

UNIVERSITI SAINS ISLAM MALAYSIA

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

ABUSE OF FOREIGN DOMESTIC WORKERS IN MALAYSIA

Azizah Binti Junoh
(Matrix No. 1030263)

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Faculty of Syariah and Law
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I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

Date: 17th May 2006

Signature :
Name : Azizah Binti Junoh
Matrix No : 1030263
Address : 270, Jln Klinik,
Kg Chenulang,
18000 Kuala Krai,
Kelantan

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

IN THE NAME OF ALLAH, THE MOST MERCIFUL AND GRACIOUS

Alhamdulillah, thanks and praise to Allah S.W.T because this project paper has been successfully completed and for giving the writer the strength, patience and confidence. Greetings to Allah S.W.T, also to the Prophet Muhammad (PBUH) who has brought justice to their followers and the world peace, to the Sahabah's and also the warriors of Islam.

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ABSTRAK

Kajian ini dibuat bertujuan untuk memahami dan mengkaji dengan lebih mendalam tentang masalah penderaan pembantu rumah asing di Malaysia. Kajian ini memfokuskan kepada pekerja pembantu rumah asing warga Indonesia yang datang bekerja di negara ini. Selain daripada itu kajian ini juga bertujuan untuk mengenalpasti punca-punca penderaan pembantu rumah asing di negara ini dan seterusnya meneliti langkah-langkah yang telah dan perlu diambil oleh kerajaan dalam usaha mengatasi masalah ini. Bagi menyiapkan kajian ini, penulis merujuk kepada kajian-kajian terdahulu, rujukan perpustakaan dan internet untuk mendapatkan maklumat-maklumat yang diperlukan dan berkaitan. Hasil daripada kajian ini, didapati bahawa kerajaan telah memainkan peranan penting dan merangka langkah-langkah untuk membanteras gejala ini terutamanya membentuk perjanjian persefahaman (MOU) yang bertujuan untuk memelihara hak-hak pekerja dan majikan. Beberapa badan lain juga turut menyumbang tenaga dan usaha untuk membantu kerajaan. Badan-badan tersebut termasuklah Pertubuhan Pertolongan Wanita dan Human Right Watch. Jabatan Imigresen Malaysia juga mengatur dan mengemaskini langkah-langkah dan prosedur berhubung dengan pengambilan pembantu rumah asing. Pada hakikatnya, negara Malaysia tidak mempunyai akta yang khusus yang berkait rapat dengan pembantu rumah asing. Peruntukan dalam Akta Pekerjaan 1955 (Akta 265) dan peraturan-peraturan tidak memperuntukkan tentang perlindungan pekerja pembantu rumah asing. Justeru kerajaan perlu menggubal satu peruntukan khusus untuk pembantu rumah bagi mengelakkan masalah ini berlaku pada masa yang akan datang.

ABSTRACT

This research aims to understand and examine profoundly on the issue of foreign domestic workers abuse in Malaysia. This research focuses on foreign domestic workers from Indonesia who come working in this country. Besides that, this research aims to identify factors of this abuse and scrutinize measures that have been taken and need to be taken by government to overcome this issue. To accomplish this research, the writer refers to previous researchers and takes references from the library and internet to obtain information needed and related to this topic. The result of this research shows that government has been playing vital roles in framing steps to eradicate this problem. One of the steps is by forming Memorandum of Understanding (MOU) agreement that aims to preserve the rights of employee and employer. Some other bodies also strive to help government. Such bodies are Women's Aid Association and Human Right Watch. Malaysian Immigration Department also disposes steps and update procedures in connection with the intake of foreign domestic workers. Actually, Malaysia does not have specific act relating to it. The provision in Employment Act 1955 does not provide for the protection for foreign domestic workers. Therefore government needs to enact a specific provision for foreign domestic workers to avoid this problem from happening in future.

ملخص البحث

يهدف هذا البحث إلى دراسة قضية تعذيب الخادmates الأجنبيات في ماليزيا ويركز البحث بشكل خاص على الخادmates الاندونسيات التي يعملن في ماليزيا. قامت الباحثة بدراسة الأسباب التي تؤدي إلى ظهور هذه المشكلة قبل أن تبحث عن الحلول المناسبة لتحل هذه المشكلة. للحصول على المعلومات المتعلقة بموضوع البحث قامت الباحثة بمراجعة الدراسات والمؤلفات السابقة ذات الصلة بالموضوع سواء أكانت في المكتبة أو في شبكة الانترنت. فوجدت الباحثة أن هناك خطوات عديدة اتخذتها الحكومة الماليزية لتحل هذه المشاكل وذلك من خلال توقيع مجاهدة الفهم للحفاظ على حقوق العمال وأصحابهم. فهناك أيضا عدة جمعيات غير حكومية تساعد الحكومة في هذه القضية الهامة. فمن هذه الجمعيات الجمعية الخيرية للنساء وجمعية مراقبة حقوق الإنسانز والمؤسسة الجمروعية الماليزية أيضا تعيد النظر في إجراءاتها بشأن توظيف الخادmates الأجنبيات. والحق أن ماليزيا لا تملك مخصصات قانونية خاصة للخادmates الأجنبيات. وما ينص في قانون العمل 1955 (البند 265) لا يضمن فيه الحقوق للخادmates الأجنبيات فعلى الحكومة أن تضع المخصصات القانونية الخاصة في دفاع عن حقوق هؤلاء العاملات تجنبنا من تكرار هذه المشاكل في المستقبل.

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ABBREVIATIONS

Art.	Article
HRW	Human Right Watch
Ibid	From Latin Language (Ibidem): the writer, title and pages from some book with previous references.
MOU	Memorandum of Understanding
n.a	No author/no artist
n.d	No date
p.	Page
pp.	Pages
Sec	Section
Sdn. Bhd.	Sendirian Berhad
SUHAKAM	Malaysia's National Human Right Commission
UDHR	Universal Declaration of Human Rights
Vol.	Volume
WAO	Women's Aid Organisation

CHAPTER ONE

INTRODUCTION OF RESEARCH

1.1 Background of Research

The Indonesian immigrants are the largest group of foreign workers in Malaysia, and it is also the largest victims of abuse. The second large group is Cambodia, followed by Sri Lanka, Thailand, and India. But majority of the victims are Indonesians. The cases of abuse of foreign domestic worker in Malaysia were increasing from year to year and from time to time. It is the current issue that requires to the collaboration from all parties.

The types of abuse of foreign domestic workers can be divided into five. There are physical abuse, sexual abuse, psychological abuse, financial abuse and social abuse. However, sexual abuse is the most frequent type of abuse.¹ Most of foreign domestic workers prohibited to leave employer's house and unknown total of them who has the psychology depression, sexual and physical abuse from the agencies and employers. Some of them have been a victim of trafficking, and forced labours. They were cheated about the surroundings and types of work, confinement and the non payment of wages.²

Factors contributed to the abuse of foreign domestic workers in Malaysia can be conclude into three. There were causes by agencies of foreign workers, domestic workers itself and caused by employers. Some of the agencies falsified the personal document and background of domestic workers such as the age of the workers to complete the condition as required by government.³ Malaysia and Indonesia decided that only excellent workers

¹ Nathalie Plante. 17 May 2001. "Information on Foreign Domestic worker Abuse". *WAO Annual Statistics 2000*. <http://www.wao.org.my>.

² Human Right Watch. 22 July 2004. "Indonesia/ Malaysia: Hak pekerja pembantu rumah tidak dihiraukan majikan serta agensi-agensi buruh mengeksploitasi dan mendera pekerja-pekerja wanita". *Human Rights News*. <http://www.hrw.org>. p.1.

³ n.a. 24 May 2004. "Agensi palsu maklumat pembantu rumah boleh didenda". *Berita Harian*. p.6.

can be accepted to work in Malaysia. This is because some of the foreign domestic workers have bad attitudes such as lazy, social, and incapable to works, illness and others.⁴

However, Malaysian government had determined several ways to overcome this problem and Indonesian government had also given co-operation to our country related to this issue. In the process to determine the step to overcome the problem of foreign domestic workers abuse, our government not only focused for the workers welfare, but still emphasize about the employers' welfare themselves. This is because welfare of both parties are important to ensure the relationship between employers and workers is in good condition.

Among the steps to overcome this problem is to produce the new conditions for non Muslim employers in taking Muslim domestic workers. Muslim domestic workers can only be taken by Muslim employers. The reason is to avoid from the religion abuse against workers. The position of non Muslim workers will be determined by the agencies for any non Muslim employers suitably.⁵ The government also gives instruction to the Immigration Department to blacklist employers which had abused their workers and bring them into the court quickly.⁶

If this problem continuously and not have any boards to take care about it, there will be an interruptions in the relationship between Malaysia and Indonesia. Beside that, our country will have bad reputation on the world perception caused by brutality and abusing. It also aggravates our image as Islamic country.

⁴ Misiah Taib. 28 Mei 2004. "Hanya Amah Berkualiti Dihantar ke Malaysia". *Berita Harian*. p.11.

⁵ Fauziah Arof & Helmi Mohd. Foad. 14 April 2003. "Peraturan Baru Pembantu Rumah Elak Penganiayaan". *Utusan Online*. <http://www.utusan.com.my>. p.3.

⁶ n.a 8 March 2003. "Dera: Imigresen Diarah Segera Dakwa Majikan" *Utusan Online*. <http://www.utusan.com.my>. p.3

1.2 Problem Statement

Throughout the analysis according to the previous cases of abuse of foreign domestic worker in Malaysia, it can be divided into the questions that are related to this problem.

1. What are the causes or factors were contributed to the abuse of foreign domestic worker in Malaysia?
2. What are the types of abuse?
3. What are the effects of the abuse?
4. How to overcome the problem?
5. Statistics of foreign domestic workers abuse from year 2000-2004.

1.3 Aim of Research

The aim of this research is to make a research of this problem because not have many peoples made research related to this issue. It is also to search about causes or factors contributed to it, the effects and also the solutions.

1.4 Significance of Research

The significance of this research is to identify the issue of foreign domestic workers abuse in Malaysia from all aspects including factors, effects and solutions. It is also to identify other information related to this research including statistic and reported cases.

This research is important to search about the rights and authority given for the foreign workers to protect themselves and automatically to keep the name of country and relationship with other countries.

Abuse of foreign domestic worker is the current issue that happened every year. So, this research is important to search either the steps already performed suitable or unsuitable.

1.5 Objective of Research

1. Examine abuse cases from year 2000-2004 and to identify the main causes.
2. To give suggestions to overcome the problem.
3. To identify about the right of worker.
4. Identify provision on protection of foreign domestic worker.

1.6 Scope of Research

The scope of this research is focusing on the abuse of Indonesian domestic workers from years 2001 until 2004. It is focusing for the female Indonesian domestic workers and identified reported cases in the Police Head Office of Bukit Aman, Kuala Lumpur.

1.7 Methodology of Research

The method of research is referring the way to get the information and achieve the goal of research. Then, to ensure the achievement of this method, the researcher applied the effective method to get more information. The researcher will be used a good method to avoid problem in this research such as unsuitable information and not related to the topic of research.

In this research, it was used several importance elements in methodology in research:

1.7.1 Data Collection Plans

Before analysis of the data, collecting data was used because it is the basis to get the information. The writer will get information with used three sources. There are book sources, internet sources, library, and organizations sources.

- **Book Sources**

The main source that the writer used to complete this research is book source. Books are an important reference to complete the research. Although not have many books which wrote about the issue of foreign domestic workers abuse, but the writer will refer to any books which related to this research

- **Internet Sources**

The topic of this research is difficult to get the books because not have many writers written this issue. However, to complete this research, the writer will using internet as a secondary source. The writer will collect the information from internet such as the previous paper, articles, journals and others.

- **Library Sources**

The writer also used library sources to get information. However, these sources cannot give much information related to this topic. The writer used it only to get the definition and other additional information. Actually, the writer will use three libraries to get information. There are:

1. Library Islamic University College of Malaysia
2. National Library Malaysia
3. Library National University of Malaysia

- **Organization Sources**

Beside the internet sources and library sources, the writer also using organization sources. This source is important and suitable based on research topic. The writer will refer to the Police Head Office of Bukit Aman to get statistic and reported cases.

1.7.2 Method of Analysis Data

- **Inductive Method**

Inductive method is the method to support the data. This method is also the thinking model to get proves from the specific term until the general. This method was used in every chapter to ensure that the problem can describe inductively and effectively.

- **Deductive Method**

This method was used to show the general data to specific trough the collected information. This method also used in library method. After all the data was collected and analysis, the researcher made a conclusion based on that data.

CHAPTER TWO

OVERVIEW OF PREVALENCE OF ABUSE

2.1 Types of Abuse

The issue of foreign domestic worker abuse is becoming a growing concern in Malaysia. The media attention received some of these cases served to highlight that the abuse of foreign domestic workers is prevalent in Malaysia society.

An employer in Malaysia is the best for several last years if we compare with the other countries. But, it is not for nowadays. Beside abused physically, some domestic workers was raped, desecrated, unpaid wages, and forced to do any works which not including in promissory note.⁷

The consequences from this situation, the maids will run away from their employers. However, some of them continue to be a victim because they were afraid to run away. It is because the threats made by employer or because of the pressure they felt to completely the first few months of their contract in which their salary was with held to pay their transportation and placement fees.

Abuse of foreign domestic workers occurs on several levels. There is sexual abuse, psychological, physical, financial, and social abuse.

⁷ Noraini Abdul Razak. 21 May 2005. "Khidmat Pembantu Rumah Bagaiakan Hamba". *Utusan Online*. <http://www.utusan.com.my>. p.2.

Table 1: Types of abuse

Types Of Abuse	Number	Percentages
Sexual	7	53.8
Psychological	6	46.2
Physical	4	30.8
Financial	2	15.4
Social	2	15.4

Sources: Woman Aid Organization (WAO) Annual Statistics 2000.⁸

2.1.1 Sexual Abuse

The meaning of sexual abuse is the forcing of unwanted sexual activity by one person on another, as by the use of threats or coercion.⁹

Sexual abuse also means as sexual activity that is deemed improper or harmful, as between an adult and a minor or with a person of diminished mental capacity.¹⁰

According to the table above, sexual abuse of foreign domestic workers is the most frequent type of abuse, which is 54% of the workers reported sexual abuse, including 4 cases of rape, 2 cases of molestation, and one case where the woman was forced to work as a sexual worker.¹¹

Table 2: Classification of sexual abuse

Sexual Abuse	Number
Rape	7
Molestation	6
Sexual Worker	4

Sources: Woman Aid Organization (WAO) Annual Statistics 2000.

⁸ Nathalie plante. 17 may 2001. "Information on Foreign Domestic Worker abuse". *WAO Annual Statistics 2000*. <http://www.wao.org.my>. p.1.

⁹ Yahoo. 2 May 2006. "Sexual Abuse". *Yahoo Education*. <http://education.yahoo.com>. p.1.

¹⁰ *ibid*.

¹¹ Nathalie plante. 17 May 2001. "Information on Foreign Domestic Worker abuse". *WAO Annual Statistics 2000*. <http://www.wao.org.my>. p.1.

In the same situation, some employers make their maids as trafficking victims to provide sexual services. The employers can get extra money from them. In annual report for 2003, Malaysia's National Human Right Commission (SUHAKAM) addressed the issue of trafficking victims forced in the sex work, noting: "*Indonesian girls and women are usually brought in as domestic maids and then 'sold' by their agents to work in disco and entertainment outlets to entertain men, including being forced to provide sexual services*"¹²

Sexual harassment also included in the sexual abuse. Sexual harassment is arguably a violation of Art 8(1) of the Federal Constitution that provides, "all persons are equal before the law and entitled to the equal protection of the law". It caters to the dignity and equality of human person and envisages the significance of equal rights for men and women. Sexual harassment involving two parties, they are the victim and the perpetrator.¹³

All forms of sexual harassment in the workplace are unwelcome and unwanted by the recipients. In most cases, the victims are annoyed, angry, and embarrassed by the unwanted sexual attention. A worker who faces sexual harassment often chooses to resign or to run away from their employer.

2.1.2 Physical Abuse

Physical abuse is abuse involving contact intended to cause pain, injury, or the physical suffering or harm.¹⁴ Physical abuse ranged from being punched and kicked to severe beatings requiring hospitalization.¹⁵ The types of physical abuse including burns,

¹² Human Right Watch. July 2004. "Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia". *Human Rights Watch publications*. <http://www.hrw.org>. p.1.

¹³ Ashgar Ali Mohamed. 2004. "Sexual Harassment in the Workplace: The Law and Practice in Malaysia". *Malayan Law Journal*. n.p. Vol. 1. pp. 1-11

¹⁴ Wikipedia. 3 November 2006. "Physical abuse". *Wikipedia Project*. <http://en.wikipedia.org>. p.1.

¹⁵ Women's Aid Organisation. n.d. "Foreign Domestic Worker Abuse". *WAO Research and Advocacy*. <http://www.wao.org.my>.p.1.

bruises, scars and swollen body parts, or it is typically involving beatings with sticks, was used as a tool for discipline and punishment.

Actually, the beatings came after mistake, the maid were punished with heavy punishment such as the case of Nirmala Bonat, 19 years old, is being treated in Indonesia for second and third degree burns to her chest, back and legs caused when she was allegedly burned with an iron and scalded with boiling water.¹⁶

2.1.3 Social Abuse

The meaning of social abuse is restricting or stopping social contact with others and stopping or restricting activities. Social abuse includes being discouraged or stopped from seeing other people like family or friends. It is also prevented from joining in any activities in or outside the residential care facility.¹⁷

Typically, employers forbid their domestic workers from going outside of the house on their own. In addition to restrictions on their freedom of movement, domestic workers are often forbidden from contacting friends or family, using the telephone, writing letters, or speaking to their neighbours.

2.1.4 Psychological Abuse

Psychological abuse is the willful infliction of mental or emotional anguish by threat, humiliation, or other verbal or nonverbal conduct.¹⁸

¹⁶ Paul Dillon. 22 July 2004. "Focus on Abuse of Maids in Malaysia". *News Global*. <http://english.aljazeera.net>. p.1.

¹⁷ Aged Rights Advocacy Services (ARAS). 6 May 2006. "Social Abuse". *Preventing Abuse of elder People*. http://www.sa.agedrights.asn.au/prevent/strategies_social.html. p.1.

¹⁸ n.a. 2 May 2006. "Psychological Abuse". *National Committee for the prevention of Elder abuse*. <http://www.preventelderabuse.org>. p.1.

Psychological abuse refers to the humiliation or intimidation of another person, but is also used to refer to the long-term effects of emotional shock.

Psychological abuse can take the form of physical intimidation, controlling through scare tactics and oppression. It is often associated with situations of power imbalance, such perhaps as the situations of abusive relationships and child abuse; however, it can also take place on larger scales, such as Group psychological abuse, racial oppression and bigotry. A more "mild" case might be that of workplace abuse. Workplace abuse is a large cause of workplace-related stress, which in turn is strong cause of illness, both physical and mental.¹⁹

2.1.5 Financial Abuse

Financial abuse is the illegal, improper use and/or mismanagement of a person's money, property or resources.²⁰

In the cases of foreign domestic workers abuse, many of the employers did not give payment or wages for their workers. One common ploy employers use to prevent domestic workers from running away or to cheat them out of their salary is to give them their salary only at the end of the contract. In some cases, the employers gave the worker's salary to the labour agent instead of the workers directly. In these arrangements, many workers were denied their full salaries.

¹⁹ Wikipedia. 3 November 2006. "Psychological Abuse". Wikipedia Project. <http://en.wikipedia.org>. p.1.

²⁰ Aged Rights Advocacy Services (ARAS). 6 May 2006. "Social Abuse". *Preventing Abuse of elder People*. http://www.sa.agedrights.asn.au/prevent/strategies_social.html. p.1.

2.2 Statistics of Foreign Domestic Workers Abuse From years 2001-2004

Table 3: Classification of abuse cases according to state

State	2001	2002	2003	2004 Jan-March
Perlis	0	0	0	0
Kedah	6	4	7	2
P/pinang	6	2	2	1
Perak	2	2	6	1
Selangor	18	11	11	3
K/lumpur	6	4	1	2
N/sembilan	2	4	1	0
Melaka	0	0	2	0
Johor	9	8	6	4
Pahang	2	1	1	0
Terengganu	1	0	1	0
Kelantan	1	0	0	0
Sabah	3	1	1	1
Sarawak	10	2	1	3
Total	66	39	40	17

Sources: Police Head office of Bukit Aman, Kuala Lumpur

According to the table above, it is mention about the abuse of foreign domestic workers in Malaysia from year 2001 until 2004. That statistic was divided based on the states classification. There are included all states in Malaysia.

Trough the observation from that statistic, it shows that the cases of abuse increased in Selangor in year 2001 and also is increased in the term of 2001 until 2004. The cases of abuse in Selangor always in the high ranking of abuse cases compare with other states.

Hence, Perlis is the state which is not has the abuse cases. From years 2001 until 2004, Perlis was noted zero abuse cases. Thus, it was followed by Kelantan which is only has one abuse case in year 2001 and zero for the years 2002, 2003 and 2004.

Generally, cases of foreign domestic workers abuse is highest ranking with the total 66 cases in year 2001. Then years 2004 with the total 17 cases but this total only for three months, there are January, February and March. This total may be increasing if we assume that 17 abuse cases happening in every three months. Abuse cases will be increasing into the 68 cases in year 2004. This is only the general assumption. However, the total of abuse cases was decreased in year 2002 with the 39 cases compare with year 2001, 66 cases.

Table 4: Classification of abuse cases according to Penal Code

Section	2001	2002	2003	2004 Jan-March
Section 323	11	3	2	6
Section 324	4	2	0	0
Section 325	0	0	0	0
Section 326	0	0	0	0
Section 363	0	0	0	0
Section 376	25	22	24	9
Section 354	26	12	14	2
Total	66	39	40	17

Sources: Police Head office of Bukit Aman, Kuala Lumpur

The table above shows the classification of abuse cases according to Penal Code. The cases abuse of foreign domestic workers was included under sections in Malaysia Penal Code (Act 574) 2004. These sections are section 323, 324, 325, 326, 363, 376, and 354.

➤ Section 323: Punishment for voluntarily causing hurt.

“Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand ringgit, or with both”.²¹

➤ Section 324: Voluntarily causing hurt by dangerous weapons or means.

“Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive

²¹ Malaysia. n.d. Penal Code (Act 574). Sec323.

- substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with any two of such punishments.*"²²
- Section 325: Punishment for voluntarily causing grievous hurt.
*"Whoever, except in the case provided by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine."*²³
 - Section 326: Voluntarily causing grievous hurt by dangerous weapons or means
*"Whoever, except in the case provided by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping."*²⁴
 - Section 363: Punishment for kidnapping.
*"Whoever kidnaps any person from Malaysia or from lawful guardianship, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine."*²⁵
 - Section 376: Punishment for rape.
*"Whoever commits rape shall be punished with imprisonment for a term of not less than five years and not more than twenty years, and shall also be liable to whipping."*²⁶
 - Section 354: Assault or use criminal force to a person with intent to outrage modesty.
*"Whoever assaults or uses criminal force to any person, intending to outrage or knowing it to be likely that he will thereby outrage the modesty of that person, shall be punished with imprisonment for a term which may extend to ten years, or with fine, or with whipping, or with any two of such punishments."*²⁷

²² Penal Code (Act 574). Sect 324.

²³ *ibid.* Sec 325.

²⁴ *ibid.* Sec 326.

²⁵ *ibid.* Sec 363.

²⁶ *ibid.* Sec 376

²⁷ *ibid.* Sec 354.

According to the table 4, most of the foreign domestic workers were raped by perpetrators or suspects with 80 cases from year 2001 until 2004 and that offence included under section 376 of Penal Code which if commit offence, shall be punish with imprisonment not less than five years and not more than twenty years and also liable to whipping.

Then, it was followed by offence under section 354 of Penal Code with 54 cases from years 2001-2004, which are cases of assault or use of criminal force. Thus, it was followed by offences under section 323 of Penal Code with 22 cases from all years. This offences about the voluntarily causing hurt. Meanwhile, no cases in offences under section 325,326 and 363 of Penal Code from years 2001-2004.

Table 5: Suspects and victims relationship

Relationship	2001	2002	2003	2004 Jan-March
Employer	34	27	26	11
Employer's wife	2	0	1	2
Employer's son	3	2	0	0
Employer's relative	2	1	3	0
Agent	1	0	1	1
Unknown	24	9	9	3
Total	66	39	40	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

The table above shows that the most of abuse cases were done by employers. In year 2001, the total of abuse cases by their employers is 34 cases and it is the highest total of cases compare with the other years. Then, it was followed by unknown perpetrators with 24 cases in year 2001. Generally, employers are the perpetrator who noted the highest total of cases every year from 2001 until 2004.

That table also shows that the group of perpetrators who abuse foreign domestic workers not only by the employers itself, but, it is also made by other peoples such as employer's wife, son, employer's relatives and agents.

Table 6: Classification of abuse cases according to citizen

Citizen	2001	2002	2003	2004 Jan-March
Indonesia	61	31	39	17
Filipine	2	0	0	0
Bangladesh	0	0	0	0
Myanmar	0	0	0	0
Thailand	0	0	0	0
China	0	0	0	0
Local	3	8	1	0
Total	66	39	40	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

Foreign domestic workers who work in this country not only came from Indonesia, but it were also from other countries like Philippine, Bangladesh, Myanmar, Thailand, China, However, this research is focused for the Indonesian domestic workers.

According to the table above, it is shows about the classification of abuse cases according to citizen. Most of cases of foreign domestic workers abuse happened on Indonesian. Abuse of Indonesian domestic workers is the highest in year 2001 with 61 cases and followed by year 2003 with 39 cases. The total of Indonesian domestic workers abuse from all years 2001 until 2004 is 148 cases then it was followed by abuse of local domestic workers with 12 cases. Meanwhile, other countries noted 0 cases except the Philippine with only 2 cases.

The most of foreign domestic workers abuse happened to the Indonesian may be caused by higher request from local employers towards Indonesian domestic workers. This situation is effectuating Indonesian domestic workers tendency to be abusing compare with others domestic workers.

Table 7: Classification of victim according to age

Age	2001	2002	2003	2004 Jan-March
Below 25 Years	30	15	16	8
25-35 Years	27	20	20	8
35-45 Years	5	4	4	1
45 And Above	4	0	0	0
Total	66	39	40	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

Most abuse of foreign domestic workers was happened to workers around the age 25-35 years old with 75 cases for all years from 2001-2004. Then it was followed by workers in age around 25-35 years old with 69 cases for all years. Otherwise, workers in age around 35-45 years old with 14 cases and the lowest is workers around age 45 years old and above with 4 cases in all years from 2001 until 2004.

Table 8: Places of abuse

Places	2001	2002	2003	2004 Jan-March
House	53	33	36	17
Restaurant	1	1	0	0
Shop	0	1	0	0
Public	10	3	3	0
Vehicles	2	0	1	0
Hotel	0	1	0	0
Total	66	39	40	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

Foreign workers not only abused in the employer's house, but it was also involved other places like restaurant, shop, public place, in vehicle, and hotel as mentioned in the statistic above.

Abuse of foreign domestic workers were most happened in the house which recorded the highest cases every years and have large distinctive with other places.

Foreign domestic workers were abused mostly in house with 139 cases from years 2001-2004. Otherwise, it is also the highest cases in 2001 with 53 cases, then, followed by public place with 16 cases from year 2001-2004. Hence, abused workers in shop and hotel are the lowest case with only 1 case.

Table 9: Classification of suspect's occupations

Jobs	2001	2002	2003	2004 Jan-March
Labour	5	7	0	0
Personal	31	12	18	7
Private	5	3	4	2
Government Staff	3	0	0	2
Professional	0	0	1	0
Others	9	2	4	0
Unknown	13	15	17	6
Total	66	39	44	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

The table above shows about the classification of suspect's occupations. The group of perpetrators divided into seven. There were included labour, personal or business, private, government staff, professional, others and unknown.

Based on that table, suspects in the private or business sector are in the highest ranking in abuse their domestic workers; it is with 68 cases in years 2001 until 2004. Then, it was followed by suspects who are unknown their occupation with 51 cases. Hence, the suspects who work in professional sector is the lowest cases with only 1 case and then, it is followed by sector of government staff with 5 cases from years 2001-2004.

Table 10: Classification of suspect according to age

Age	2001	2002	2003	2004 Jan-March
Below 25 Years	8	5	7	0
25-35 Years	25	10	10	1
35-45 Years	23	20	11	4
45 Above	10	4	16	12
Total	66	39	44	17

Sources: Police Head Office of Bukit Aman, Kuala Lumpur

The age of suspects also classified into four categories. First category is under 25 years old, second is 25-35 years old, third is 35-45 years old and fourth is 45 years old and above.

According to the table above, suspects around the age 35-45 years old are the most made abuse against domestic workers with the total at from years 2001-2004 with 58 cases. Then, it was followed with the suspects around age 25-35 years old. Suspects under 25 years old are the lowest categories made abuses.

Table 11: Sex and race of suspect

Sex	2001				2002				2003				2004 Jan-Mac			
	M	C	I	Etc	M	C	I	Etc	M	C	I	Etc	M	C	I	Etc
Male	10	15	11	11	6	19	7	3	8	24	7	4	3	10	1	1
Female	0	14	4	1	2	2	0	0	0	0	0	1	0	2	0	0
Unknown	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	10	29	15	12	8	21	7	3	8	24	7	5	3	12	1	1
Total	66				39				44				17			

Source: Police Head Office of Bukit Aman

Table 11 is about the classification perpetrators or suspects based on sex and race. Sex divided into three, there are male, female, and unknown. Race divided into four types; Malay, Chinese, Indian and others.

According to that table, male is the most highest who make abuses with 140 cases compare with the female, 26 cases. This total is including all race, Malay, Chinese, Indian and others.

Thus, based on the race, Chinese is the most highest who make abuses in every years with 29 cases in year 2001, 21 cases in year 2002, 24 cases in year 2003, 12 cases in 2004. Otherwise, Malay is the lowest suspects in year 2001 with 10 cases, others in year 2002 with 3 cases, also for year 2003 with 5 cases, and year 2004, Indian and others with 1 case.

Generally, Chinese is the highest suspects for all years with 86 cases and Indian is the lowest with 39 cases.

2.3 Sample of Cases

2.3.1 PP v Cheah Lai Mooi (2000)²⁸

Kusiah Manijan, a 32-years-old domestic worker from West Jakarta, was abused by her employer, Cheah Lai Mooi, 44 years old from Taman Canning, Ipoh

Kusiah suffered serious head injuries, which her forehead is believed being hit with hard object after a series of misunderstandings with her employer. Police recovered a stone of a fist size during an investigation at the employer's house.

²⁸ n.a. 20 April 2000. "Hearing of Housewife on Charge of Causing Grievous Hurt To Maid Postponed". *Utusan Online*. <http://www.utusan.com.my>. p.1.

The employer, Cheah Lai Mooi is charged with causing grievous hurt to Kusiah Manijan, with a rock, at a room in a house at Lorong Canning, Taman Canning, Ipoh, at about 5.20 am on 14th February 2000.

According to the case, Cheah Lai Mooi is charged under section 326 of Penal Code under the offence of voluntarily causing grievous hurt by dangerous weapons or means. The section stated that:

*“whoever, except in the case provided by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping.”*²⁹

The status quo of this case is the employer is declared free from the punishment by giving some amount of compensation and wrote a letter of apology to the public prosecutor. The payment of the compensation is under an agreement of both parties in confidential. This decision was made by Judge Abdul Aziz Khalidin³⁰

2.3.2 PP v Safingi Abdullah (2004)³¹

Sudarwati Jumali a 22-years-old domestic worker from Lumanjang, Surabaya, Indonesia was abused by her employer Safingi Abdulalh, 47 years old, from Tanjung Karang.

²⁹ Malaysia. n.d. Penal Code (Act 574). Sec326.

³⁰ n.a. 26 August 2000. “Bayar Ganti Rugi, Penganiaya TKW Indonesia Dibebaskan”. *Indonesia Media Services*. <http://www.kompas.com>. p.1.

³¹ Minami Mat Saad. 2004. “Mahkamah Perintah Wanita Dipaksa Jadi Buruh Dibayar RM6, 447.88”. *Berita harian*. 29 May. p.1.

Sudarwati Jumali came to Malaysia to work as a domestic worker. However she was forced by her employer to work as a forced labour in the oil palm estate. Beside that, she was also forced to work in market at night. Sudarwati worked as forced labour since 15th Disember 2001 and her wages is RM380 per month, but she told that her employer never give her any wages. She put an attempt to runaway from her employer's house in Tanjung Karang on 2nd January 2004 to get help from agency who brought her to this country.

According to this case, the employer, Safingi Abdullah shall be punished under section 374 of the Penal Code that provided for sentence for one year imprisonment or fine or both if convicted. That provision stated that:

*“Whoever unlawfully compiles any person to labour, against the will of that person, shall be punished with imprisonment for a term which may extend to one year, or with fine or with both”.*³²

The status quo of this case is the employer is ordered to pay RM6,447.88 to Sudarwati Jumali. This order made by Yeap Eh Kong, the Chief of Labour Court of Pelabuhan Klang.

2.3.3 PP v Chan Kok Loong & Choong Ooi Kham³³

Inawati Karto a 21-years-old of an Indonesian domestic worker was abused by her employer Chan Kok Loog, 30 years old and his wife, Choong Ooi Kham also 30 years old from Shah Alam.

Inawati Karto has been working with her employer since Jun 2002 and she was forced to continuously work from 5.30 am until 2.00 am daily.

³² Malaysia. n.d. Penal Code (Act 574). Sec374.

³³ n.a 11 March 2005. “Pembantu Runmah Warga Indonesia Dicedera Majikan Terima Pampasan RM20,000”. *Utusan Online*. <http://www.utusan.com.my>. p.1.

Nirmala Bonat was abused until she suffer injuries at all of her bodies including her chest, back and legs which is believed caused by burned of an iron and scalded by boiling water. She also did not receive any payment or wages since she started to work.

According to this case, the employer, Yim Pek Ha shall be punished under section 326 of the Penal Code. She was charge with three offences on voluntarily to causing hurt by dangerous weapons in the house at 33B-25-6, Villa Putra since January, March and April 2004. She shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping if convicted.

The status quo of this case is still in hearing process in the Session Court of Kuala Lumpur.

2.4 Conclusion

Foreign domestic workers who work in Malaysia were abused by their employers in various types of abuse, including sexual, physical, psychological, financial and social abuse. However, most of them experience with sexual abuse or harassment.

According to the statistics and reported cases, it is showed that most of the foreign domestic workers abused by Chinese employers. This is not a bias statement but it based on the conclusion through the observation of the statistics and cases.

Generally, cases of foreign domestic workers abused are rarely come to trial at the court. It normally it was settled outside court between agency, employers and the abused worker. However, the abused domestic workers should make a report and bring the case into the court to ensure that the employers received proper punishment and also to ensure that the rights of domestic workers be protected by the law as well as to prevent the case to happen again in the future.