We have submitted around 12 cases to the National Committee but no one has been prosecuted on any of the cases we have raised. In the best case scenario, the Committee submits the case to the police, but nothing happens."²⁵¹

The secretary of state at the Ministry of Interior, Chou Bun Eng, stated during the ASEAN Inter-Parliamentary Assembly seminar on human trafficking that police found 55 underage trainees in Cambodian labor-recruitment centers during 2010, which led to arrests of eight suspects from different labor agencies.²⁵² The government did not publicize the names of the labor agencies or provide any information regarding the charges. NGOs told Human Rights Watch that they had not received any information on these arrests, the charges or

²⁴⁶ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²⁴⁷ Human Rights Watch interviews with Licadho, Phnom Penh, Cambodia, April 22, 2011; and CLEC, Phnom Penh, Cambodia, April 18, 2011.

²⁴⁸ Phorn Bopha and Paul Vrieze, "T&P, Trainee Both at Fault," *The Cambodia Daily*, March 30, 2011.

²⁴⁹ Hul Reaksmey and Paul Vrieze, "T&P Retains License After Closure Order," *The Cambodia Daily*, March 21, 2011.

²⁵⁰ Ibid; Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²⁵¹ Human Rights Watch interview with Licadho, Phnom Penh, Cambodia, April 27, 2011.

²⁵² David Boyle and Mom Kunthear, "Escaping Hard Labour: Maids In Malaysia Return," *Phnom Penh Post*, April 13, 2011, <http://www.phnompenhpost.com/index.php/2011041348530/National-news/escaping-hard-labour-maids-in-malaysia-return.html> (accessed June 26, 2011); Human Rights Watch interview with Licadho, Phnom Penh, Cambodia, April 22, 2011.

trial dates, nor are they aware of any prosecutions in relation to any recruitment-related cases they have highlighted.²⁵³

Lack of Support for Returned Migrants

There are limited support services, including legal aid and psychosocial services, for returned domestic workers who have either suffered physical and sexual abuse, become victims of forced labor in Malaysia, or who have not been paid. Several returned migrant domestic workers interviewed for this report, who had experienced physical abuse in Malaysia, were not receiving any support from village or district authorities. Some relied on the assistance of NGOs for their psychosocial or medical treatment. Some impoverished families feel compelled to take loans or sell off their property to provide treatment for their traumatized relatives.²⁵⁴ The father of a woman who attempted to commit suicide in Malaysia to escape continuous physical and psychological abuse by her employer told Human Rights Watch:

My daughter became like a crazy person when she returned from Malaysia. She could not even recognize me or her mother. I had to take her for medical treatment but I did not have enough money. I approached the agency and commune chief to help me treat my daughter. They acknowledged my daughter was “abnormal” but did not provide any assistance. I sold my cow and took my daughter to a hospital. She took medicine for three months. The treatment was expensive so I stopped taking her to that hospital.²⁵⁵

The 2010 government policy on migration recommends developing a mechanism to track returning migrant workers and establishing a “helpdesk” at the airport or border entry points. However, the government has not yet established such a system.²⁵⁶ With the assistance of the International Organization for Migration, the Ministry of Labor has designed a comprehensive database to record information on documented migrants, including place of origin, education and family background, destination country, and details of the recruitment agency.²⁵⁷ However, the Cambodian government does not have

²⁵³ Email communication with CLEC and Licadho to Human Rights Watch, July 20, 2011.

²⁵⁴ Human Rights Watch interview with Mil Dong, Kampong Cham province, Cambodia, May 2, 2011.

²⁵⁵ Ibid.

²⁵⁶ Ministry of Labour and ILO, “Policy on Labour Migration for Cambodia,” June 2010, p. 31.

²⁵⁷ Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

any system to identify and document returned migrant workers.²⁵⁸ An official at the Ministry of Women’s Affairs told Human Rights Watch:

In terms of data, I can’t even say how many women who have returned from abroad have faced abuses. Relevant ministries keep the data for their use but there is no coordination among the ministries. A major challenge is the lack of sufficient data on returning women migrants and their problems.²⁵⁹

NGOs in Cambodia rely upon their counterparts in Malaysia to provide information about the return of abused workers to Cambodia, including their arrival dates, and help by receiving them at the airport, assisting them to return home to their families, and finding them legal aid and other support.

Human Rights Watch has received reports that some recruitment agencies tightly monitor and control the movements of returned migrant workers to prevent workers from reporting abuses to media or NGOs. One NGO worker who is involved in the rescue and assistance of migrant domestic workers told Human Rights Watch:

Sometimes officials at the Ministry of Foreign Affairs and Ministry of Interior notify us if workers are returning to Cambodia. But in the end, it is the agency that arranges airfare for the workers. Agencies give us different, [incorrect] flight information to ensure that we are not present when the abused workers arrive in Cambodia.²⁶⁰

Other NGOs reported that in some cases agencies have tried to forcibly take workers under their custody.²⁶¹ Such practices by agencies not only obstruct NGO assistance but can also further traumatize the workers.

Government services, including shelters for domestic workers who are survivors of abuse, are small in scale and ad hoc. Chuop Narath, the deputy director of the Department of Employment and Manpower at the Labour Ministry pointed out that the Ministry of Social Affairs, Veteran and Youth Rehabilitation runs shelters that are available to abused workers. However he did not provide additional information on the number of domestic

²⁵⁸ Ibid.

²⁵⁹ Human Rights Watch interview with Ministry of Women’s Affairs, Khieu Serei Vuthea, general director in charge of social development, Phnom Penh, Cambodia, May 5, 2011.

²⁶⁰ Human Rights Watch interview with a human rights activist (name withheld), Phnom Penh, Cambodia, April 19, 2011.

²⁶¹ Human Rights Watch interview with Licadho, Phnom Penh, Cambodia, April 22, 2011.

workers referred to the temporary shelters of the ministry.²⁶² Another official, Khieu Serei Vunthea, general director of the Ministry of Women’s Affairs, said that the Ministry refers domestic workers to NGOs or shelters run by the Social Affairs Ministry but did not provide any figures.²⁶³

However, NGOs have documented overcrowding, inadequate food, and mistreatment in some government-run centers, particularly in Prey Speu outside Phnom Penh, and Koh Kor run by the Ministry of Social Affairs.²⁶⁴ Human Rights Watch has documented severe abuses detainees face in drug detention centers operated by various ministries, including the Ministry of Social Affairs, such as beatings, rapes, and physical abuse.²⁶⁵ It is not clear if former migrant domestic workers have been sent to such centers.

²⁶² Human Rights Watch interview with Chuop Narath, deputy director, Department of Employment and Manpower, Ministry of Labor and Vocational Training, Phnom Penh, Cambodia, May 6, 2011.

²⁶³ Human Rights Watch interview with Ministry of Women’s Affairs, Khieu Serei Vuthea, general director in charge of social development, Phnom Penh, Cambodia, May 5, 2011.

²⁶⁴ Licadho, “Submission to the United Nations Universal Periodic Review, Cambodia,” April 10, 2009, p. 3. See also Human Rights Watch, “UPR submission: Cambodia,” April 2009, p.2 and Human Rights Watch, *Cambodia-Skin on the Cables*, 1-56432-590-3, January 25, 2010, <http://www.hrw.org/reports/2010/01/25/skin-cable-o>

²⁶⁵ Ibid.

VIII. Cambodia and Malaysia's International Human Rights Obligations

The failure of Cambodia and Malaysia to effectively address human rights abuses against migrant domestic workers by private actors, whether recruitment companies in Cambodia or employers in Malaysia, violates their international legal obligations.²⁶⁶ Governments have a responsibility not only to protect workers from abuse, but to provide an effective remedy for individuals who have suffered harm, including through prosecution of those who perpetrate abuses.²⁶⁷

Cambodia is party to a number of major international human rights treaties that provide certain protections for workers. These include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).²⁶⁸

Cambodia fails to protect prospective migrant domestic workers when it takes no action against the common practices of detaining them in training centers or at offices of

²⁶⁶ See, e.g. CEDAW, which both Cambodia and Malaysia have ratified, and the Declaration on the Elimination of Violence against Women, U.N. General Assembly Resolution 48/104 (A/RES/48/104), article 4(c), "States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons". See also ICCPR, ratified by Cambodia, arts. 15 and 26; Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8.

²⁶⁷ Although governments have the primary responsibility to respect, protect, and fulfill human rights, private entities such as business enterprises also have responsibilities regarding human rights. The basic principle that businesses of all sizes have a responsibility to respect human rights, including workers' rights, has achieved wide international recognition, including in the preambles to the ICCPR and the ICESCR, the International Labor Organization's Tripartite Declaration of Principles, the UN Global Compact, and elsewhere. The "Protect, Respect and Remedy" framework and the "Guiding Principles on Business and Human Rights" for their implementation, which were endorsed by the UN Human Rights Council, reflect the expectation that businesses should respect human rights, avoid complicity in abuses, and adequately remedy them if they occur.

²⁶⁸ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987.

recruitment agencies, and sending them to Malaysia to work against their will. Article 9 of the ICCPR guarantees the right not to be arbitrarily deprived of one's liberty.²⁶⁹ Article 12 ensures the right to freedom of movement.²⁷⁰ The Cambodian government is obligated to bring an end to these practices.

Forced confinement for months, lack of medical care and poor living conditions in the training centers have possibly resulted in the deaths of prospective migrant workers. Human Rights Watch examined three deaths of women inside training centers, none of which has been properly investigated by the Cambodian government.

Prospective migrant domestic workers often have little or no access to health care when confined for months in training centers in Cambodia. The IESCR provides that everyone has the right to the highest attainable standard of physical and mental health.²⁷¹ CEDAW prohibits discrimination against women in the field of health care and obliges states to ensure equal access to health care services.²⁷² Children recruited by recruitment companies as domestic workers who are forced to live under poor conditions in training centers are also protected under the CRC.²⁷³

Cambodia has ratified all eight ILO Core Labor Standards.²⁷⁴ Cambodia has also ratified the Palermo Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children²⁷⁵ and the Supplementary Convention on the Abolition of Slavery, the

²⁶⁹ ICCPR, art. 9 states that "Everyone has the right to liberty and security of a person."

²⁷⁰ ICCPR, art. 12. The Migrant Workers Convention also protects the right of migrants to enter their country of origin, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1990, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force July 1, 2003, art. 8.

²⁷¹ ICESCR, art. 12.

²⁷² CEDAW, art. 12.

²⁷³ CRC, art. 19.

²⁷⁴ ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932; ILO Convention No. 105 concerning Abolition of Forced Labour (Abolition of Forced Labour Convention), adopted June 25, 1957, 320 U.N.T.S. 291, entered into force January 17, 1959; and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), Right to Organize and Collective Bargaining (1949), ILO Convention No. 138 concerning the Minimum Age for Admission to Employment (Minimum Age Convention), adopted June 26, 1973, 1015 U.N.T.S. 297, entered into force June 19, 1976, Equal Remuneration Convention (1951), Convention No. 11 on Discrimination (1958) and Freedom of Association and Protection of the Right to Organize (1948).

²⁷⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered into force December 25, 2003.

Slave Trade, and Institutions and Practices.²⁷⁶ When an individual is under 18 years of age, it constitutes human trafficking whenever a child is recruited, transported, transferred, harbored, or received for the purpose of exploitation. When a child is involved, it is considered human trafficking, even if there is no threat or use of force, or other forms of coercion.²⁷⁷ All these international laws prohibit forced labor and human trafficking and oblige the state to protect workers.

Malaysia is obligated under international human rights law and international agreements it has ratified to protect domestic workers in its territory from abuses by employers, agency staff, and public officers. These laws and treaties also oblige Malaysia to provide effective means of recourse to individuals claiming abuse, and remedies to those whose claims are found valid.

Among the core international human rights treaties, Malaysia is only a party to the CRC and CEDAW. CEDAW, for instance, provides women the right to “protection of health and to safety in working conditions.”²⁷⁸ Under the CRC, states must take “all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”²⁷⁹ Malaysia is also obliged to provide special protection and assistance to children who are deprived of their family environment because they are sent to Malaysia as domestic workers by recruitment agencies.²⁸⁰

The Universal Declaration of Human Rights, which is widely recognized as reflective of customary international law, sets out important standards that protect migrant domestic workers. Under the Universal Declaration, everyone has the right to life, liberty, and security of person (article 3), protection from slavery or servitude (article 4), and protection from mistreatment (article 5). In addition the Universal Declaration provides that everyone has the right to freedom of movement and to leave any country, and to return to their country (article 13). Regarding the right to work, everyone has the right “to just and

²⁷⁶ UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted September 7, 1956, 226 U.N.T.S. 3, entered into force April 30, 1957, adopted by the United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

²⁷⁷ *Ibid.*, arts. 3(c) & (d).

²⁷⁸ CEDAW, art. 11(i)(f).

²⁷⁹ CRC, art. 19.

²⁸⁰ *Ibid.*

favourable conditions of work” (article 23), and the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (article 24).

Malaysia is not meeting its international legal obligations when it takes no steps against employers who lock migrant domestic workers in their homes, physically or psychologically mistreat them, or confiscate their passports, among other practices.

Malaysia has ratified five of the ILO core conventions but has not ratified Abolition of Forced Labour (105), Convention No. 87 on Freedom of Association and Protection of the Right to Organize, and Convention No. 11 on Discrimination (1958). However, as an ILO member, Malaysia has an obligation to realize fundamental rights of the core labor conventions. The ILO Declaration on Fundamental Principles and Rights at Work recognizes the "elimination of all forms of forced and compulsory labor," "discrimination in respect of employment and occupation," and "effective abolition of child labour" as among the "fundamental rights" that all ILO members have an obligation "to respect, to promote and to realize," even if the member has not ratified the core ILO conventions governing those rights.²⁸¹

Both Cambodia and Malaysia have ratified ILO Convention No. 182 on the Worst Forms of Child Labour. Under this treaty and the CRC, states are obliged to protect children from economic exploitation, sexual exploitation and any work that is likely to be hazardous or harmful to a child’s health or physical, mental, or social development.²⁸² ILO Convention No. 182 recognizes “work, which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children,” and “debt bondage and forced labour” as some of the elements that comprise the worst forms of child labor.²⁸³ The conditions children suffer—long working hours without any rest, food deprivation, verbal and physical abuse—constitute worst forms of child labor.²⁸⁴

In a 2009 report on global laws and practices governing domestic work, the ILO reported that conditions in this sector do not improve without committed action to improve its underlying legal framework.²⁸⁵ The ILO’s recognition of domestic work as an undervalued

²⁸¹ International Labour Conference, ILO Declaration on Fundamental Principles and Rights at Work, 1998, <http://www.ilo.org/declaration/thedeclaration/lang--en/index.htm>, para. 2.

²⁸² CRC, arts. 32 (1) & 34.

²⁸³ ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), art. 3(a) & (d).

²⁸⁴ *Ibid.*

²⁸⁵ ILO, *Decent Work for Domestic Workers, Report IV(1)*, International Labor Conference, 99th Session 2010 (Geneva: ILO, 2009), p. 94.

sector requiring more specific and comprehensive protections resulted in the adoption in 2011 of Convention No. 189 Concerning Decent Work for Domestic Workers.

Convention 189 on Decent Work for Domestic Workers

On June 16, 2011, the International Labour Organization (ILO) adopted Convention No. 189 Concerning Decent Work for Domestic Workers (the Domestic Workers Convention). Cambodia has not indicated whether it supports the convention or plans to ratify it. Malaysia has opposed the convention and was one of only nine countries to abstain or vote no when the convention was adopted.²⁸⁶ The Domestic Workers Convention establishes the first global standards for domestic workers and extends key labor protections to this sector, including minimum wage and working hours, overtime compensation, daily and weekly rest periods, social security, and maternity protection.²⁸⁷ The convention also requires states to take effective steps to eliminate forced labor, obliges governments to protect domestic workers from violence, and to take special measures to address the vulnerability of children in domestic work. For instance, it requires states to extend minimum age laws to domestic work and to adopt measures so that child domestic workers can finish compulsory schooling.²⁸⁸

Several provisions in the Domestic Workers Convention establish standards on issues faced by Cambodian migrant domestic workers. Governments are obligated to regulate and monitor private recruitment agencies, to provide penalties for violations, and to ensure adequate procedures are in place for the investigation of complaints.²⁸⁹ The convention also prohibits recruitment agencies from the practice of salary deductions to pay recruitment fees. It establishes the right of domestic workers to be informed about the terms and conditions of employment in a manner they can understand, and preferably through written contracts. These contracts should include such information as the duration of the contract, their remuneration, and the terms of repatriation.²⁹⁰

²⁸⁶ “ILO: New Landmark Treaty to Protect Domestic Workers: Global Labor Standards for up to 100 Million People Worldwide,” Human Rights Watch news release, June 16, 2011, <http://www.hrw.org/news/2011/06/16/ilo-new-landmark-treaty-protect-domestic-workers>.

²⁸⁷ ILO, Convention No. 189 concerning Decent Work for Domestic Workers, adopted June 16, 2011, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_157836.pdf

²⁸⁸ *Ibid.*

²⁸⁹ *Ibid.*, art. 15.

²⁹⁰ *Ibid.*, art. 15 & 17.

IX. Recommendations

To the Government of Cambodia

To the Parliament

Enact legislation to protect migrant workers, including domestic workers.

- Adopt a comprehensive migration law addressing key concerns such as oversight of recruitment agencies, recruitment fees and debts, monitoring of training centers, and child recruitment.
- Ensure extensive consultation with domestic and international organizations working on migration and trafficking.
- Include substantial penalties for violations with clear and effective mechanisms for monitoring and enforcement.

To the Ministry of Labor and Vocational Training

Strengthen the regulation and monitoring of recruitment agencies.

- Establish mechanisms for regular and unannounced inspections and enforce protections outlined in the Labor Code, the Suppression of Human Trafficking Law, and ministerial regulations, including prohibitions on cash advances and loans to entice workers to migrate.
- Ensure that regulation of private recruitment agencies meets standards established in ILO Convention No. 189 on Decent Work Concerning Domestic Workers including registration, establishing accessible complaint mechanisms, and prohibiting salary deductions to repay recruitment fees.
- Implement existing penalties such as revocation of license and loss of the US\$100,000 guarantee in cases of misconduct and abuse.
- Publish the names of recruitment agencies subject to penalties.
- Work with law enforcement authorities to support prompt, impartial, and transparent investigations into the allegations of human rights abuses against prospective migrant workers by recruitment agencies, including deaths and serious injuries of workers in the training centers.

Strengthen the regulation and monitoring of training centers.

- Establish clear and detailed standards on living conditions, provision of food, and permissible working arrangements in training centers. Ensure that trainees enjoy freedom of movement and are able to leave the training center at will.

- Prohibit the practice of forcing trainees and their families to repay loans in order to leave training centers or employment contracts.
- Promote collaborations with nongovernmental organizations and other agencies providing pre-departure orientations and trainings with a human rights framework.
- Ensure access to health care for trainees.
- Ensure mandatory and effective pre-departure training, that includes information about a worker's rights and how to seek help, is provided at no cost to the worker. Use the pre-departure manual developed by the International Organization for Migration.
- Disseminate information on complaints and redress mechanisms.

Develop and enforce policies that eliminate collusion between public officials and recruitment agencies.

- Prohibit government officials from owning or managing recruitment agencies to avoid conflicts of interest or the exercise of undue influence.

Increase regulatory and enforcement capacity.

- Strengthen regulatory capacity through increased recruitment and training of labor inspectors, including female inspectors in monitoring and supervisory roles.
- Improve transparent inter-ministerial coordination with other government agencies including the Ministry of Women's Affairs, the Ministry of Interior, and the police.
- Establish an accessible, confidential complaint mechanism at the ministry by which families and workers can report cases of abuse during recruitment and training in Cambodia, and non-payment and workplace abuses in Malaysia.

To the Ministry of Interior, the Police, and the Ministry of Justice

Ensure accountability for human rights abuses against migrant domestic workers.

- Conduct prompt, impartial, and transparent investigations into allegations of human rights abuses against migrant workers by labor agents, including the deaths and serious injuries of prospective migrant workers in training centers, intimidation of workers, and alteration of identity documents of girls and underage women.
- Criminally prosecute those responsible for human rights abuses.
- Establish a female police unit trained to handle cases involving abuse of girls and women by recruitment agencies.
- Ensure procedures to allow workers to seek civil remedies, including monetary damages for claims of mistreatment.

To the Ministry of Foreign Affairs

Strengthen the capacity of the Cambodian embassy in Malaysia to assist migrant domestic workers.

- Stop immediately the practice of sending migrant domestic workers alleging abuse back to their recruitment agencies.
- Provide adequate resources, personnel and services, including trauma counseling and health care, in the embassy shelter that will be operational in late 2011.
- Coordinate with Malaysian and Cambodian nongovernmental organizations to provide shelter, legal assistance, and other support services to migrant workers alleging abuse.
- Increase the number of qualified, trained and female staff available to handle labor disputes and abuse cases and to assist migrant domestic workers in detention.
- Ensure that embassy officials actively facilitate the prosecution of criminal cases against Malaysian employers and recruitment companies implicated in abuses, and assist workers with civil lawsuits seeking compensation.
- Develop a system for picking up migrant domestic workers who are in distress and unable to leave an abusive situation, including through cooperation with local law enforcement as necessary.

To the Ministry of Labor and Vocational Training, Ministry of Women's Affairs and Ministry of Interior

- Establish a package of increased services, including legal aid, medical care, shelter, job training, educational opportunities, psychological counseling, and reintegration programs for returning migrant workers and their dependents.
- Ensure that immediate assistance such as medical care, legal aid, counseling and referral services are available for migrant workers at the airport and border check points for those who return to Cambodia through informal channels.
- Ensure an effective coordination mechanism for inter-ministerial collaboration, including through the currently inactive Inter Ministerial Task Force on Migration.

To the Ministry of Health

Enforce existing regulations on medical testing to ensure any medical testing of prospective migrant women is voluntary and performed with informed consent. Ensure that confidentiality of medical information is respected and workers receive their test results.

To the Association of Cambodian Recruitment Agencies (ACRA)

- Penalize recruitment agencies involved in exploitation and human rights abuses of migrant workers, including expulsion from association. Refer cases to appropriate law enforcement and regulatory bodies.
- Cooperate with NGOs and government regulators to strengthen pre-departure training programs.
- Share information on repatriation of migrant domestic workers with organizations working on labor trafficking and migrants' rights. Information should include details of the arrival of returning workers in Cambodia and cases of abuse of migrant domestic workers. Information sharing should be geared to strengthening support and services for returning workers, such as counseling, shelter and immediate medical assistance.

To the Governments of Cambodia and Malaysia

Strengthen cooperation to improve channels for voluntary and safe migration.

- Create a mutually enforceable standard contract that protects migrant domestic workers' rights in accordance with national provisions in the Employment Act, international labor standards, and in consultation with migrant workers' groups, sending countries, employment agencies, and the International Labor Organization.
- Ratify ILO Convention No. 189 Concerning Decent Work for Domestic Workers and bring national laws and enforcement into alignment.
- Conclude a bilateral agreement on the sending of migrant workers to Malaysia that is in accordance with ILO Convention No. 189, other core ILO conventions, and the CRC and CEDAW.
- Work through regional mechanisms such as the Colombo Process and with other labor-sending countries, such as the Philippines and Indonesia, to promote regional minimum standards for domestic workers.
- Collaborate to develop and continually update a list of recruitment companies and recruitment agency officials who have been credibly found to engage in abusive practices against migrant workers, and revoke their license, while ensuring them an adequate opportunity to transparently contest their listing.

To the Malaysian Government

Extend comprehensive protections to domestic workers under the labor laws.

- Amend the Employment Act of 1955 and the Workmen's Compensation Act to provide comprehensive and equal labor protections for domestic workers, including

regulations on hours of work, rest days, and compensation for workplace injuries and occupational illnesses.

Improve access to redress and services for victims of abuse.

- Establish accessible complaints mechanisms for Cambodian domestic workers including a hotline staffed by Khmer speakers and helpdesks at airports.
- Investigate rigorously allegations of human trafficking, forced labor, food deprivation, sexual abuse, physical abuse, and forced confinement of Cambodian domestic workers, and prosecute those found responsible for such abuses.
- Eliminate the fee for a "special pass" and revise immigration policies to permit migrant workers and victims of trafficking to reside and find employment in Malaysia when waiting for the completion of an investigation or complaint with the Labor Department, or prosecution of a criminal case.
- Work cooperatively with NGOs to protect the rights of migrant domestic workers, including through regular consultations, coordinating referrals on specific cases, and providing funding.
- Improve screening to identify victims of domestic worker abuse and survivors of trafficking, and provide them legal aid, counseling, and rehabilitation as needed.

Strengthen the regulation and monitoring of recruitment agencies.

- Prohibit salary deductions of workers to repay recruitment fees.
- Impose substantial financial and administrative penalties against companies and their staff found to be violating regulations, such as the minimum age requirement for migrant domestic workers recruited to work in Malaysia.

To International Donors, including the United Nations, World Bank, United States and Japan

Support transparency and good governance.

- Sponsor an independent report on conflicts of interest between the recruitment industry and officials in the Cambodian government.
- Review all funding, programming, and activities directed to assisting Cambodia's Ministry of Labour and Vocational Training and Anti-Trafficking Police until there is a full independent government investigation into deaths at worker training centers and prosecutions of those found criminally responsible.

- Raise strong concerns about the abuses faced by migrant domestic workers in bilateral and multilateral meetings with the governments of Cambodia and Malaysia and publicly advocate for effective reforms.

Provide assistance to support migrants and migrants' rights organizations.

- Provide assistance to programs and organizations that provide support services for prospective and returning migrant workers who have been victims of abuse, including legal aid, health care, vocational training, shelter, job training, and psychological counseling.

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Appendix A: Letter Sent to the Royal Embassy of Cambodia in Malaysia

June 7, 2011

H.R.H. Norodom Arunrasmy
Ambassador
Royal Embassy of Cambodia
46, Jalan U-Thant
55000 Kuala Lumpur
Malaysia

Via facsimile: + 603 4257 1157
Via email:

Re: Request for information on Cambodian migrant domestic workers

Your Excellency:

I would like to take this opportunity to thank you for meeting my colleague, Ms. Jyotsna Poudyal, in Kuala Lumpur in early April and sharing information on the situation of Cambodian migrant domestic workers in Malaysia.

Between April and May 2011, Human Rights Watch visited Cambodia to conduct research into the practices of recruiting companies and protection measures for Cambodian women and girls migrating as domestic workers. We are preparing a report based on our findings.

We would like to request information on the situation of Cambodian domestic workers in Malaysia and any steps the embassy has taken to provide protection to those facing abuses. Human Rights Watch is committed to producing material that is well-informed and objective. In order to ensure that any information provided can be reflected in our forthcoming report, we would appreciate a written response to the following queries by June 24, 2011.

In addition to the information requested below, please include any other relevant materials, statistics, and government actions regarding the situation of Cambodian migrant domestic workers.

Thank you very much for your time. I look forward to receiving your response.

Yours sincerely,



Liesl Gertholtz
Executive Director
Women's Rights division

CC:

Mr. Ung Vantha
2nd Secretary (Consular and Administration)
Royal Embassy of Cambodia
46, Jalan U-Thant
55000 Kuala Lumpur
Malaysia

We would appreciate any information you can provide regarding the following:

1. How many Cambodian women and girls have migrated as domestic workers to Malaysia since 2009 ?
2. How many complaints of abuse of Cambodian domestic workers have you received in 2009, 2010 and 2011-to-date (or the two most recent years for which statistics are available)?
3. How many of those complaints are cases of i) physical abuse ii) sexual abuse and iii) unpaid wages, restriction of movement and other non-physical abuse?
How many Cambodian women have taken or requested temporary accommodation at the embassy in 2010 and 2011? As we discussed, the Cambodian embassy does not have a proper shelter for women fleeing abuse and therefore, how many of them have been sent to i) the recruiting companies and ii) NGO shelter for temporary accommodation until their return?
4. Have you sent any Cambodian domestic workers to the Malaysian government-run shelter? If so, how many women have been sent?
5. How many abuse cases, such as physical and sexual, have been reported to law enforcement authorities in Malaysia? If none or few, what are the reasons?
What is your procedure for initiating investigations or referring cases to the police in Malaysia?
6. What is your procedure for visiting Cambodian domestic workers in prison or other detention? How often do you visit the detention centers?
7. How many Cambodian women and girls have been imprisoned or detained for immigration violations since 2009 (or the two most recent years for which statistics are available)? What actions do you take on their behalf? Do you assist with services, such as legal aid for domestic workers detained for immigration violations by Malaysian authorities?

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Appendix B: Letter Sent to the Ministry of Labor and Vocational Training

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June 7, 2011

H.E. Hou Vudthy
Deputy Director-General
Ministry of Labor and Vocational Training
28 St. Sangkat Chay Chumneas
Khan Daun Penh
Phnom Penh
Cambodia

Via: facsimile: +855 23 427 322
Via email: mlv@cambodia.gov.kh

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Re: Request for information on Cambodian migrant domestic workers

Your Excellency:

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Human Rights Watch is an independent nongovernmental organization that monitors human rights developments in more than 90 countries around the world.

Between April and May 2011, Human Rights Watch visited Cambodia to conduct research into practices of recruiting companies and protection measures for Cambodian women and girls migrating as domestic workers. We are preparing a report based on our findings.

We are writing to solicit additional information on the situation of migrant domestic workers and to find out what steps the Ministry of Labor and Vocational Training has taken to strengthen protections for them. Human Rights Watch is committed to producing material that is well-informed and objective. In order to ensure any information provided can be reflected in our forthcoming report, we would appreciate a written response from you or your staff to the following queries by June 28, 2011.

In addition to the information requested below, please include any other relevant materials, statistics, and government actions regarding the situation of Cambodian domestic workers.

We also understand the Royal Government of Cambodia is revising Sub-Decree No. 57 on sending Khmer Migrants Abroad (1995). We would like to

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Joe Saunders, *Deputy Program Director*
James F. Hoge, Jr., *Chair*

request a copy of the revised sub-decree and would be happy to provide suggestions on the draft.

Thank you very much for your time. I look forward to receiving your response soon.

Yours sincerely,



Liesl Gertholtz
Executive Director
Women's Rights Division

We would appreciate any information you can provide regarding the following:

Background:

1. How many Cambodian women and girls have migrated as domestic workers to Malaysia in 2009, 2010 and 2011?
2. How many Cambodian women and girls have migrated to other countries as domestic workers in 2010 and 2011?
3. What is the status and content of a Memorandum of Understanding (MoU) with Qatar? Do you plan to sign a new MoU with other countries for sending domestic workers?

Regulation:

4. How does the Ministry of Labor monitor recruiting companies?
5. How many complaints of abuse were made against recruiting agencies in 2010 and 2011?
6. What government action is taken against those recruiting companies found responsible for abuse of migrant domestic workers? For instance, has any company faced a penalty for abuses such as cancellation of their license? If so, how many in 2010 and 2011?
7. Please describe any coordination with other ministries regarding protection of migrant domestic workers.
8. What is the complaint procedure for migrant domestic workers who face i) physical or sexual abuse or ii) unpaid wages in destination countries while they are in Malaysia? What is the complaint procedure after their return from Malaysia?
9. What types of services does the Cambodian embassy in Malaysia provide to migrant domestic workers??
10. How many complaints of abuse against migrant domestic workers in Malaysia did the Cambodian embassy handle in 2010 and 2011? What is the procedure for handling such cases?
11. What kinds of services are available for returning migrant domestic workers in Cambodia?

Proposed legal reform:

12. We understand the Royal Government of Cambodia is revising Sub-Decree No. 57 on sending Khmer Migrants Abroad (1995). What are the major proposed revisions?

Acknowledgments

This report was written by Jyotsna Poudyal, Alan R. and Barbara D. Finberg Fellow for 2010-2011 in the Women's Rights Division of Human Rights Watch. It is based on research conducted by the author and Nisha Varia, senior researcher in the Women's Rights Division in April and May 2010. The report was edited by Nisha Varia; Phil Robertson, deputy Asia director; Mickey Spiegel, senior Asia researcher; Bede Sheppard, senior child rights researcher; a senior researcher with the Health and Human Rights division; James Ross, legal and policy director; Tom Porteous, deputy program director, and Danielle Haas, senior editor at Human Rights Watch.

Production assistance was provided by Matthew Rullo, associate in the Women's Rights Division; Grace Choi, publications director; Fitzroy Hepkins, administrative manager; and Anna Lopriore, creative manager.

Human Rights Watch would like to thank all of the individuals who agreed to be interviewed for this report, and all of the local activists and organizations who helped facilitate our research in Cambodia and Malaysia. In particular, we thank Tola Moeun and the Community Legal Education Center (CLEC); Mathieu Pellerin of Cambodian League for the Promotion and Defense of Human Rights (Licadho); Coordination of Action Research on AIDS and Mobility (CARAM-Cambodia); Cambodian Human Rights and Development Association (ADHOC) and Tenaganita and Pusat Kebajikan Good Sheppard in Malaysia. We also express our gratitude to those activists we met who must remain unnamed in order to continue their efforts assisting domestic workers in need.

“They Deceived Us at Every Step”

Abuse of Cambodian Domestic Workers Migrating to Malaysia

In order to support themselves and their families, and with few opportunities at home, between 40,000 to 50,000 Cambodian domestic workers have migrated to Malaysia since 2008. These women and girls often experience exploitation during the labor migration process, which is largely facilitated by recruitment agencies.

“They Deceived Us at Every Step” examines the migration of Cambodian women and girls as domestic workers to Malaysia and the failure of the Cambodian and Malaysian governments to protect them from abuse and exploitation. The report is based on 80 in-depth interviews in Cambodia and Malaysia with migrant workers and members of their families, representatives of local and international organizations, and government officials.

Recruitment agents in Cambodia forge fraudulent identity documents to recruit children, offer cash and food incentives as loans that leave migrants deeply indebted, and confine recruits in training centers for months without access to adequate food, water and medical care. The initial loans, recruitment costs, and inflated fees can trap domestic workers in a cycle of debt that makes opting out of migrating impossible.

Once in Malaysia, domestic workers are excluded from national labor laws and are vulnerable to a range of abuses. This report documents forcible confinement in the workplace, long working hours for little or no pay, lack of adequate food and medical care, and cases of physical and sexual abuse. When abuses occur, domestic workers have little recourse for protection from the Malaysian government. The Cambodian embassy in Malaysia lacks adequate staff, skills, and resources to deal with domestic workers coming forward with complaints of abuse.

A climate of impunity and sometimes the complicity of Cambodian authorities in abuses lie at the heart of the exploitation of domestic workers. The report recommends stronger regulation and monitoring of recruitment agencies in Cambodia, labor law reforms in Malaysia, and effective access to support services and channels of redress in both countries

A recruitment agency in Phnom Penh, Cambodia, displays photographs of workers and their families receiving cash advances in order to attract more recruits. Migrant domestic workers must labor in Malaysia without a salary for six to seven months to repay these loans, along with the exorbitant recruitment and training fees.

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