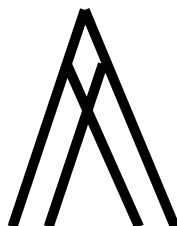


Final Report

STUDY OF FEMALE TRAFFICKING IN SRI LANKA

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Marga/UNIFEM



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07 September 2004

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Acknowledgements

The Marga Institute, conscious of female trafficking as a covert issue, has waited long for the opportunity to bring it to the surface through exploratory research. The Institute is indeed grateful to the UNIFEM for providing that opportunity.

The nature of the subject demanded preliminary and oncourse interviews with several officials and NGO personnel who were our contacts for the final selection of the sample.

The officials in the Women's and Children's Desk – Focal point at the police Head Office and in particular, Senior Superintendent of police Mr. Jayasundera, provided data and information that has been used in the report.

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- Persons in charge of children's homes and detention homes,
- Recruitment agents and sub-agents for overseas employment,
- Officials of the Women's Development Foundation – Kurunegala,
- Assistant Government Agents in the districts of Colombo, Gampaha, Kandy, Kurunegala, Galle, Hambantota, Kalutara, Anuradhapura.

We are deeply conscious of the trauma of the trafficked females and their families when they were compelled to re-live their experience many times during the rounds of dialogues. It was their hope that other women will be saved from being trapped into similar situations by the revelations made and the perpetrators laws and systems that have been identified.

Dr. G. Gunatilleke as always, has participated in an advisory capacity, at several informal discussions in the course of the study.

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STUDY ON FEMALE TRAFFICKING

Marga/UNIFEM

Myrtle Perera

Part One Analysis of Dialogues with Trafficked Females.

1 Concepts and Definitions

1.1 Trafficking – A Concern for Human Rights :

Part Two of this report sets out in broad terms, the international and national legislative enactments, the administrative mechanisms, institutions and officials that comprise the frame within which trafficking is expected to be dealt with, victims expected to be afforded protection and offenders brought to justice. The debate on the definition of trafficking continues and this study does not expect to go deep into that debate. By confronting the system with factual situations however, the study could trigger the concerns of persons, governments and civil society to push further in their efforts to prevent the blatant violation of human rights that is associated with trafficking. The study strengthens the allegation that victims are often proclaimed offenders before the law and that the legal process thereafter proceeds on that basis, continuing thereby, to violate the rights of the person.

A broad human rights dimension was adopted in defining trafficking in this study. This definition was the basis in selecting the sample of females in both internal and external trafficking. The selection was made in the context of the provisions of sub paragraph (a) of Article 3 of the UN protocol of the year 2000, which specifies the use of **force, deception or coercion as denoting the offence of trafficking**. This is elaborated in Part Two of this report. The Global Alliance Against Trafficking in Women, The international Human Rights Law Group and the Foundation Against Trafficking in Women together with international NGOs have developed a definition that includes *“all acts and attempted acts involved in recruitment, transportation within or across borders, purchase, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion (including the use or threat of force or the abuse of authority) or debt bondage for the purpose of placing or holding such a person, whether for pay or not, in involuntary servitude (domestic, sexual or reproductive) in forced bonded labour or in slavery-like conditions in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage”* (Protection Schemes for Victims of Trafficking in Selected EU Member Countries, Candidate and Third Countries- Joanna Apap and Felicita Medved-Prepared for Madrid Seminar Dec. 2003-)IOM Publication 2003).

Exploratory and In-depth

Another relevant aspect of the discourse on female trafficking is the extent of the phenomenon in terms of numbers involved. Impressions range from doubts as to the existence of trafficking in Sri Lanka, to estimates of figures that have no methodological basis. Both stances are unproductive in directing policy and intervention. As an exploratory study this cites cases that could indicate the existence of many more of such incidents. In any event numerical accounting was not the aim of the study. While it certainly resolves the doubts about its prevalence, its examination of the networks, actors and actresses and institutional bases, places it among the type of qualitative studies that explore the depth rather than the extent of the problem. The pitfalls in “estimating” figures in a subject such as trafficking has been very starkly brought out in a recent study in Cambodia (Thomas Steinfatt - October 6 2003). This study strikes a cautionary note for researchers in quoting estimates that do not specify the method used.

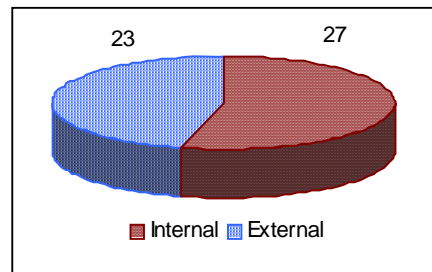


Fig 1.1 Sample

1.2 What the Study Set Out To Achieve and How:

The study includes trafficking incidents of females both within the country and in the Gulf countries to which females go as migrant labour. The case study method adopts the technique of dialogue and narration. The study raises several pertinent issues such as the preconditions attributable to trafficking, the process and the procedures related to the entire incident of trafficking. By this method it attempts to capture the roles and actions of all the actors around the incident whether involved directly or indirectly. It further probes the legal and administrative mechanisms that were used and the institutions and officials related to the entire process.

In this analysis the study expects to inform on the nature of the laws that prevail, the ways in which they are used and their practical application. It, further, provides insights on the deficiencies in legislation or weaknesses in its implementation.

The primary aim of the study is to draw attention to the urgent need to address the core issues that surface from research – this and others – that are critical to the protection of the rights of

a person, in devising measures to prevent their violation and in integrating into society the victims of such violation. The study underscores the greater vulnerability of women in this regard and the greater impediments to their social integration after the incident of trafficking. The study, however, extended the inquiry to male migrant employees who have been trafficked in the Gulf region for purposes of comparison. It is evident that harassment of male labour is no less than that of female labour with the exclusion of sexual abuse, which is almost inevitable in female trafficking.

1.3 Types of Trafficking :

Internally trafficked females were of three types. Type A had come into the legal system. Ironically, however, they had come in under the label of offender. The study has been able to go into the histories of some of them and to show that in fact they were victims doubly victimized by the system. The selection was understandably riddled with problems of having to go through several dialogues to identify cases that came within the definition used in the study. Since the study was investigating the different modalities of trafficking and their actors/actresses cases that were similar in method and process were not included. An attempt was made to obtain as many dissimilar cases as possible. This process involved dialogues- or part dialogues with 156 females to select the ones that were relevant to the study.

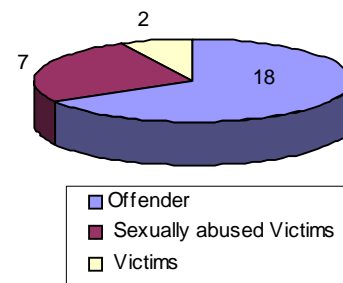


Fig 1.2 Types of Internally Trafficked

Internally trafficked females were of three types. Type A was selected from the government detention/rehabilitation homes in which they were housed as offenders under the Vagrants Ordinance but had, to begin with, been trafficked. A second Type B comprised females recognized as victims but housed in detention/rehabilitation Homes. The third, Type C comprised women who were trafficked but were continuing in their homes or living with friends and relatives and who were being helped to integrate into society by an NGO. These persons were outside the legal system. This last type was resident in two remote rural locations in the districts of Kandy and Kurunegala.

The Sample- Altogether 50 case studies were carried out -27 internally trafficked females, 15 externally trafficked females and 8 externally trafficked males

Externally trafficked women who had been subjected to harassment while in employment in the Gulf countries were selected through contacts through a snowballing technique and were spread out in several locations in the districts of Colombo, Gampaha, Kandy, Kalutara, Kurunegala and Galle.

A “control” group of male migrant returnees was included in view of the nature of the analysis ie. examining processes and procedures, in order to assess gender differences in the nature and circumstances of trafficking and the responses of the victims. The way in which the system responded to redress is examined for gender-differential outcomes.

The sample had to be limited to 50 in view of the difficulties of selection within the time frame. They are however adequate for the purpose of highlighting the variation in the types of trafficking and the different actors and the processes adopted.

See Table 1.3 Showing the Sample Distribution By Gender and Type in Annex 2.

2 Case Studies

2.1 Internal Trafficking

2.1.1 Reporting of Macro Data

The key issue of the reluctance of females to seek redress at police stations in view of the intimidating environment that prevails therein has been addressed through the provision of special police desks to entertain reports relating to women and children. Related information was obtained through an interview with the Senior Superintendent of Police in charge of the desks at the head office in Colombo. There are 51 police stations out of a total of 349 stations in 36 police Divisions in the country that have set up such desks. They should be served by specially trained female police officers. Nevertheless only 90 % of the desks are stated to have female officers in charge. The police officers are expected to create awareness in the public on the issue of female trafficking. There was one instance cited of a committed assistant superintendent of police in one division who had regularly carried out programs for the public in temples and schools. Such enthusiasm is unfortunately not found in the majority of stations.

Data Base:

Information regarding reported incidents is relayed daily by telephone from each of the desks to the head office where the data is computerized and tabulated. Currently it is disseminated through internal circulation but in the near future they expect to publish in a regular bulletin. The data available for the years 2000 to 2003 obtained from the police head office has been mapped out for four years and shown in the figures in the ensuing pages.

(See Table 2.1.1 in Annex 2)

The mapped out data show the geographical spread of reported incidents for each of the four years. For greater clarity these figures are presented graphically as well-(see figs- 2.1.1.a,b,c,d).

Types of Incidents and Distribution Over Four Years

The incidents have been categorized under Minor Offences and Grave Crimes.

The category of Minor Offences includes:

- Sexual Harassment
- Publication of Data Related to Crimes
- Assault and Hurt
- Threat to Murder
- Procuring for Prostitution
- Abortion.

The category of Grave Crimes includes:

- Murder
- Attempted Murder
- Rape
- Unnatural Offences and Grave Sexual Abuse
- Grievous Hurt
- Kidnapping Abduction and Procuring
- Incest.

From each of the two categories the types that could relate directly to trafficking have been selected and presented here.

Types selected from each category.

Minor Offences:

- Sexual Harassment
- Procuring for Prostitution,

Grave Crimes:

- Unnatural Offences & Grave Sexual Abuse,
- Kidnapping Abduction and Procuring and
- Rape.

The maps indicate the spread of incidents of all types across the country. The increasing trend seen in the numbers of incidents indicates also a positive feature of higher reporting that shows increasing access to the law enforcement system by women. These figures could be the tip of the iceberg since many could be unreported. In an earlier study on child rights violations (Marga Study on Child Rights Violations) many unreported cases of child abuse and rape were exposed and also found to be more brutal in nature than some of the reported cases.

Districts in which One or more Offences were Reported - 2000

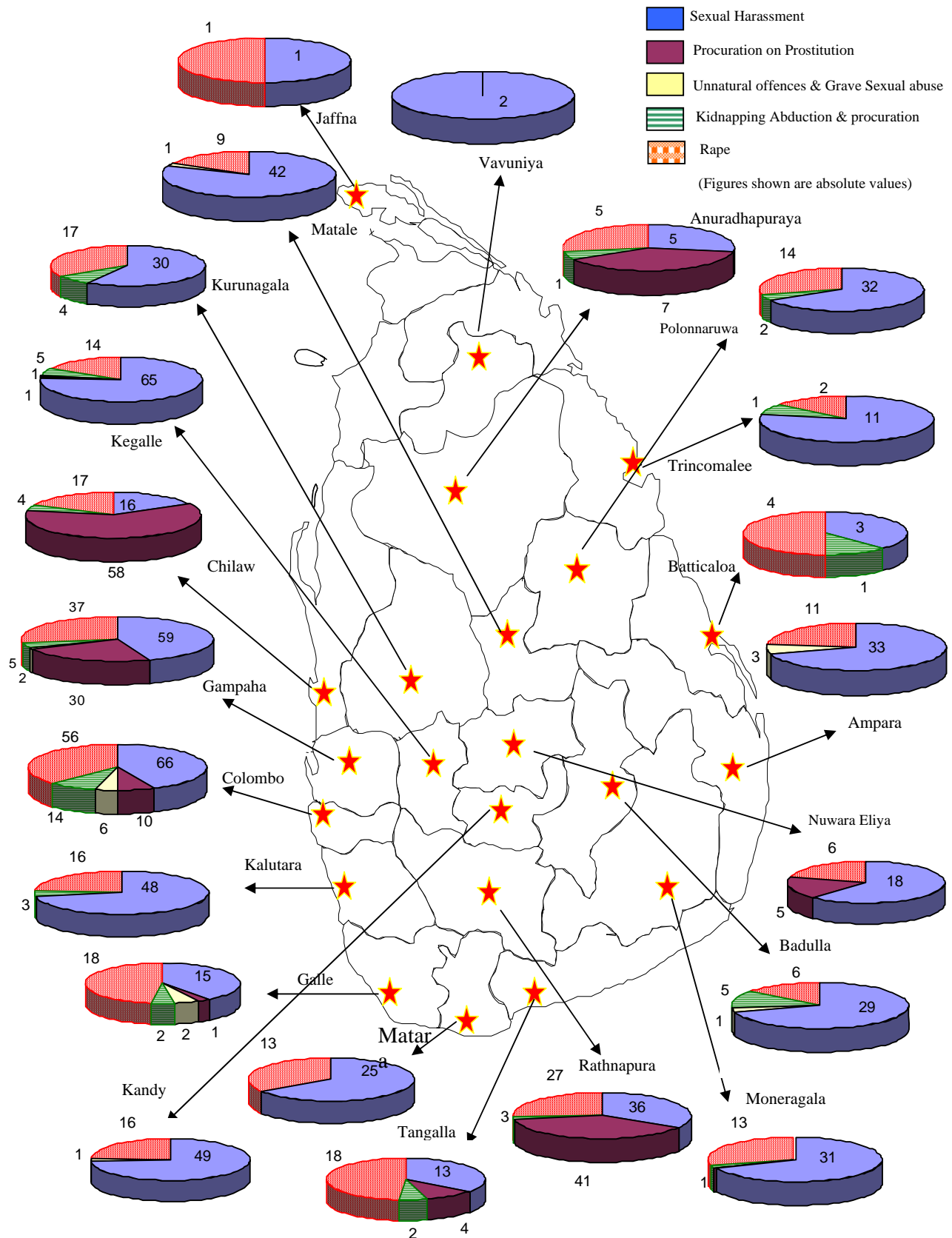


Fig: 2.1.1.a

Districts in which One or more Offences were Reported - 2001

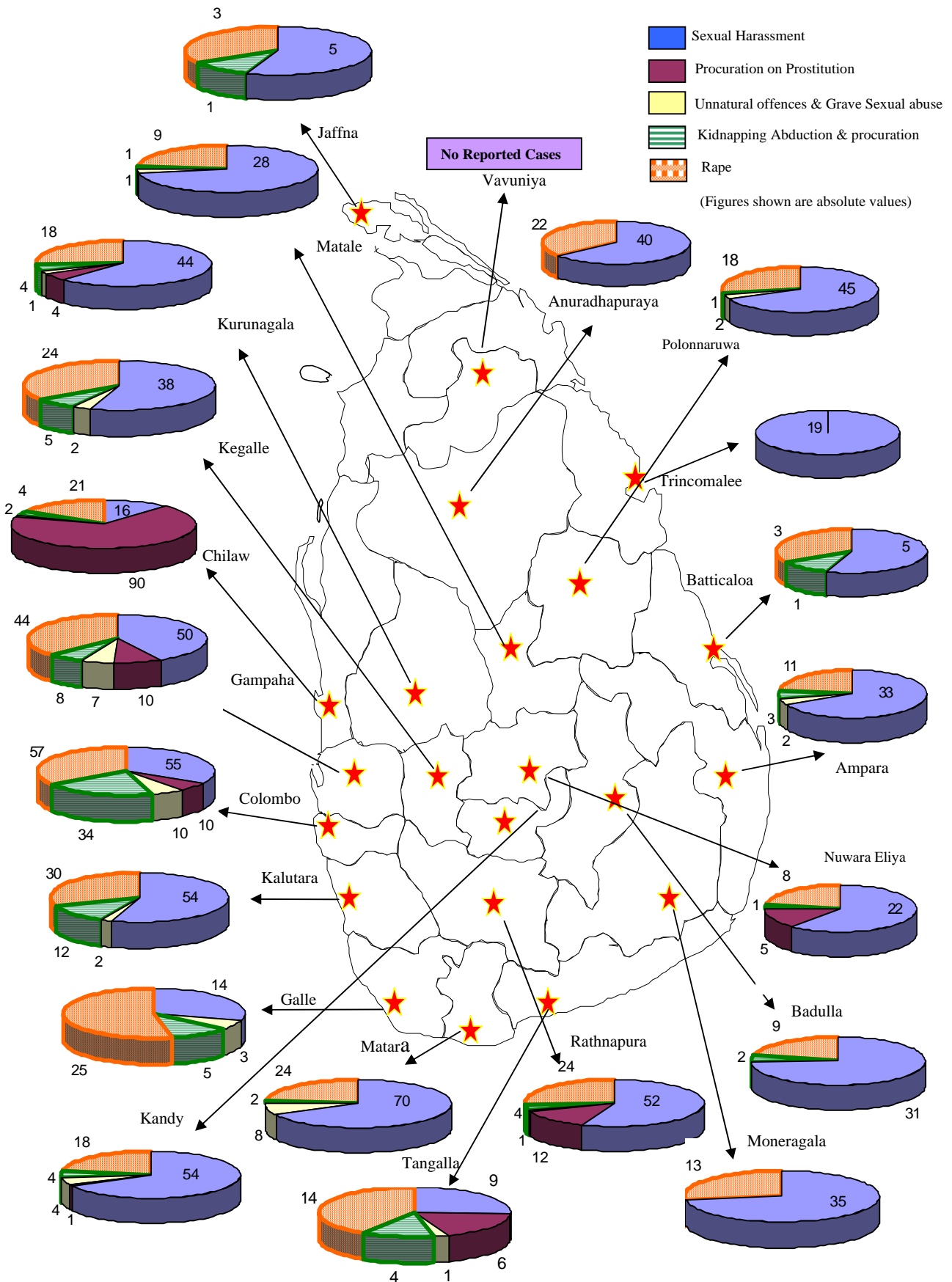


Fig: 2.1.1.b

Districts in which One or more Offences were Reported - 2002

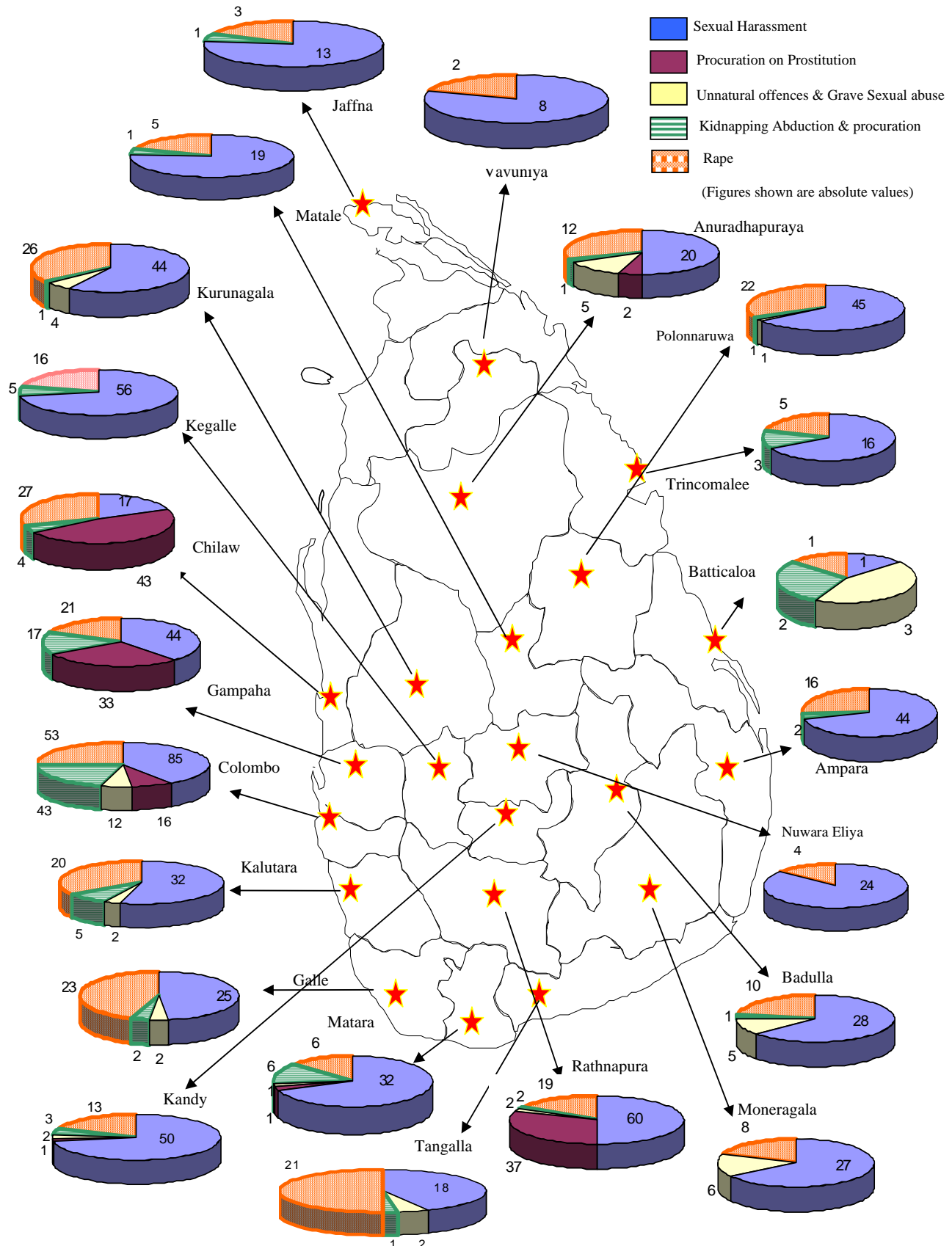


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Districts in which One or more Offences were Reported - 2003

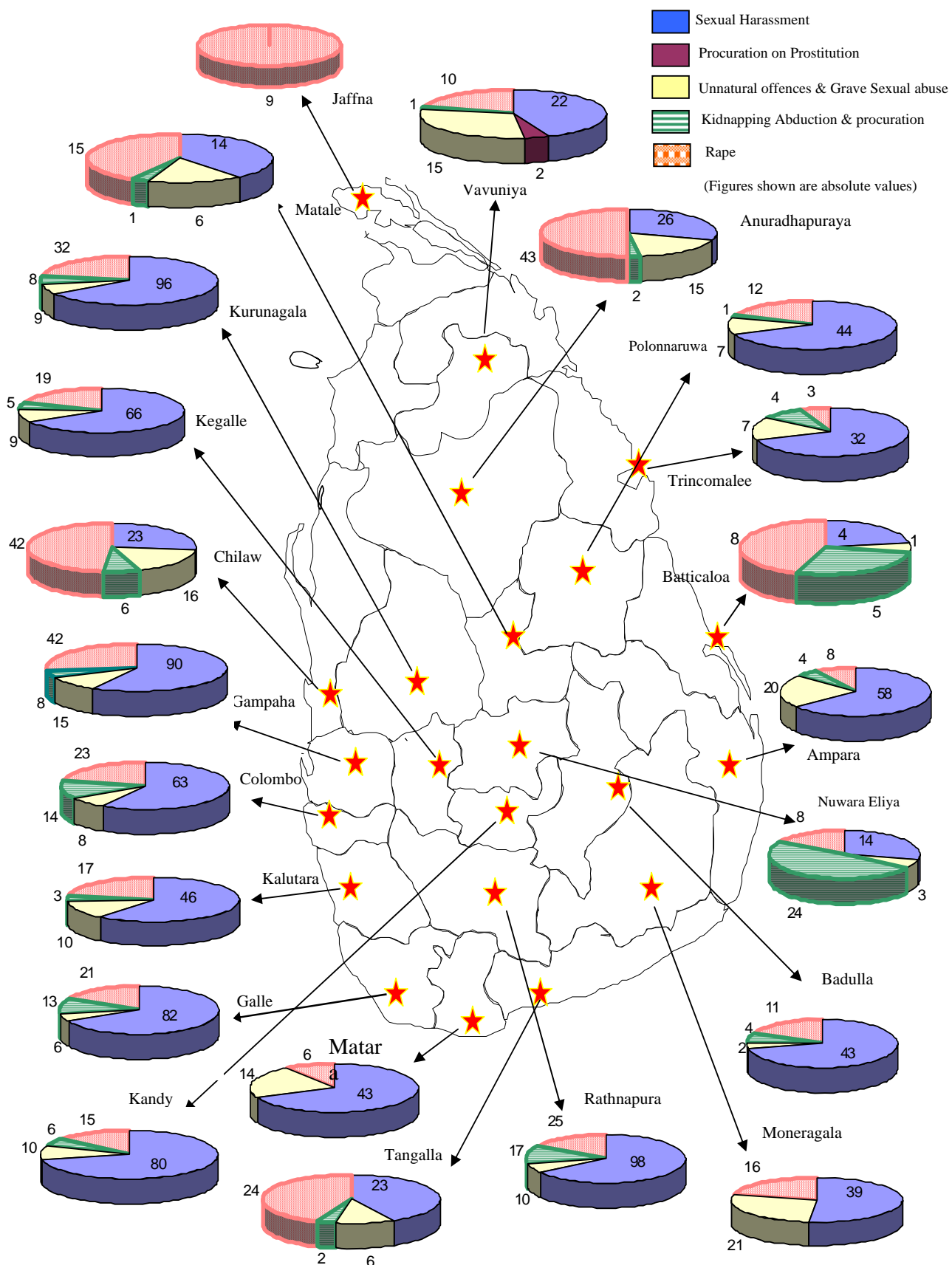


Fig: 2.1.1 d

2.1.2 Profile of the Selected Females

Education

Table 1.3 in Annex 2 presents key features that describe the trafficked females in the study. These are presented graphically below.

The first important feature was their spread across all races and religions present in the country. This was not deliberate, the only criterion for selection being the mode of trafficking. Out of the 18 women of Type A who were in the detention Home, 7 had GCE OL qualifications, 5 had secondary education, 4 were with a primary education and only 3 had not attended school. Education as a factor featured in the decision to move out for a job and the level of education influenced their aspiration for a particular type of job as will surface in the analysis. In type B only one out of 7 had a secondary education and others had not attended school. The 2 females in type C were from a very remote rural hamlet, but one of them had GCE OL qualifications while the other had a secondary education.

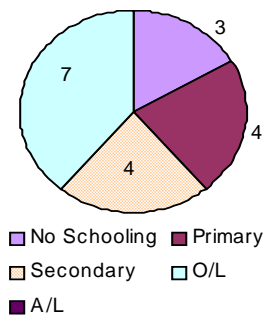


Fig 2.1.2a Internal Female Trafficking Type A Classified by Levels of Education

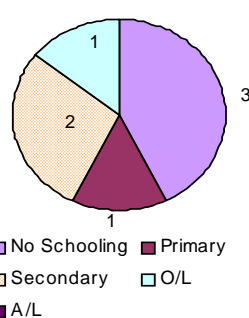


Fig 2.1.2 b : Internal Female Trafficking Type B Classified by Levels of Education

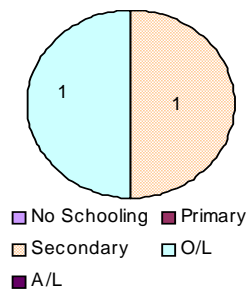


Fig 2.1.2. c : Internal Female Trafficking Type C Classified by Levels of Education

Marital Status

In type A except for one who lived with a partner and 6 married, 12 out of 18 were single women. Those in type B were young unmarried women. Both females in type C were single.

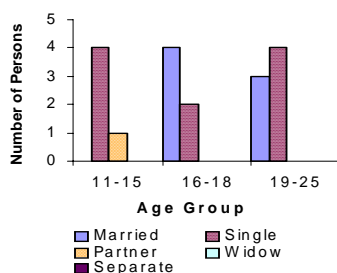


Fig 2.1.2 d: Internal Female Trafficking type A distribution by Marital Status

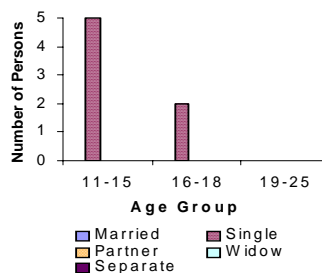


Fig 2.1.2 e: Internal Female Trafficking type B distribution by Marital Status

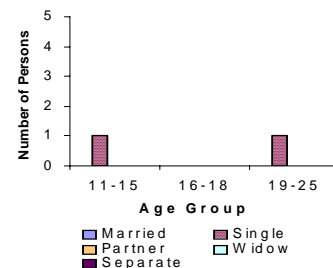
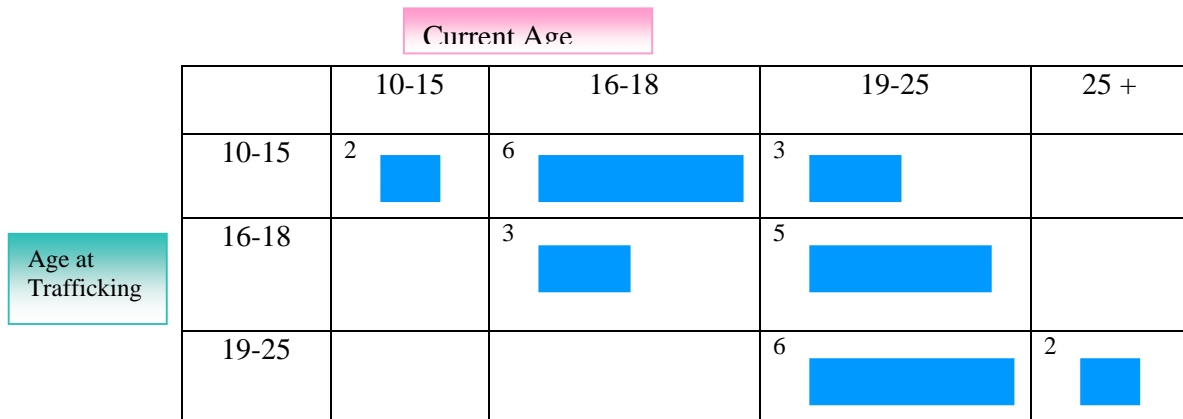


Fig 2.1.2 f: Internal Female Trafficking type C distribution by Marital Status

Age At Trafficking

Over half the sample of females –17 out of 27- were children between the ages of 11 to 17 when they were trafficked, 7 are currently under 18 years of age. Among the others, 8 had barely reached adult status at 18 and 2 were mature females between 23 and 25 years at the time they were trafficked. (Table 2.1.2 a in Annex 2).

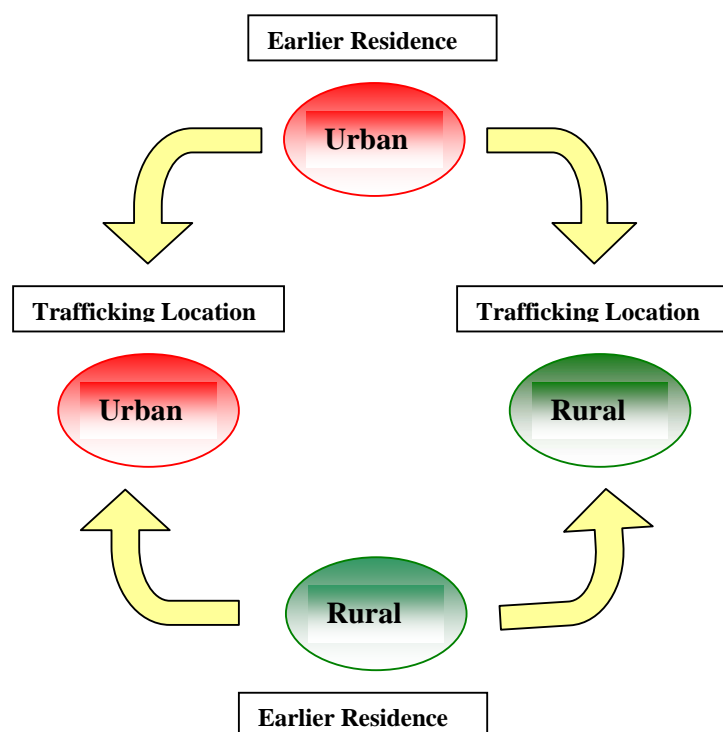
Fig 2.1.2 g Internal Female Trafficking Classified by Current Age and Age at Trafficking



Location

The majority of women were trafficked in the capital Colombo –14 out of 27-and only two were residing in Colombo. The lure of the capital for job aspirants has not abated because of the lack of opportunities in other locations. The data presented in the map shows that they came from the more urbanized districts such as Kandy and Gampaha as well as from the less developed ones of Hambantota and Moneragala. Another feature is that trafficking had taken place in the place of residence that was often a remote rural location in which one would expect greater community cohesion that would provide a more hospitable environment for it 's young members. Trafficking, therefore, has taken place both in remote locations some distance away from the location of residence as well as in the major towns as shown in the map. (Table 2.1.2-b Annex 2)

Fig 2.1.2-h Internal Female Trafficking Classified by Earlier Residence &



2.1.3. Manner of Trafficking

The diverse ways in which trafficking can take place have been demonstrated by the case studies and these are set out below. (CS= Commercial sex)

Ways in which women were trafficked:

No.

- Lured by promise of a job by neighbour, raped
And sold for commercial sex. She assaulted the neighbour
And escaped but was arrested on the road. 1
- Lured on promise of job and forced into CS 7
- Job promised by relative and sold for CS 2
- In hotel job but not in CS, arrested without inquiry 1
- Forced into CS while in normal job, after rape 1
- Lured on promise of job raped and forced into CS 2
- Lured from Garment factory for better job raped, forced into CS 1
- Escaped from forced CS, nowhere to go, captured by
Lodge owner, forced to comply 1
- Raped on way to school-stopped school, looked for job
A young male friend in the village promised a job
and forced into commercial sex 1

sold to hotel owner	1
• Orphan from childrens Home given for adoption. Used by foster mother for CS	1
• Taken from Salvation Army home by friend of probation officer. In domestic work, raped by employer, ran away to police but Handed back to employer.	1
• Came to Colombo seeking job to pay husband's fine, duped by Trishaw driver and sold to CS	1
• Missed train to Matara took shelter at construction site was Arrested with others at the site on presumption of being in C.S.	1
• Father attempted to rape, was sent to detention home, raped In detention home, ran away, remanded and sent back to DH	1
• Sold by step mother for domestic service, physically abused, Sent to detention home	1
• Physically abused as domestic workers	2
• Eloped with Provincial Council members son on promise of Marriage, but sold to hotel for CS	1

Although the cases were dissimilar – being deliberately selected that way- the case studies raised some significant issues related to the actors and actresses connected with trafficking.

Betrayed by Trusted Friend: - The trusted friend , neighbour, relative in a close community – even a respected local government official had trapped job seeking females who sought their assistance, into engaging in CS in hotels or brothels. It appears that young females- some were teenagers - had looked for a sympathetic ear and a safe known source trusted by their families in seeking a job. These were not all from urban townships or from the larger cities, they were from remote hamlets where the credentials were expected to be known. It transpired that all of these sources formed the supplier network that has spread far into the rural areas as well.

The more mature females had recourse to complete outsiders- a trishaw driver in the town, a male at a bus stop. They were attempting to seek relief from traumatic situations in the home. Financial stress and family environment both combined to drive females to trust outsiders. It appears that these were suppliers too who could sense a potential client and would offer assistance.

Soma was 25 years old. Her husband was in jail for failing to pay a fine. She came to town to look for some kind of work to get the money for the fine. A trishaw driver who offered help sold her to a lodge for CS

Both the “trusted friend” and the “ sympathetic outsider” had used a well-trying instrument of subjugation- rape or forced sex with clients.

“My fiancée offered to find me a job.... Raped and put me in a brothel”

“Neighbour took to a job in a garment factory,. Took me to an unknown place, raped and forced me to have sex with outsiders”

“ Friend promised to find me a better job while I was in a garment factory,.raped and put me into what I later found to be a brothel”

Thereafter threats and intimidation were used to keep females in sex work. A ruse that succeeded was the threat of, informing their families that they are in CS, refusing to give money to be sent to the families and by threatening to inform the “Village” where they are. The knowledge that this would tarnish the family and many would not believe the truth was the trap that meshed them into this life. Money was sent regularly as though they were in a garment factory. The deception once practiced was hard to be repudiated.

Trafficked in Domestic Service

Selling or forcing very young females into domestic labour and sexual and physical abuse by the employer was another common mode of trafficking. Parents, an uncle, a step father and outsiders have been instrumental in placing young females and they have either been raped by the employer or physically abused.

These modes have arisen from a devaluation of females in certain types of labour such as domestic service and as sex objects. However, evidently, trafficking has pervaded even the portals of safety nets and protective measures instituted to protect females. The institutions so involved ranged from the police officer to the judicial system itself. It included institutions such as Children’s Homes the probation services and care-givers of Homes that are set up to redress the wrongs inflicted on vulnerable women and children by society.

Rupa was only eleven years old. Her mother had left her with her brother and moved out. She was being constantly harassed both by her brother and sister-in-law. “In desperation I went out to look for my mother. A kind lady at the bus stop started chatting and I told her why I was there. She offered her help and I gladly accepted. She took me to a place where I was forced to have sex with outsiders

An 18 year old girl was sent to the Salvation Army home for disobedience at home- Susila assaulted her brother who stood in the way of her going out for a job. She was given as a domestic worker to a friend of a lady probation officer. There, she was raped by the master of the house. She ran away and complained to the police who handed her back to the same employer. She ran away again. She was arrested and in courts her story was told but instead of taking action against the employer she was sent to a detention Home.

Pushpa's father had attempted to rape her. Her mother sent her to the detention home to protect her from the father. A man dressed in female clothes and posing as an inspector visited the Home and raped her. She ran away and was arrested. She had been able to take the rapists Identity card from him and this was presented to the police. The police had not taken action against the man. They had sent her back to the detention home because she could not go home because of the fathers presence.

An orphan brought up in a Children's Home was given for adoption to a lady who was known to the officials. It transpired that she was running a brothel and this girl was forced to serve clients that came there. She escaped from the house with the help of a sympathetic client. The story did not end there. She was found by the lady and brought back. She ran away with a male friend who took her to a "lodge" that traded in sex work. She came to the detention Home when she was arrested in a police raid

2.1.4 Push Factors

The conditions that led to females moving out into vulnerable situations could perhaps provide some indication of the potential for such conduct and the potential for being trafficked. They could be useful for designing intervention to minimize such incidents.

Economic Factors:

Young females who ventured out from economically deprived families to seek relief represent a large section of the population not only from urban centers but also from remote rural hamlets. Many had a provider role thrust on them for which they were not equipped. In some household they were the only possible earners, other members being too old, sick or devoid of readily available avenues for employment. The economic environment for young educated females with jobs being offered in the garment industry, in catering and guest houses and familiarity with friends and relatives engaged in such jobs had afforded greater opportunities for young females than for young males with no special skills. They were seeking these opportunities through "known" persons in their communities. Their financial problems varied:

- household income depended on cultivation activities by old grandparents. Income was low since they were unable to work.
- No other employable person in the household.
- Husband jailed for non-payment of fine. Wife set out to earn to pay his fine.
- Main provider aging and unable to work in casual labour.
- Father alcoholic. No stable income.
- Husband in tank fishing Income low and uncertain
- Husband drug addict. Does not provide for the family
- Eleven year old and school going but wanted to emulate her friends working in garment factories. Parents and brother objected. She sought help from a friend to get a job.

These are not unusual situations neither was it unusual to seek relief. However, it was the manner in which a ready response was forthcoming that had risks. The evidence clearly indicates the presence of a well orchestrated “system” that is geared to take advantage of just such need not only in crowded urban cities but most unexpectedly in remote rural locations.

The job expectations were for those at the very bottom of the labour market in domestic service for which there was a ready demand and the garment industry and in prawn farms that had been set up in rural locations. The numerous programmes for diversification of female activities training in skills offered for females credit systems that operate to provide the kind of relief they were seeking do not appear to have penetrated as effectively as the trafficking network.

Social Factors:

The inhospitable family environment or family disruption had pushed some young and other mature females out of the home to seek a living. They had become easy prey to sympathetic strangers.

The home had even become a trap for molestation for some.

-A father attempting rape and the mother being compelled to send the daughter to an institution where she was raped.

-A young school going girl being raped by a boarder in the house.

-Irresponsibility of a father who was left to care for the daughter while the mother worked abroad had led to the daughter being raped by a gang when she was left alone at home.

-A young girl was sold for domestic work when the mother was employed abroad.

Abduction was an extreme form of trafficking that was experienced by a young girl who had only an old grandmother for protection. She was abducted by the bus driver when she traveled to town kept in a lonely house and used for sex work. She succeeded in escaping with the help of a sympathetic client. She –a victim- had to be placed in the detention home because the grandmother could not protect her.

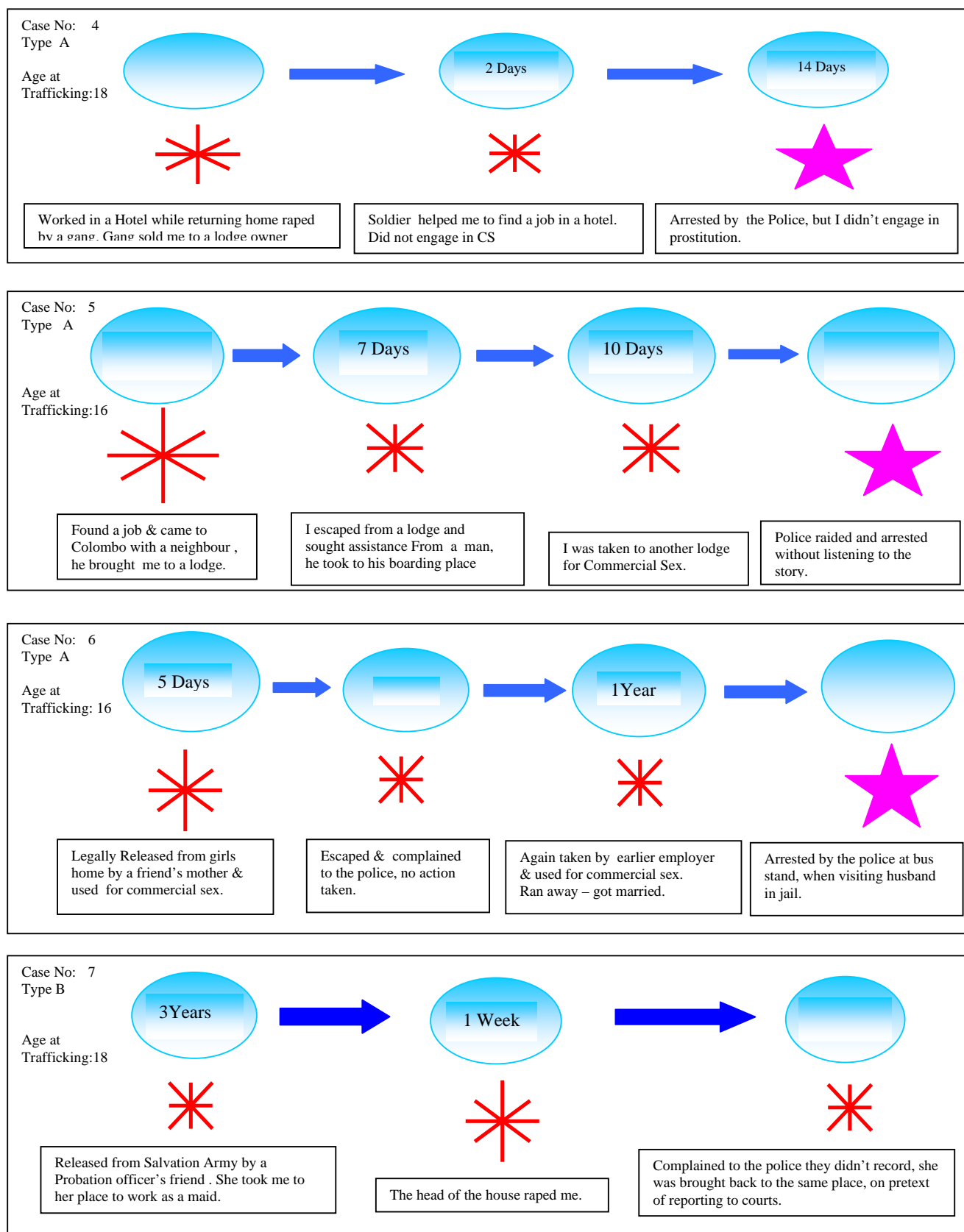
2.1.5. Multiple Trafficking

A chain of events -all of them construed as trafficking- appear to follow relentlessly, many of the victims of sexual trafficking. These were in the form of multiple trafficking incidents. Escape from one situation thrust them into another. Figure 2.1.4 that follows show these incidents of multiple trafficking experienced by about half the females in the study. Tragically each of these incidents has taken place through attempts to escape from one situation of trafficking.

At times the main trafficking incident followed other minor incidents while at others one major trafficking incident was followed by others- up to four in one case. It was a bizarre twist of fate led to a girl who escaped being raped by the father was kept in “safe” custody of an institution and was raped in an unusual manner- by a man dressed in female clothes- within the institution. Six out of seven females detained as offenders were in effect trafficked by the police when they raided sex houses and arrested girls who were there under duress and others who had been engaged in other jobs in the hotel. Ironically the girls who were virtual prisoners in those hotels had welcomed the raid as a means of escape. It turned out to be a further nightmare when they were charged and detained without a hearing either by the police or by the courts. The females do not appear to have encountered the Womens and Childrens Desk in any of the police stations. From informant interviews it was gathered that these desks are kept open only during office hours.

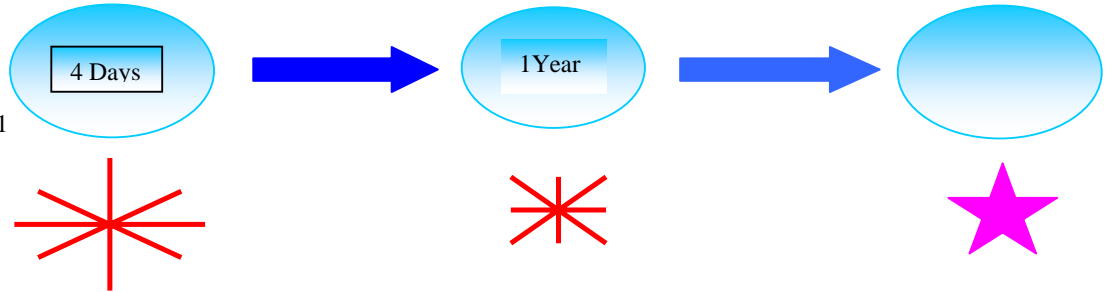
It appears that females were not free to use public places such as bus stops. Two examples of the flagrant violation of citizens rights were recorded. Both had been earlier kept in detention but been released to parents in one case. The other had been married and living in her home. The first female had been arrested while on her way to the sisters house and the second while at the bus stop having visited her husband who was in jail. Both were produced in courts charged and sent to the detention home. It appears that once a female has been branded even though not guilty of an offence, in the eyes of the police they have no prospects of leading a normal life. An apt comment by one of them- “even a murderer once released from prison has the right to live as a normal citizen”. The law therefore unintentionally by it’s disregard for proper practice can criminalize even the taint of sex work even by association.

Fig 2.1.5 Multiple Trafficking Incidents (Internal Female Trafficking)



Case No: 8.
Type A

Age at
Trafficking: 11



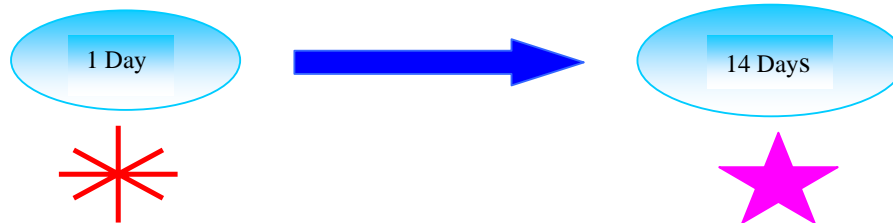
Neighbour promised to find a job, he took me to a lodge. I attacked him with bottle and escaped. He complained to the police and she was arrested on the road. Taken to courts remanded & released after a month. (Informed by neighbour that she is working in Commercial Sex.

Again taken to the lodge by neighbour for commercial sex – under threat to disclose the truth to family.

Police raided, arrested without listening to the story.

Case No: 14.
Type A

Age at
Trafficking: 15



Raped by a boarder & decided to marry.

On the way to his place they missed the train, while waiting was, arrested by police

Case No:
15.
Type A

Age at
Trafficking: 14



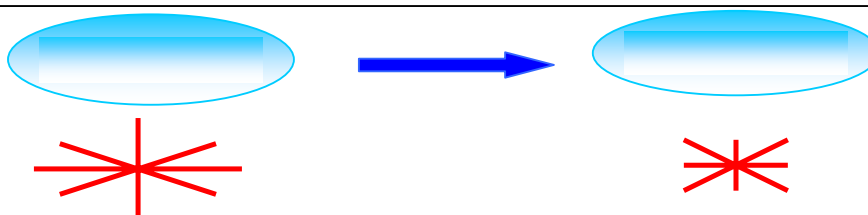
3 boys abducted and raped, while on her way home from town. After this, harassed by brother.

Ran away from home to find a job. A male promised job & sold her to a lodge, for C. S.

A client took me to a house, he promised to marry me. But did not. Could not leave because threatened. Police raided.

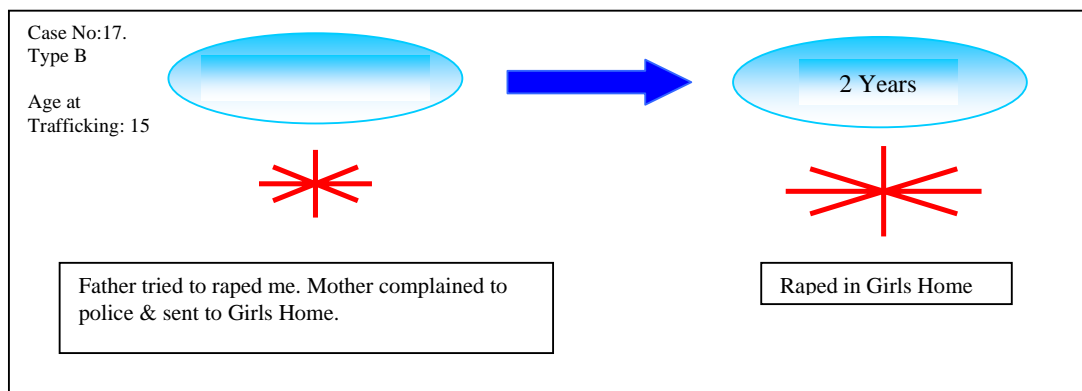
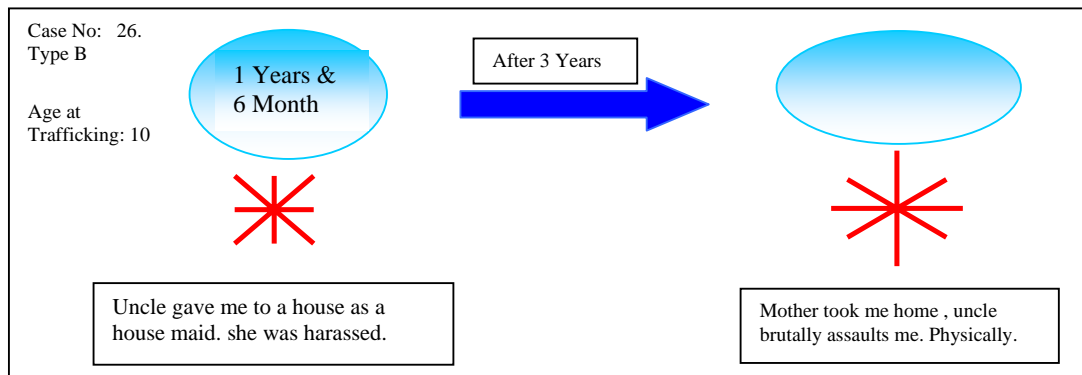
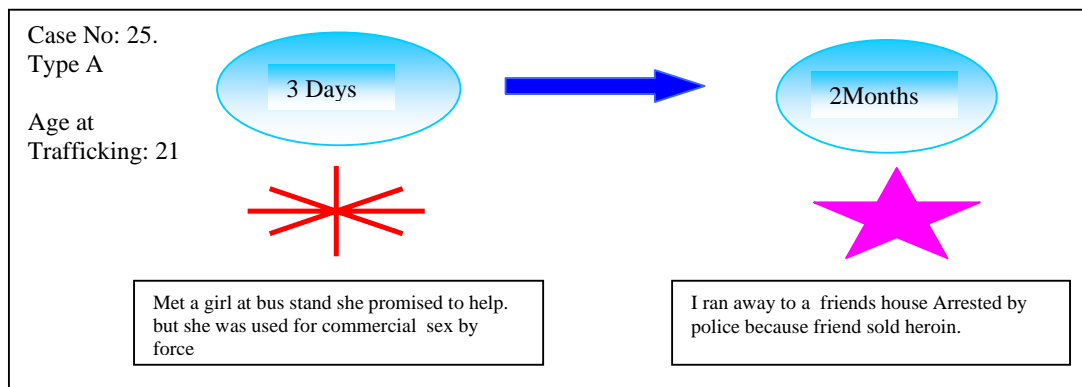
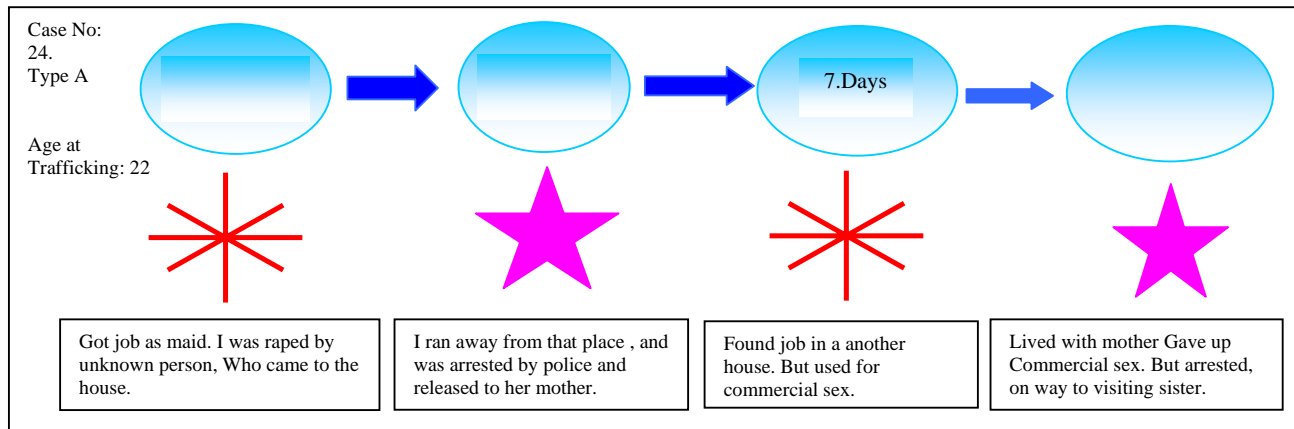
Case No:
16.
Type A

Age at Trafficking: 16



Father sent her as maid. I was raped by the head of household & threatened

I ran away with a boy, who worked in lodge. He used her for commercial sex.



2.1.6 Types Of Trafficked Females

A post categorization of females as Types A,B and C was based on the status accorded them by the legal process.

Trafficked but” Offenders” - Type A

One category of females was charged and sent to a detention home for female offenders. They were interviewed in the Home. Their stories showed them to have been trafficked to begin with and by a strange twist of the legal system charged as offenders. International literature on trafficking of females notes this occurrence as fairly common in most countries. This category according to literature, as also the case with some of the “offenders” in the Home, included females who finally submitted to the inevitable and began to accept commercial sex as a way of life when other avenues had been effectively closed to them (IOM Publications). That this situation sprang from hopelessness and a devalued social image resulting from trafficking is often discounted. The cases selected for the study, however, were those that had not submitted to this life but were continuing in rebellion against an inescapable situation even as they were labeled “offenders”.

The main incident took place in diverse ways.

- Raped by neighbour on way home from tuition.
- Husband remanded for robbery, harassed and forced to leave with small child- obtained job as hotel waiter- raped by owner and forced to engage in CS.
- working as waiter in hotel- treated well by owner- abducted on the way home- gang raped and sold to lodge owner for CS.- released by soldier –client.
- promise of job- raped and locked up in lodge –used for CS.
- Trusted fiancée was a supplier of young females to a lodge.

Trafficked and Recognized as Victims - Type B

The second category were sexually abused and were recognized for what they were- victims and not offenders. But they too were kept in children’s homes because, either, the family had not accepted them or they did not wish to tarnish it’s image in the community by joining it. A female victim of sexual trafficking is socially tainted with consequences for life.

Trafficked but Living with their Families – Type C

The other category was of females who were trafficked but had escaped from the traffickers and were living with their families. Family acceptance was the key to this situation.

Two young girls who were in school were keen to get a job to tide over their parents financial problems. A neighbour who was known to the parents as well offered to take them to a garment factory. They were taken to a brothel and kept locked up. They had given a telephone number of a shop to a client who informed the parents of their plight. A complaint to the local police produced no results. They confirmed that the children were in fact working in a factory. A newspaper reporter and a women's NGO had pursued the case due to the pressure of the mothers and members of the community. They had approached a high official in the police who ordered a probe. Having traced the hotel a raid was ordered. But the local police had informed the hotel. The owner had given each of the girls Rs 500 and put them in a bus and sent them home. The case is filed in courts.]

2.1.7. Roles of Legal and Law Enforcement Systems

Instances of positive action by the police and the courts have been experienced by some of the females who were trafficked. In such instances however, the follow up of judgements given such as being ordered to pay compensation to the female, appears to have been weak and the order made ineffective.

The differentiation by “type” raises some key issues in the analysis. In effect the criteria of differentiation reflect the manner in which law enforcement procedures and practices, the legal system and the social attitudes continue to victimize trafficked females. The main trafficking incident in each type reflects the helplessness of females in the flagrant misuse of statutory laws by law enforcement officials.

The raids carried out at night when police “desks” are not functioning, the indiscriminate arrest of all females even those who are in serving jobs, the production before courts and detention in institutions through a process that provides no opportunity for defence are all evidence of a draconian application of laws that are deemed to protect females in particular. Although a bailable offence- if offence there was- if a stipulated guardian was not present in courts the females were sent to the remand jail and kept there until the courts hearings – could be even five to six hearings – were complete when they were sent to the detention home for rehabilitation.

“No one –until now- has ever asked us for our story”- to interviewers who met them in the institution.

“No one came from home to bail me so I was in the remand jail for 4 months”

The absence of the Womens and Childrens Desk when it was clearly needed was another lapse on the part of the law enforcement system.

The raids took in girls who had been working as waiters.

“The police came in one day and rounded up all the female workers and took them to the police station. I was working as a waiter and I did not know what my offence was. Later I

was told that some of the girls had been engaged in CS. Never were any males arrested. I was not given a chance to talk and explain. In courts the magistrate did not even look up. No one wanted to hear my story. Here I am labeled a prostitute when I was only a waiter”

“I was arrested but no one gave me an opportunity to tell them that I was locked up and forced into CS. “

“When the police came I thought at last I could escape from this prison where I was made to do all kinds of disgusting things when all my pleadings were unheeded – they said they have paid money and I have to do my job. But when the police came they treated us like criminals.”

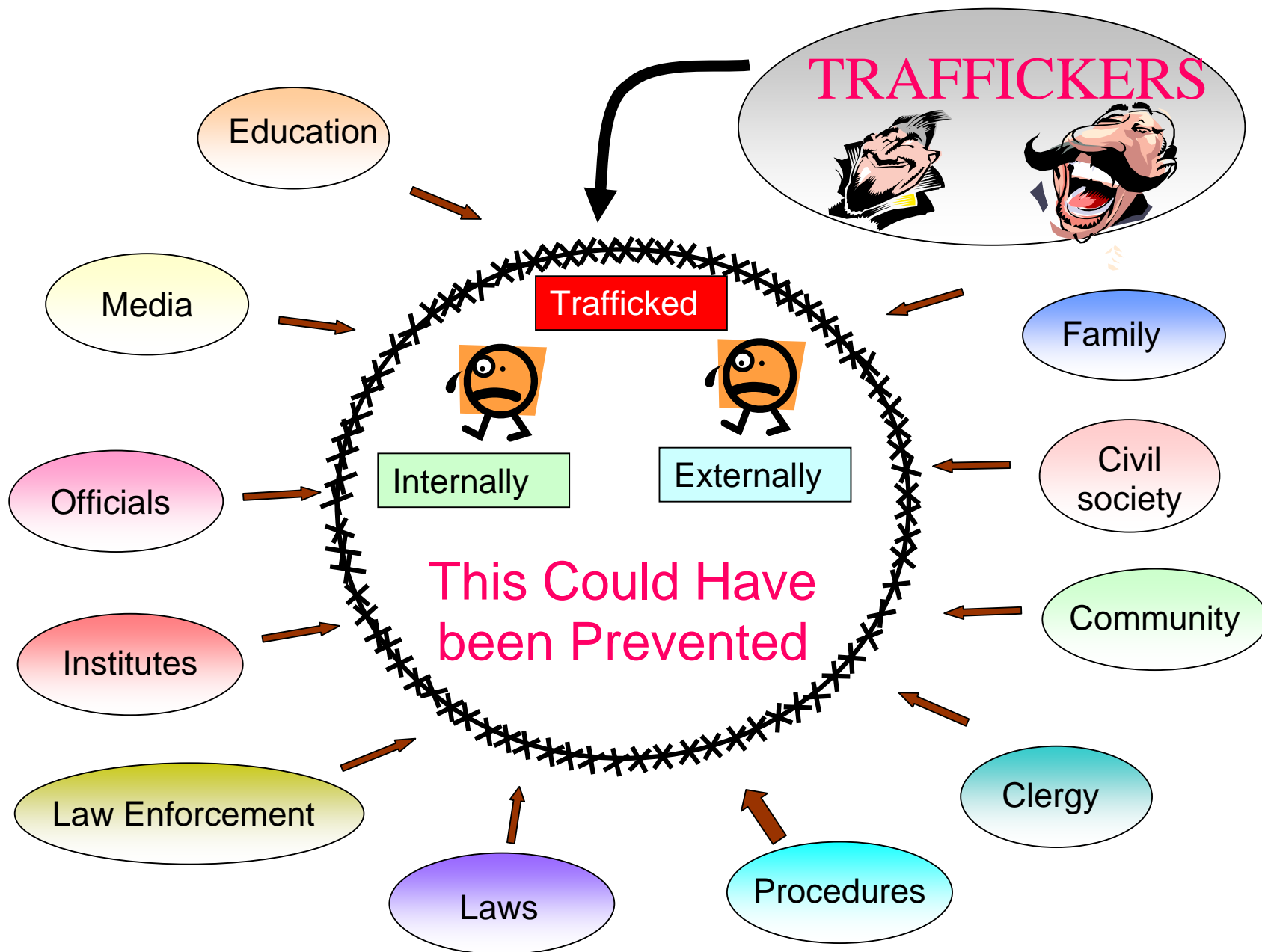
The enforcement of the Vagrants Ordinance had led to grave injustices to females who were in bus stops or other public places engaged in personal business.

A young female and her male partner on their way to his home had missed the train and was waiting at a construction site with other men and women since they felt it was a safe place to stay. A police jeep arrived and rounded up all the females leaving even her male partner out. When she tried to explain the police had demanded their marriage certificate.

A more disturbing event was the connivance by a lady probation officer in handing over a young girl from an institution as a maid to her friend. The girl was later raped by the master of the house.

The rape of a girl in an institution is evidence of lapses in the system. She had been placed in protective custody of a detention home by the mother when the father tried to rape her.

Fig. 2.1.6 overleaf shows the different actors/actresses in the trafficking incidents. It also conveys a message that such incidents could have been prevented if only they had “acted” differently



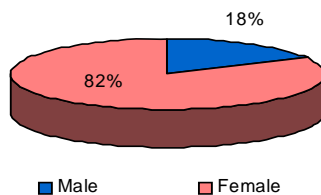
2.2. External Trafficking

2.2.1 Data on Trafficking of Migrants

The only data on external trafficking is in the form of complaints made to the SLBFE. Only a small proportion of the trafficked migrants report to the Bureau. One female said she “did not know about the Bureau” when asked why she had not complained. According to published data (Statistical Handbook on Migration- 2003 pub. SLBFE) complaints by female migrants ranged from 5811 in 2000 to 6474 in 2003. The charts below show the number of complaints for the years 2002 and 2003.

Fig: 2.2.1 a

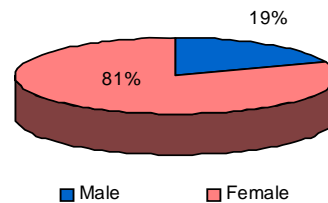
Complaints Received -2002



Source: Conciliation Division-SLBFE
Information Technology Division-SLBFE

Fig: 2.2.1 b

Complaints Received - 2003



Source: Conciliation Division-SLBFE
Information Technology Division-SLBFE

Complaints from were around 1500 each year. Ninety percent of complaints from female migrants were from housemaids. Some of these could be easily defined as trafficking.

Non-payment of agreed wages –1498

Physical and sexual Harassment – 1358

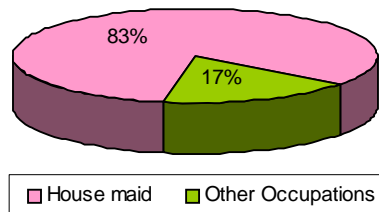
Stranded in a foreign country-21

Breach of employment contract-427

Considering the estimated stock of female migrants the proportion appears minimal. In 2003 only 0.9% of an estimated stock of 693000 had made complaints to the Bureau.

Fig: 2.2.1.c

**Estimated Stock of Sri Lankan Overseas
House Maids Out of Total
Female Workers - 2003**

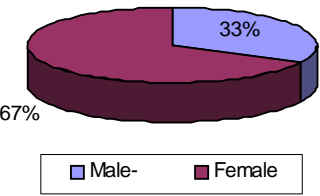


Source: Infonation Technology Division

As a proportion of female departures for all types of jobs in 2003 complaints were made by nearly 5% out of 134,714 who left the country that year.

Fig: 2.2.1 d

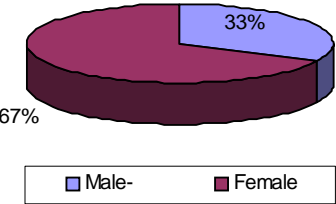
Departure for Foreign Employment
according to Gender-2000



Source: Information Technology Division - SLBFE

Fig: 2.2.1.e

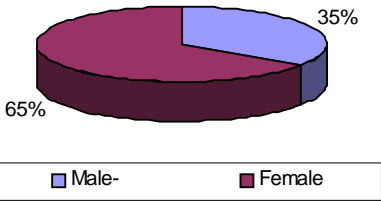
Departure for Foreign Employment
according to Gender-2001



Source: Information Technology Division - SLBFE

Fig: 2.2.1. f

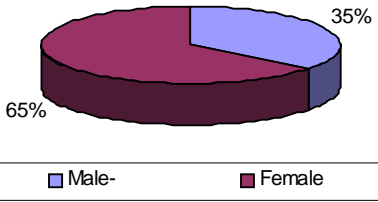
Departure for Foreign Employmnt
according to Gender-2002



Source: Information Technology Division - SLBFE

Fig: 2.2.1.g

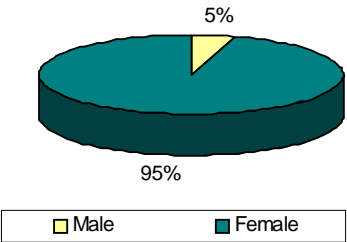
Departure for Foreign Employment
according to Gender - 2003



Source: Information Technology Division - SLBFE

Fig: 2.2.1.h

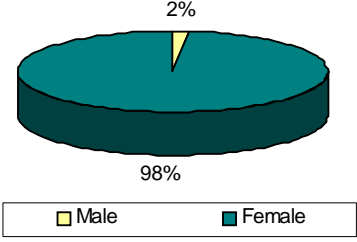
Repatriation of Standed Workers
by Gender - 2001



Source: Foreign Division - SLBFE

Fig: 2.2.1 i

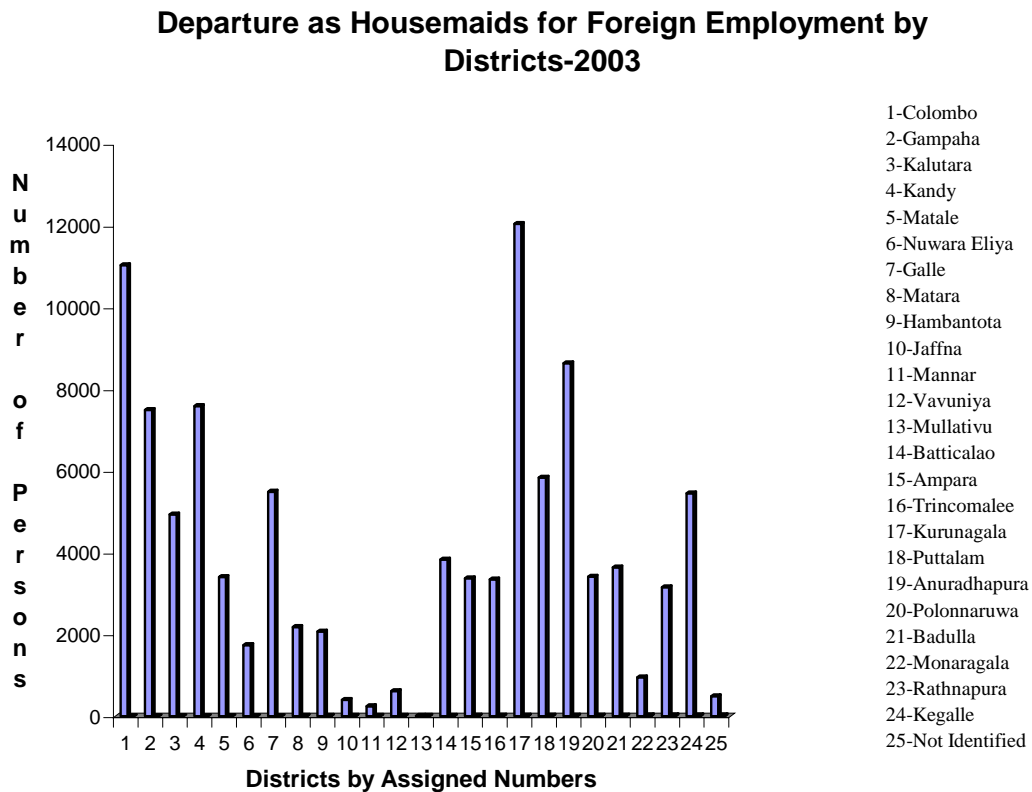
Repatriation of Stranded Workers
by Gender - 2002



Source: Foreign Relations Division - SLBFE

Research by Marga in 1999 for the world bank of a sample of 2000 migrants covering 17 districts, provide indications that around 6% of female migrants had undergone severe trafficking, while another 20 % had had experienced less severe incidents of harassment.

Fig: 2.2.1.i



In the small sample of 15 cases seven had not complained to the SLBFE.

The only data on external trafficking is in the form of complaints made to the SLBFE. Only a small proportion of the trafficked migrants report to the Bureau. One female said she “did not know about the Bureau” when asked why she had not complained. According to published data (Statistical Handbook on Migration- 2003 pub. SLBFE) complaints by female migrants ranged from 5811 in 2000 to 6474 in 2003. The figures for four years are shown below.

Complaints from were around 1500 each year. Ninety percent of complaints from female migrants were from housemaids. Some of these could be easily definid as trafficking.

Non-payment of agreed wages	–	1498
Physical and sexual Harassment	–	1358
Stranded in a foreign country	-	21
Breach of employment contract	-	427

Considering the estimated stock of female migrants the proportion appears minimal. In 2003 only 0.9% of an estimated stock of 693000 had made complaints to the Bureau. As a proportion of female departures for all types of jobs in 2003 complaints were made by nearly 5% out of 134,714 who left the country that year.

Research by Marga in 1999 for the world bank of a sample of 2000 migrants covering 17 districts, provide indications that around 6% of female migrants had undergone severe trafficking, while another 20 % had had experienced less severe incidents of harassment

In the small sample of 15 cases seven had not complained to the SLBFE.

2.2.2. Profile of Trafficked Migrant Women in the Study

Education

The education profile of trafficked housemaids in the West Asian Countries reflect several key features in migrant labour that distinguishes it from local domestic services. The attraction of earning a higher lump sum the social value accorded to travel abroad have mitigated the devalued image of domestic service within the country. It has thus attracted educated females with GCE OL and even GCE AL qualifications. An important push factor for educated females to earn substantial income abroad could be the way the local labour market has failed to accommodate appropriately the educated youth in the labour market. Be that as it may the study sample indicates that educated females are among those who have experienced trafficking incidents together with others some of who were without any type of formal education even to the extent of being illiterate.

The labour market at the lowest level of unskilled labour of housemaids is thus riddled with complexities that defy a search for patterns in the nature of acceptance of such positions as well as the potential for being trafficked.

The levels of education of trafficked females are shown in the charts below.

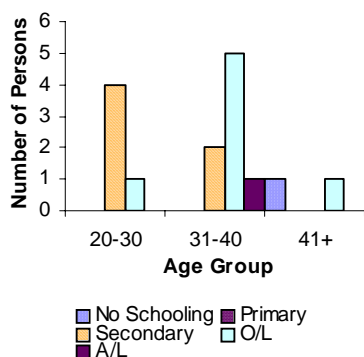


Fig 2.2.2k: Age and Education of Externally Trafficked Females on

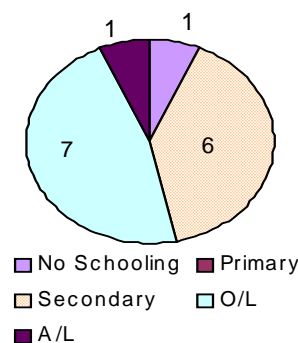


Fig 2.2.2l: Education level of Externally Trafficked Females

Marital Status

The charts below show a predominance of married females among the trafficked sample. The age distribution shows that trafficking was experienced by females in all age groups –one of them even at the age of 48 years.

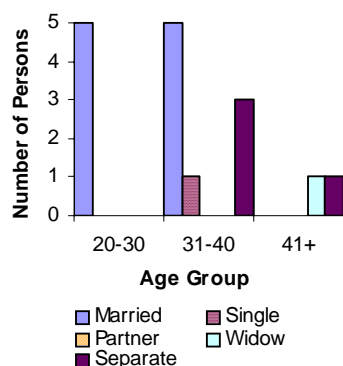


Fig 2.2.2 m: Marital Status and age of Externally Trafficked Females.

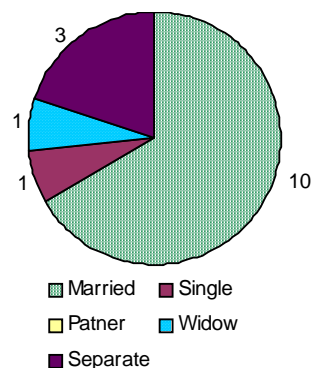







Fig 2.2.2 n : Marital Status of Externally Trafficked Females.

Age At Trafficking

The chart below shows that very young, middle aged and older women without exception had been subjected to some form of trafficking. The nature of trafficking had differed as will be seen later in the analysis.

Fig 2.2.2.o Externally Trafficked Females Classified by Current Age and Age at Trafficking

Age at Trafficking	Current Age		
	18-30	31-40	41 +
	18-30 5 	3 	
	31-40	5 	1 
41 +			1 

2.2.3. Manner of Trafficking

As different from the nature of internal trafficking there appeared to be a pattern that has been set and a system established in external trafficking. The sense of *de ja vu* is inescapable in current research on the subject. Although literature on external trafficking is hard to find in early research in Sri Lanka the extensive research on migration- female migration in particular- contains case studies of sexual and physical harassment and death. The change in terminology has brought these incidents within a new dimension in keeping with the international awareness that has broadened the definition of trafficking to include the experiences of female migrant labour in foreign countries.

The main incidents of trafficking took two forms, one, involved heavy work –in some cases going up to 20 hours -in conditions of extreme deprivation of food and sleep. When the work could not be completed by the worker, the wrath of the employer was expressed through assault and brutal physical harassment. Such treatment was often combined with non-payment of wages allegedly because work was unsatisfactory.

The other form of trafficking was accompanied by sexual exploitation rape or attempted rape either by the master or other males in the household. The study probed several aspects of migrant trafficking commencing with the family, social and economic background of the female, the characteristics of the females themselves and the mode of Trafficking. The details from the narratives are discussed under the subject areas in the ensuing sections. Within the two broad areas of trafficking stated above some of the incidents are summarized below:

- Worked for long hours but did not get paid 5
“I slaved and suffered untold hardship for 6 years and went home empty-handed”
- Only part wages (about 1% of what was due) paid 7
- Assaulted by the employer 2
- Attempted to rape
- Ran away to the agency for protection but agent tried to rape, jumped out of the third floor window, fractured hip and leg and in hospital for 18 months 1

Older females experienced assault and physical harassment while the younger females of between 18 years and 25 years were subjected to sexual abuse or attempts to abuse.

2.2.4. Push Factors

All the trafficked females were from low income families. They were, nonetheless, less deprived than the internally trafficked females. This is a feature that has been highlighted in other research on female migration cited in Part 2 of this report. This is borne out by the fact that nearly all of the females in the sample had paid to the sub-agent or agent sums of money ranging from SL Rs 10,000 to an amount as high as SL Rs 65000. This money was borrowed on interest or obtained from pawning gold or equipment or even from the sale of land. The demonstration effect of families from the community that had been successful in earning lump sums had been the main push factor.

That it was relatively easy and less costly to get jobs for females at the lowest level of the labour market- as housemaids- had encouraged women who had no opportunities for an economic role in the domestic labour market, to aspire to employment abroad. In earlier studies females had stated that they would prefer that males in the household go for foreign jobs and females stay at home to manage both the money and the family. The problem was that males had difficulties in getting jobs and when they did have vacancies the initial cost was unaffordable. This was evident in the sample of trafficked males who had incurred initial costs of around SL Rs 100,000 for jobs abroad.

2.2.5 Processes and Perpetrators

The migration process itself had partly contributed to the phenomenon of trafficking. The diagram on page 36 displays graphically the processes and configurations of trafficking as

experienced by the sample. Two unregulated channels held a high risk of trafficking. However, the regulated process had not been free of the risk of being trafficked.

The regulated system operated through a registered agent. The migrant was registered with the SLBFE and was provided insurance cover for stipulated incidents. For housemaids training was compulsory once registered with the SLBFE. The migrant, however, had no dealings with the SLBFE the transactions being carried out solely through the agent. The agent had in some cases got the signature of the migrant to documents whose content was not known to the migrant.

The informal system, that provided for a friend /relative arranging a position and sending the ticket had been regulated by registration with the SLBFE prior to migration. The freedom not to do so had been exercised by some of the females. Failure to register made the migration process unregulated.

An illegal system of migration with forged documents and through fraudulent agents and sub-agents had been used by some of the females in the sample.

The narratives as related by the trafficked females projected a confused picture that indicated the total ignorance of the migrant of the process and the implications of that ignorance. The diagram presents the scenario that has been unraveled through probes, checks and cross checks. The process as extracted from the dialogues are unfolded in the discussion that follows.

Out of the 15 females only one had migrated through the regular channel and aware of the process. Another had been sent in like manner by the agent but had not informed her. She was made of this only when she visited the SLBFE to report her trafficking incident.

She had jumped out of a third storey window when the agent tried to rape her. She was hospitalized for 18 months with a fractured hip and a broken leg bone. Her repatriation was arranged by the embassy]

The response from the embassy that she was entitled to compensation was the only indication that she had been registered and covered by insurance.

In the course of the interviews it transpired that a family member in a sampled household had migrated as a housemaid through an agent who forged a letter from a sponsor and obtained a visa. Thereafter the agent registered her at the SLBFE and migrated through the regulated (?) channel. She is now working abroad in a very satisfactory situation

The processes as narrated can be summarized thus;

- Through regulated system and aware of it 1
(applied for compensation for harassment and obtained SLRs 16000).
- Through regulated system but not aware 1
(SLBFE stated she is entitled to compensation)
- Through informal system but registered with SLBFE 2
(they did not complain to SLBFE about non-payment of wages)
- Through informal system and not registered with SLBFE 1
(complained to SLBFE but said she was not qualified to receive insurance)
- Through agent but unaware of the credentials of the agent or the nature of the process..... 10
(3 had not applied to SLBFE after being trafficked; 7 had applied but had no response
(?) not registered ?

Perpetrators

There was no confusion about the perpetrators of trafficking in the narratives. The main person in the drama has been the **employer**. In all the incidents of trafficking reported including those cited in earlier research, one common culprit has been the employer. He had a somewhat similar profile.

- a large household comprising at times over 30 members,
- a single maid was employed to do all the work
- made to work long hours in housework and in caring for animals,
- with low education and relatively low income.

They contracted to pay the stipulated wage but invariably reneged on payments on the basis of unsatisfactory work. It was these households that contained the greatest potential for harassing housemaids. Other research –notably one that examined the roles played by the different players in the deployment and use of migrant female labour (IOM-INSTRAW/Marga-----)- have probed the mistreatment of housemaids. It was fairly conclusive that the prestige and role enhancement of women in the west asian countries in particular by employing housemaids as practiced by the affluent women was emulated by the not so affluent- not very educated- women. They provided a market for low quality females with no exposure to the modern kitchen and methods of house cleaning, use of equipment, had little or no education – were even illiterate-and were ready to accept any opportunity to migrate. They would not be particular about the process or the choice of an agent. The

affluent household had at least two and as many as seven –as transpired in an earlier study. There was a clear division of work while the maids too had the safety of numbers. They had companionship and recreation.

One could therefore discern a **profile of a female housemaid** who was most likely to be trafficked.

The narratives described working hours as many as 20 in one case, having to work for more than one household in another and looking after animals as well.

Soma – I had to cook for 34 persons, clean the house, wash all their clothes. All this work kept me up till midnight. Then from 2 a.m. I start milking camels and making curd. This goes on till morning when I have to start making breakfast- and so it went on day after day. If any of the tasks has not been done the madam or the master beats me. I had no sleep and very little food.

Complaints were at times muzzled by accusations of theft of gold.

When I complained to the agent I was accused of theft of a gold chain and was handed over to the police.

The next in the line of perpetrators was the foreign agent who was not necessarily a foreign national, there were Sri Lankans operating abroad. Appeals for protection had resulted in being trafficked at the hands of the agent Six out of the 15 females had been trafficked by the agent as well. This trafficking took several forms. They were compelled to engage in commercial sex at the agency.

Another method was to place the housemaid at different houses for short periods of a week at a time and collect the wages, but no money was given to the female.

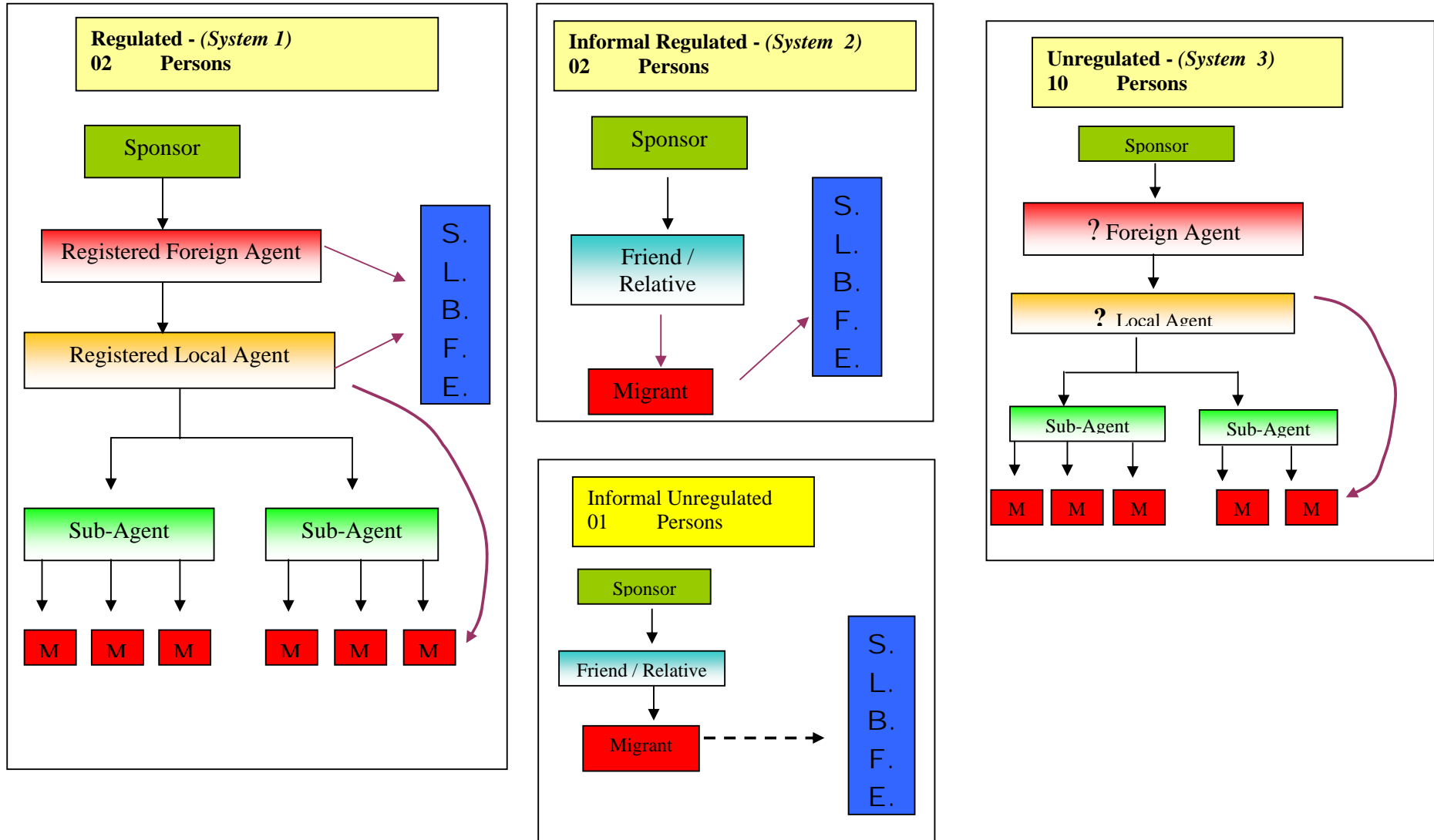
The extortion of the earnings of the females by agents was practiced as a fine art by a sub-agent who struck up a friendship with a young female in a rural location. She “arranged the entire migration” and took the migrant along with her. She was placed in a house where she had to work long hours with little food and scarcely any sleep. She was not paid. The master insisted that the agent- Ramani- had collected the wages. The female ran away from the house and sought the help of another migrant to get a placement. She was happy in that place and had earned 1300 Riyals. Ramani meanwhile had sought her out and persuaded her to invest the money in a tontine (cheettu). Later when questioned Ramani had said that the lady who organized it had gone away with the money.

The local agent and the sub-agent were no less fraudulent. They extorted money from migrants when they had already been paid for their services in recruitment. Their ruse was to keep the migrant totally ignorant of the process and procedures of migration even when they followed the regulated route. By this means they could defraud the migrant of any dues from the SLBFE in the event of her facing problems in her job.

The local agent failed to take any action or responsibility when trafficking was reported and one instance could not even be traced.

The sub agent who had been the culprit in some cases who was the first contact had been a friend, a member of the community or a relative- a link that engendered trust. They were entrusted with considerable sums of money to arrange the entire process of migration. Indeed all the females in this sample had traveled abroad for the promised job and it was at that end that they faced difficulties.

Fig 2.2.5 Migration Processes Adopted by the Trafficked Females



2.2.6 Males Too Were Trafficked

While special features are attached to female trafficking the phenomenon as it affected males was examined through a sample of males who had experienced trafficking in the west asian countries. It showed that they underwent equally horrendous episodes of harassment, physical assault and abuse without the almost inevitable sexual abuse experienced by females. Out of the 8 males in the sample 6 were skilled workers who were promised jobs in keeping with their skills as;

I was told I could earn enough to go home if I slept with men. When I refused he tried to rape me and I jumped out of the window. I broke my leg and my hip

Plumbers	1
Drivers	2
Hairdressers	1
Motor mechanic	2

Two sought jobs as labourers.

What pushed skilled workers out when the demand for their skills is high locally ? The nature of their work environment was not very attractive. They were own account workers in the uncertain informal sector looking for contracts with big contractors all of which was unstable uncertain and provided income sufficient for daily consumption. They sought the lump sum for investment in material assets or for education of children or even to set themselves up as small entrepreneurs.

Male migration required higher sums of money as high as SLRs 100,000 or more.

The foreign agent who gave them placements was the key perpetrator in the trafficking of male migrants. Skilled labour has a higher profile in receiving countries as they come within the labour laws of the land and are in the formal corporate sector. Nevertheless migrants were placed as labourers and taken to remote construction or industrial sites. They were not paid and housed in shelters that failed to keep out the heat, were even deprived of water and food. Other workers had provide food and water for two of the male migrants.

The legal system was not ready to afford protection. A court order to an agent was blatantly flouted but no action was taken for non-compliance. Instead the Labour department arranged for a ticket for repatriation of the worker, this in all probability being a cheaper option. The worker lost thousands of riyals in wages.

The local agent being no less culpable had defrauded 2 migrants having taken SLRs 75000 from one of them. They had not even left the shores of Sri Lanka.

All the male migrants had registered with the SLBFE. But in four cases their appeals had no response from the Bureau. In others inquiries had been set in motion while still others had been paid small sums of Rs 2000 and 3000 in lieu of wages in thousands of riyals being due to them and their expenses for migration being in the range of Rs 60000-100000.

Nevertheless unlike the female migrants some of the male trafficked migrants were pursuing some action. One had placed his case even before the Human Rights Commission and inquiries were pending. Others however had accepted their losses and found work in the informal sector. One was running a fish stall. They had to repay borrowed sums as well as earn for their daily needs.

The examples of male trafficking raises issues of a more general nature in relation to labour export as a strategy adopted by successive governments as foreign exchange earners and the conditions that can produce the outcomes in trafficking that have been briefly dealt with in this study.

3. Salient Issues In Female Trafficking.

3.1 Internal:

The case studies of internally trafficked females were of two types, signifying the two lead avenues of female trafficking. Trafficking for domestic service or while engaged in domestic service is a transformation of a totally acceptable occupation that as it operates in most Asian cultures is placed among the basest and most exploitative of occupations. In contrast, the house-help or child minder, their counterpart in the developed world, are respected occupations. The subservient domestic who, when a female, was used to 'service' the master has been captured in stories of the early feudal system that ordered traditional society in Sri Lanka. The difference was that in that society this service was by consent and recognized as an obligation to a benevolent master. It is a far cry from this tradition when domestic aides are either brutally assaulted or raped by the employers they are often forced to serve. This occupation has to be regularized and made safe since it is the only option for women with no marketable skills in low- income families.

In our study the trafficked domestic workers were in highly vulnerable positions. They were trafficked when they were children under 18 years of age. They had no tradable skills. The incapacity of the home and family to care for them had made them into saleable goods even

for parents who sold them for domestic work. In such instances the parents were in the first line of traffickers.

As argued in an IOM publication (Is Trafficking in Human Beings Demand driven- A Multi Country Pilot Study- no. 15 IOM Migration Research Series – December 2003) such trafficking could arise from the “absence of effective regulation” which in effect permits perpetrators to get away with such offences.

In this regard the distortions in law enforcement with respect to illegal employment of children, have been cited in an earlier study(Child Rights Violations- Part 1 –Myrtle Perera.et al). It cited instances in which children who were escaping from houses in which they were employed illegally and were physically abused were apprehended by the police and charged as offenders. The confinement of the domestic worker within the private sphere of the household and the total dependence of a domestic worker on the household for basic needs, compounded the problem both for law enforcement officials and for workers.

The other category of females tricked into commercial sex and thereafter kept within it through threats and intimidation provides evidence of the lengths to which traders are willing to go to meet a growing demand for casual sex at the lower level of the ‘Lodge’ or private brothels. The failure to enforce existing laws, their distortions when they are applied and the connivance of officials permit the existence of commercial sex as a trade.

The market, it appears, has access to more mature women who engage in sex work by choice, but the demand is stated to be high for young ‘uncontaminated’ females and these could be obtained only through trafficking. Moreover, these establishments need to replenish their supply with fresh young females who are in greater demand. The trafficking of young girls who are seeking jobs and fall easy prey to “helpful” strangers has to continue if this demand is to be met.

Key informant interviews on the subject of sex and prostitution as it prevails in the country attested to the fact that the commercial sex industry spurred on by a steady demand is serviced by women who work with a class of client placed in the upper rungs of society in luxury hotels. Law enforcement authorities keep their distance from these establishments. These are generally highly- paid jobs in the larger hotels. Nonetheless, a demand exists at another lower level – the level of the “lodge”. In these establishments, commercial sex is carried on in sleazy backrooms for smaller payment. It appears that it is this demand that spurs the need for trafficking. Trafficking provides “cheap” workers who are easily duped and kept virtually as prisoners. Law enforcement authorities regularly raid these institutions,

but it is also not unusual for them to connive with the lodge owners even to the extent of using the services provided.

The presence of the network of under cover suppliers among trusted community members, local government officials, police officers in local police stations is highly indicative of the extent of the supply network and hence the numbers likely to be trafficked for sex houses. The organization is finely tuned as to keep sending to parents the wages earned by their daughters ostensibly from the “garment factory they are employed in”.

The reprehensible practice of law enforcement officers raiding lodges arresting only the females, failing to distinguish between offenders and victims stands out as a flagrant denial of justice and human rights to hapless victims and encourages the perpetuation of the practice of trafficking. This is even worse confounded by the failure to apprehend the owners, the suppliers or the male clients who should be considered equally guilty.

The Brothels Ordinance which applies to managers of establishments and owners of premises that permit prostitution appears to be used to apprehend women working in these establishments even when they were not engaged in commercial sex. The Vagrants Ordinance is misapplied to charge females who legitimately frequent public places such as bus stops. Informant interviews suggested that raids sometimes served to fill in deficits in the number of apprehensions required by a police station in a month.

In a serious indictment of the police stations and the courts system victims of trafficking averred that they were not given an opportunity to relate their story either at the police station or ironically at the court ‘hearing’.

The psychology of sexual abuse as a certain means of destroying the females sense of worth and social value has been astutely recognized and rape has been used to finally force a females subjugation. Repeatedly the stories of coercion and duplicity reach the point of forced sex, rape and intimidation and repeatedly this has been the point at which the female has lost her ability to resist. The law enforcement system and the legal procedures have continued to break her will to agitate for her rights. The incidents speak eloquently. Some of the females have been arrested while they were working as food servers in the hotel and not engaged in commercial sex.

Kamala’s husband was in jail for a drug related offense. She left her child with her sister-in-law and went to visit him in jail. She was waiting for the bus with some other young females when a police jeep stopped and took them all in. She was not given a chance to talk. She later realized that the females were alleged to be sex workers. She was remanded brought to courts and sent to a detention Home.

Rupa was raped by the young boarder in her home. Later he promised to marry her but the parents refused their consent. She considered herself unfit for marriage with anyone else. They ran away together and returned home but were chased out by her parents. They were on their way to his parent's home in Matara. They missed the train and sat down at a construction site where there were others, to wait for the next train. A police jeep rounded up all the females into the jeep. She was not allowed to explain. Her companion was not taken. All the girls were remanded and brought to courts and because guardians had not come forward to offer bail were sent to the detention home.

Soma had been brought up in a children home because she was an orphan. Her friends mother adopted her legally. But she was running a brothel and used this girl as a sex worker. She escaped from the house and went to the police but they did not believe her story. A neighbour kept her but the former lady got to know her whereabouts and took her back for sex work.

Selina was released from the Salvation Army home through a probation officer and given to her friend as a maid. The master raped her and she complained to the police. They gave her back to the same house without even recording her statement.

An instance was cited when a female arrested from a "lodge" was produced in courts she was bailed out by a lawyer employed by the lodge owner and taken back to the lodge and forced to submit to clients.

In all these instances the females did not appear to have knowledge of, or encountered the women's and children's police desk that was expected to deal with inquiries when females were brought to the police station.

The presumption of guilt condemned "without a hearing", females of a certain appearance and class who had a right to be in public places such as bus stops. It also included females who worked in any capacity in places that were raided for engaging women for sex work.

The courts which is the final place of justice continues to deny rights of females by their failure to provide space and opportunity to hear their voice. It is a "bailable" offence but when courts routinely call for a guardian they already know that either a guardian has not been informed or has been unable to be present or even refused to be present when the charge of engaging in commercial sex has been already made, and inevitably they are confined to the remand jail kept together with other criminals and later sent to the detention home.

The detention home has its own hazards. One story was of a female who was not engaged in commercial sex but was charged and remanded as an offender, who was thereafter raped by a visitor to the girls home who posed off as an inspector who was there to inspect the home.

The three categories of females who were trafficked to perform as sex workers, had been victimized in different ways. Type A could be deemed the worst affected in that the label of offender has been given them with all the implications of their having consented to sex work. The recognition by law as victims has not provided any relief to Type B who were languishing in institutions meant for offenders.

Life in the family and community was not the same for those in type C who returned to society from being trafficked.

The strong message that this analysis projects is that trafficked females particularly in internal trafficking where the story is known cannot escape from their experience and rehabilitation cannot fully restore their status in society. The need to make greater efforts to **prevent** trafficking has to recognize the inexorable consequences to females of being compelled to engage in commercial sex.

The young females who ventured out from deprived households to seek economic relief can typify a large section of the population from urban centers and rural areas of females who have responded to the changes in the economic opportunities and roles for females in the new commercial enterprises. They are seeking to emulate families in which the female has successfully carved out a role even as main provider through jobs in garment factories in FTZs and in migrant employment. At the same time it has increased enormously the vulnerability of females who are unwary and ignorant of the traps that exist.

The absence of institutional or semi-formal structures that link demand and supply for waged work in the lower service levels leaves a wide area of opportunity for traffickers.


The failure of provisions for protection to reach down to the females widen the gaps between trafficked and the provisions for protection as depicted in the chart below

International Law




- UN Convention
- ILO Convention

National Law and Policy




- The Brothels Ordinance
- The Vagrants Ordinance
- The Penal Code

Law Enforcement Mechanism



- Police - (Women's & Child desk)
- Law Court

Support and Safety Network



- Probation Department
- Social Services Department
- Children Home
- Detention Home
- NGOs



3.2. External

The phenomenon of External Trafficking shared some key features with internal trafficking. They were both a type of bonded labour with, in some instances, sexual services included. But while the interventions for internal trafficking was the sole responsibility of the country's legislators and civil society organizations, external trafficking had several critical issues that were beyond the purview of the sending country. The reluctance to deal with host country governments has left the unskilled workforce in particular, at the mercy of private agents and the employer both of whom function within an informal unstructured and unregulated sphere, in both recruitment and in utilization of services of unskilled female labour.

External trafficking incidents however had a distinct area that came within the purview of the Sri Lankan government and NGO's. As reflected in the networks for trafficking females into sex and domestic work internally, the network of self-appointed 'sub agents' appear to be spread wide encompassing even remote rural locations. In fact they function better in remote areas where they can take advantage of isolation, ignorance and lack of contact with officials. The total absence of a 'regulatory area' to which would-be migrants could relate had provided space for fraudulent agents to operate. The extent of this network could reflect the extent of hidden trafficking that could be currently taking place.

The export of skilled labour ensures standards and quality in supply in relation to demand. In the case of the supply of housemaids, the poorest quality of person, who perhaps would not be acceptable as a domestic in a local affluent home, is considered suitable to work in a situation overseas. As stated in the analysis, the 'single maid household' accepts low quality, pays low wages or fails to pay, exploits and extorts and the risk of trafficking is high for this quality of housemaid serving in the 'single maid household'. This phenomenon should be given wide publicity and both agents and aspiring migrants warned of the high risks in this venture.

The category of migrant that needs extensive training and exposure prior to departure appears to escape the training net and proceeds overseas without training, or inadequately trained.

The distance between the sole authority for migration, the SLBFE and the migrants scattered across the country provides opportunities for fraudulent deals with migrants who have no recourse to formal authority.

The foreign agent- or a local national serving as an agent in the receiving country appears to have total control over supply of labour and placement. Once in a strange country the agent virtually 'buys' the labour on behalf of the employer. Neither the agent nor the employer is answerable to an authority in that country.

4. Agenda for Action

4.1. Internal Trafficking

Alleviate Deprivation as Preventive Measure.

The focus on prevention calls for revisiting the key policies for poverty alleviation. It is imperative that the problem of poverty and deprivation that is the main push factor for young females to seek jobs through dubious channels be addressed at the root. All such families are likely to be captured within the government poverty alleviation programme -Samurdhi, if they are not they should be provided entry to the programme.

Several of the young females in the sample had the potential for training in skills that could be deployed thereafter in cottage enterprises or self-employment projects. Many such are being carried out with assistance from NGO's. The information regarding these opportunities do not appear to percolate to the level of the absolutely poor. Some of the females who had some land, belonged to traditional agricultural families could have been assisted to carry on intensive agriculture that could alleviate deprivation in basic needs. Samurdhi managers could be given the task of inquiring into the potential of females/males in families for training for income generating ventures.

Take the Sting out of Domestic Service

The upgrading of the domestic workers to the level of a skilled-trained housekeeper, child-minder, care giver for the sick and aged open up vast areas that have great potential for young females with about 8-10 years schooling. Whilst giving the occupation a better profile, such a system could raise it to the level of the au-pair in European countries, the housekeeper and home nurse in Western countries.

The agencies that handle supply of domestic workers currently could themselves be upgraded to recruit this higher level of female and male service workers.

Remedy Deficiencies in Law Enforcement

Key issues raised in the analysis related to practices that victimized victims of trafficking. The more important issues are highlighted for action.

- Failure to apprehend owners of establishments that have sex workers. Failure to take action to expose the network of suppliers and take action against them.

- Indiscriminate arrests of females legitimately present in public places such as bus stops on assumption of soliciting.
- Failure to provide opportunities to defend themselves when produced in courts.

A family courts system to avoid exposure and social stigma could serve as a place for reconciliation with the family. As it is it serves as an instrument that deters the family from establishing contact with the female who is tainted by the process of inquiry even when she is innocent of the charge.

Police training needs to raise greater awareness of the implications of insensitive action in law enforcement.

The functions of the women's and Children's Police desk should be extended to a day and night service. In fact nighttime holds greater hazards for women and carries a greater need for the presence of the Desk. An example of one high police official conducting awareness programmes for the public in schools and temples has been cited as worthy of emulation.

The system that prevails for rehabilitation needs review and reform. The participation of civil society organizations could be solicited for counseling and placement of inmates in detention homes. The quality and image of these homes do little for the restoration of confidence and social worth of the inmates. Rather they contribute to degrading their social value.

Significant Role for Civil Society

Both preventive and rehabilitation aspects provide opportunities for NGOs and voluntary organizations to participate in tasks that the State institutions are deficient or are not appropriate. These encompass the social political and the legal spheres. The current practices of law enforcement and court procedures that leave no room for defence are areas in which NGOs need to intervene.

Counseling and rehabilitation has large empty spaces for sensitive and creative action for which NGOs are better equipped.

Utilize Research Findings

The gaps in knowledge and awareness could contribute to many of the deficiencies in practice and implementation of policy and legislation. Law officers would act less on superficial evidence if findings from analytical research are presented and used in training. There have been welcome signs of interest in publications of research among the higher

police officials currently handling the focal point for the Women's and Children's Desks. The exposure to research finding needs to be taken to the police desks in remote areas that have high risks for female trafficking.

4.2. External

National Level Interventions;

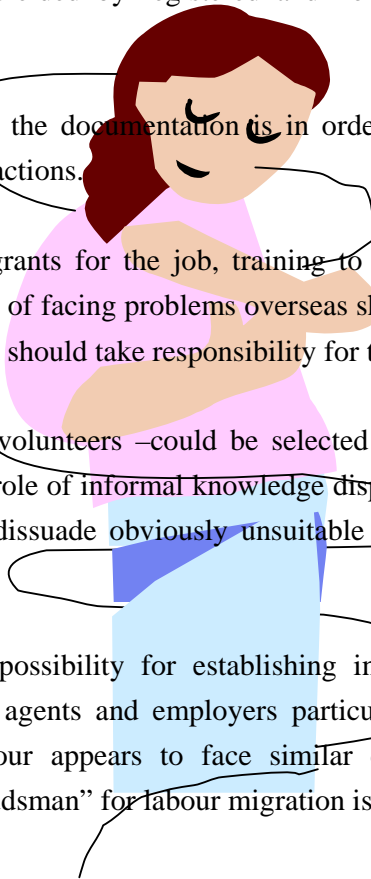
Current plans of the SLBFE to spread into the rural periphery the regulatory system through the local administration network right down to the village level official is a positive move to minimize the authority currently wielded by registered and non-registered agents and a network of unscrupulous sub-agents.

These authorities could ensure that the documentation is in order and that the migrant is aware of the implications of her/his actions.

Education on the suitability of migrants for the job, training to render them suitable and discouraging those that run high risk of facing problems overseas should be the responsibility of the administrative institutions that should take responsibility for the migrant.

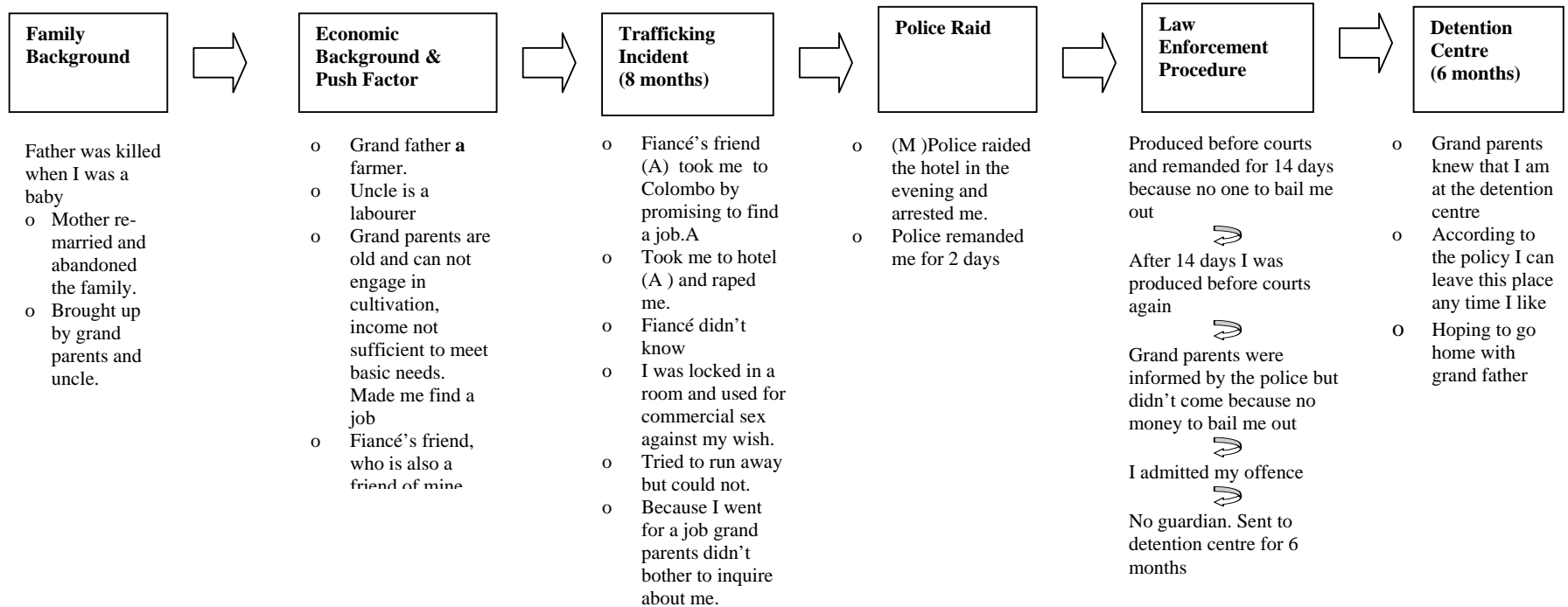
Key informers – similar to health volunteers – could be selected for training from among migrant returnees and left to play a role of informal knowledge dispensers on practical issues relevant to migration. They could dissuade obviously unsuitable candidates who aspire to obtain situations as housemaids.

Government needs to pursue the possibility for establishing intergovernmental links to address the problems with foreign agents and employers particularly of unskilled female labour, although skilled male labour appears to face similar conditions overseas. The feasibility of an international "Ombudsman" for labour migration issues could be explored.



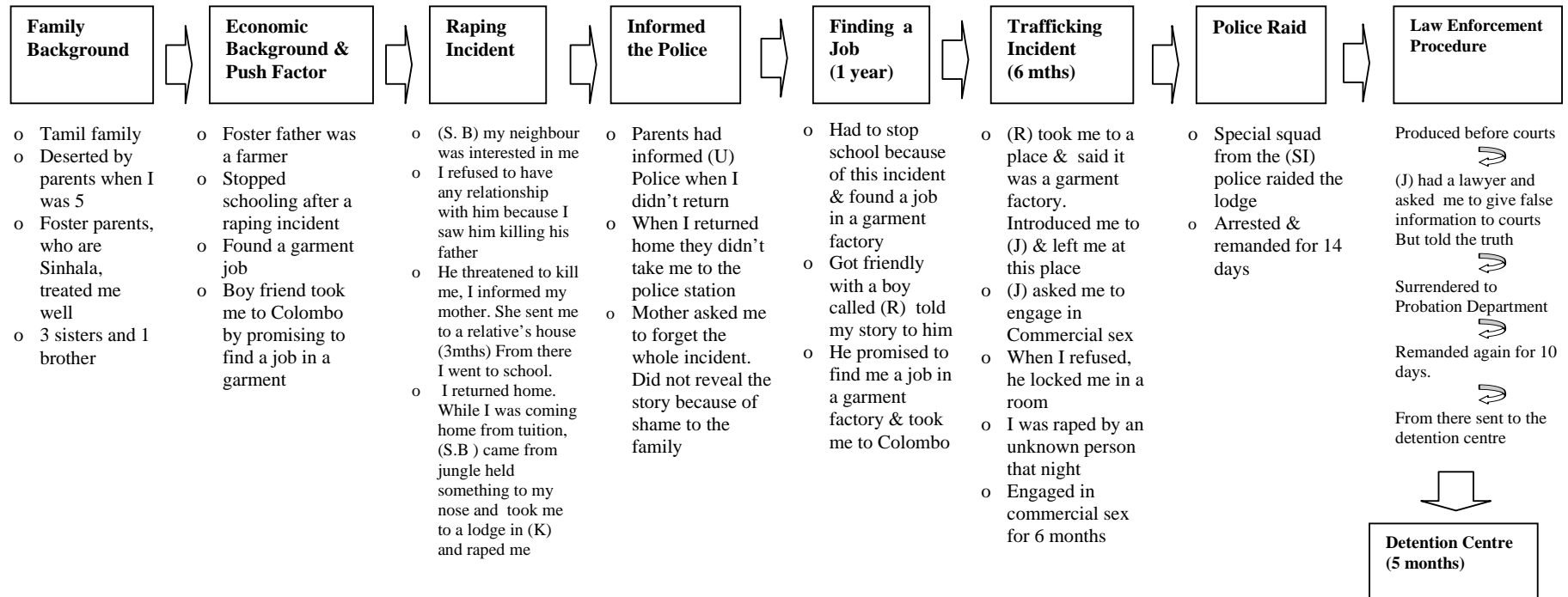
Trafficking Pathways

1.	Type	INTERNAL	Female
2.	Case No.	01	
3.	Earlier Residence	Horana/ Kaluthara	
4.	Current Residence	Detention Centre	
5.	Place of Trafficking	Pettah	
6.	Current Age	22	
7.	Age at Trafficking	20	
8.	Income Group	Low Income	
9.	Category	Traffic/Offender (A)	



Trafficking Pathways

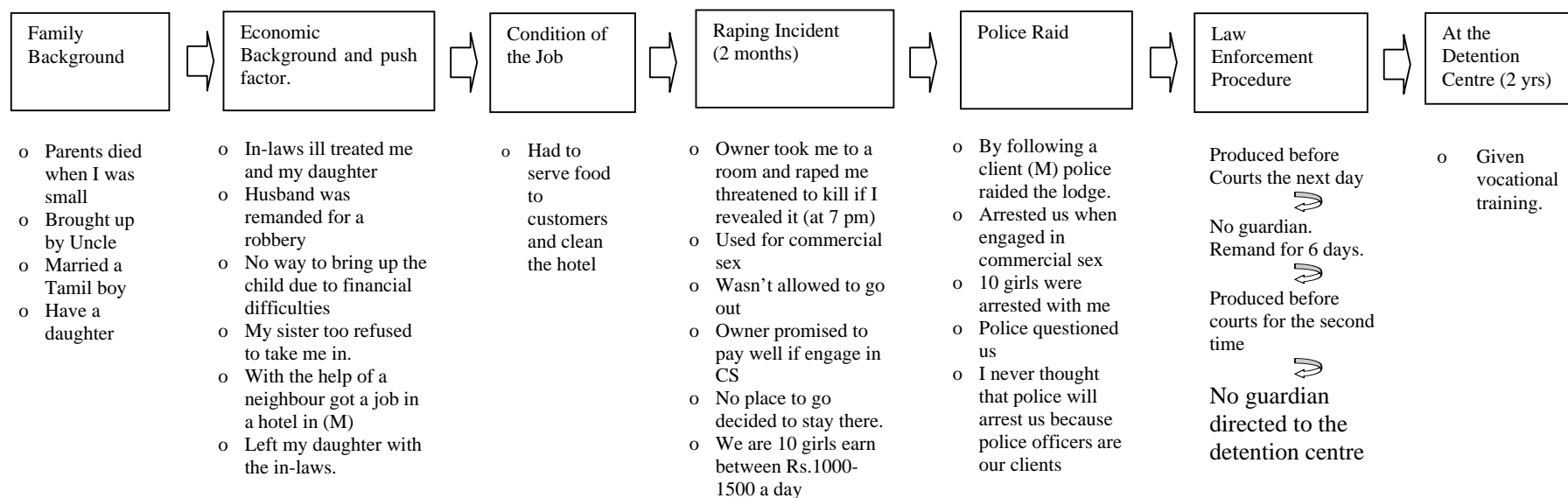
1	Type	INTERNAL	Female
2	Case No.	02	
3	Earlier Residence	Kandy	
4	Current Residence	Detention Centre	
5	Place of trafficking	Maradana	
6	Current Age	21	
7	Age of trafficking	20	
8	Income Group	Low income	
9	Category	Traffic/Offender (A)	



- o Mother and brother came to visit me.
- o Told I want to go with them. But brother didn't like to, because sister-in-law refused to accept me
- o Brother tried to arrange a relation's place to stay but they refused to accept
- o Family cut off all connections with me.

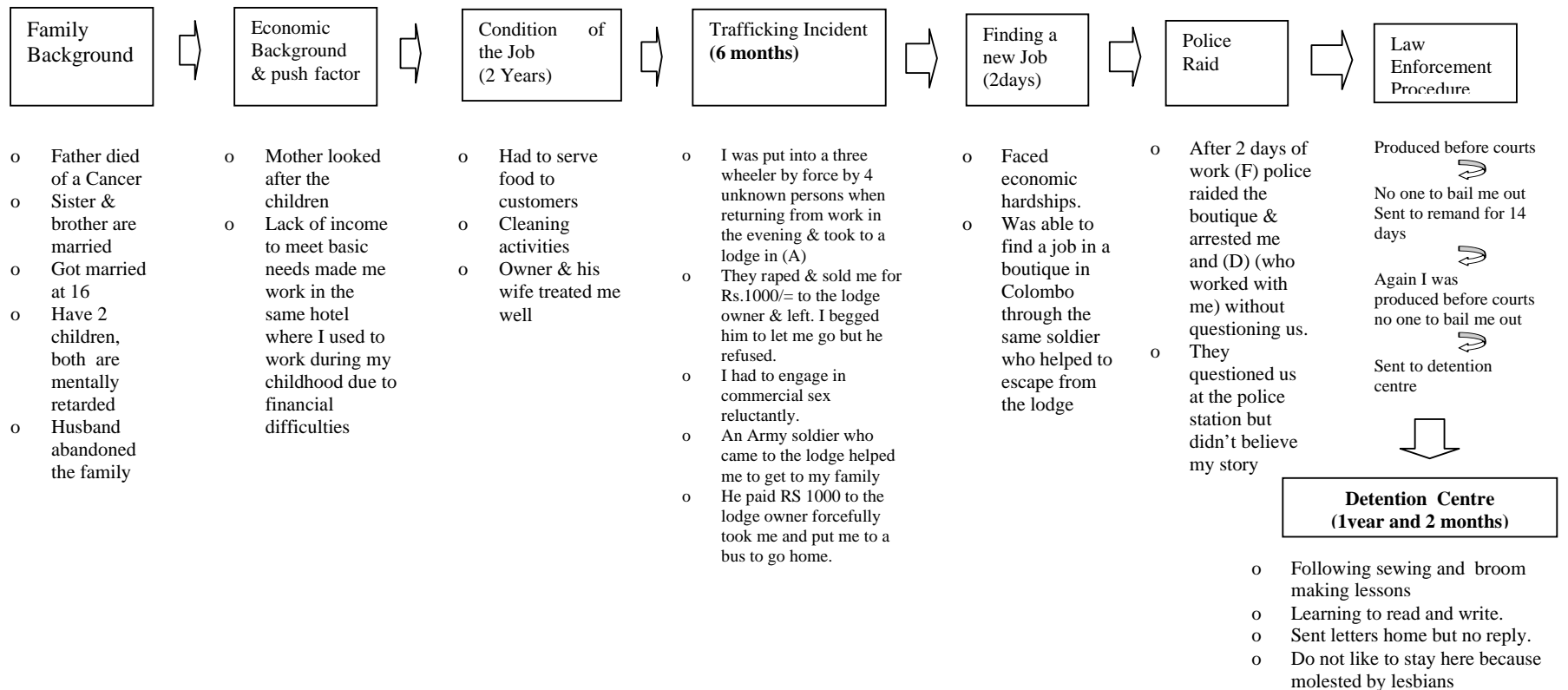
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No	03	
(3)	Earlier Residence	Kandy	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Lodge in Maradana	
(6)	Current Age	22	
(7)	Age at Trafficking	20	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender (A)	



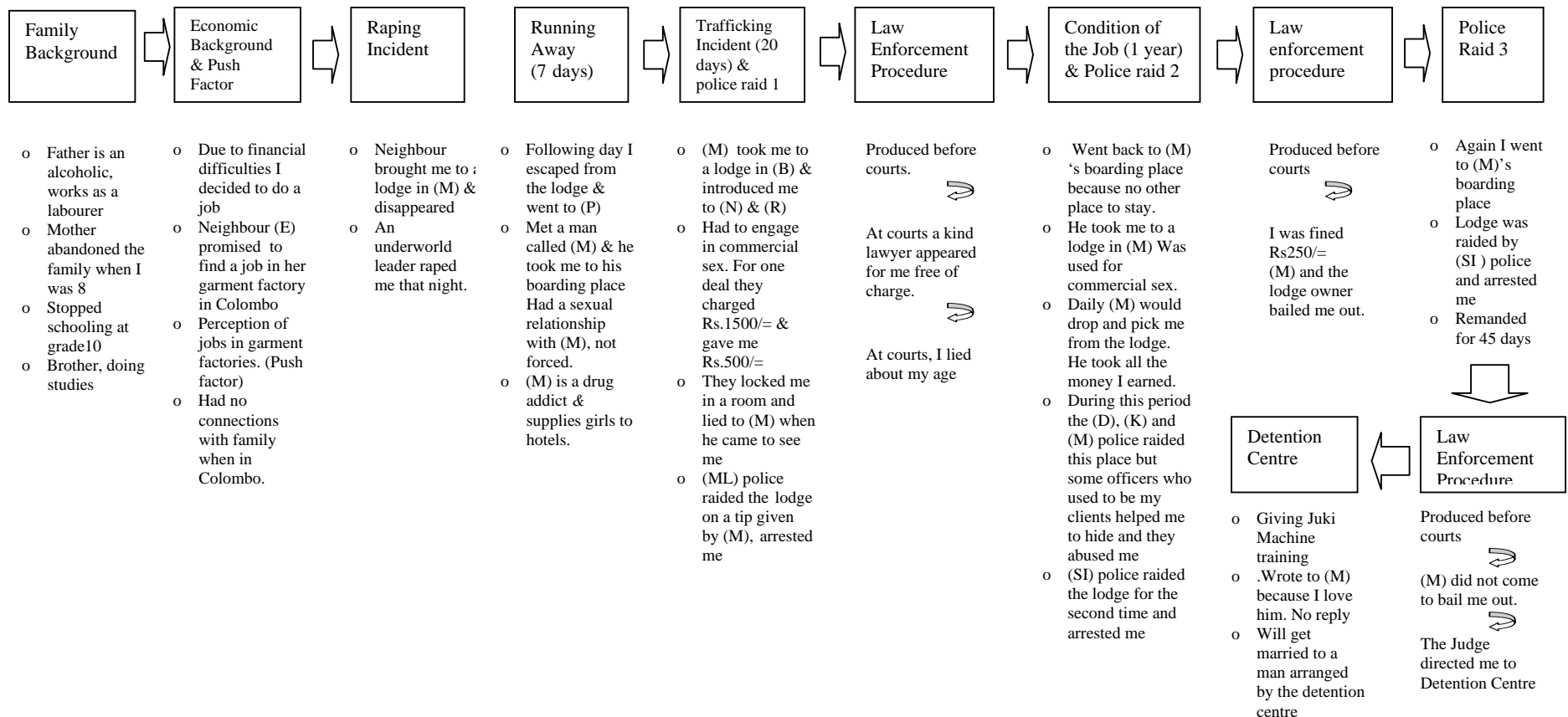
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	04	
(3)	Earlier Residence	Anuradhapura	
(4)	Current Residence	Detention Centre	
(5)	Place of trafficking	Lodge in Anuradhapura	
(6)	Current Age	25	
(7)	Age at Trafficking	18	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender (A)	



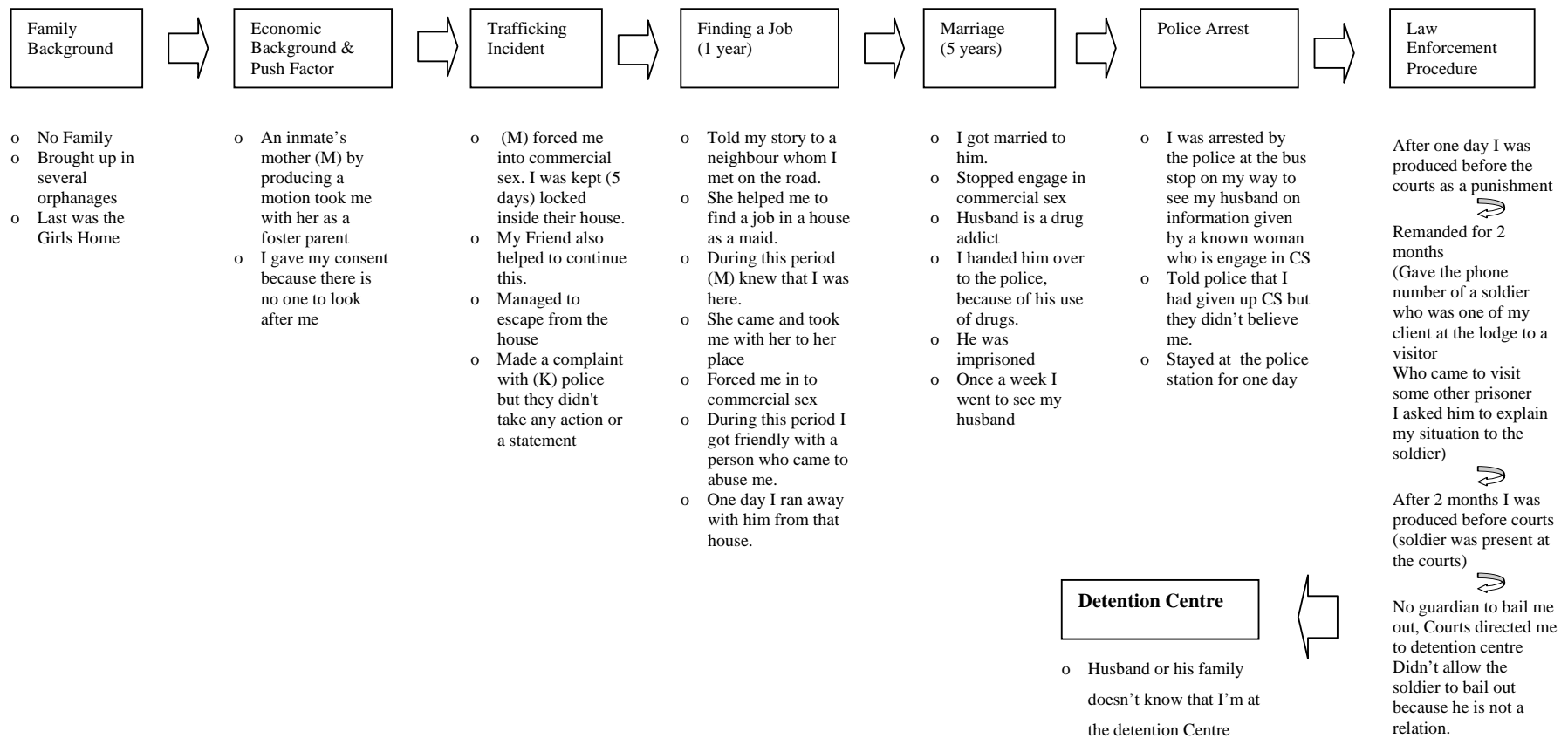
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	05	
(3)	Earlier Residence	Ehalakosgama	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Maradana	
(6)	Current Age	18	
(7)	Age at Trafficking	16	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender	(A)



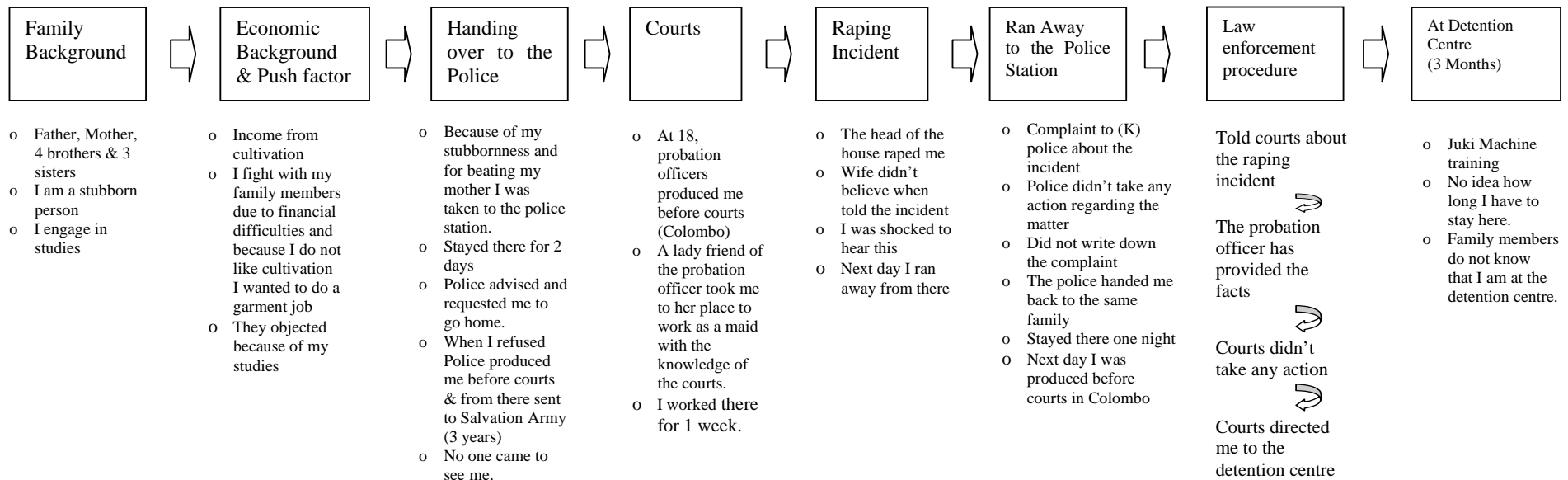
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No	06	
(3)	Earlier Residence	Had stayed in several orphanages	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Kalubowila	
(6)	Current Age	23	
(7)	Age at Trafficking	16	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender (A)	



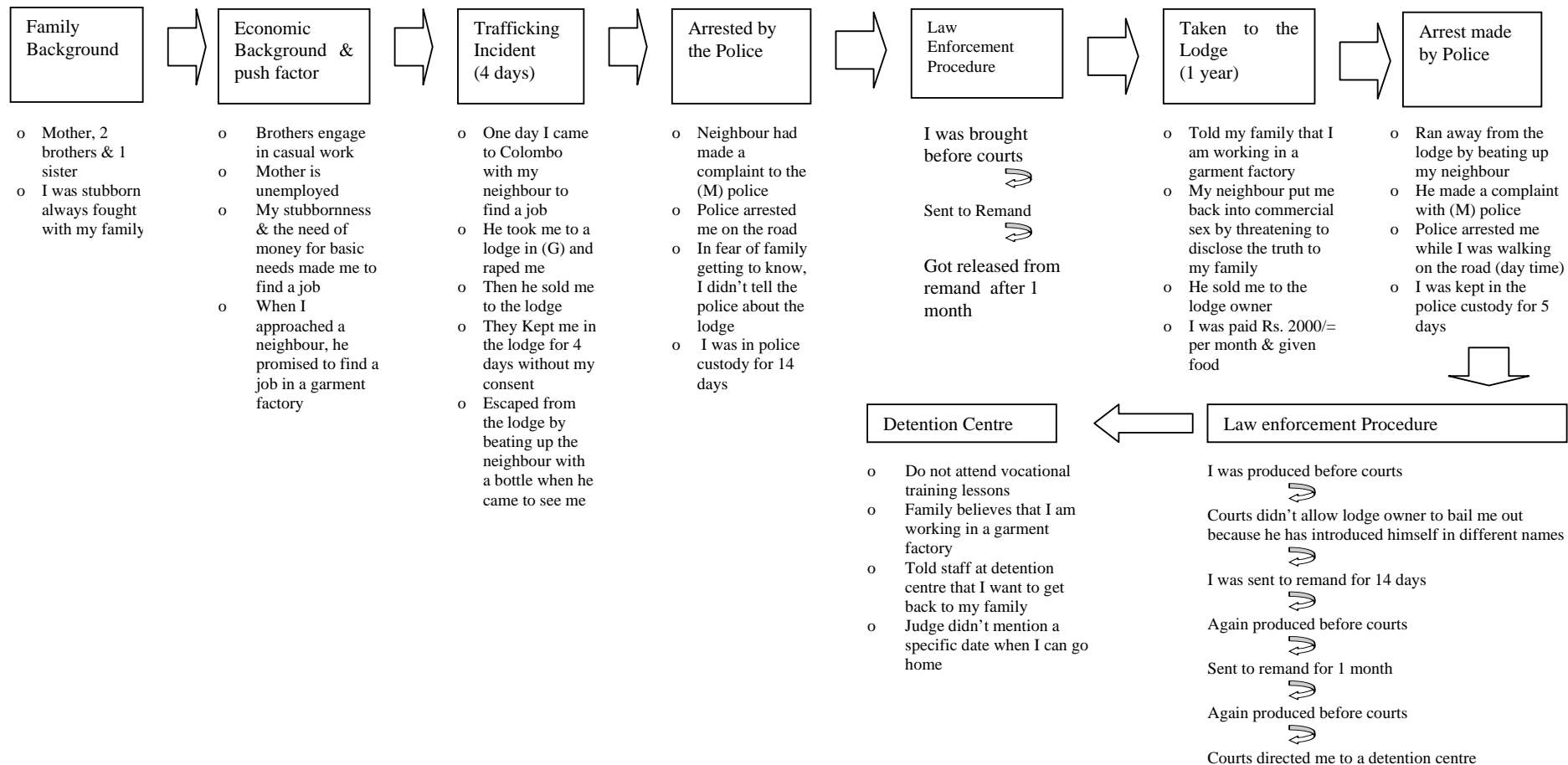
Trafficking Pathways

- | | | | |
|-----|----------------------|---------------------|--------|
| (1) | Type | INTERNAL | Female |
| (2) | Case No | 07 | |
| (3) | Earlier Residence | Monaragala | |
| (4) | Current Residence | Detention Centre | |
| (5) | Place of Trafficking | Kandy | |
| (6) | Current Age | 18 | |
| (7) | Age at Trafficking | 18 | |
| (8) | Income Group | Low Income | |
| (9) | Category | Sexual Abuse Victim | (B) |



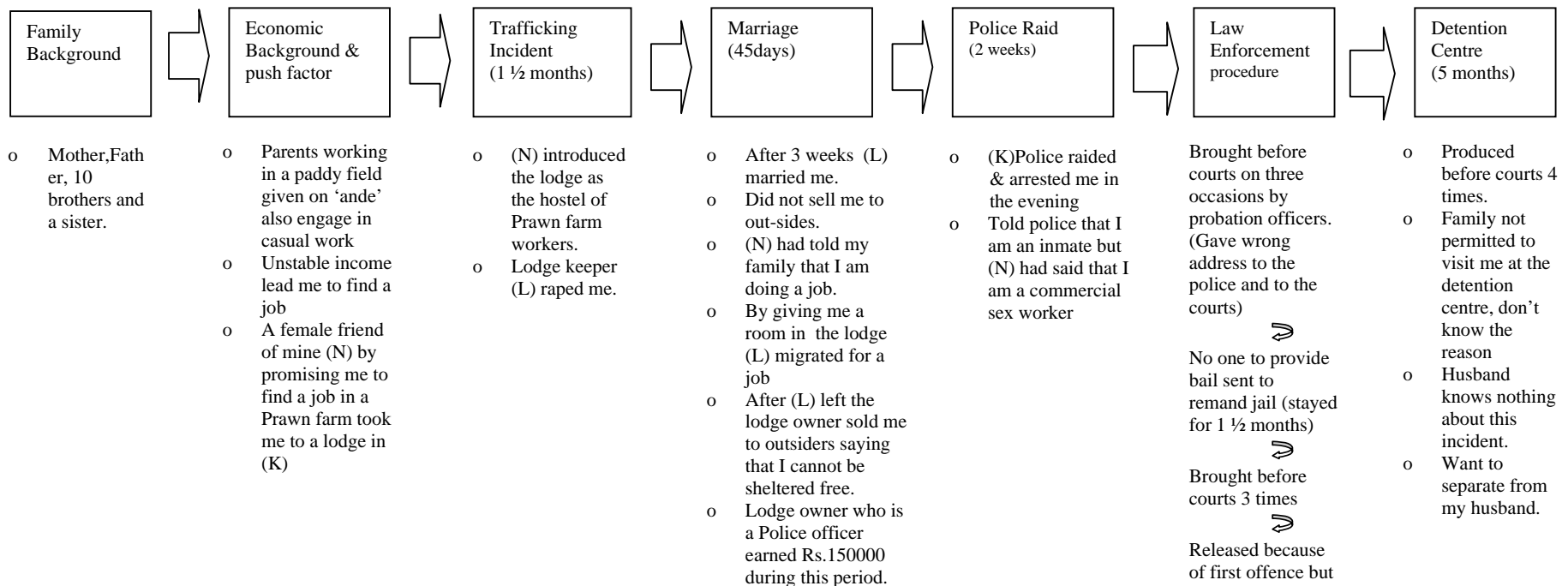
1. **Type** INTERNAL Female
 2. **Case No** 08
 3. **Earlier Residence** Colombo 14
 4. **Current Residence** Detention Centre
 5. **Place of trafficking** Colombo
 6. **Current Age** 13
 7. **Age at trafficking** 11 ½
 8. **Income Group** Low income
 9. **Category** Traffic/Offender (A)

Trafficking Pathways



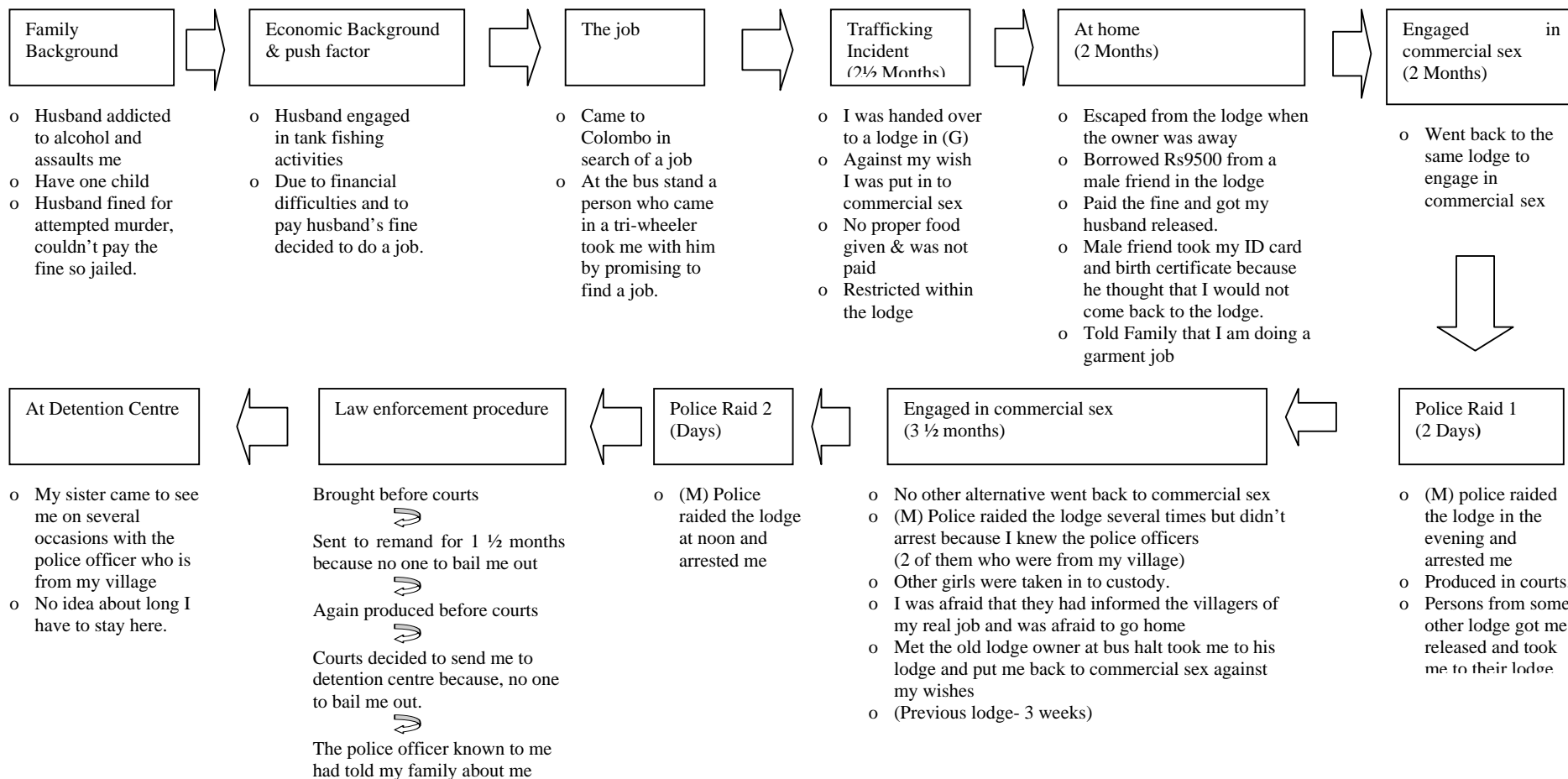
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No	09	
(3)	Earlier Residence	Polonnaruwa	
(4)	Current Residence	Kurunegala	
(6)	Current Age	17	
(7)	Age at Trafficking	13	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender	(A)



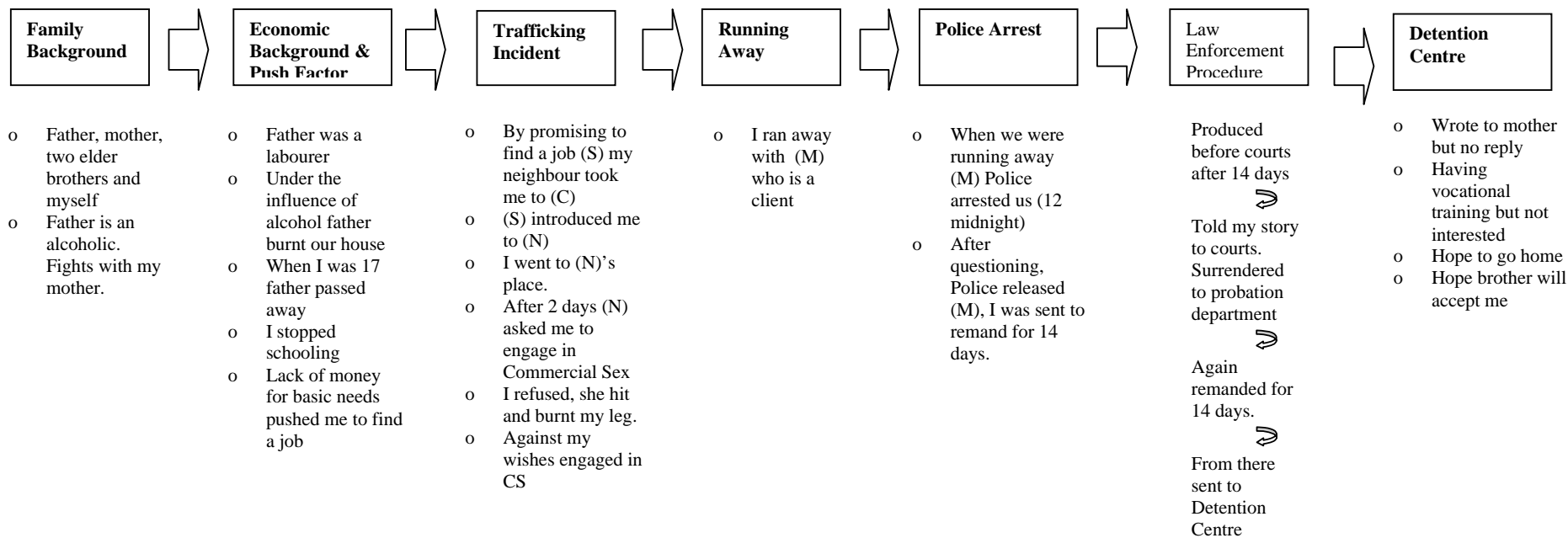
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No.	10	
(3)	Earlier Residence	Bogahawewa (Padaviya)	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Lodge in Pettah	
(6)	Current Age	26	
(7)	Age at Trafficking	25	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender (A)	



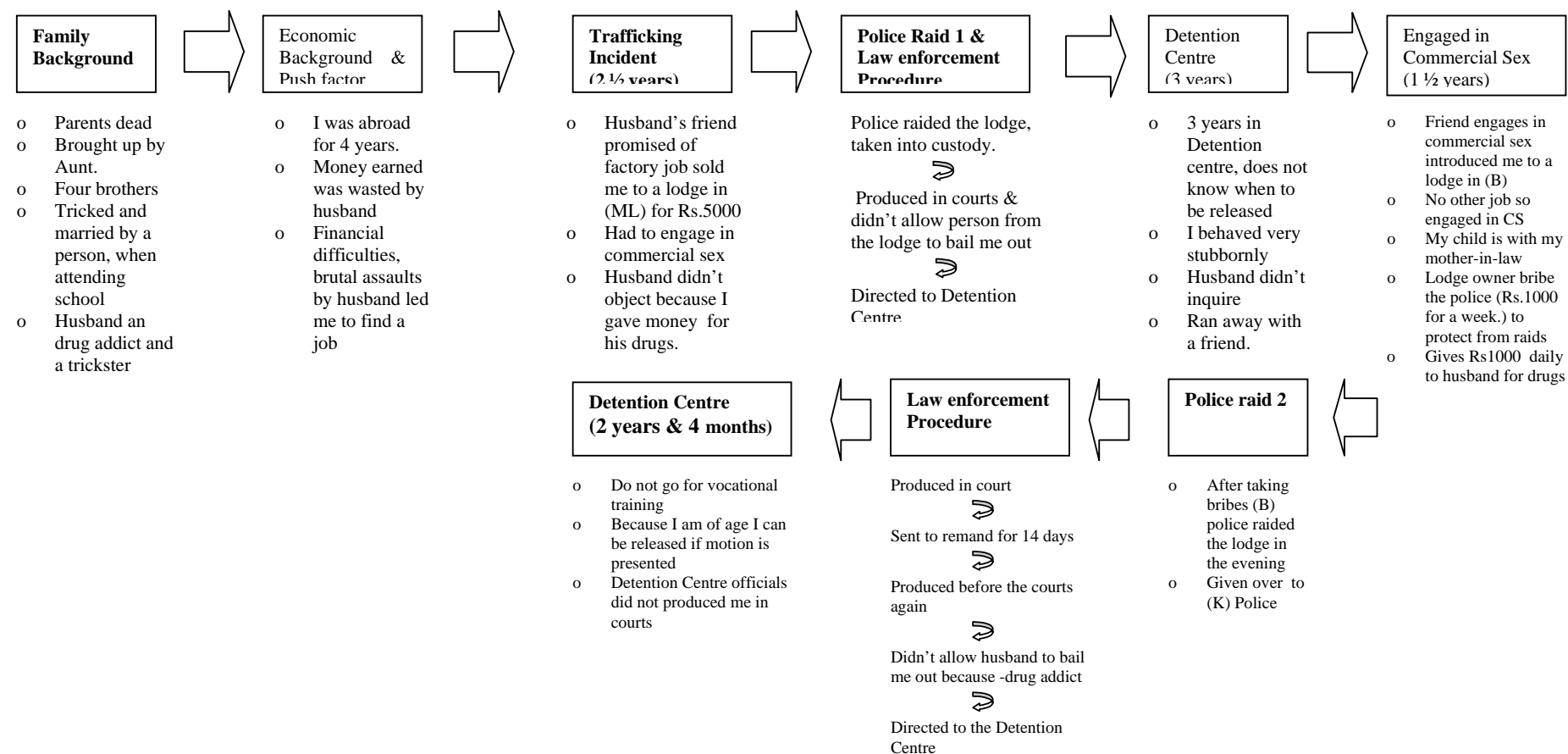
Trafficking pathways

(1)	Type	INTERNAL	Female
(2)	Case no	11	
(3)	Earlier Residence	Katiyawa/ Kurunagala	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Colombo	
(6)	Current Age	24	
(7)	Age at Trafficking	23	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender (A)	



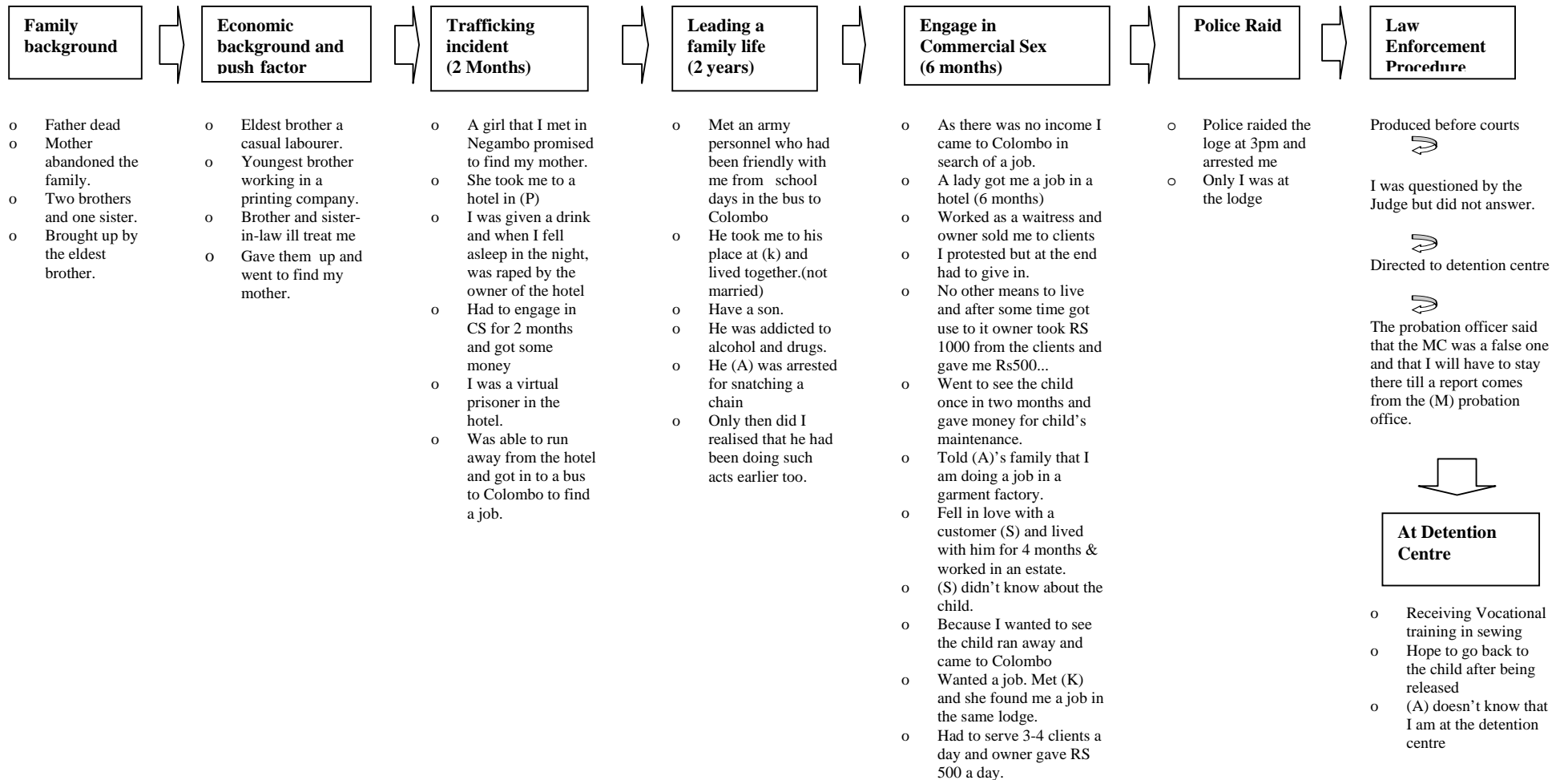
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	12	
(3)	Earlier Residence	Kandy	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Mt. Lavinia	
(6)	Current Age	25	
(7)	Age at Trafficking	16	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender (A)	



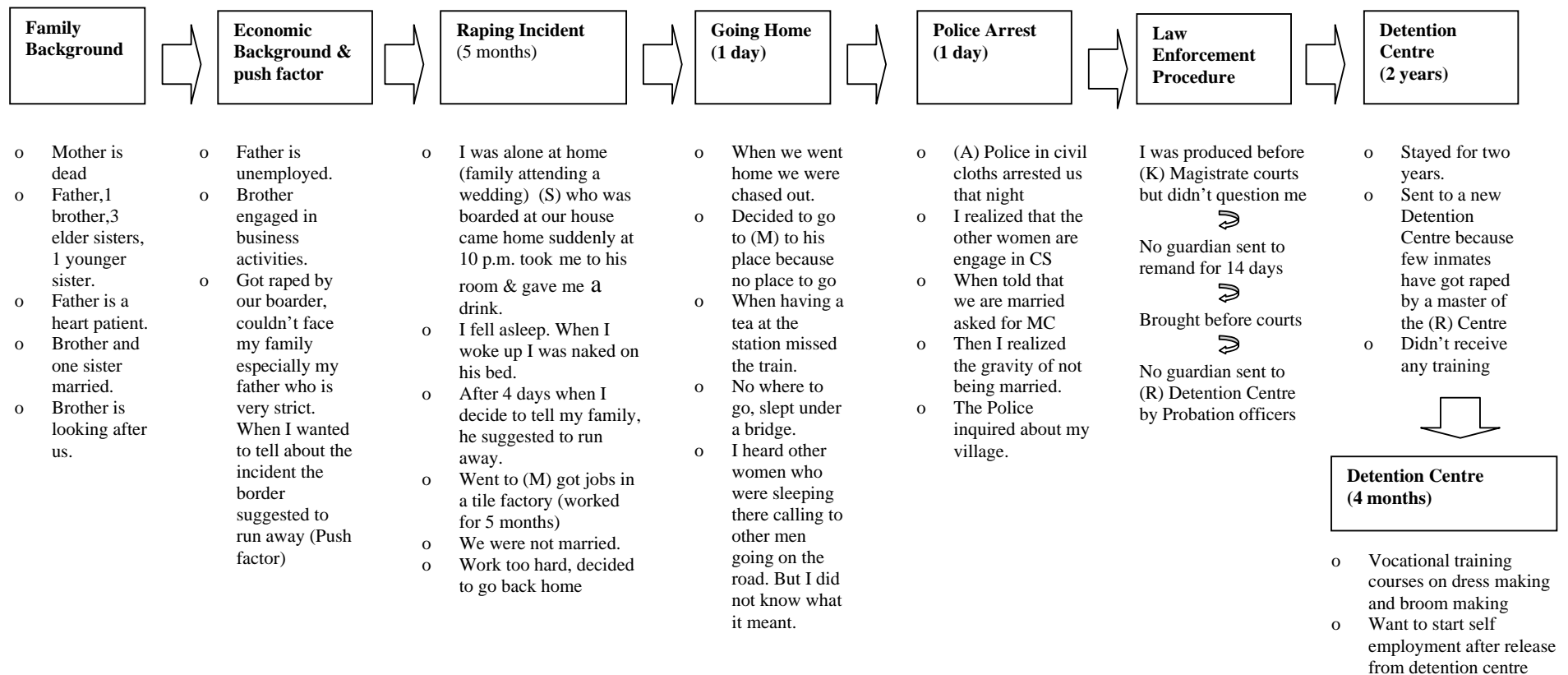
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	13	
(3)	Earlier Residence	Kelaniya/ Gampaha	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Puttalam	
(6)	Current Age	23	
(7)	Age at Trafficking	15	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender (A)	



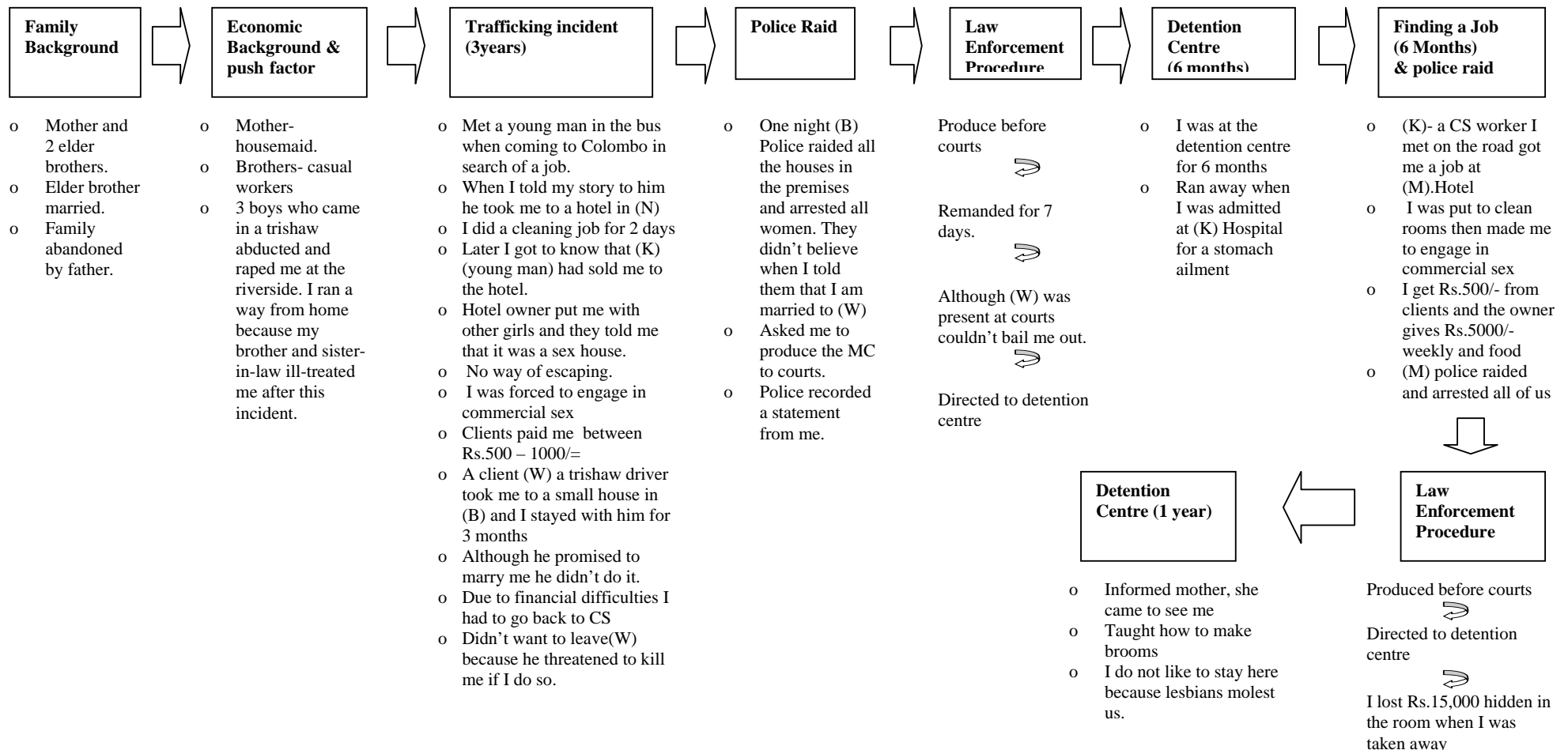
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	14	
(3)	Earlier Residence	Dewanagala/ Kegalle	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	In the home of the victim	
(6)	Current age	21	
(7)	Age at trafficking	15	
(8)	Income Group	Low income	
(9)	Category	Traffic/ Offender (A)	



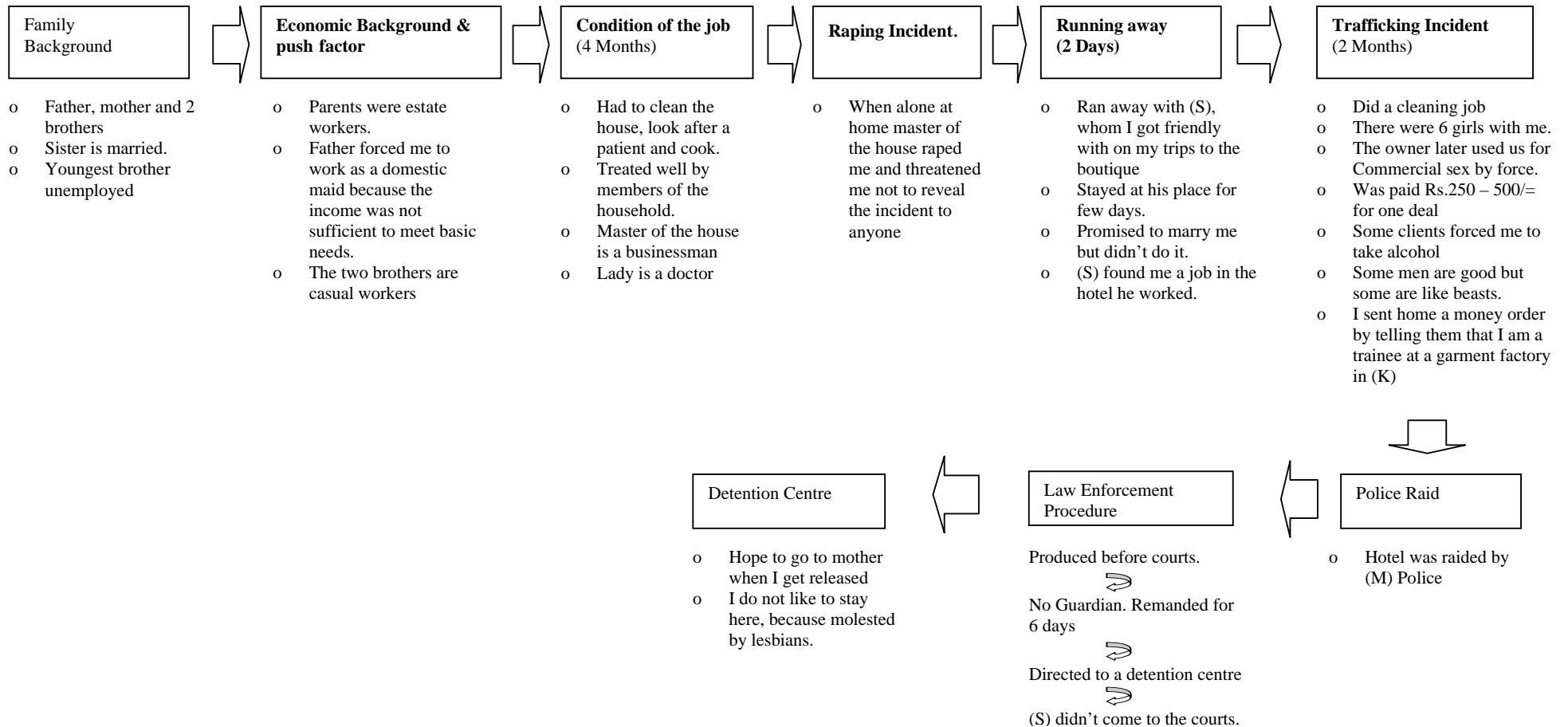
Trafficking pathways

(1)	Type	INTERNAL	Female
(2)	Case no	15	
(3)	Earlier Residence	Galigamuwa/ Kegalle	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Colombo	
(6)	Current Age	23	
(7)	Age of Trafficking	14	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender	(A)



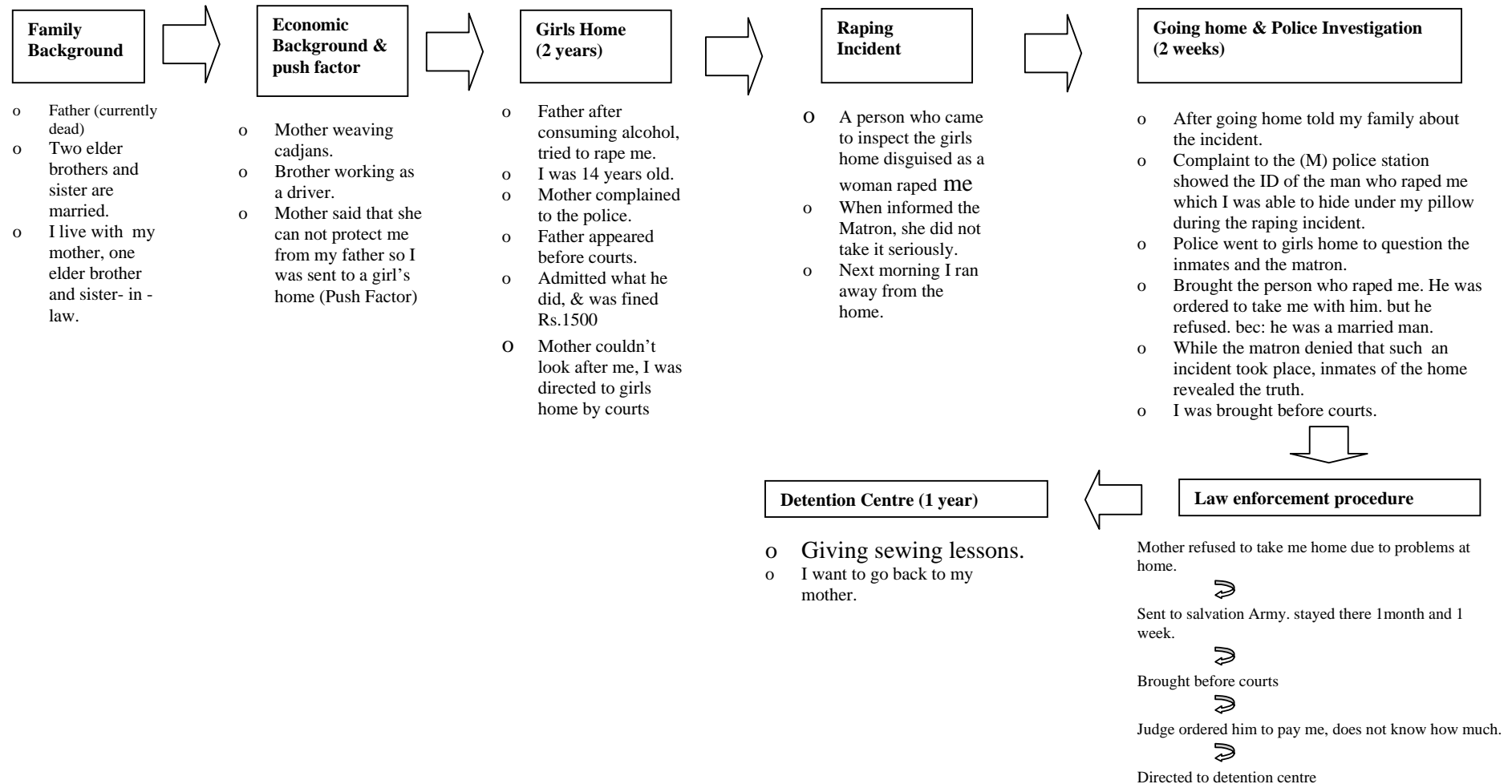
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	16	
(3)	Earlier Residence	Ragala/ Kandy	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Colombo	
(6)	Current Age	20	
(7)	Age at Trafficking	16	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender (A)	



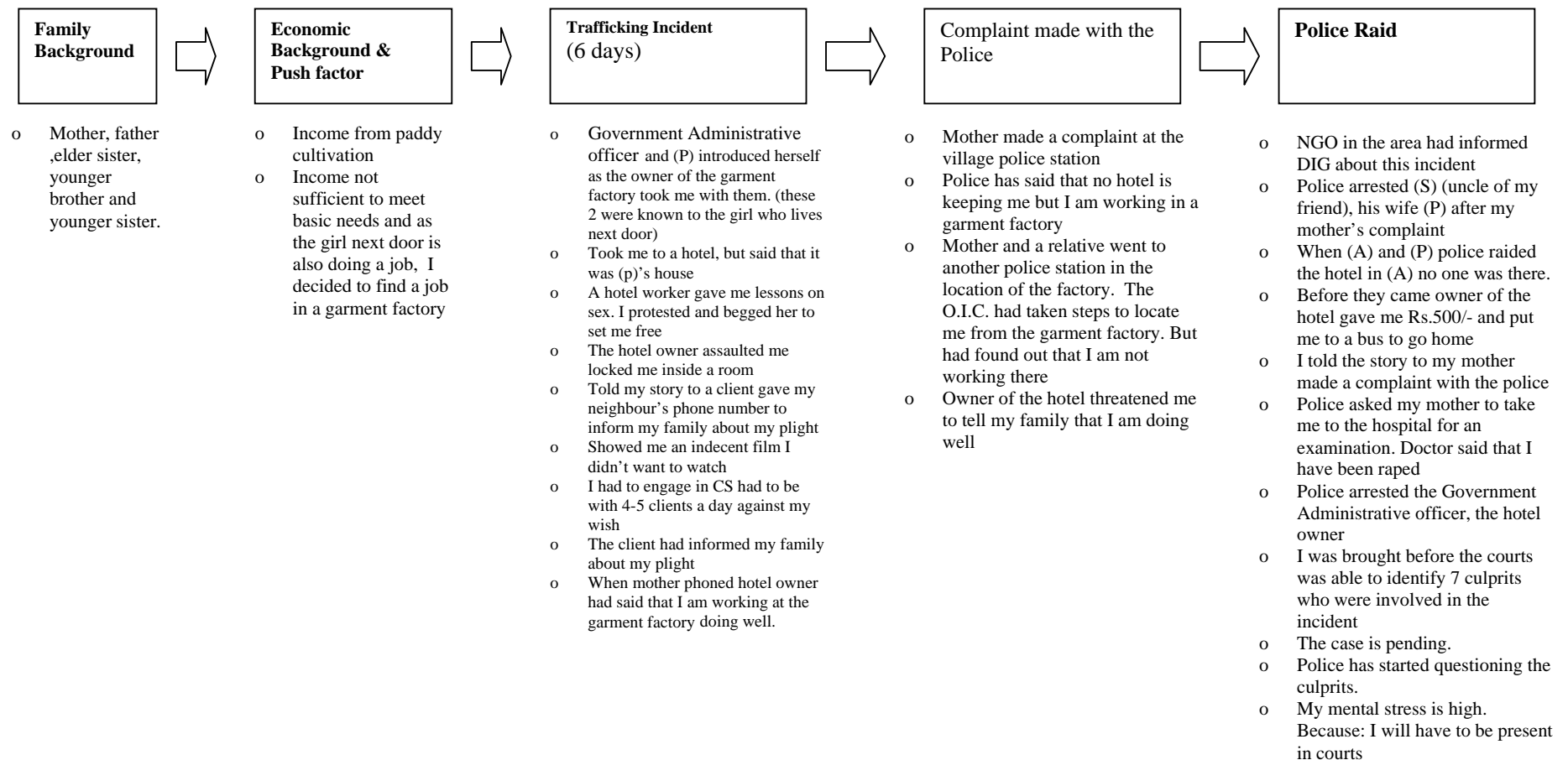
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	17	
(3)	Earlier Residence	Moneragala	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Girls Home	
(6)	Current Age	17	
(7)	Age at trafficking	15	
(8)	Income Group	Low income.	
(9)	Category	Sexual Abuse Victim (B)	



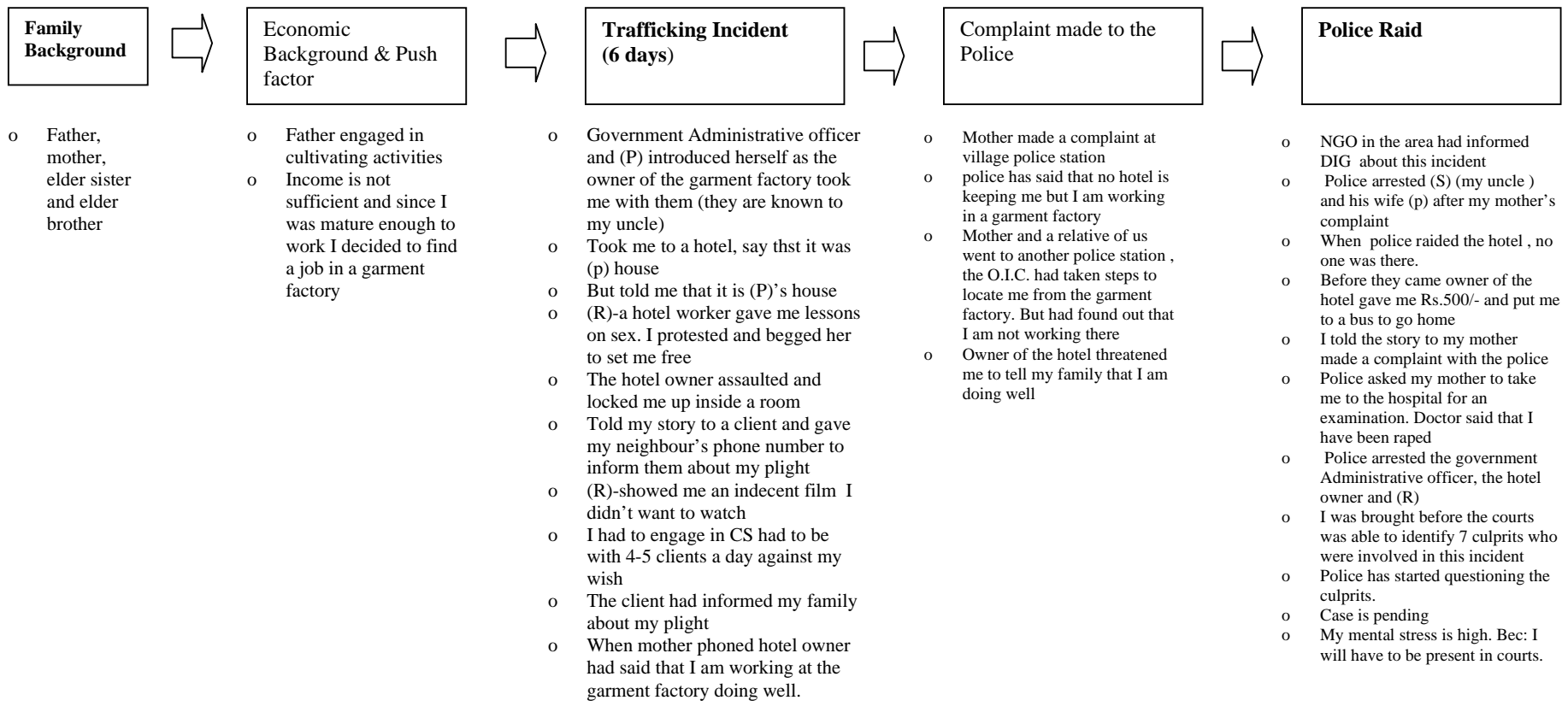
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	18	
(3)	Earlier Residence	Melsiripura/ Kurunagala	
(4)	Current Residence	Melsiripura	
(5)	Place of Trafficking	A hotel in Alauwa	
(6)	Current Age	16	
(7)	Age at trafficking	15	
(8)	Income Group	Low income	
(9)	Category	Victim (C)	



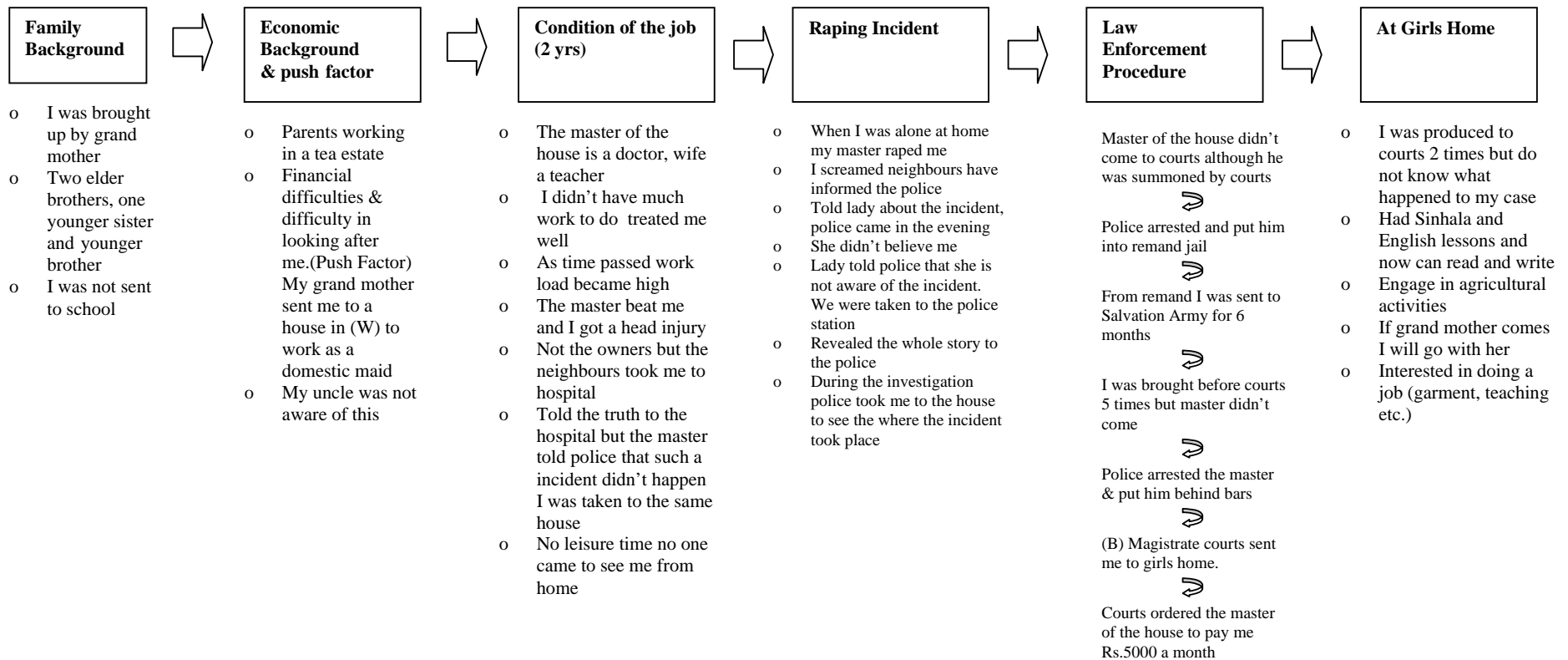
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no	19	
(3)	Earlier Residence	Melsiripura/ Kurunagala	
(4)	Current Residence	Melsiripura.	
(5)	Place of trafficking	A hotel in Alauwa	
(6)	Current Age	20	
(7)	Age at trafficking	19	
(8)	Income Group	Low income	
(9)	Category	Victim (C)	



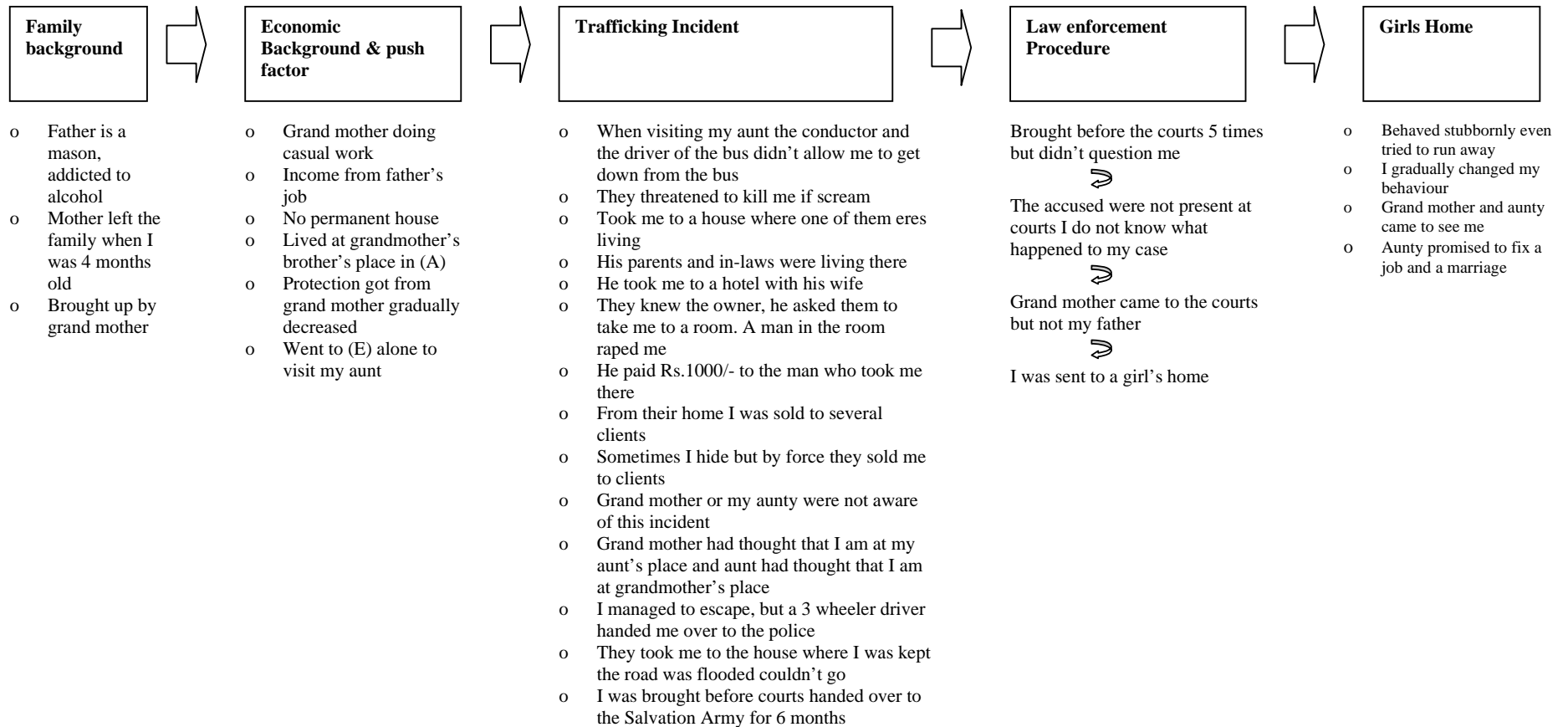
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case no.	20	
(3)	Earlier Residence	Welimada/ Badulla	
(4)	Current Residence	Girls Home	
(5)	Place of trafficking	House in Wellawatta	
(6)	Current Age	18	
(7)	Age at Trafficking	16	
(8)	Income Group	Low income	
(9)	Category	Sexual Abuse Victim	(B)



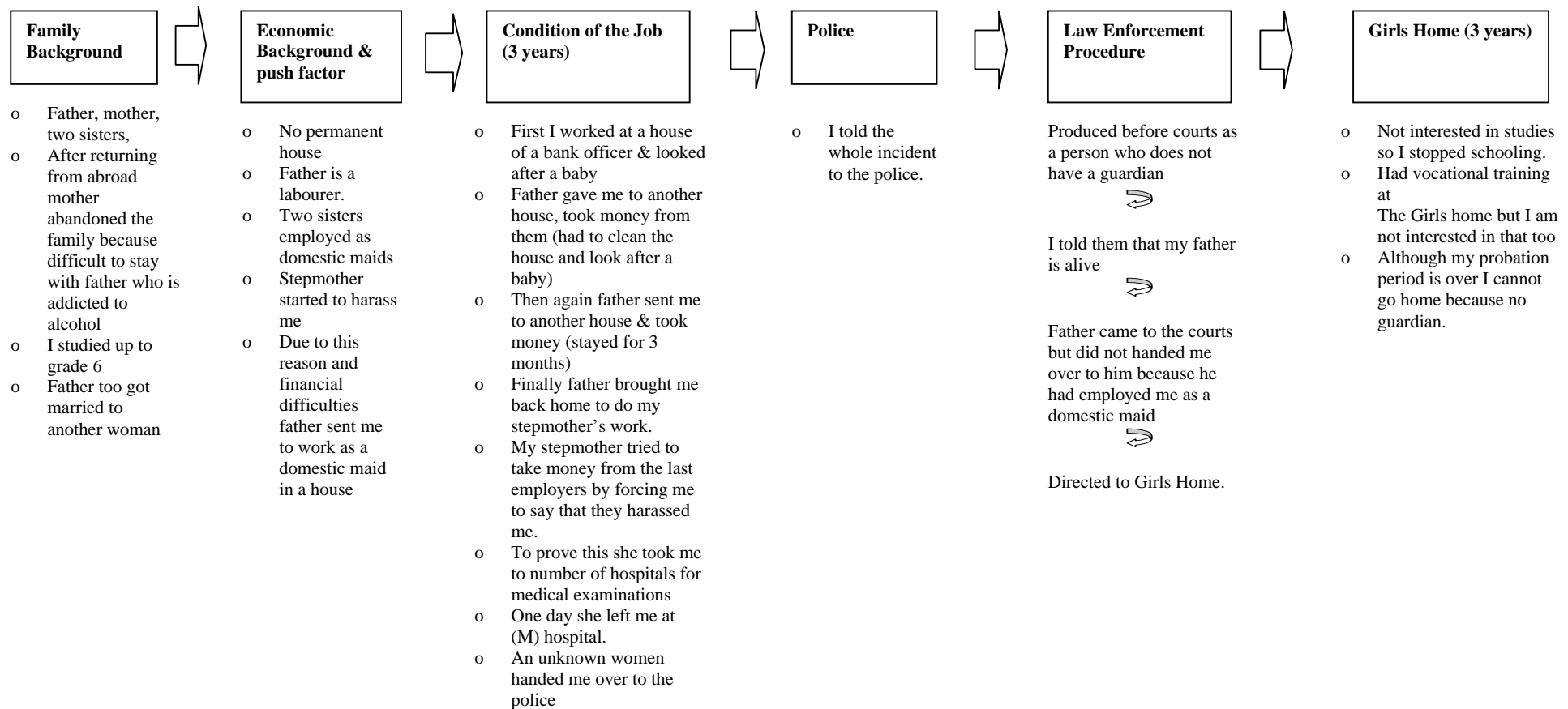
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No.	21	
(3)	Earlier Residence	Eheliyagoda/ Rathanapura	
(4)	Current Residence	Girls Home	
(5)	Place of Trafficking	Eheliyagoda	
(6)	Current Age	16	
(7)	Age at tTrafficking	12	
(8)	Income Group	Low Income	
(9)	Category	Sexual Abuse Victim (B)	



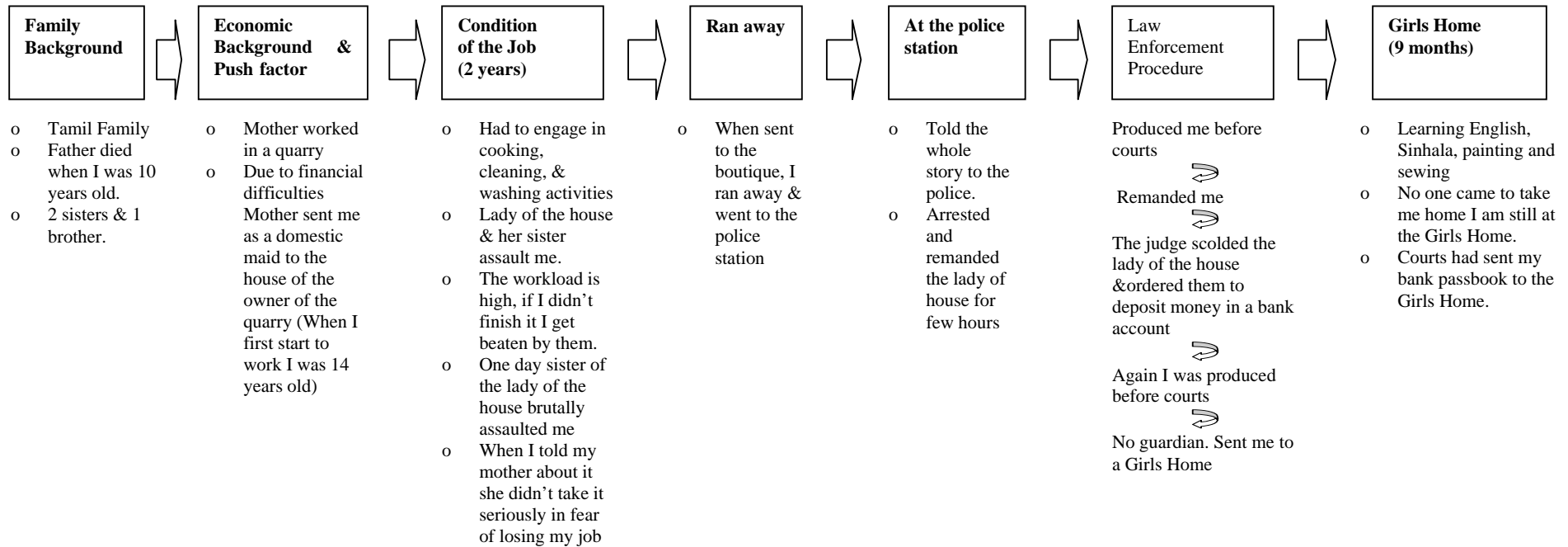
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No	22	
(3)	Earlier Residence	Tissamaharamaya/ Hambantota	
(4)	Current Residence	Girls Home	
(5)	Place of Trafficking	Matara	
(6)	Current Age	18	
(7)	Age at Trafficking	12	
(8)	Income Group	Low Income	
(9)	Category	Sexual Abuse Victim	(B)



Trafficking Pathways

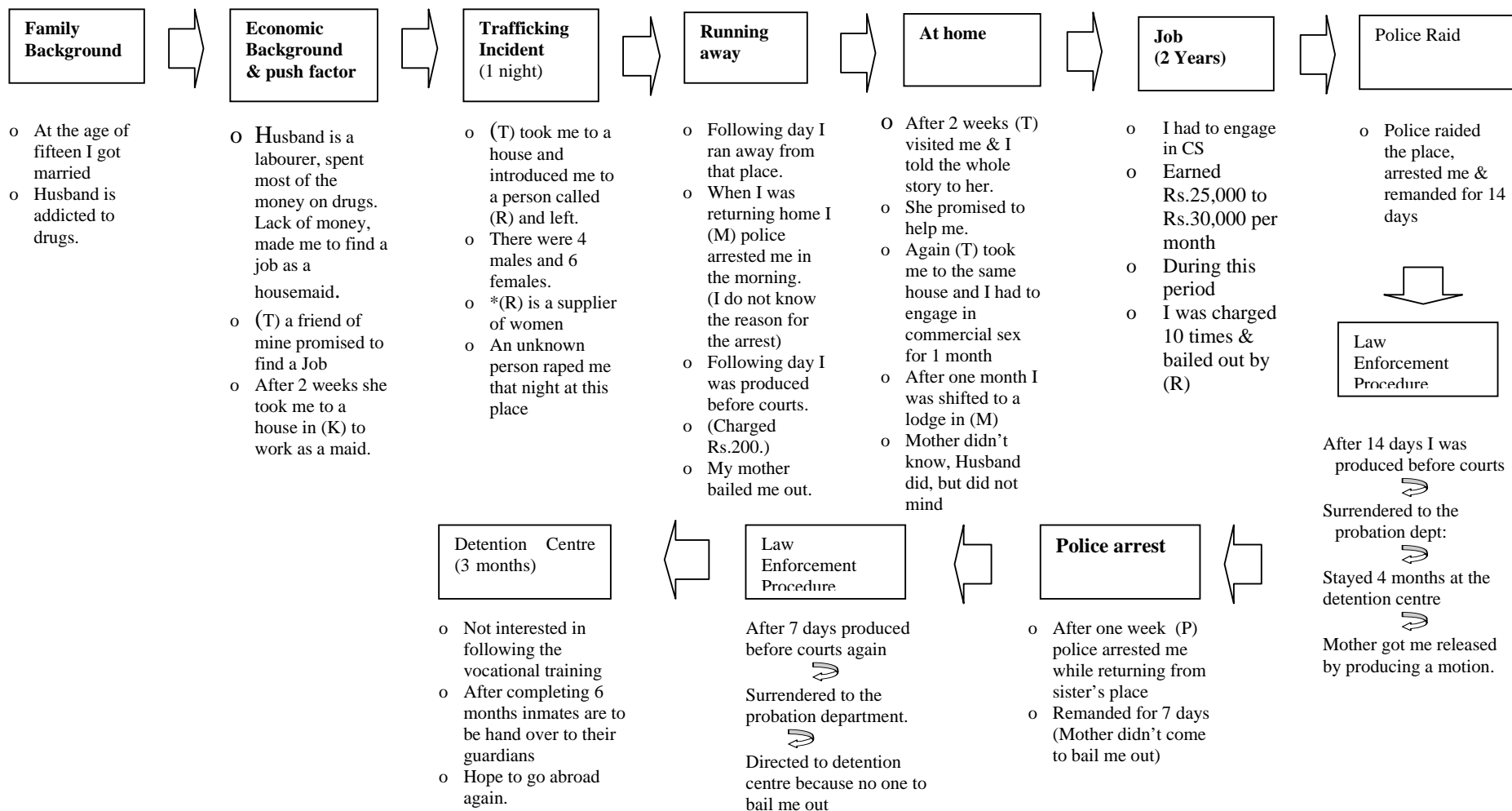
- | | | | |
|-----|----------------------|-------------------------|--------|
| (1) | Type | INTERNAL | Female |
| (2) | Case no | 23 | |
| (3) | Earlier Residence | Matale | |
| (4) | Current Residence | Girls Home | |
| (5) | Place of Trafficking | Wellawatta | |
| (6) | Current Age | 17 | |
| (7) | Age at Trafficking | 14 | |
| (8) | Income Group | Low Income | |
| (9) | Category | Sexual Abuse Victim (B) | |



Trafficking Pathways

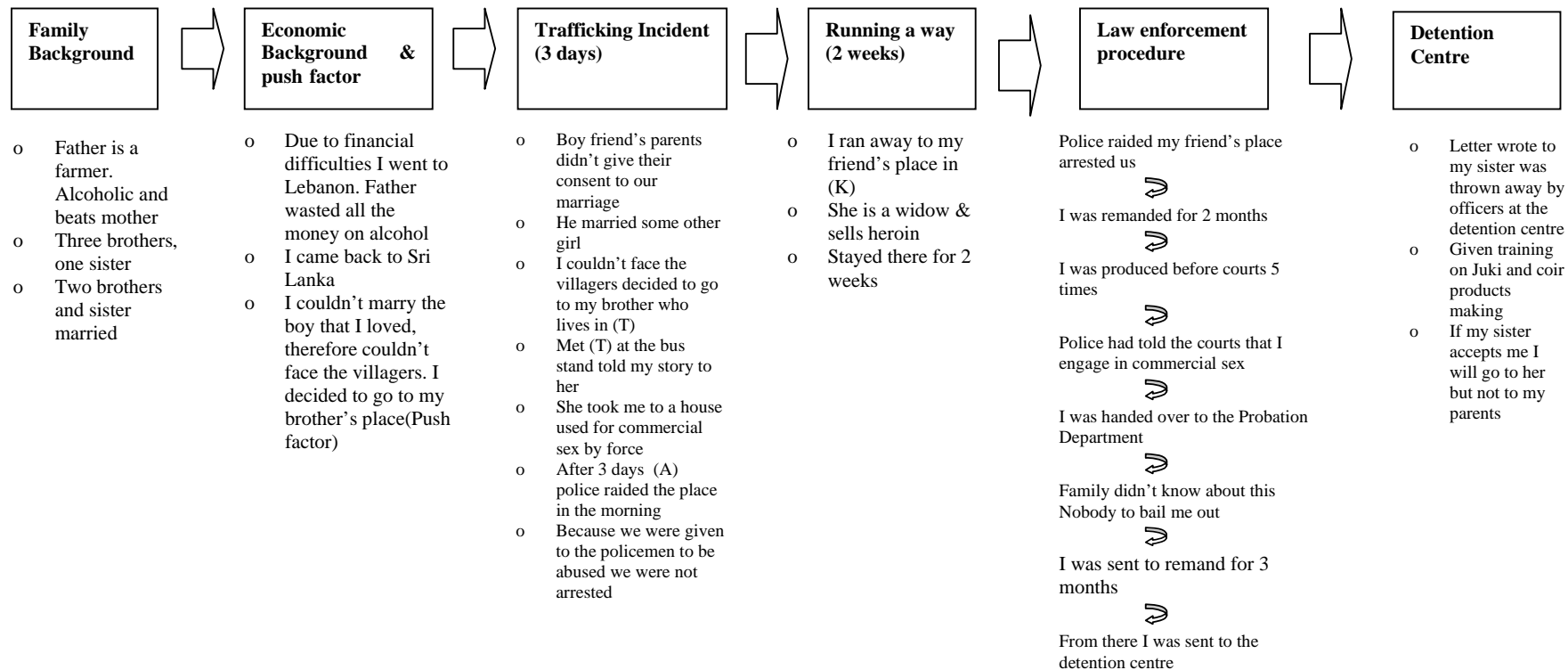
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(1)	Type	INTERNAL	Female
(2)	Case No	24	
(3)	Earlier Residence	Maligawatta	
(4)	Current Residence	Detention Centre	
(5)	Place of Trafficking	Kadawatha	
(6)	Current Age	27	
(7)	Age of Trafficking	22	
(8)	Income Group	Low Income	
(9)	Category	Traffic/Offender	(A)



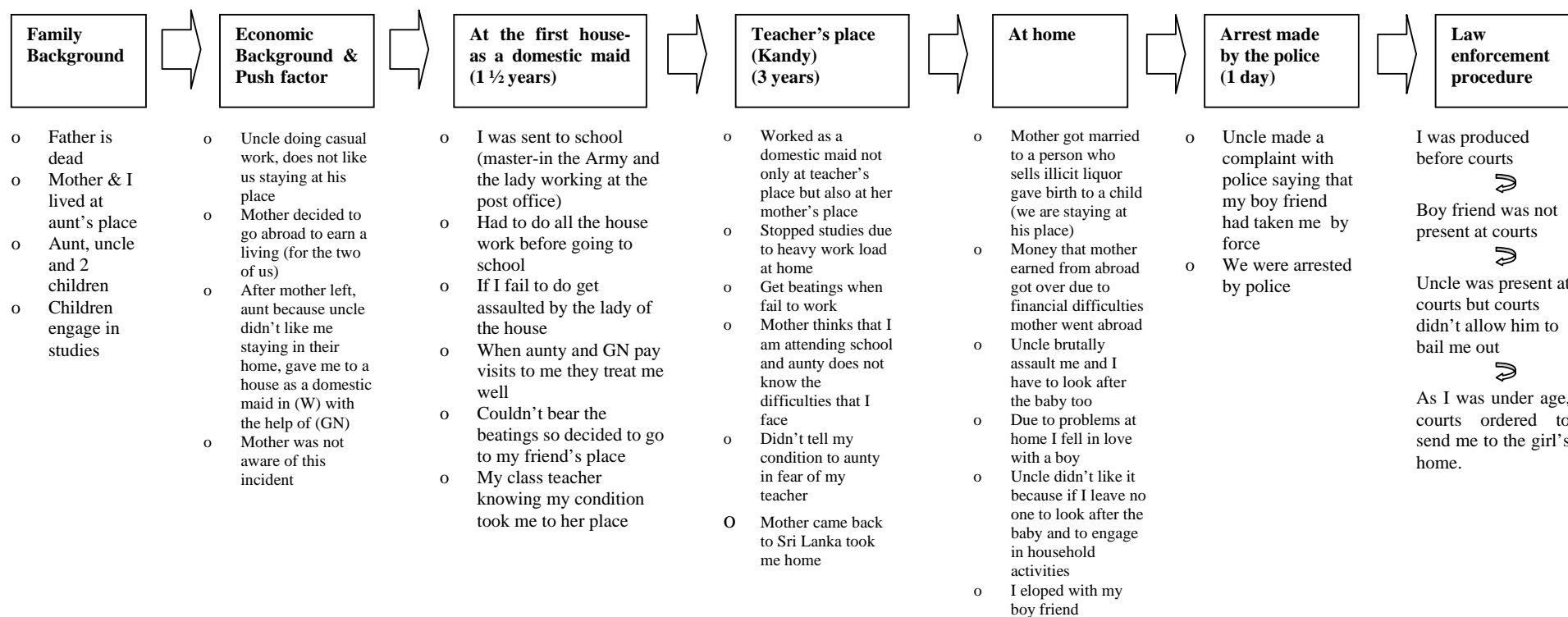
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No.	25	
(3)	Earlier Residence	Medawachchiya/ Aunradhapura	
(4)	Current Residence	Detention Centre	
(5)	Place of trafficking	Anuradhapura	
(6)	Current Age	22	
(7)	Age at trafficking	21	
(8)	Income Group	Low income	
(9)	Category	Traffic/Offender (A)	



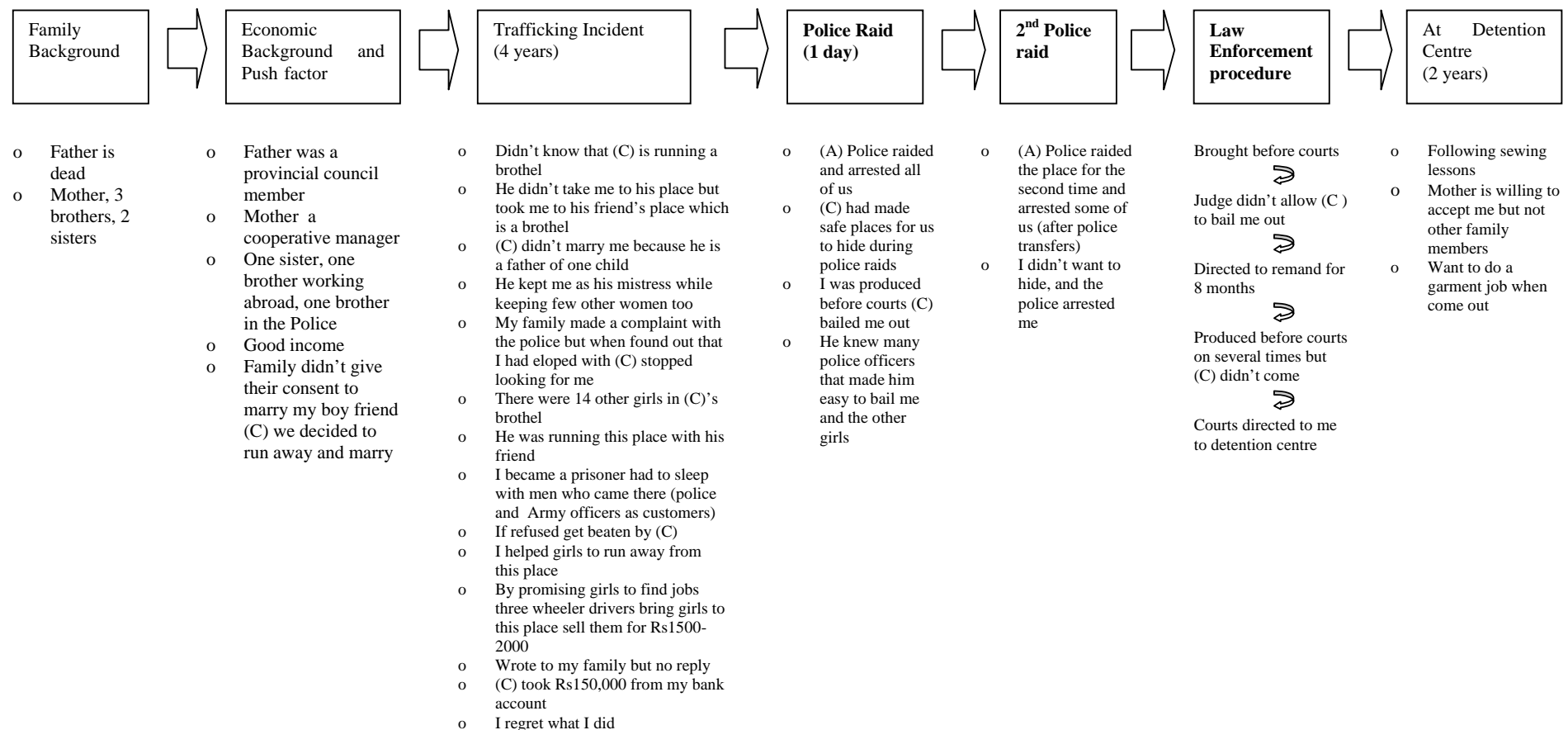
Trafficking Pathways

(1)	Type	INTERNAL	Female
(2)	Case No	26	
(3)	Earlier Residence	Polonnaruwa	
(4)	Current Residence	Girls Home	
(5)	Place of trafficking	Warakapola	
(6)	Current Age	15	
(7)	Age at trafficking	10	
(8)	Income Group	Low income	
(9)	Category	Sexual Abuse Victim (B)	



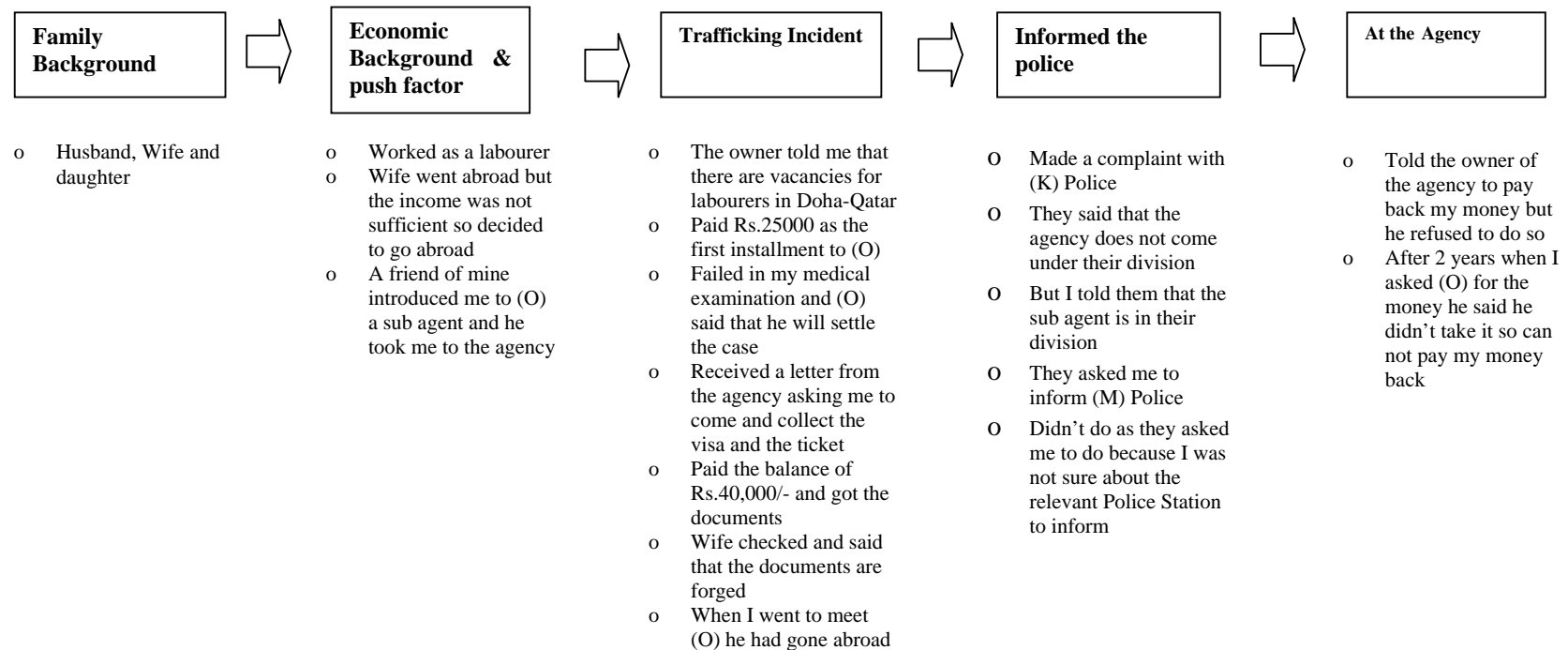
Trafficking pathways

(1)	Type	INTERNAL	Female
(2)	Case No.	27	
(3)	Earlier Residence	Matale	
(4)	Current Residence	Detention Centre	
(5)	Place of trafficking	Anuradhapura	
(6)	Current Age	21	
(7)	Age at trafficking	16	
(8)	Income Group	High income	
(9)	Category	Traffic/Offender	(A)



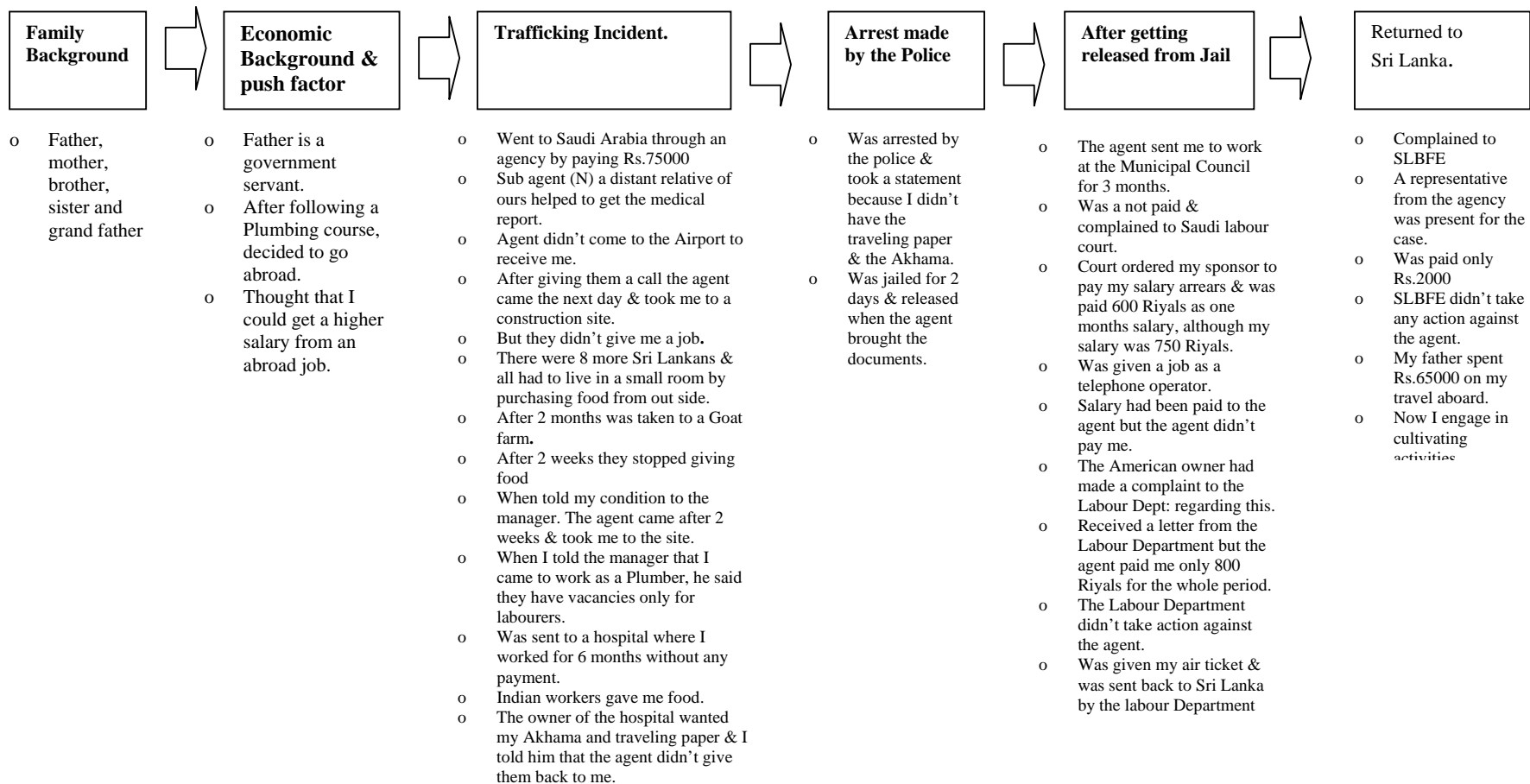
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No.	01	
(3)	Earlier Residence	Kandy	
(4)	Current Residence	Kandy	
(5)	Place of trafficking	Maradana	
(6)	Current Age	35	
(7)	Age at trafficking	27	
(8)	Income Group	Low income	



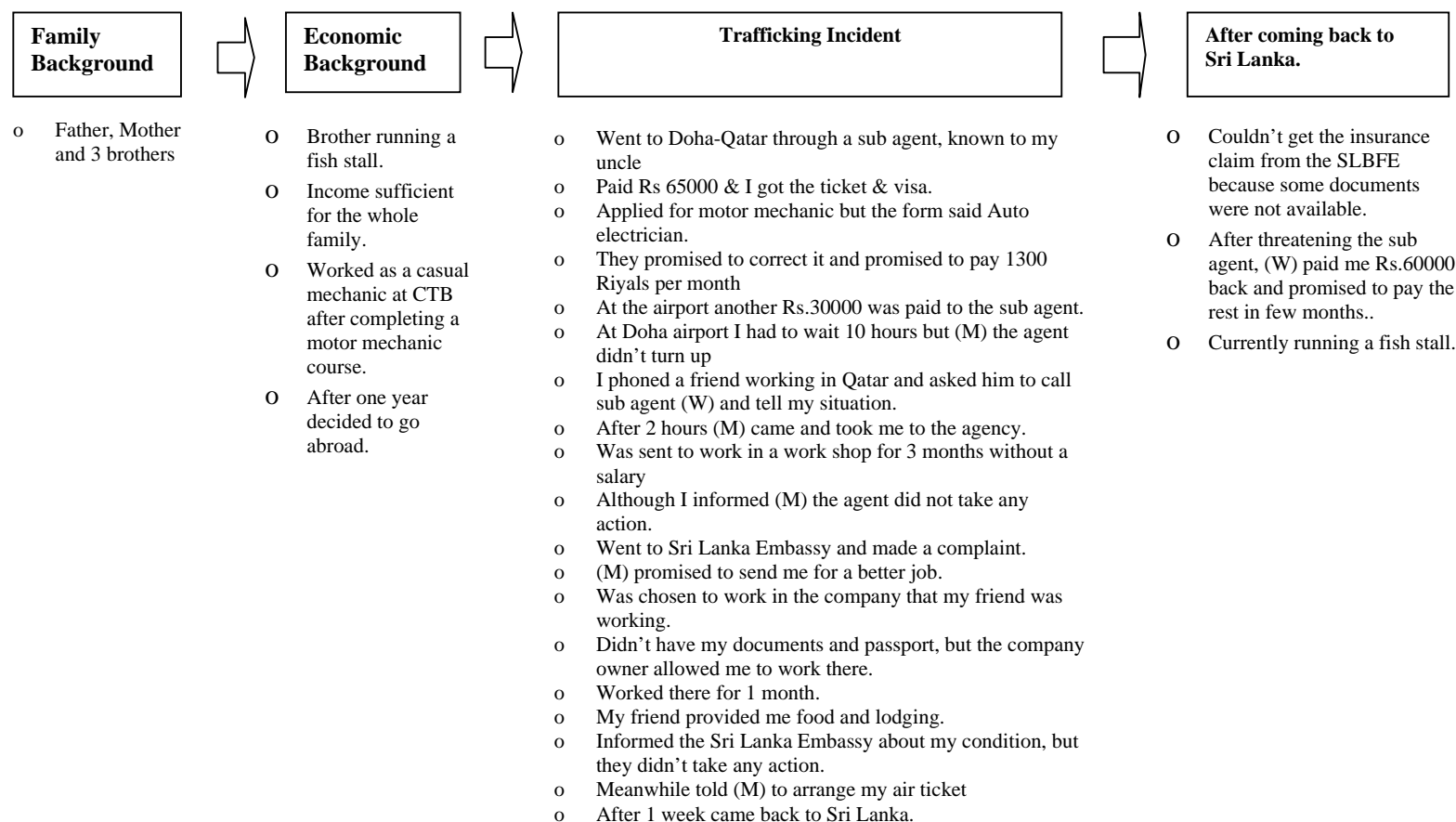
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No.	02	
(3)	Earlier Residence	We-uda	
(4)	Current Residence	We-uda	
(5)	Place of trafficking	Saudi- Arabia	
(6)	Current Age	30	
(7)	Age at trafficking	22	
(8)	Income Group	Middle Income-	



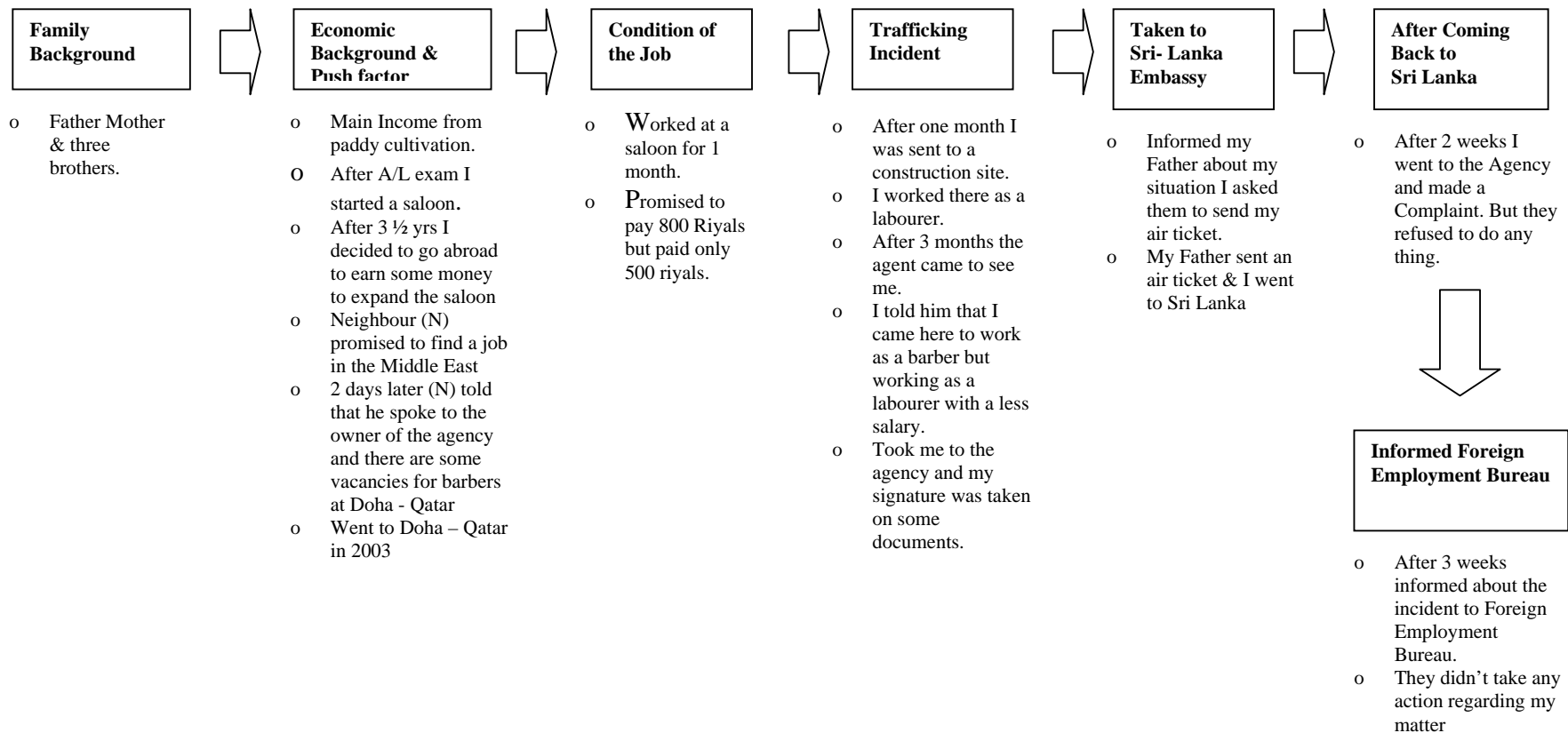
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No	03	
(3)	Earlier Residence	We-Uda	
(4)	Current Residence	We-Uda	
(5)	Place of trafficking	Doha Qatar	
(6)	Current Age	26	
(7)	Age at trafficking	25	
(8)	Income Group	Middle Income	



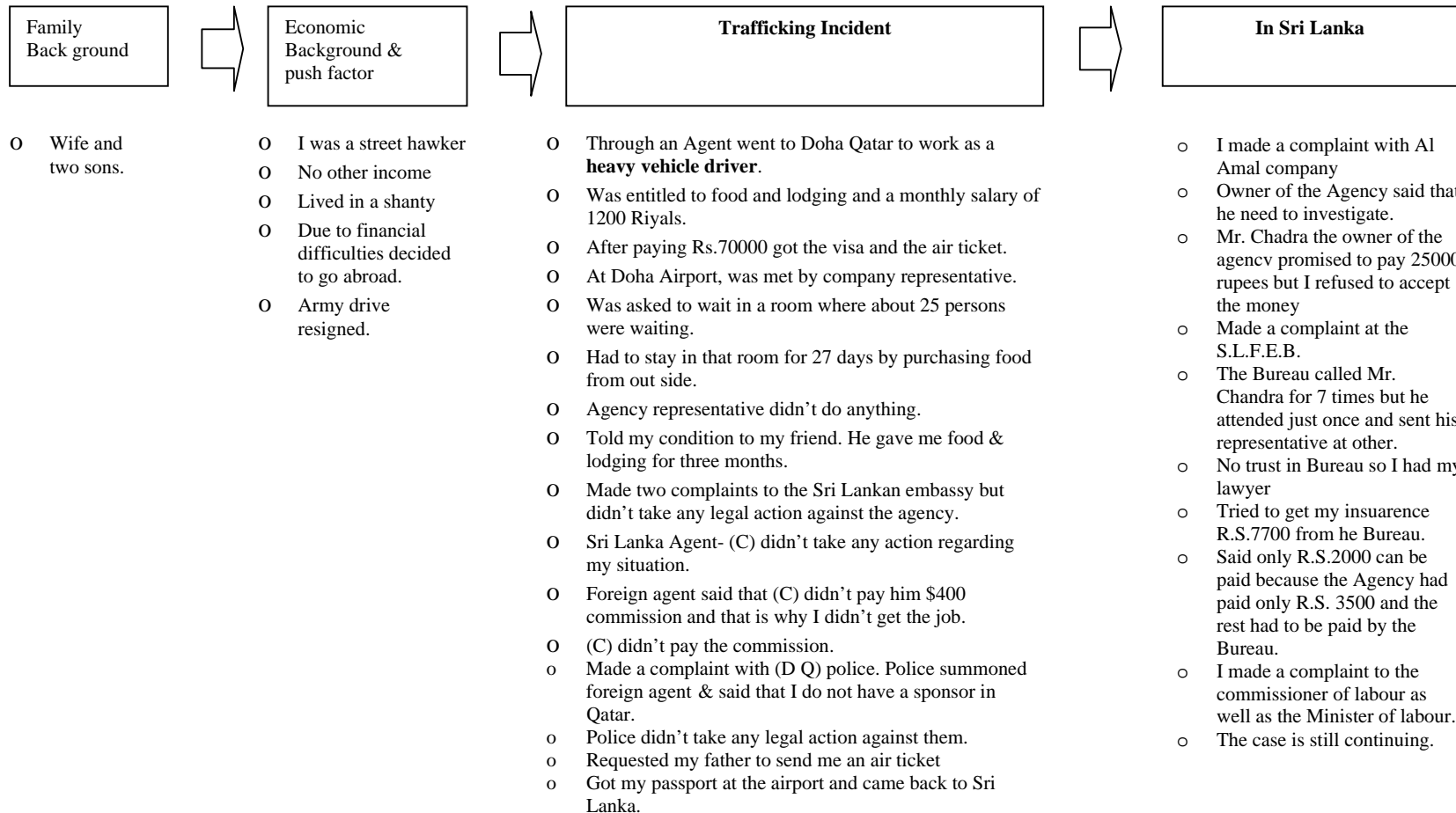
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No	04	
(3)	Earlier Residence	Kahapathwala	
(4)	Current Residence	Kahapathwala	
(5)	Place of Trafficking	Doha Quatar	
(6)	Current Age	24	
(7)	Age at Trafficking	23	
(8)	Income Group	Low Income	



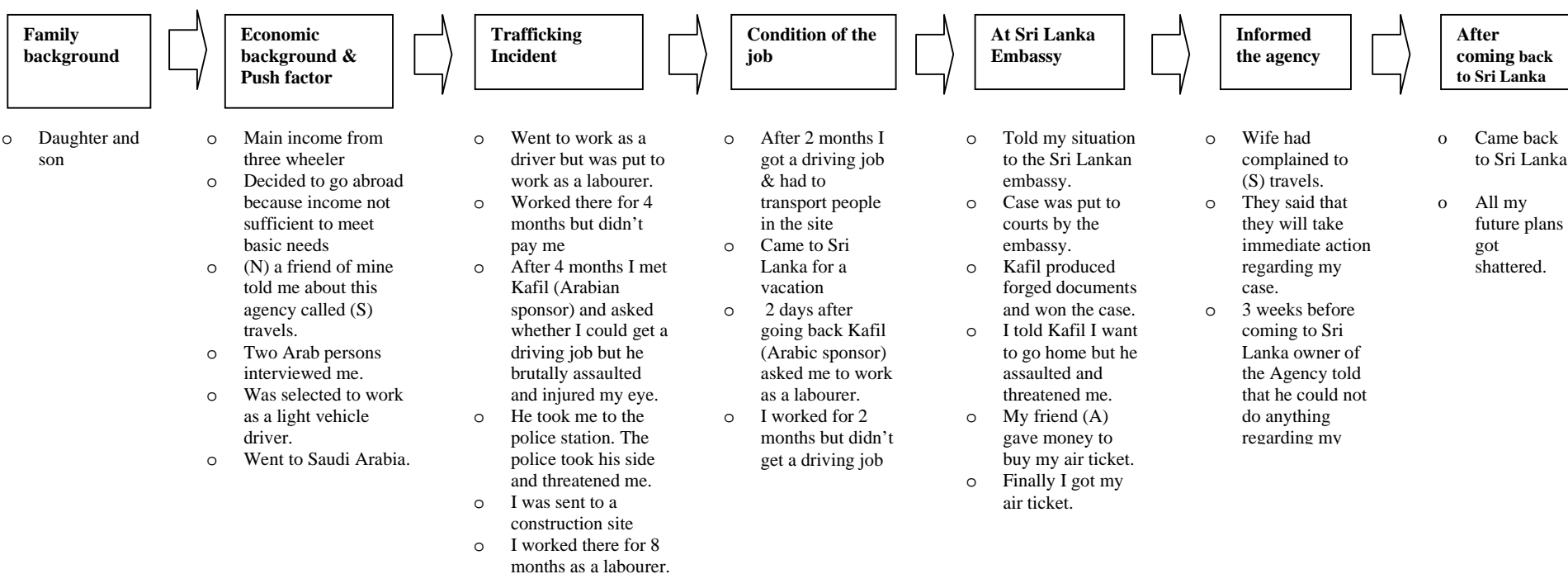
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No	05	
(3)	Earlier Residence	Colombo-10	
(4)	Current Residence	Colombo-10	
(5)	Place of trafficking	Doha-Qatar	
(6)	Current Age	34	
(7)	Age at trafficking	32	
(8)	Income Group	Low Income	



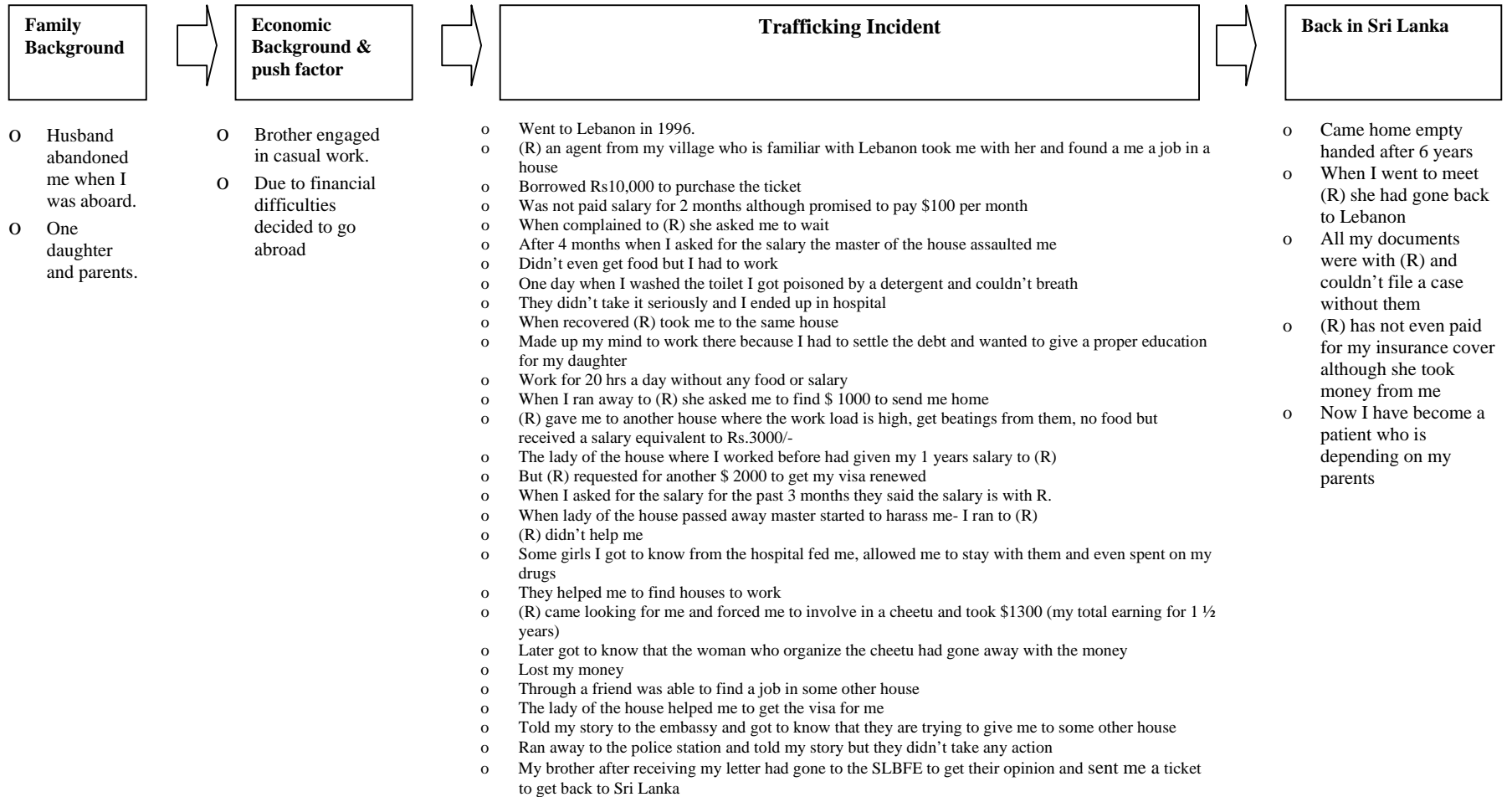
Trafficking Pathways

(1)	Type	EXTERNAL	Male
(2)	Case No	06	
(3)	Earlier Residence	Colombo 10	
(4)	Current Residence	Colombo 10	
(5)	Place of Trafficking	Saudi Arabia	
(6)	Current Age	36	
(7)	Age at Trafficking	30	
(8)	Income Group	Low Income	



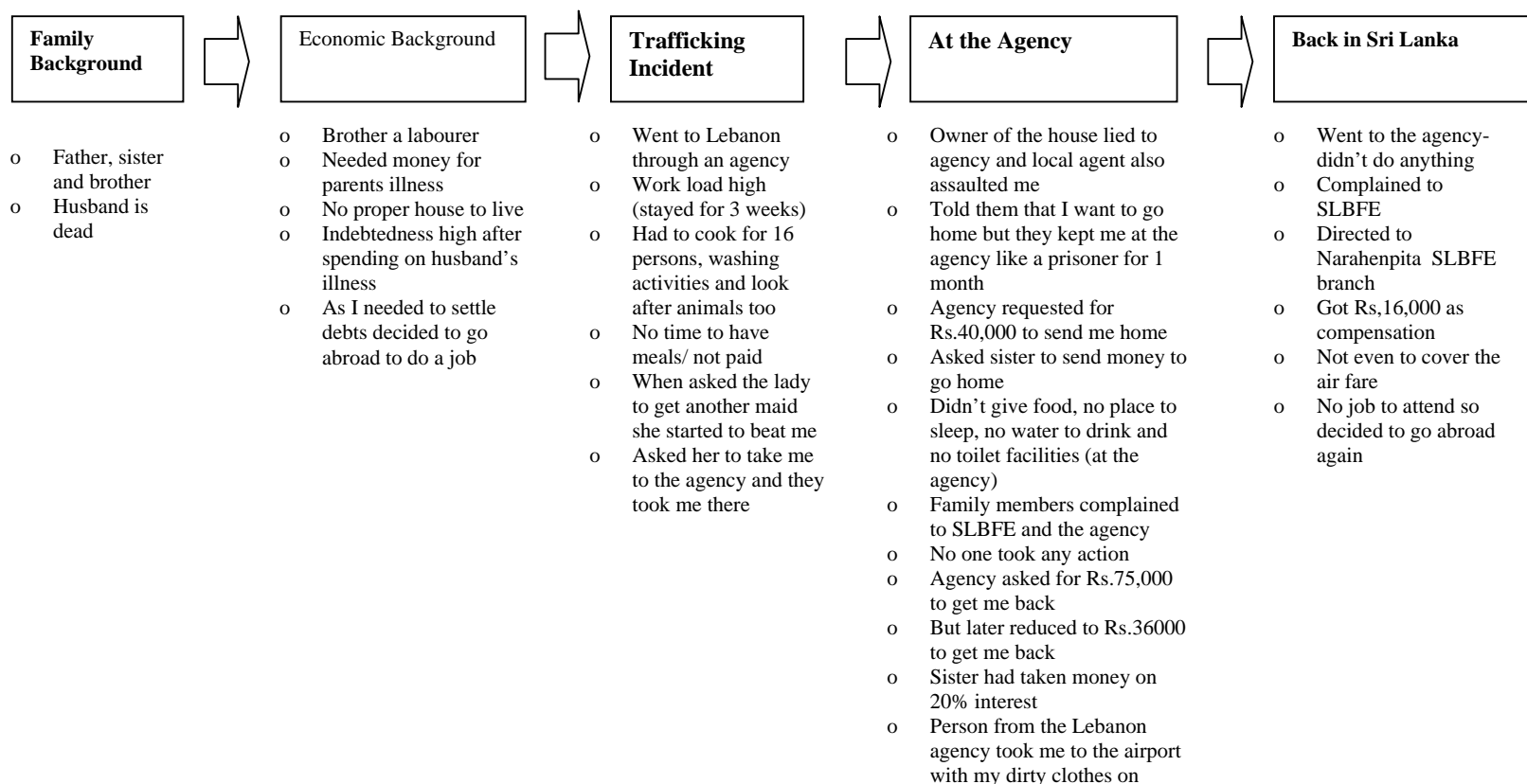
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	07	
(3)	Earlier Residence	Mawathagama	
(4)	Current Residence	Mawathagama	
(5)	Place of Trafficking	Lebanon	
(6)	Current Age	37	
(7)	Age at trafficking	30	
(8)	Income Group	Low Income	



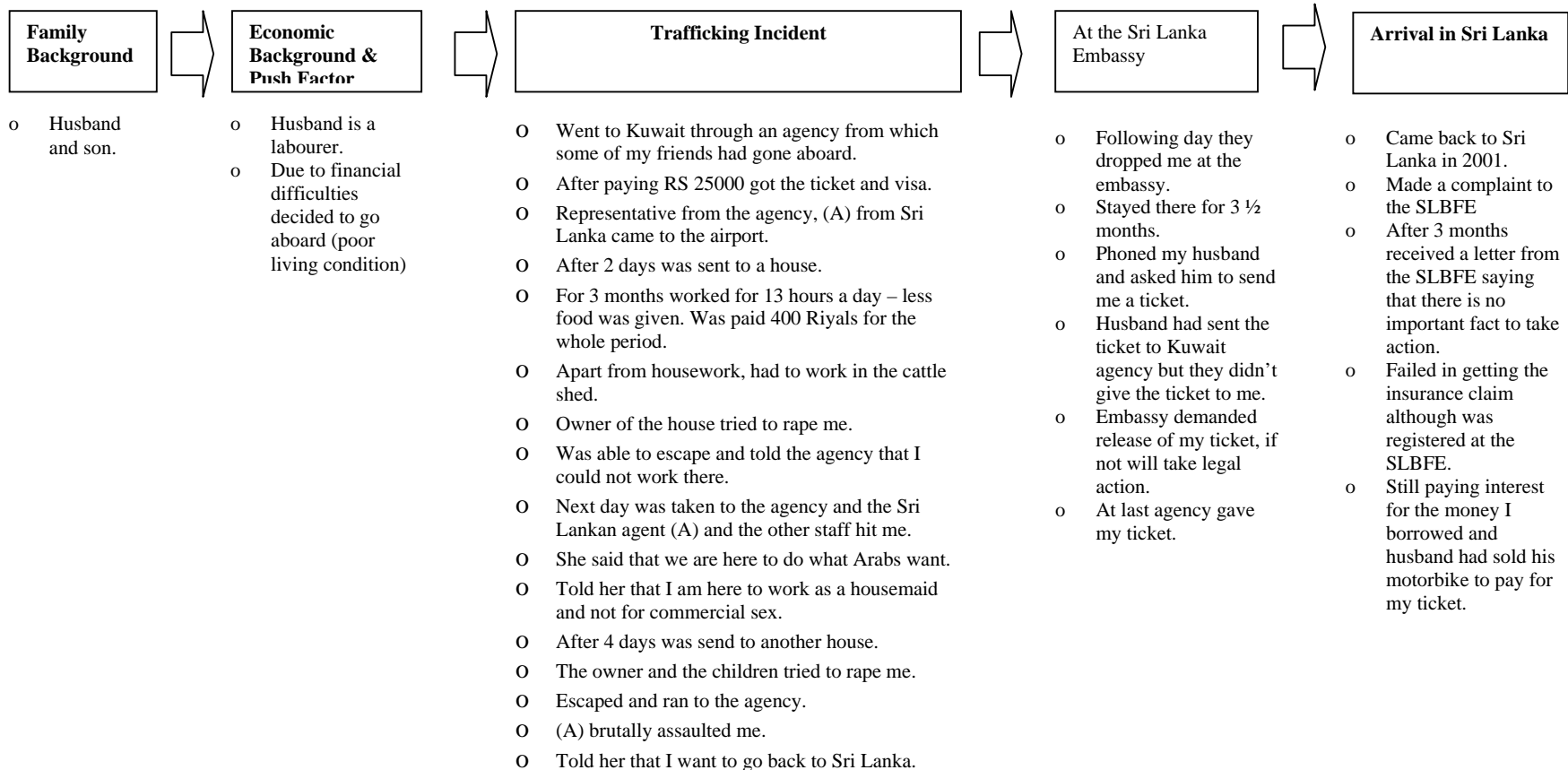
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	08	
(3)	Earlier Residence	Borella	
(4)	Current Residence	Borella	
(5)	Place of Trafficking	Lebanon	
(6)	Current Age	48	
(7)	Age at Trafficking	48	
(8)	Income group	Low income	



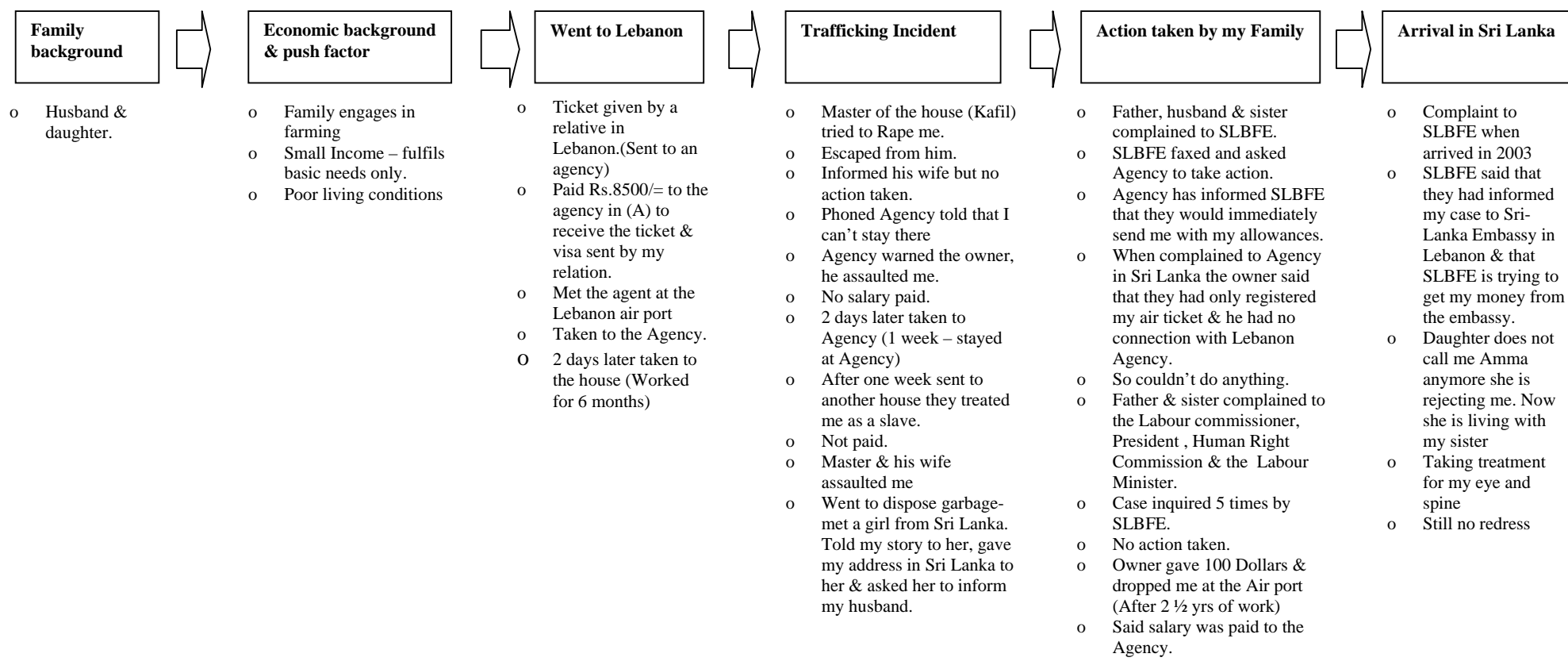
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	09	
(3)	Earlier Residence	Pilassa	
(4)	Current residence	Pilassa	
(5)	Place of trafficking		
(6)	Current Age	27	
(7)	Age at trafficking	26	
(8)	Income Group	Low Income	



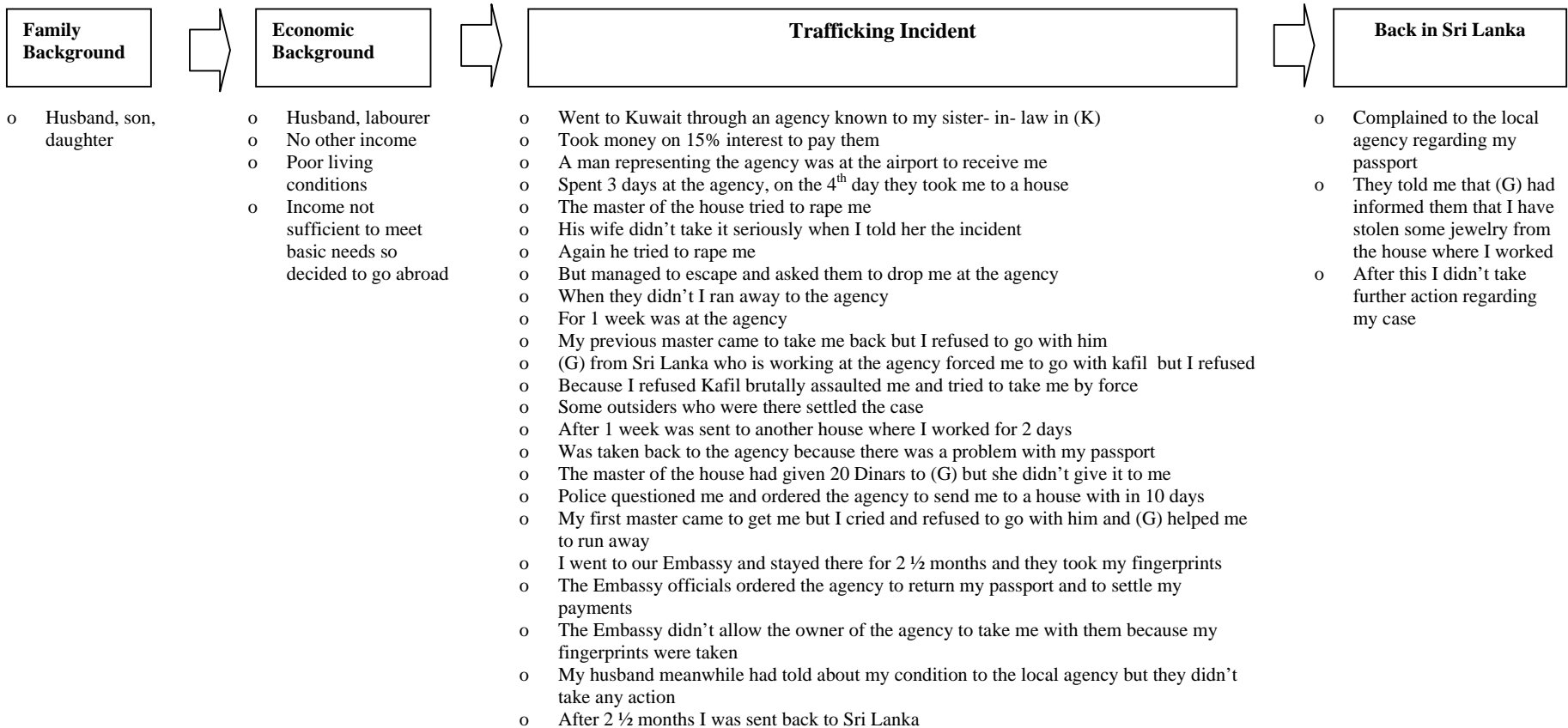
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	10	
(3)	Earlier Residence	Mawathagama	
(4)	Current Residence	Mawathagama	
(5)	Place of Trafficking	Lebanon	
(6)	Current Age	30	
(7)	Age at Trafficking	27	
(8)	Income Group	Low Income	



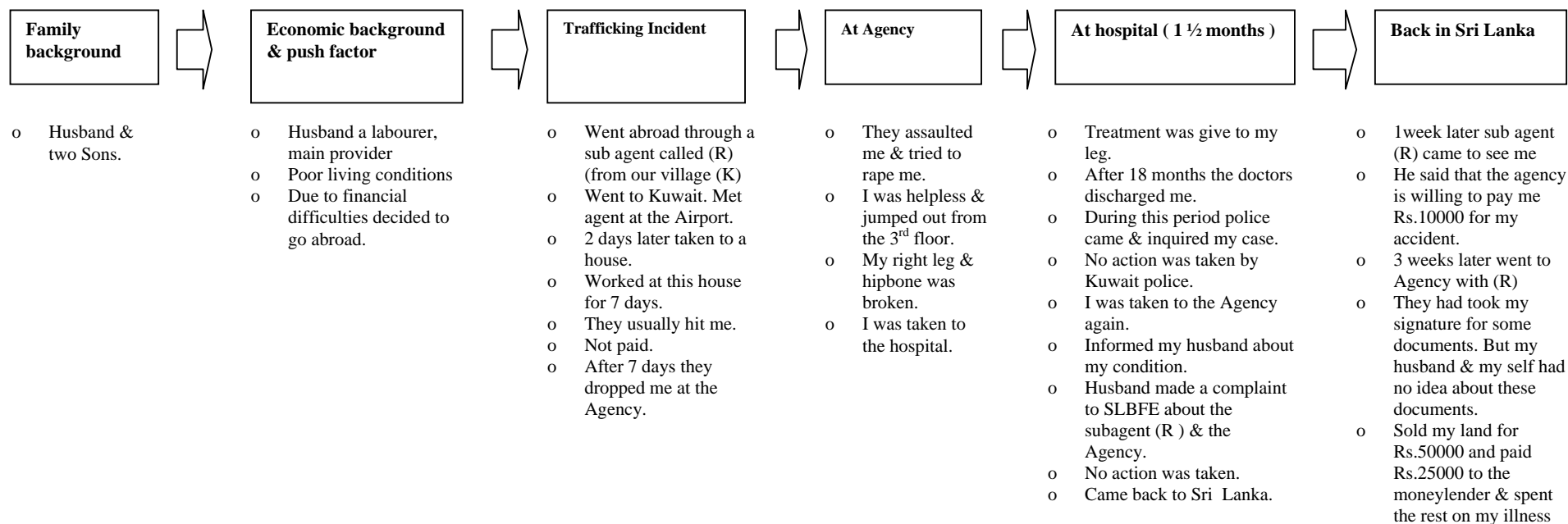
Trafficking Pathways

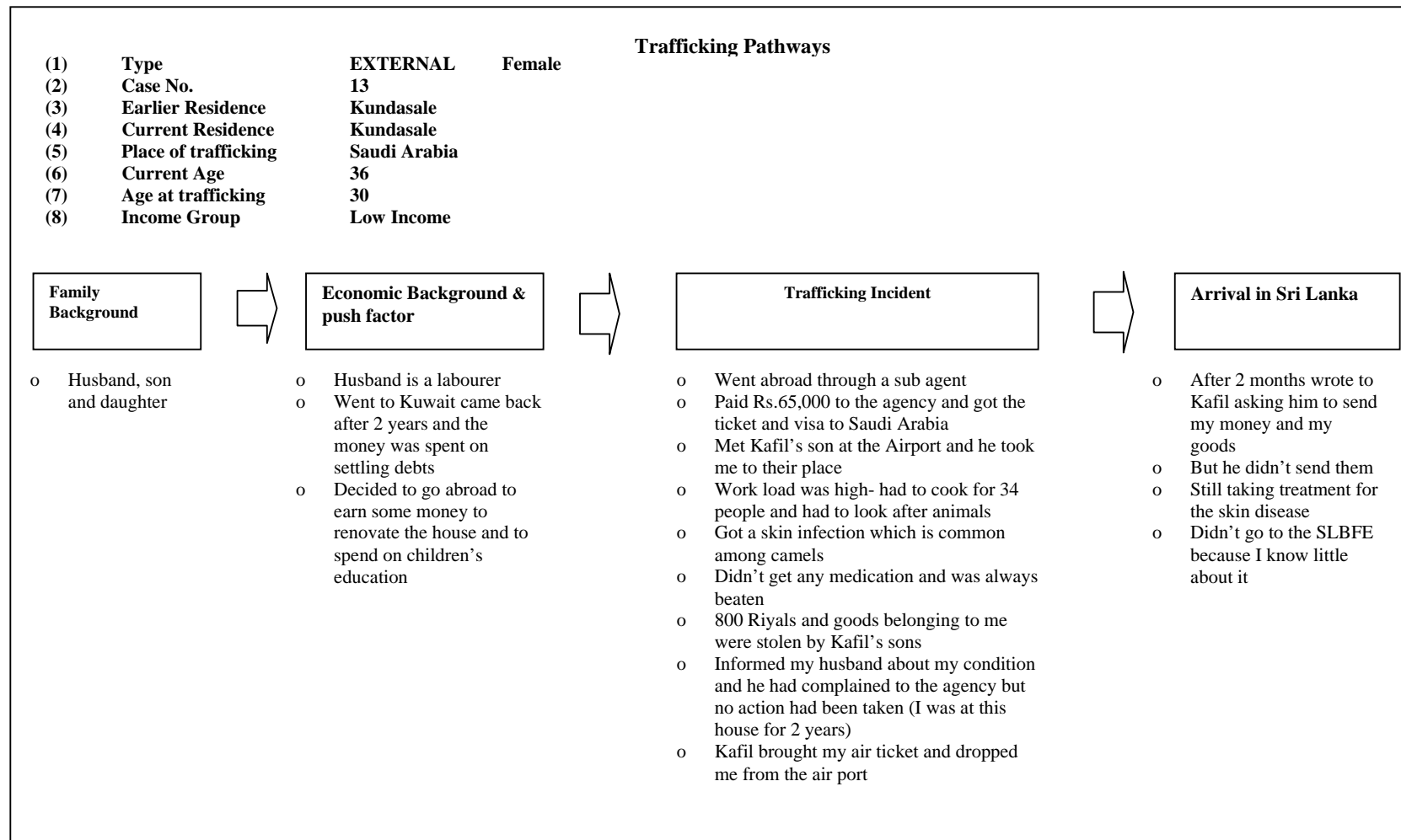
(1)	Type	EXTERNAL	Female
(2)	Case No	11	
(3)	Earlier Residence	Pilassa	
(4)	Current Residence	Pilassa	
(5)	Place of trafficking	Kuwait	
(6)	Current Age	27	
(7)	Age at trafficking	26	
(8)	Income Group	Low income	



Trafficking Pathways

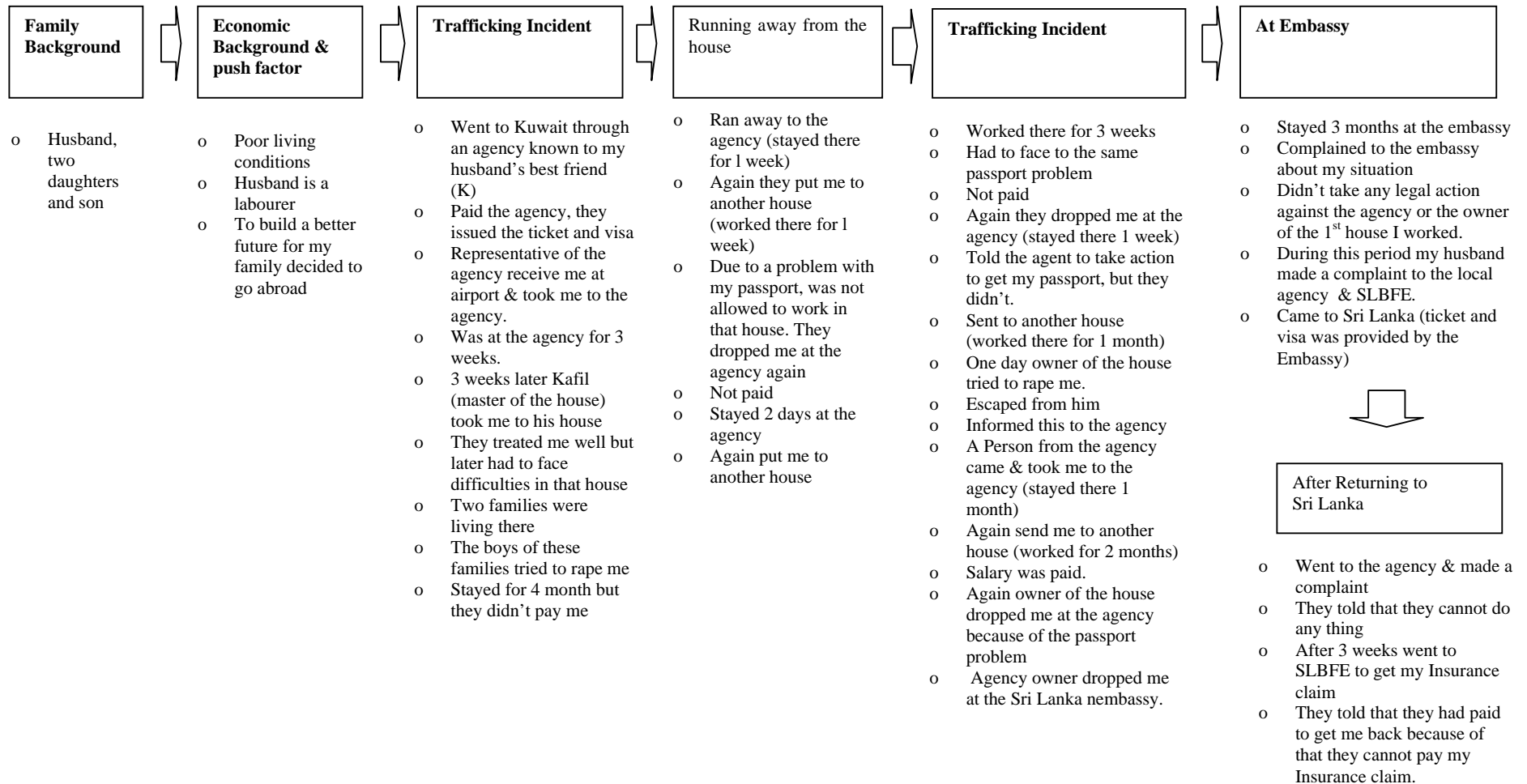
(1)	Type	EXTERNAL	Female
(2)	Case No.	12	
(3)	Earlier Residence	Pilassa	
(4)	Current Residence	Pilassa	
(5)	Place of Trafficking	Kuwait	
(6)	Current Age	37	
(7)	Age at Trafficking	34	
(8)	Income Group	Low Income	

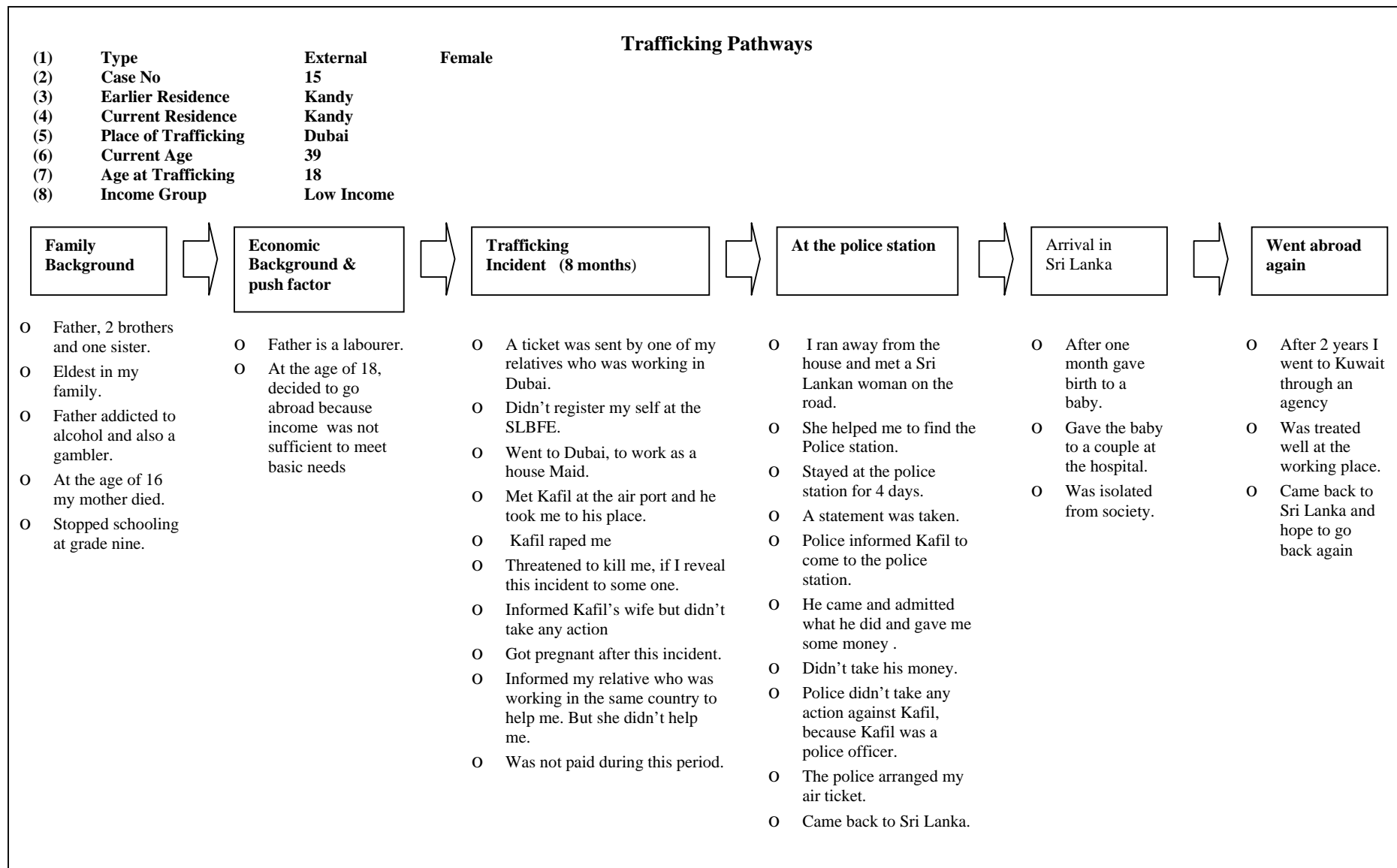




Trafficking Pathways

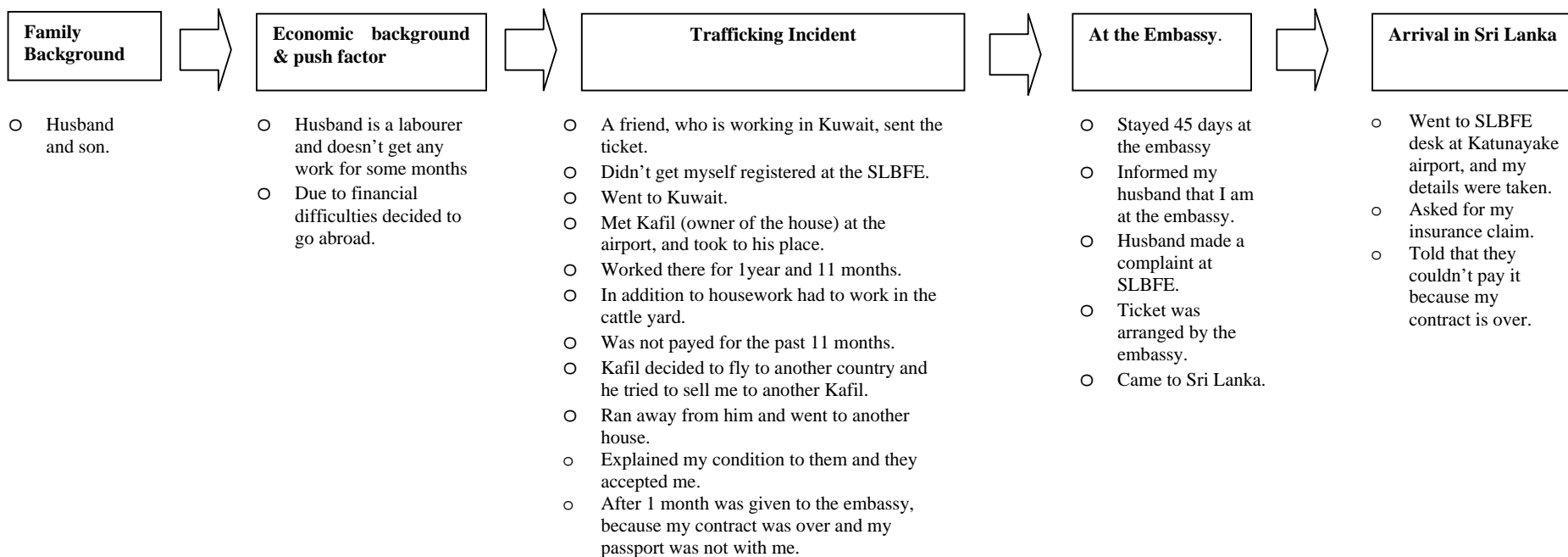
(1)	Type	EXTERNAL	Female
(2)	Case No	14	
(3)	Earlier Residence	Pilassa	
(4)	Current Residence	Pilassa	
(5)	Place of trafficking	Kuwait	
(6)	Current Age	38	
(7)	Age at trafficking	34	
(8)	Income Group	Low income	





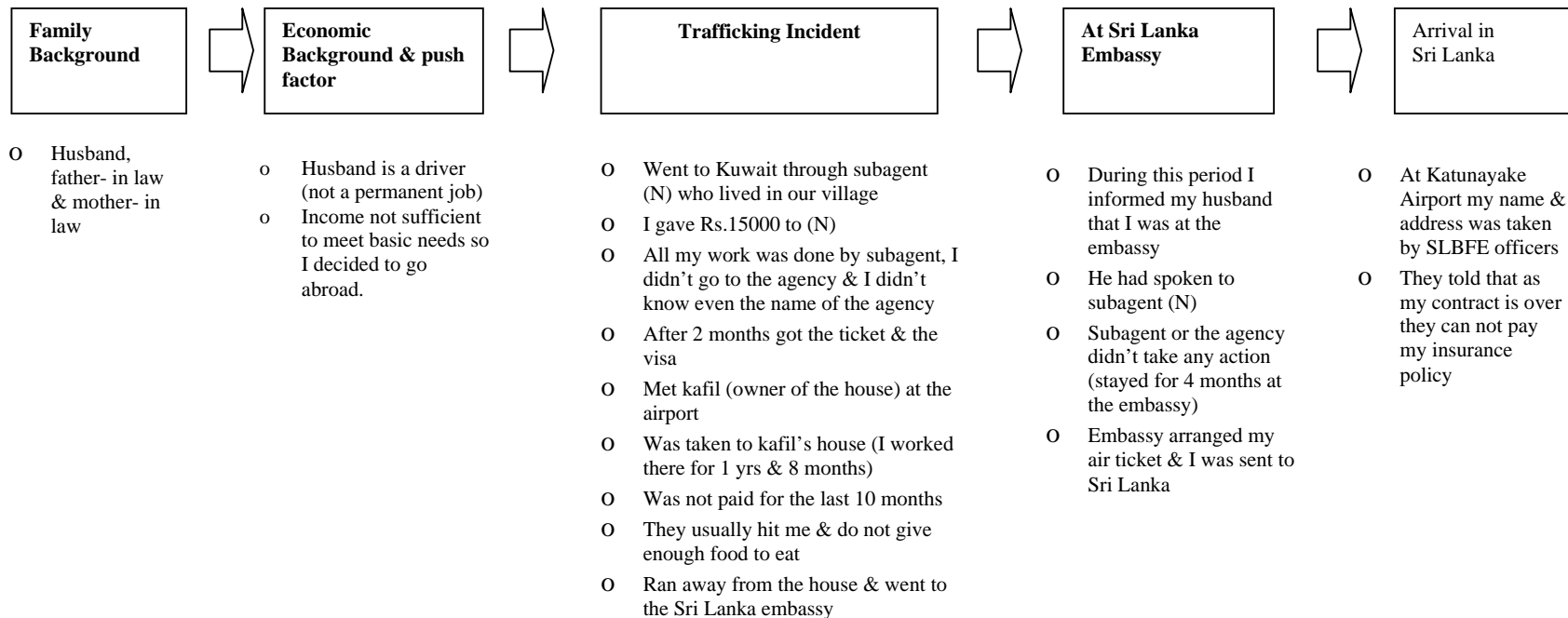
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	16	
(3)	Earlier Residence	Weuda	
(4)	Current Residence	Weuda	
(5)	Place of Trafficking	Kuwait	
(6)	Current Age	26	
(7)	Age at Trafficking	24	
(8)	Income Group	Low Income	



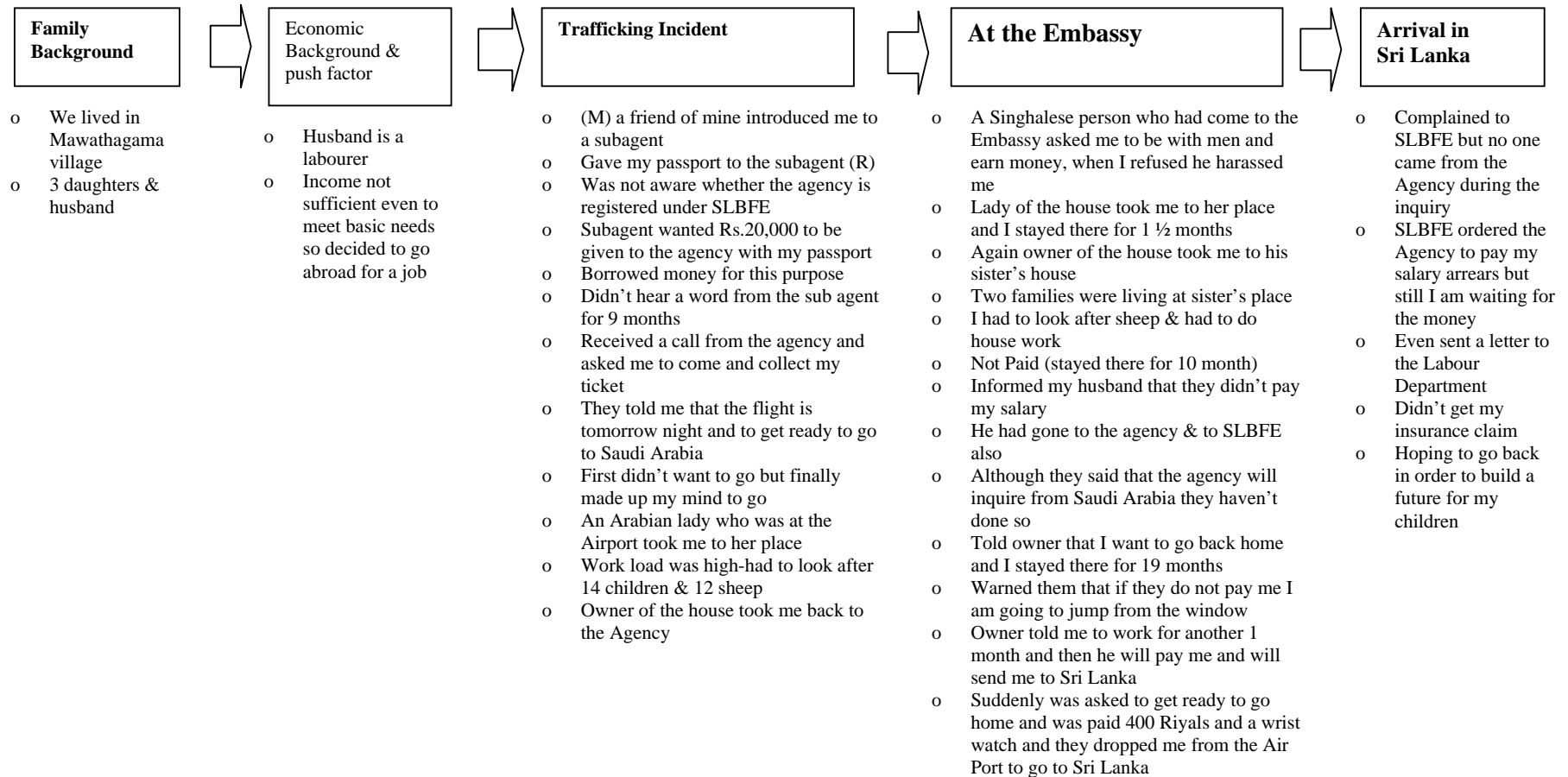
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	17	
(3)	Earlier Residence	Weuda	
(4)	Current Residence	Weuda	
(5)	Place of trafficking	Kuwait	
(6)	Current Age	25	
(7)	Age at Trafficking	23	
(8)	Income Group	Low Income	



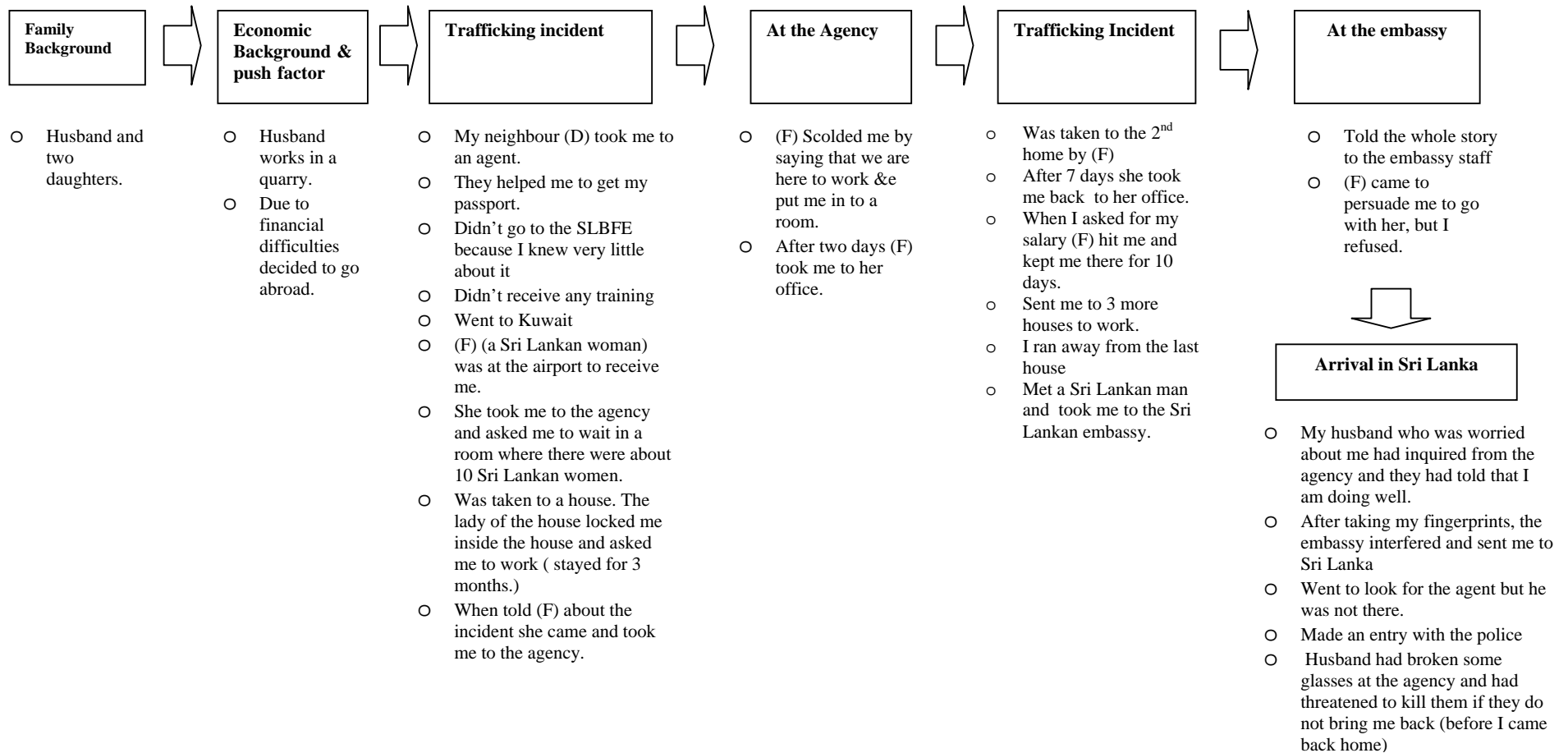
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	18	
(3)	Earlier Residence	Kundasale	
(4)	Current Residence	Kundasale	
(5)	Place of trafficking	Saudi Arabia	
(6)	Current Age	40	
(7)	Age at trafficking	37	
(8)	Income Group	Low Income	



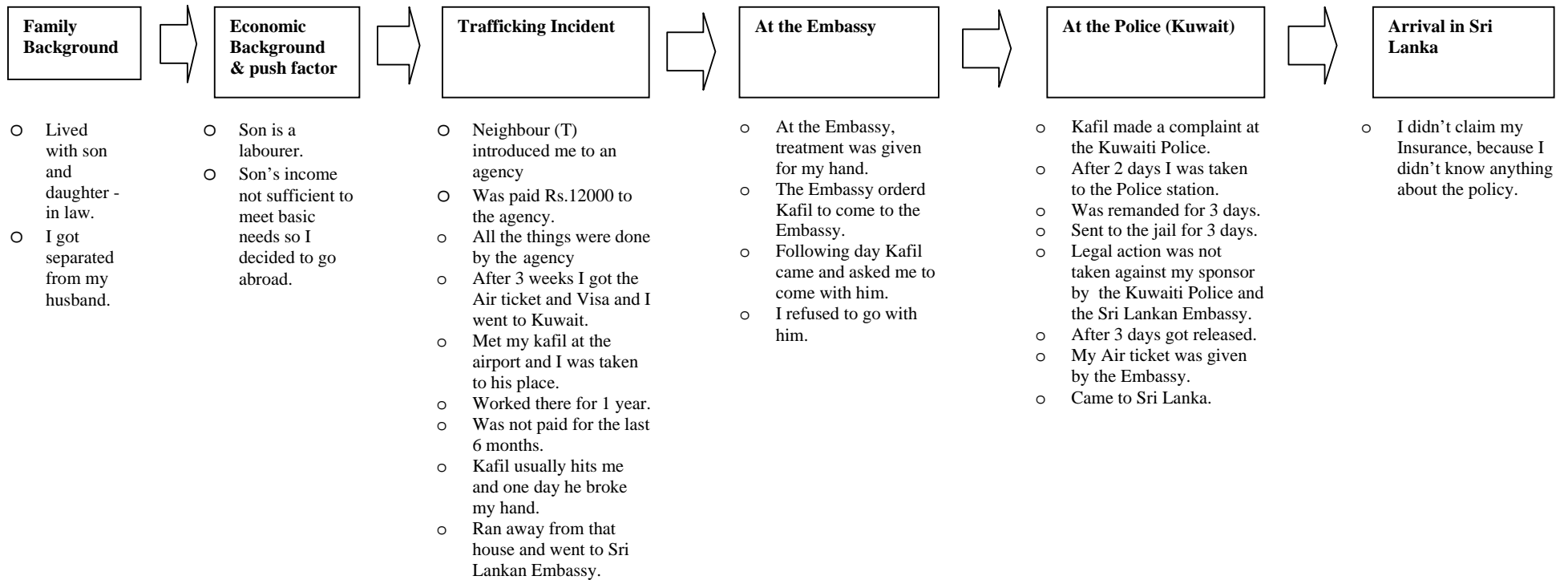
Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	19	
(3)	Earlier Residence	Mawathagama	
(4)	Current Residence	Mawathagama	
(5)	Place of Trafficking	Kuwait	
(6)	Current Age	33	
(7)	Age at Trafficking	31	
(8)	Income Group	Low Income	



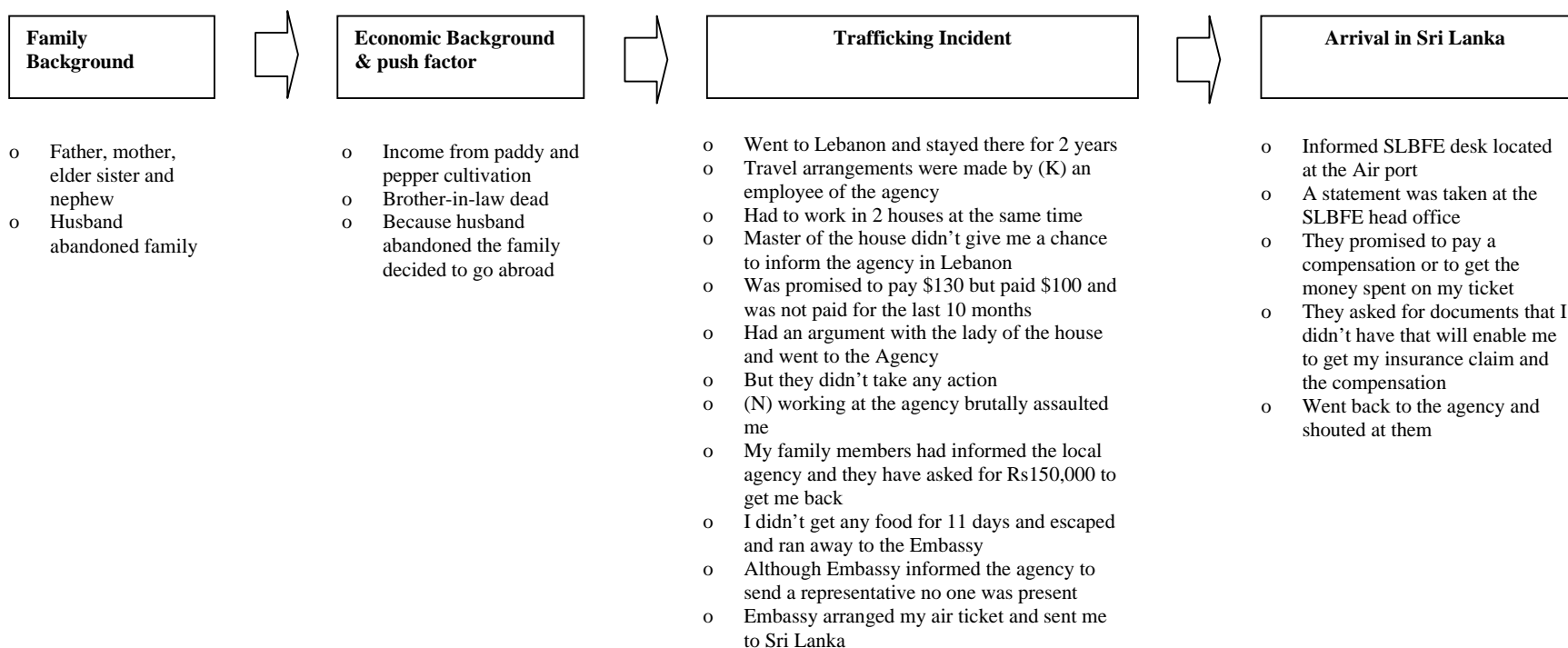
Trafficking Pathways

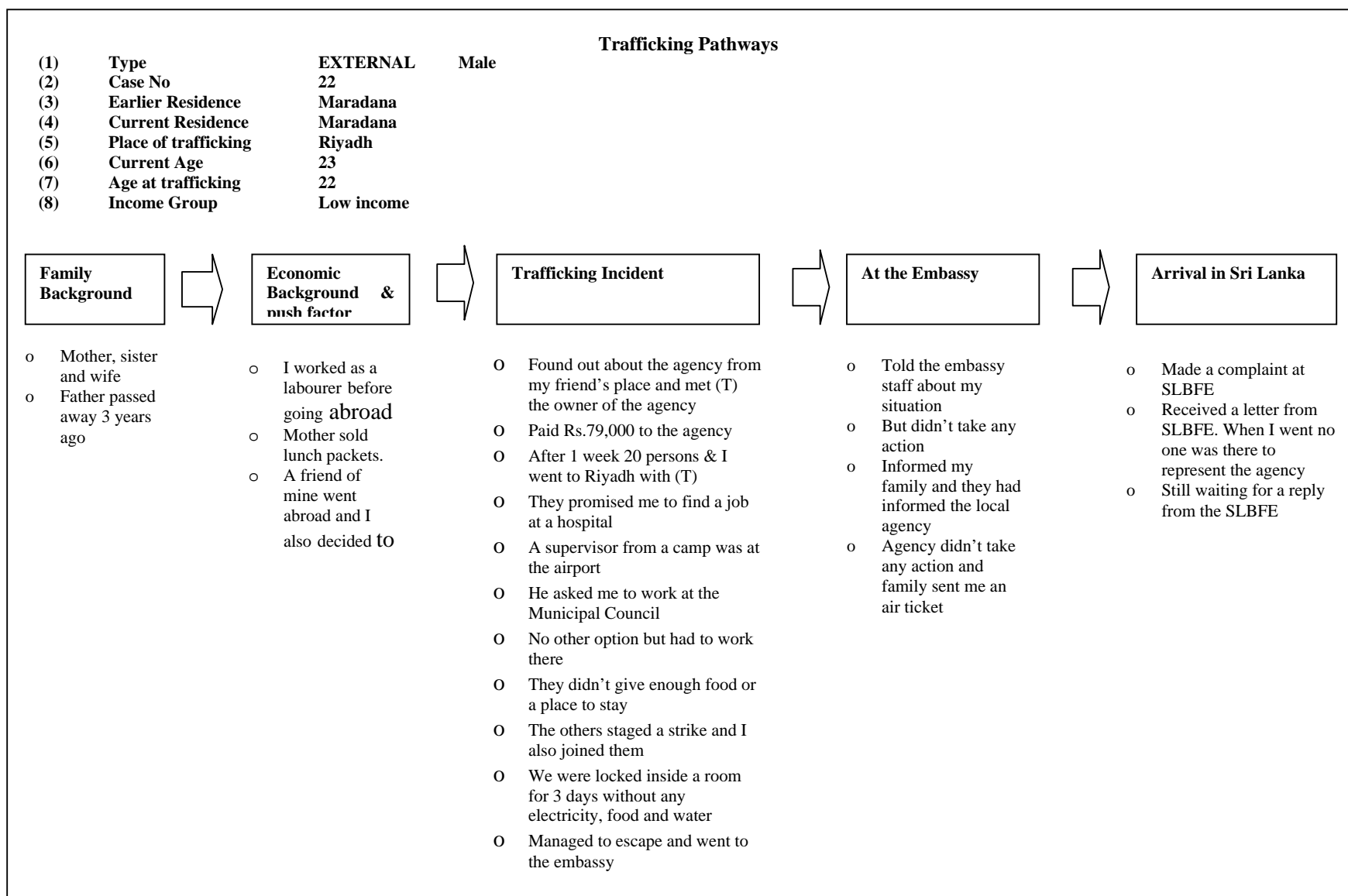
(1)	Type	EXTERNAL	Female
(2)	Case No	20	
(3)	Earlier Residence	Weuda	
(4)	Current Residence	Weuda	
(5)	Place of Trafficking	Kuwait	
(6)	Current Age	36	
(7)	Age at Trafficking	34	
(8)	Income Group	Low Income	



Trafficking Pathways

(1)	Type	EXTERNAL	Female
(2)	Case No	21	
(3)	Earlier Residence	Kandy	
(4)	Current Residence	Kandy	
(5)	Place of trafficking	Lebanon	
(6)	Current Age	42	
(7)	Age at trafficking	40	
(8)	Income Group	Low income	



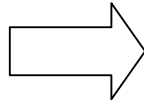


Trafficking pathways

(1)	Type	EXTERNAL	Male
(2)	Case No	23	
(3)	Earlier Residence	Teldeniya	
(4)	Current Residence	Teldeniya	
(5)	Place of Trafficking	Colombo	
(6)	Current Age	24	
(7)	Age at Trafficking	22	
(8)	Income Group	Low Income	

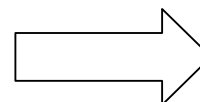
Family Background

- Father, Mother and, three brothers.
- I am the eldest in the family.



Economic Back ground & push factor

- Father is an Auto electrician.
- Mother a housewife.
- After A/L's tried to find a job, but couldn't.
- At last decided to go abroad.



Trafficking Incident

- A friend of mine introduced me to a sub – agent
- After 2 weeks I paid Rs 5200 to him.
- My passport was taken by his lawyer.
- Sub agent told me that he would arrange my air ticket and Visa in three weeks.
- Waited for three weeks.
- Didn't hear from the sub agent.
- Went to courts to meet the lawyer
- But he was not there and the lawyer said that he doesn't know much about the sub-agent
- Made a complaint at the police (K)
- After 2 weeks the sub-agent was arrested by (M) police.
- He was sent to Jail. The case was called 20 times.
- I was called twice.
- The sub agent is still in the Jail.

Table: 1.3 Distribution of the Sample of Internally and Externally Trafficked Females by Stratification Type (Internal), Gender (External), Education and Marital Status.

Internal	Age	Total	Education					Marital Status				
			NS	P	S	O/L	A/L	M	S	P	W	Se
Female Type A	10-15	5	-	2	-	3	-	-	4	1	-	-
	16-18	6	2	1	1	2	-	4	2	-	-	-
	19-25	7	1	1	-	2	-	3	4	-	-	-
Total		18	3	4	4	7	-	7	10	1	-	-
Female Type B	10-15	5	2	1	1	1	-	-	5	-	-	-
	16-18	2	1	-	1	-	-	-	2	-	-	-
	19-25	-	-	-	-	-	-	-	-	-	-	-
Total		7	3	1	2	1	-	-	7	-	-	-
Female Type C	10-15	1	-	-	1	-	-	-	1	-	-	-
	16-18	-	-	-	-	-	-	-	-	-	-	-
	19-25	1	-	-	-	1	-	-	1	-	-	-
Total		2	-	-	1	1	-	-	2	-	-	-
Grand Total		27	6	5	7	9	-	7	19	1	-	-
External												
Male	20-30	5	-	-	-	1	4	1	4	-	-	-
	31-40	3	-	-	3	-	-	3	-	-	-	-
	41 +	-	-	-	-	-	-	-	-	-	-	-
Total		8			3	1	4	4	4	-	-	-
Female	20-30	5	-	-	4	1	-	5	-	-	-	-
	31-40	8	-	-	2	5	1	5	-	-	-	2
	41 +	2	1	-	-	1	-	-	-	-	1	1
Total		15	1	-	6	7	1	10	1	-	1	3
Grand Total		23	1		9	8	5	14	5	-	1	3

Note:

Education	NS	No schooling	Marital Status	M	Married	Stratification	Type A	Trafficked Offender (Living in Institutions)
	P	Primary		S	Single		Type B	Sexually Abused Victim (Living in Institutions)
	S	Secondary		P	Partner		Type C	Victim (Living in Household of Abused)
	O/L	G.C.E.(O/L)		W	Widower			
	A/L	G.C.E.(A/L)		Se	Separate			

Table: 2.1.1 Reported Incidents of Minor Offences and Grave Crimes – According to District of Occurrence for the Years 2000, 2001 and 2002

Districts	2000					2001					2002					2003				
	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
1 Colombo	66	10	6	14	56	55	10	10	34	57	85	16	12	43	53	63	0	8	14	23
2 Gampaha	59	30	2	5	37	50	10	7	8	44	44	33	0	17	21	90	0	15	8	42
3 Kalutara	48	0	0	3	16	54	0	2	12	30	32	0	2	5	20	46	0	10	3	17
4 Kandy	49	0	1	0	16	54	1	4	4	18	50	1	2	3	13	80	0	10	6	15
5 Matale	42	0	1	0	9	28	0	1	1	9	19	0	0	1	5	14	0	6	1	15
6 NuwaraEliya	18	5	0	0	6	22	5	0	1	8	24	0	0	0	4	14	0	3	24	8
7 Galle	15	1	2	2	18	14	0	3	5	25	25	0	2	2	23	82	0	6	13	21
8 Matara	25	0	0	0	13	70	0	8	2	24	32	1	1	6	6	43	0	14	0	6
9 Tangalle (Hambantota)	13	4	0	2	18	9	6	1	4	14	18	0	2	1	21	23	0	6	2	24
10 Kurunagala	30	0	0	4	17	44	4	1	4	18	44	0	4	1	26	96	0	9	8	32
11 Chilaw (Puttlam)	16	58	0	4	17	16	90	2	4	21	17	43	0	4	27	23	0	16	6	42
12 Rathnapura	36	41	0	3	27	52	12	1	4	24	60	37	2	2	19	98	0	10	17	25
13 Kegalle	65	1	1	5	14	38	0	2	5	24	56	0	0	5	16	66	0	9	5	19
14 Badulla	29	0	1	5	6	31	0	0	2	9	28	0	5	1	10	43	0	2	4	11
15 Moneragala	31	0	0	1	13	35	0	0	0	13	27	0	6	0	8	39	0	21	0	16
16 Ampara	33	0	3	0	11	33	0	2	3	11	44	0	0	2	16	58	0	20	4	8
17 Trincomalee	11	0	0	1	2	19	0	0	0	0	16	0	0	3	5	32	0	7	4	3
18 Batticaloa	3	0	0	1	4	5	0	0	1	3	1	0	3	2	1	4	0	1	5	8
19 Jaffna	1	0	0	0	1	5	0	0	1	3	13	0	0	1	3	0	0	0	0	9
20 Vavuniya	2	0	0	0	0	0	0	0	0	0	8	0	0	0	2	22	2	15	1	10
21 Anuradhapura	5	7	0	1	5	40	0	0	0	22	20	2	5	1	12	26	0	15	2	43
22 Polonnaruwa	32	0	0	2	14	45	0	2	1	18	45	0	1	1	22	44	0	7	1	12
Total	629	157	17	53	320	719	138	46	96	395	708	133	47	101	333	1006	2	210	128	409

Source: Sri Lanka Police, Women and Children's Bureau
(Figures given by source according to Police Division are presented according to Administrative Districts)

- Note :
1. Sexual Harassment (*Minor Offences*)
 2. Procurating Prostitution (*Minor Offences*)
 3. Unnatural Offences and Grave Sexual Abuse (*Grave Crimes*)
 4. Kidnapping Abduction and Procurating (*Grave Crimes*)
 5. Rape (*Grave Crimes*)

Table 2.1.2a Internally Trafficked Females Classified by Age and Period of Trafficking

Age at Trafficking (Years)	Age at Current (Years)				
	10-15	16-18	19-25	25+	Total
10-15	2	6	3	-	11
16-18	-	3	5	-	8
19-25	-	-	6	2	8
25+	-	-	-	-	-
Total	2	9	14	2	27

Table 2.1.2b Sample distribution by Earlier Residence & Trafficking Location
(Internal Trafficking Female)

Earlier Residence	Trafficking Location									Total
	Colombo	Gampaha	Kandy	Kurunegala	Kegalle	A'para	Rathnapura	Puttalam	Matara	
Colombo	2+1*	1	-	-	-	-	-	-	-	4
Gampaha	-	-	-	-	-	-	-	1	-	1
Kaluthara	1	-	-	-	-	-	-	-	-	1
Kandy	4	-	-	-	-	-	-	-	-	4
Matale	1	-	-	-	-	1	-	-	-	2
Kurunegala	1	-	-	2	-	-	-	-	-	3
Kegalle	1	-	-	-	1	-	-	-	-	2
A'para	1	-	-	-	-	2	-	-	-	3
Polonnaruwa	-	-	-	1	1	-	-	-	-	2
Rathnapura	-	-	-	-	-	-	1	-	-	1
Badulla	1	-	-	-	-	-	-	-	-	1
Hambantota	-	-	-	-	-	-	-	-	1	1
Moneragala	1	-	1	-	-	-	-	-	-	2
Total	14	01	01	3	2	3	1	1	1	27

Note : 1* Trafficking Location - Detention Centre and Girl's Home

Table: 2.2.2 Current Age and Trafficking Age Classified by Current Residence & Gender
(External Trafficking Male / Female)

Gender	Current Residence	Age at Trafficking (Years)				Current Age (Years)			
		18-30	31-40	41 +	Total	18-30	31-40	41 +	Total
Male	Colombo	2	1	-	3	1	2	-	3
	Kandy	2	-	-	2	1	1	-	2
	Kurunegala	3	-	-	3	3	-	-	3
Total		7	1	0	8	5	3	0	8
Female	Colombo	-	-	1	1	-	-	1	1
	Kandy	2	2	-	4	-	3	1	4
	Kurunegala	6	4	-	10	5	5	-	10
Total		8	6	1	15	5	8	2	15
Grand Total		15	7	1	23	10	11	2	23

*Note : Earlier Residence and Current Residence are same

Part Two

Legislative and Institutional Framework

Mana Gunatilaka

1 International Instruments Dealing with Female Trafficking

1.1 Introduction

1.1.1 It is significant that most of the international instruments dealing with trafficking in persons were formulated before the practices found today pertaining to female trafficking became evident. However, they aimed at combating some of the aspects that are currently regarded as forming trafficking – recruitment and related acts for exploitation of persons by such means as prostitution and other forms of sexual abuse, forced services, slavery and servitude.

1.1.2 The international conventions and covenants applicable to the suppression of female trafficking are as follows :

1.1.2.1 UN Slavery Convention of 1926.

1.1.2.2 Forced Labour Convention of the International Labour Organization, of 1930.

1.1.2.3 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 1949, which consolidates the following:

- International Agreement of 1904 for the Suppression of White Slave Traffic as amended by the UN Protocol of 1948.
- International Convention of 1910 for the Suppression of White Slave Traffic as amended by the above Protocol of 1948.
- International Convention of 1921 for the Suppression of the Traffic in Women and Children as amended by the UN Protocol of 1947.
- International Convention of 1933 for the Suppression of the Traffic in Women of Full Age as amended by the above Protocol of 1947.

- 1.1.2.4 UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, of 1956.
- 1.1.2.5 Abolition of Forced Labour Convention of the International Labour Organization, of 1957.
- 1.1.2.6 International Covenant on Civil and Political Rights, of 1966.
- 1.1.2.7 Convention Concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, of the International Labour Organization, of 1975.
- 1.1.2.8 UN Convention on Elimination of All Forms of Discrimination Against Women, of 1979.
- 1.1.2.9 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, of 1991.
- 1.1.2.10 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, of 2000, which supplemented.
 - UN Convention Against Transnational Organized Crime, of 2000.
- 1.1.3 The regional initiatives include the following :
 - 1.1.3.1 Bangkok Accord and Plan of Action to Combat Trafficking in Women, of 1998.
 - 1.1.3.2 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, of 2002.
- 1.1.4 These international instruments are discussed below.

1.2 Slavery Convention - 1926

- 1.2.1 The Slavery Convention is one of the earliest international conventions invoked to combat forced labour and trafficking. Initially concluded by the League of Nations, this Convention was amended and entered into force by the United Nations in 1955.
- 1.2.2 This instrument required the contracting parties to prevent and suppress the slave trade and to bring about, as soon as possible, the complete abolition of slavery in all its forms (Article 2). It defined slavery as the status or condition of a person over whom the powers attaching to the right of ownership are exercised. The slave trade was defined to include acts involved in the capture, acquisition or disposal of a person with the intention to reduce him to slavery (Article 1).

- 1.2.3 Later, as it was decided that this Convention should be augmented by a supplementary convention designed to intensify national and international efforts towards the abolition of slavery, slave trade and institutions and practices similar to slavery, the plenipotentiaries convened by the Economic and Social Council adopted, in 1956, the Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery.

1.3 Forced Labour Convention – ILO - 1930

- 1.3.1 The Forced Labour Convention (No. 29) of 1930 was adopted by the International Labour Organization to deal with forced or compulsory labour.
- 1.3.2 The Convention defined "forced or compulsory labour" 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" (Article 2). The members of the ILO ratifying this convention undertake the suppression of such labour in all its forms within the shortest possible time.
- 1.3.3 The convention debarb the parties to it from imposing or permitting the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations (Articles 4 and 5). While it excludes certain services such as compulsory military service and work forming part of the normal civil obligations of citizens from the term "forced or compulsory labour" (Article 2), it requires that only adult able-bodied males be called upon for forced or compulsory labour (Article 11), thus prohibiting the imposition of such labour on women and children.

1.4 UN Convention for the Suppression of the Traffic in Persons and of the Prostitution of Others - 1949

- 1.4.1 This Convention (CSTP) consolidates the following instruments with respect to the suppression of the traffic in women and children, which were in force then:
- International Agreement of 1904 for the Suppression of the White Slave Traffic as amended by the UN Protocol of 1948 .
 - International Convention of 1910 for the Suppression of White Slave Traffic as amended by the above Protocol.
 - International Convention of 1921 for the Suppression of the Traffic in Women and Children as amended by the UN Protocol of 1947.
 - International Convention of 1933 for the Suppression of the Traffic in Women of Full Age as amended by the above Protocol of 1947.
- 1.4.2 It also embodies the substance of a draft Convention prepared by the League of Nations in 1937, extending the scope of the four instruments mentioned above.

- 1.4.3 The Preamble to the Convention states that prostitution and the accompanying evil of traffic in persons for prostitution are incompatible with dignity and worth of the human person and endanger the welfare of the individual, the family and the community. However, the Convention does not define the term "trafficking".
- 1.4.4 The Convention criminalizes trafficking for prostitution and the related actions (Articles 1 and 2 – Box 1) and requires that previous convictions in foreign states for committing these offences be taken into account for establishing recidivism and for disqualifying the offender from the exercise of civil rights (Article 7). It further requires that these offences be regarded as extraditable offences in any extradition treaty that has already been or may be concluded between the parties to it.

<p style="text-align: right;"><u>Box - 1</u></p> <p style="text-align: center;"><u>Article 1</u></p> <p>The Parties to the present Convention agree to punish any person who, to gratify the passion of another :</p> <ol style="list-style-type: none"> 1. Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person. 2. Exploits the prostitution of another person, even with the consent of that person. <p style="text-align: center;"><u>Article 2</u></p> <p>The Parties to the present Convention further agree to punish any person who:</p> <ol style="list-style-type: none"> 1. Keeps or manages, or knowingly finances or takes part in the financing of a brothel ; 2. Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.
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- 1.4.5 The Convention has three other important provisions aimed at suppression of trafficking. One requires the parties to the Convention to execute letters of request relating to the offences in accordance with domestic law and practice (Article 13). Another is the requirement to undertake measures, in connection with immigration and emigration, to check the traffic in persons of either sex for prostitution (Article 17). The third is the requirement to take measures for the supervision of employment agencies in order to prevent persons seeking employment, in particular women and children from being exposed to the danger of prostitution.

1.5 **Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery - 1956**

- 1.5.1 This Supplementary Convention while retaining the definition given to "slavery" in the Slavery Convention, defines a person of servile status to include the practice of debt bondage (see Article 1 – Box 2) a practice which

is reportedly practiced in some countries in the Middle East particularly in respect of migrant housemaids.

Box -2

Article 1(a)

Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

- 1.5.2 The Supplementary Convention criminalizes the acts relating to slavery and strengthened the provisions in the Slavery Convention relating to conveying of slaves from one country to another and co-operation between the states parties and communication of information.

1.6 Abolition of Forced Labour Convention – ILO – 1957

- 1.6.1 This Convention was adopted by the International Labour Organization after deciding upon the adoption of further proposals relating to certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights.
- 1.6.2 The Convention provides for the suppression of forced or compulsory labour, inter alia, as a means of labour discipline (Article 1 – Box 3). This is significant with regard to trafficking of women in today's context.

Box -3

Article 1

Each member of the International Labour Organization which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour :

- a. As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- b. As a method of mobilising and using labour for purposes of economic development;
- c. As a means of labour discipline;
- d. As a punishment for having participated in strikes;
- e. As a means of racial, social, national or religious discrimination.

1.7 International Covenant on Civil and Political Rights – 1966

- 1.7.1 The International Covenant on Civil and Political Rights prohibits slavery and forced compulsory labour (Article 8 – Box 4). It also prohibits forced marriages (Article 23 – Box 4), which too could be considered as constituting trafficking.

<u>Article 8</u>		<u>Box -4</u>
1.	No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.	
2.	No one shall be held in servitude.	
3.	(a) No one shall be required to perform forced or compulsory labour.	
<u>Article 23</u>		
3.	No marriage shall be entered into without the free and full consent of the intending spouses.	
4.	States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and its dissolution. In the case of dissolution provision shall be made for the necessary protection of any children.	

1.8 ILO Convention Concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, of 1975

- 1.8.1 This instrument aims, among other things, at protecting the migrant workers from illicit and clandestine trafficking in labour and providing further standards covering social security in order to promote equality of opportunity and treatment of migrant workers.
- 1.8.2 It requires the members of the ILO for which the Convention is in force to systematically determine whether there are illegally employed migrant workers on its territory and any movements of migrants for employment in which the migrants are subjected to conditions that contravene international instruments, agreements or national laws or regulations.
- 1.8.3 Some of the other measures specified in the Convention are suppression of clandestine movement of migrants, illegal employment of migrants and action against organizers of such movements. It also provides for systematic exchange of information among states, detection and imposition of civil and penal sanctions on those who commit abuses.

1.9 UN Convention on Elimination of All Forms of Discrimination Against Women – 1979

1.9.1 While this instrument deals mainly with "discrimination against women", it embodies the idea that trafficking in women causes the violation of human rights.

1.9.2 This is clear from Article 6 of the Convention which requires all parties to it to take appropriate measures including legislation to suppress all forms of traffic in women and exploitation of prostitution of women, and from Article 1 which defines "discrimination against women" as distinction, exclusion or restriction which nullifies or nullifies the human rights and fundamental freedoms of women.

1.10 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, of 1991

1.10.1 The Convention mainly provides measures for establishing norms through acceptance of basic principles on treatment of migrant workers and their families. It also aims to protect them against the situation of vulnerability in which they find themselves owing to their absence from their state of origin and to the difficulties they may encounter arising from their presence in the state of employment.

1.10.2 The Convention has a number of provisions bringing about the international protection of the rights of migrant workers. Among these are those relating to prevention of torture; cruel, inhuman or degrading treatment or punishment; slavery or servitude; forced or compulsory labour and confiscation or destruction of identity documents and travel documents by unauthorized persons.

1.10.3 It also seeks to ensure the liberty and the security of migrant workers and their privacy and property; protection from arbitrary arrest; right to equality with the nationals of the state concerned; and recourse to the protection and assistance of consular or diplomatic authorities of their state of origin.

1.11 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children – 2000

1.11.1 The Protocol supplements the UN Convention Against Transnational Organized Crime of 2000.

1.11.2 It seeks to provide a comprehensive international approach, in the countries of origin, transit and destination, to prevent trafficking, to punish traffickers and to protect the victims. It also seeks to provide a universal instrument that addresses all aspects of trafficking as the international instruments in existence do not provide such an instrument.

1.11.3 The Protocol defines "trafficking in persons" in a comprehensive manner (Article 3 – Box 5) and makes the consent of a victim of trafficking irrelevant where any of the means stated in the definition have been used.

Article 3

- a. "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs ;
- b. The consent of a victim of trafficking in persons to the intended exploitation set forth in paragraph (a) of this article shall be irrelevant where any of the means set forth in paragraph (a) above have been used;

1.11.4 While the Protocol criminalizes the conduct stated in the definition, it requires the parties to the Protocol to adopt legislative and other measures to establish such criminal offences.

1.11.5 The Protocol also has a series of measures for protection and support of victims. These include housing, counselling and information in particular as regards their legal rights, medical physiological and material assistance and employment, educational and training opportunities. Law enforcement, immigration or other relevant authorities of the parties to the Protocol are required to co-operate with one another by exchanging information for identification of offenders and on methods used by organized criminal groups for trafficking. They are also required to strengthen border controls, adopt measures to prevent means of transport by commercial carriers from being used in the commission of offences and ensure that travel and identify documents issued are of such quality that they cannot be easily misused or falsified.

1.12 Bangkok Accord and Plan of Action – 1998

1.12.1 This Accord and Plan of Action was adopted at the Regional Conference on Trafficking in Women held in Bangkok in 1998. The participating countries were Bangladesh, Cambodia, China, Indonesia, Japan, Lao People's Republic, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Sweden, Thailand, Uzbekistan, and Vietnam.

1.12.2 It deals with a wide range of activities at national, sub-national and regional and multi-lateral levels and covers areas such as prevention of trafficking, protection and humanitarian treatment of victims, sanctions against trafficking, medical and psychological intervention, repatriation and re-integration and information and monitoring mechanisms.

1.13 ARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution – 2002

- 1.13.1 The SAARC Convention, agreed upon by the seven member-states of the SAARC in 2002, aims to promote co-operation among member-states for dealing effectively with various aspects of prevention, interdiction and suppression of trafficking in women and children. It covers areas such as repatriation and rehabilitation of victims of trafficking and prevention of the use of women and children in international prostitution networks particularly where the SAARC countries are the countries of origin, transit and destination.
- 1.13.2 The definition given to "trafficking" by this Convention is not as broad as that given by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Convention defines trafficking as "moving, selling or buying of women and children for prostitution within and outside a country for monetary or other consideration with or without the consent of the person subjected to trafficking". Thus the definition limits "trafficking" to prostitution.
- 1.13.3 The Convention requires the parties to it to make trafficking a criminal offence and to regard the offence as an extraditable one (Articles II and VII). The parties are also required to give one another legal assistance in inquiries, trials and other matters and to exchange information on agencies and persons involved in trafficking (Article VI).

2. Legislative Enactments and Other Instruments of Sri Lanka

2.1 Introduction

- 2.1.1 The laws of Sri Lanka relating to trafficking in women for sexual exploitation and exploitative labour are grossly inadequate. These legislative enactments, which directly relate to female trafficking or have a bearing on it are as follows :

1. The Brothels Ordinance
2. The Vagrants Ordinance
3. The Penal Code

- 2.1.2 The Women's Charter is the other instrument that touches on female trafficking.

2.2 The Brothels Ordinance

- 2.2.1 Originally introduced in 1889 and later amended, the Brothels Ordinance provides for the conviction of persons who run or assist the running of brothels, and owners, lessees and occupiers of premises who permit the premises to be used as a brothel. The penalty on conviction of a first offender is a fine of Rs. 500 or imprisonment for a term not exceeding six months or both (Section 2 – Box 6).

2.2.2 However, this Ordinance does not define the terms brothels and prostitution.

<p style="text-align: right;"><u>Box -6</u></p> <p style="text-align: center;"><u>Section 2</u></p> <p>Any person who –</p> <ul style="list-style-type: none">a. Keeps or manages or acts or assists in the management of a brothel; orb. Being the tenant, lessee, occupier or owner of any premises, knowingly lets such premises or any part thereof to be used as a brothel, or for the purpose of habitual prostitution; orc. Being the lessor or landlord of any premises or the agent of such lessor or landlord, lets the same or any part thereof, with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel, <p>shall be guilty of an offence and shall on conviction be liable -</p> <ul style="list-style-type: none">(i) to a penalty not exceeding five hundred rupees, or in the discretion of the court, to simple or rigorous imprisonment for a term not exceeding six months, or to both such fine and imprisonment;(ii)
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2.3 The Vagrants Ordinance

2.3.1 The Vagrants Ordinance of 1841, which too has been amended subsequently on several occasions, provides, inter alia, for the conviction of street walkers, persons who solicit and procurers.

2.3.2 The punishment for street-walking, provided in this Ordinance for a first offender is imprisonment for a term not exceeding 14 days or a fine not exceeding Rs. 10 (Section 3 – Box 7).

<p style="text-align: right;"><u>Box -7</u></p> <p style="text-align: center;"><u>Section 3</u></p> <p>(b) every common prostitute wandering in the public street or highway, or in any place of public resort and behaving in a riotous or indecent manner ;</p> <p>shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.</p>
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- 2.3.3 A first offender in soliciting, upon conviction is punishable with imprisonment for a period not exceeding 6 months or a fine not exceeding Rs. 100, or both (Section 7)
- 2.3.4 A procurer or a person who lives wholly or in part on the earnings of prostitution, on summary conviction is liable to imprisonment for a period not exceeding 6 months or to a fine not exceeding Rs. 100 or both. Such persons, on conviction on indictment is liable to imprisonment for a term not exceeding 2 years, and if a male, in addition to imprisonment, to be whipped (Section 9).

2.4 The Penal Code

- 2.4.1 The Penal Code, originally enacted in 1883, was amended in 1995 by the Penal Code (Amendment) Act No. 22. It enhanced punishment for procuration and introduced the offence of "trafficking".
- 2.4.2 The Amendment Act provides that a person commits the offence of "procuration" if the person procures or attempts to procure another, with or without consent,
- to become a prostitute in or outside Sri Lanka, or
 - to leave Sri Lanka with the intention that the person may become the inmate of, or frequents, a brothel elsewhere, or
 - to leave the usual place of abode in Sri Lanka with the intention that the person may become the inmate of or frequent a brothel for prostitution.

It also makes detention of a person, without consent, in a brothel for illicit sexual intercourse or sexual abuse, an offence.

- 2.4.3 On conviction, the offender is liable to imprisonment for a term not less than 2 years and not more than 10 years, and a fine (Section 7 of the Amendment Act.)
- 2.4.4 The provisions in the Amendment Act with regard to "trafficking" relates to recruitment of women or couples to bear children for buying, selling, bartering, or placement in adoption for a consideration. For the same purpose, obtaining an affidavit from a pregnant woman, for a consideration, for the adoption of the unborn child too is made an offence. (Section 8 of the Amendment Act). These provisions were introduced to combat trafficking in women for obtaining babies for cross-border trafficking by foreigners, which was practiced at the time.

2.5 Women's Charter - 1993

- 2.5.1 The Women's Charter is an instrument that has been approved by the government of Sri Lanka and has as its main focus non-discrimination of women and gender equality. However, in the section entitled "Right to Protection from Social Discrimination" it touches on trafficking by stating that the state shall take all appropriate measures to "eliminate all forms of

exploitation of, trafficking in and prostitution of women and children". (Article 14(iii)). With regard to migrant women, in the section entitled "Right to Economic Activity and Benefits" it states that the state shall take appropriate measures to "ensure that interests of all migrant women are protected within the country and in the host country through bilateral agreements". (Article 12(iii))

- 2.5.2 The Charter, by Article 17(i) establishes, for the purpose of examining progress made on the realization of the obligations undertaken by the Charter and for monitoring the achievements of its objectives, a National Committee on Women. The composition and the functions of this Committee are discussed in Section 3 below.

3. Institutional Provisions

- 3.1 Apart from the Police itself, the institutions that are mandated to deal with trafficking in women are the National Committee on Women referred to in paragraph 2.5 above and the Children's and Women's Bureau of the Sri Lanka Police.
- 3.2 The National Committee on Women, as already stated has been established by the Women's Charter of 1993. The Charter requires that the Committee should consist of 15 members appointed by the President. Of this number, 12 have to be appointed from amongst those who have distinguished themselves in the fields of law, health, economic development, education science and technology and environment and 2 in the work of women's voluntary organizations or in the sphere of women's activities The other member is the Executive Director of the Committee.
- 3.3 The functions, of the Committee, that relate to trafficking and ensuring protection of the interests of migrant workers, as provided in the Charter are, "to refer complaints of violation of the provisions contained in this Charter to governmental and non-governmental organizations for redress, legal and and/or mediation services (Article 19(b) and "to help to realise the objectives of the Charter through the encouragement of relevant research and to make recommendations for reforms based on such research". (Article 19(e)). The Charter, as shown earlier, states that the state shall "eliminate all forms of exploitation of, trafficking in and prostitution of women and children" (Article 14(iii)).
- 3.4 From these provisions it would appear that the Committee does not have powers that can be enforced to detect and deal directly with cases of trafficking. Also, according to available information, the Committee hardly receives any complaints of trafficking.
- 3.5 The Children's and Women's Bureau of the Sri Lanka Police is a separate division in the Police Department and functions under a Senior Superintendent of Police who is designated as the Director of the Bureau. Under the Bureau are 36 units established under the Senior Superintendents of Police who are in charge of the 36 SSP Divisions in the country. At the level of Police Stations,

Children's and Women's Desks have been established in 200 out of the 347 Police Station in the country.

- 3.6 The Bureau has the powers to operate in any part of the country with regard to offences concerning women and children. It has a special team of officers to make investigations and take follow up action. The Units at the level of SSP Divisions function under Women Sub Inspectors and these units too are equipped to investigate and prosecute. In the case of Desks in the Police Stations, which too are under Women Sub-Inspectors, the investigations are done by the Desks and prosecutions are handled by the Officers-in-Charge of the Police Stations.

4. Literature on Trafficking

- 4.1 The volume of literature available on trafficking of women in Sri Lanka is extremely small. Although internal trafficking for sexual exploitation is known to exist to some extent in the capital city, certain provincial capitals and the coastal areas which the tourists frequent, studies have hardly been undertaken on the subject.
- 4.2 However, a few studies have been undertaken over the years on the exploitation of labour of women. During the last 2 ½ decades large numbers of young women have found employment abroad, specially in the Middle East, mostly in unskilled grades such as housemaids. The establishment of Export Processing Zones and the resultant emergence of large scale factories from the late 1970s and the granting of EPZ concessions to certain categories of undertakings in other parts of the country have resulted in high rates of employment of women within the country.
- 4.3 While these developments have had beneficial effects on the lives of these employees, their families and on the economy of the country in general, there have been many reports related to various forms of exploitation of women employed abroad as well as within the country. Such reports and concerns expressed in various quarters apparently have prompted a few local studies specially into the aspect of labour exploitation. Given below is a summary of a study undertaken by an international group and of significant local studies.
- 4.4 "Punishing the Victim – Rape and Mistreatment of Asian Maids in Kuwait " – Vol. 4, issue 8 – August 1992 – by the Middle East Watch and the Women's Rights Project (which are Divisions of the Human Rights Watch) is a report published by the two Divisions after conducting a fact-finding mission of two weeks in Kuwait, in April 1992, to investigate reports of abuse of Asian women domestic servants.
- 4.5 The report states that since the liberation of Kuwait in March 1991 up to the writing, nearly 2000 women domestic servants, mainly from Sri Lanka, Bangladesh, India and Philippines had fled the homes of abusive Kuwaiti employees and sought refuge in their embassies. This exodus of maids culminated a longstanding problem of abuse of Asian women domestic servants and occurred at a time of general hostility towards foreigners that had escalated since liberation.

- 4.6 The mission found that while not all domestic servants in Kuwait suffer at the hands of employers, a significant and pervasive pattern of rape, physical assault and mistreatment of Asian maids existed, and these took place largely with impunity. One-third of the sixty cases that the mission investigated directly involved the rape or sexual assault of maids by their employers or a man with access to the employer's house. Over two-thirds involved physical assault that included kicking, beating, slapping, punching and hair-pulling. Almost all the women interviewed spoke of non-payment of salary, deprivation of passports and near total confinement in the house of the employers.
- 4.7 Under Kuwaiti law all these acts are illegal. To the knowledge of the mission only a very few charges against abusive employees had been investigated or prosecuted. Rather than investigate or prosecute, the authorities often detained maids who sought to report crimes to the police or returned them to their employers.
- 4.8 Apart from this failure to provide justice to abused domestic servants under the law, the government had explicitly excluded them from protection under labour law. This law covered most other workers including expatriates. The denial of the rights under labour law made the domestic servants vulnerable to abuse.
- 4.9 Elaborating on illegal employment practices, the report refers to debt bondage. This is a "situation in which a debtor pledges her or his personal services against a debt she or he owes, but the person to whom she or he owes it fails to deduct the value of the debtor's services from the debt, or the length and nature of the services are not respectively limited and defined". Debt bondage is prohibited under international human rights law. The Kuwaiti labour law stipulates that not more than 10 percent of the wages be deducted in respect of debts owed but the domestic servants are excluded from this law. In many of the cases investigated by the mission, either large percentages or the entirety of the salaries had been retained. The report adds that in many cases investigated the debt had the effect of placing the women in bondage to their employer and was used to force them to work long hours, to endure inadequate food and sleep and so forth and that it was extremely difficult to escape debt bondage.
- 4.10 Another illegal practice stated in the report, as already stated, is the passport deprivation which further enforces the bondage. The report notes that almost every housemaid's passport is taken from her by her employer upon arrival in Kuwait. However, according to a Superior Appeal Court decision in 1972 passport deprivation of an employee is illegal. In spite of this decision the government appears to see this practice, in the case of Asian maids as benign. The report cites a statement made by a Kuwaiti official who said that the employer keeps the passport not to keep the maid in custody but to ensure that the employee would not lose it. Yet, the government enforces the Aliens Residence law which requires foreigners to carry their passports at all times or face arrest and fine or detention. The mission had found that Asian women were being subjected to random checks in the streets by the police or the military. A maid fleeing without her passport is likely to be arrested. Further, a maid cannot leave Kuwait when she is deprived of her passport as all departing foreigners should have an exit visa stamped on the passport.

- 4.11 With regard to illegal confinement, the report states that debt bondage coupled with passport deprivation results in illegal confinement of Asian maids. The confinement can be limited or total. In the latter case the maid is deprived of any contact with the outside world by sometimes being locked in a room. The report cites several cases of maids sustaining severe injuries attempting to escape by jumping out of windows or off balconies several stories high.
- 4.12 Dealing with rape and sexual assault of Asian maids, the report states that it is impossible to state what percentage of maids have been sexually assaulted by the employers. Debt bonding, passport deprivation and confinement results in outsiders not knowing the fate of maids. However, investigation of reported cases, by the mission, revealed prevalence of rape and sexual assault. Some maids interviewed had suffered extreme violence. These included beating during rape or attempted rape by the employers, beating for refusal to consent to sex with the employer or a relative of his and use of violence or threats to coerce a maid into sexual intercourse.
- 4.13 With regard to the aspect of rape, the report cites the cases of three Sri Lankan maids who were interviewed by the fact-finding mission. These are as follows:

- Singala Bolasi, 20 years old, said that on 4.4.1992 her employer came into the room she was cleaning, locked the door and raped her. As she was raped she threw herself off the balcony and she landed on the ground several floors below. She was admitted to the hospital the same day, her ankles broken, bleeding vaginally and with lacerations to her labia and the rectal area. The interviewers observed a tear that extended from the vagina to her anus.

Although Bolasi was able to answer the questions of the interviewers in early May 1992, she appeared withdrawn. Despite an investigatory report by the hospital-based police investigators and a letter to the Emir by the fact-finding mission on 15.6.1992 requesting action, the Kuwaiti authorities appeared to have taken no action against the employer up to the time of writing of the report.

- W. Tikna went to Kuwait from Sri Lanka in September 1991. She told the interviewers that her employer's son raped her repeatedly and that she was ruined as no one in Sri Lanka would marry her. When she had complained to her employer, the woman kicked her on her stomach and beat her before being taken to a hospital.

Tikna fled and sought refuge in the embassy, but was sent to the police where the fact-finding mission interviewed her in May 1992. The police told the mission that they called the son and his father and that the father was told to return with Tikna's passport. The fact-finding mission does not know the outcome of the police investigation. But they know that Tikna was detained at the Police Station Detention Centre for at least a week and the son was released immediately.

- Mumtaz Sharif, 19 years worked for a family in the Kuwait City. She was assaulted repeatedly by her employer whenever the infant she

looked after misbehaved. The employer's son assaulted her sexually and she attempted suicide by drinking two glasses of bleach. At the hospital to which she was taken for treatment, she was arrested for attempted suicide following treatment. Unspecified charges filed against the son were ultimately dismissed. Sharif was hiding in the home of a friend as of May 1992 looking for a new job.

- 4.14 The report, in conclusion, calls on Kuwait to enforce existing laws fully and fairly by (a) investigating and prosecuting all reports by Asian maids of rape and assault, (b) punishing debt bondage, passport deprivation and confinement as required by law and (c) ceasing wrongful arrest and detention of Asian maids who complain about, or flee from, abusive employers, among other things.
- 4.15 The report further calls on Kuwait to reform existing laws to guarantee Asian maids adequate protection against abuse and suggests certain legislative actions and to sign the International Covenant on Civil and Political Rights and the Convention to End All Forms of Discrimination Against Women.
- 4.16 "Trafficking in South Asia", a paper prepared by the National Committee on Women, Ministry of Women's Affairs (undated but evidently written after 1995) states with regard to international trafficking that Sri Lanka has a natural advantage as an island with respect to the phenomenon of large-scale cross-border trafficking of women.
- 4.17 It adds that migrant women workers travelling to West Asia from Sri Lanka present another dimension of the issue as the UN definition also includes forced labour. Thirty per cent of these women use illicit channels and, thus, are undocumented workers. A further 120,000 women workers emigrate yearly through legal sources. Women workers who fall into the former category are the most vulnerable to exploitation and abuse once they are abroad. The run away rate is high as ILO standards and labour protection legislation are absent. These women face the risk of ending up in brothels or working as domestic slaves.
- 4.18 Bonded labour is also a reality when women depend on the recruiter for their tickets when these women reach their destination, they are forced to surrender their passports and other important documents to prevent them from running away. These conditions are tantamount to forced labour. There have been 343 deaths reported through consular channels and over 7,000 cases of reported harassment from 1993 to 1995. There are many who are stranded abroad and large numbers are reported to have sought refuge in Sri Lankan missions abroad.
- 4.19 "Kantha" is a newsletter published bi-annually by the Women's and Children's Desk of the Lawyers for Human Rights and Development (LHRD), an organization which provides free legal aid to women and children subjected to sexual and other forms of abuse, and conduct legal literacy programmes for the general public in remote areas in the country.
- 4.20 "Kantha" Newsletter Volume 2-2002 cites a number of reports in national newspapers which describe incidents of severe abuse and exploitation of Sri

Lankan housemaids in the Middle East and suspected cases of trafficking in organs. These are as follows:

- 4.20.1 The "Divayina" newspaper of 18.7.2002, had reported the death of a woman employed in Lebanon who fell to her death while cleaning the outside windows in the 4th floor of a house. This 24 year old woman, in a letter written to her fiancé had pleaded with him to get her down to Sri Lanka as soon as possible as the employers were giving her excessive work.
- 4.20.2 The "Lankadeepa" newspaper of 1.6.2002 had reported the case of a woman who was supposed to have died of a fall from the upper floor of a house where she was employed. The uncle of the woman had told the newspaper that he suspected that she had been pushed from an upper floor deliberately.
- 4.20.3 The "Divayina" of 17.5.2002 had quoted a woman who had been employed in Kuwait. She had stated that she had not been paid for five months and when she asked for the salary the lady of the house had pushed her down the stair-case. The woman had come back to Sri Lanka in a wheel chair due to disablement from fractures in her right leg and without the salary due to her.
- 4.20.4 "Divayina" of 8.10.2002 had contained a report concerning a woman who had gone to Saudi Arabia on 1.6.2000 as a housemaid. She had not been paid for 15 months and even though her period of employment was over, according to her husband she was not being sent home.
- 4.20.5 "Divayina" of 10.6.2002 had reported that Osma prison in Kuwait had about 500 Sri Lankan women. Among them were 15 who had given birth to children.
- 4.20.6 "Lakbima" newspaper of 28.4.2002 had stated that in March 2002 alone, 35 bodies had been brought home and of them 29 had been those of women. According to "Lakbima" of 2.7.2002, by June 2002, 121 bodies of Sri Lankan migrants (sex not stated) had been sent home. Of them 44 had died of natural causes, 8 were said to have committed suicide, 2 had died of homicide, 43 of accidents and in respect of 24 the cause of death had not been specified.
- 4.21 The newsletter states that in the previous years too a large number of bodies of persons had been brought to Sri Lanka on a regular basis and poses a number of questions. It asks, even though a large number of deaths were supposed to be caused by natural causes, they were not elderly or sick but healthy young people and, therefore, how do such young people die and in such large numbers ? In the case of suicides how were they deemed suicides? If there were eye witnesses were they from the same institution or home where the woman was staying? Could they be murders set up to look like suicides? How did a considerable number of people die where the cause of death was stated as not being clear?

- 4.22 The newsletter, citing the case of one Somalatha Satharasinghe who went to Kuwait as a domestic helper on 22.5.2002 and died within 2 months of migrating, states that her kidneys and the corneas had been removed. Her brother had learnt on 10.7.2002 that she had been hospitalised following a fall. Three days later, on 13.7.2002 he came to know from the woman that induced her to go to Kuwait for employment, that she had died that day. Later, he contacted the Director General of Consular Affairs and learnt that she had, through a last will, donated her kidneys to a patient in Kuwait and that the family will be paid Rs. 1,000,000 as compensation for the donation.
- 4.23 The newsletter narrates a series of contradictory statements regarding the last will and the time and date of death and raises doubts as to whether the woman had been brought to Kuwait for the purpose of obtaining the kidneys and whether a hitherto hidden activity of organ trading targeting the migrants had come to light.
- 4.24 It adds that it appeared from a letter written by the Movement for the Protection of Migrants to the International Labour Organization that this situation existed even prior to this incident, that they had received similar complaints on previous occasion and that they had forwarded the complaints to authorities as there was a sneaking suspicion that trafficking of organs targeting Sri Lanka Migrants existed.
- 4.25 The newsletter also refers to a newspaper report regarding the death of a 29 year old woman who had died in a Kuwait hospital. The body had been received in Sri Lanka several months later and when it was taken to undertakers they had observed that the body had in several places been opened and sewed up and that all internal organs had been removed. As at the date of the report the family had not received a doctor's certificate or the death certificate. The newsletter states that it is hard to ignore the possible connection between her death and the missing organs.
- 4.26 The "Lankadipa" of 31.12.2002 had reported about a 35 year old Sri Lankan housemaid in Kuwait who had been hospitalized for some illness. She spoke Arabic quite well and therefore understood that her employers were discussing the possibility of removing one of her kidneys. She had informed the Bureau of Foreign Employment through her parents and the Sri Lankan Embassy in Kuwait which had been alerted by the Chairman of the Bureau saved her.
- 4.27 The newsletter adds that they (LHRD) believe that it is important to hold an impartial inquiry into this new development and to lobby for the adoption of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 4.28 Mr. B.G.R. Uyangoda, Director of the Consular Division of the Ministry of Foreign Affairs, presenting a paper entitled "Role of Sri Lankan Mission in Coping Issues Related to Migrant Workers" at the Regional Meeting of Officials of Labour Exporting Countries held in Colombo in March 1997, gives a bleak picture which depicts Sri Lankan migrant workers in Middle East countries being held in near-total bondage and servitude, incommunicado and being subjected to sexual harassment. He also adverts to laws' delays and lack of legal remedies for the victims.

- 4.29 Referring to migrant domestic helpers almost all of whom are females, he states that 90 per cent of them are in the Middle East countries, mainly in Saudi Arabia, Kuwait, UAE, Lebanon, Qatar, Bahrain and Jordan and adds that in all these countries labour laws do not apply to domestic employment. In a long list of problems faced by Sri Lankan migrant workers he includes delay or non-payment of salaries; physical torture and assault by the employer, the employer's wife and sometimes the children; not being allowed to return to Sri Lanka on completion of the contract; heavy work loads with working hours sometimes ranging from 15 - 20 hours or proper food; and illegal transfer from one house to another.
- 4.30 Referring to the practice of passport deprivation he states that all passports are invariably kept by the employers and that most of the employers do not release the passports easily unless a court order is obtained. No female domestic helper can be repatriated by the embassies even on a temporary travel document unless the resident visa is cancelled by the respective employer. This takes a number of days, in some cases several months and the embassies are compelled to provide shelter to the runaway domestic workers until arrangements are made for repatriation.
- 4.31 The government of many Middle East countries have promulgated laws preventing a housemaid who comes to serve under the sponsorship of one person from leaving him to work under another person. Violation of this law results in the sponsor, the new employer and the housemaid being punished. As a result of this law, a housemaid cannot find new employment by running away from the first place of employment.
- 4.32 Further the embassies have been asked by the governments of respective countries not to entertain the runaway housemaids in the embassies. Yet the embassies provide shelter to them under cover of diplomatic immunity.
- 4.33 The author also states that migrant factory workers in these countries face problems similar to those faced by housemaids. In some factories wages have not been paid for more than 10 months. In most of the countries factories are directly or indirectly owned by government officers or by highly connected persons.
- 4.34 In many countries the government plays a small part in handling factory matters. Although the labour departments of these countries entertain complaints, a long time is taken to arrive at solutions. When Sri Lankans seek redress at labour courts too, it takes a very long time, sometimes a number of years, to reach a solution.
- 4.35 On the domestic front, the agents recruiting workers (in order to secure more orders from recruiting countries) recruit workers at low rates even when the employers are ready to pay more.
- 4.36 The author cites recommendations made by the Sri Lankan embassies to minimize the problems faced by migrant workers. They mainly revolve round the signing of proper contracts of employment, involvement of the embassies in signing of the contracts and agents in Sri Lanka and receiving countries being made responsible for the workers recruited.

- 4.37 In a paper entitled "Issues Related to Migrant Women Workers in Domestic Service Overseas and Possible Strategies for Improvement of Their Status" presented at the same meeting, Lalitha Dissanayaka states that the issues that adversely affect migrant housemaids relate to exploitative working conditions, physical harm, sexual abuse, denial of labour rights, non-access to legal or counselling services and isolation from society. She also refers to the category of "undocumented" or "illegal" housemaids who have no formal recourse to any redress.
- 4.38 The terms of trade, in the market for women workers, are dictated by the receiving countries and the private recruitment agencies, the latter undercutting each other to capture the markets. The agents have also formed their own regional associations for collective bargaining and are found to be very eager to deal with the recruitment of housemaids which ensures the fastest recruitment and highest business turnover with least amount of accountability.
- 4.39 Referring to the issues that accentuates the vulnerability of housemaids, the author cites low status, illiteracy, inability to organize themselves, lack of bargaining strength for sending countries, absence of solidarity among sending countries, monopolies enjoyed by recruiter networks, treatment of migrant workers as replaceable commodities, absence of legal assistance and absence of binding legal instruments. The available procedures for redress through compensation is slow, inadequate and uncertain. More often the solution is repatriating which would be the beginning for further problems for the returnee.
- 4.40 The recommendations made in the paper include
- Acceptance of international standards contained in ILO Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers of 1975 and the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1991.
 - Equipping and empowering Sri Lankan foreign missions in receiving countries for monitoring, servicing and assisting the workers.
 - An aggressive campaign for bi-lateral agreements.
 - Promotion of local support groups in the host countries.
 - Formation of a solidarity association of host countries for collective bargaining.
- 4.41 In a paper entitled Trafficking of Women Workers and Illegal Exploitation of Migrants presented to the International Conference on Migrant Women Workers held in Colombo from 7-9.10 (1997, A. Saj U. Mendis of the Economic Affairs Division of the Ministry of Foreign Affairs, prefacing his comments by stating that he would not articulate the names of receiving or the sending states says that some Asian nations have incomes 10-20 times higher

than others and that the countries with lesser incomes become "supplier" nations. Though some nations promote the exportation of labour in order to earn foreign exchange no known government promotes trafficking. Yet the young women and brokers and dealers leverage the situation.

- 4.42 The methodology of the traffickers is to offer a high-paying job abroad and once they are taken to the foreign country they are sold to the sex industry. They are told that they are in debt and are forced into prostitution and to prevent them from escaping they are kept under surveillance of organized syndicates and gangs. The girls are confined to very modest apartments and subjected to violence and abuse.
- 4.43 The dealers in the trade use fictitious passports and immigration documents. The names and ages entered in them are false and even the parents of the girls cannot detect their whereabouts.
- 4.44 He recommends implementation of laws and conventions and stringent punishment to offenders, education programmes in rural areas and a concerted effort by nations and their relevant organizations to structure a concerted mechanism to deter trafficking.
- 4.45 "Trafficking in South Asia" referred to in paragraph 4.16 above, states with regard to local trafficking that data and information are not available on trafficking, within the island, for purposes of prostitution and that there is a paucity of data on sex workers in the country. A study on the socio-economic dimensions of HIV/AIDS carried out in 1996 had revealed a total of 12,000 sex workers in the country. However, another study had estimated their number to be 20,000. Citing figures from Police reports on arrests of women under the Vagrants Ordinance and convictions for soliciting, "Trafficking in South Asia" states that trafficking does not surface as a cause for concern. It adds that the sex trade is mainly concentrated in Colombo, in several provincial towns and in the tourist areas in the coastal belt and that Sri Lanka is known to receive women and girls through trafficking from East European countries and Thailand.
- 4.46 The paper also refers to trafficking of women within the country, in the 1970s and 1980s, caused by the trafficking of children from Sri Lanka for adoption by westerners. This racket was carried on by some Sri Lankans who exploited the facility provided by the Department of Immigration and Emigration to attach the name of children to the passports of their parents. This adoption of babies gave rise to "baby farms" and cross-border trafficking of babies by foreignness. It came to light in the late 1980s and stringent law enforcement curbed this form of abuse.
- 4.47 Regarding women who aspire employment abroad, it points out that many young women have fallen prey within the country to so-called job agents who lure unemployed rural girls to the city. These women may eventually become trapped in a cultural environment that stigmatises victims of rape or abuse, it adds.
- 4.48 Garment Factory Women Workers – A Few Selected Interviews – 1998 – a publication of People's Forum for Development Alternatives, Sri Lanka,

contains a number of interviews with female workers in garment factories in Kurunegala District and Kandy District.

- 4.49 These interviews present a litany of difficulties undergone by the workers – low pay, long working hours, unsatisfactory working conditions and lack of amenities, among others.
- 4.50 The author, commenting on the conditions, states that a factory owned by one company and situated close to the District capital, Kurunegala, employs 750 girls. Their lunch-break is 25 minutes and the tea-breaks 15 minutes. The factory gives 2 cups of tea per day. Some girls bring mosquito coils to drive away the mosquitoes. They also bring drinking water as interrupting work to go out for a drink of water is prohibited. Deterioration of employees' health is steady and inevitable. Those who enter work with asthmatic or respiratory problems can expect the conditions to get worse. The factory provides the workers with protective gauze masks which many do not like to wear because with those on, they feel more cramped and stifled. "Meet the quota", is the cardinal philosophy of the factory. No one ever gets a bonus.
- 4.51 According to one interviewee, Nilanthi, aged 22 years and working as a "Helper", on an average the factory shifts last 10 hours. Most of the time the girls have to keep standing. The emanating fluorescent haze of the factory lights exhausts her. Her ankles get swollen and knees ache. If she gets more than a minute late for work, she loses one hour's pay.
- 4.52 M.H. Manel, an ex-employee of the same factory, 21 years of age and mother of one child, has stated that after her husband left her she came to her aunt's place, with the child, 12 km from the place where the factory is situated. After she joined the factory as a "Helper", for the first five days she was not paid as they said that it was a training period. She did not need a training to do the type of work she had to do. Her daughter fell ill and Manel stayed at home for 2 days. She was warned by the factory manager that if it happened again she would lose her job. When she kept off for the (presumably) third time due to the child's illness she was sacked. She had worked for 15 days but her salary was not paid. Her birth certificate was not given back to her. She has to pay Rs. 1,500 to get it back.
- 4.53 With regard to another factory in the same District, owned by the another company, the author says that the employees can listen to music while they work and that the idea is to get more work done. Unlike in some factories, they are not penalized for going to the toilet, what the management sees as an excessive member of times. But chatting while working is frowned upon and even laughter can elicit a warning. A doctor visits the factory once a month – one doctor to check on more than 1500 people. In-house medical attention means one female attendant, a former security guard. Among other sops are an annual musical show and a religious ceremony. Also, those who complete 5 years of service are given gifts such as TV sets and refrigerators.
- 4.54 R.T. Kumari, 17 years, a "Helper" who had joined 6 months earlier, has stated that her salary is about Rs. 2100 (US\$ 36 at the time of writing the report) and overtime work is compulsory. Once she had to put in 79 hours of overtime in a month and earned Rs. 3850 (US\$ 66). The pace of work is tough and has to

meet a target of 60 pieces an hour. If she makes a mistake, she has to work 2 or 3 hours overtime without pay. Breakfast – gram or bread with egg curry - is provided by the factory and the cost is deducted from the pay. The workers get 2 biscuits at tea time. Lunch is brought from home. The lunch room is small and workers wait their turn in group, sitting on the floor.

- 4.55 A worker in a garment factory situated in the Kandy District, Bandara Menike, 23 years, married with one child, has stated that her basic salary is Rs. 2,975 per month as a Sewing Machine Operator and that she is happy to have a job as the life in the village is very hard. She takes bus to work and it costs one-sixth of the salary every month. If the work does not finish by six p.m., then there is no bus home and she sleeps in the factory or continues to work till dawn. The factory provides tea with biscuits and dinner. The food is badly cooked and sometimes there are, insects in the rice. When complained, management tells the kitchen about it, but nothing changes. During her pregnancy she was given three months' paid leave and she feels that the management was quite reasonable. She received a Christmas bonus of Rs. 1,500 (US\$ 26). As an SMO she can work while sitting down. For "Helpers" who have to work standing, there are bins (boxes) to sit down when they are tired.
- 4.56 Two hours of overtime work per day is compulsory and she feels that not all the overtime hours are accounted for at the end of the month. Many factory girls have only a vague idea of the complexities of different grades and their salary structures.
- 4.57 Mallika Githanjali works in a factory situated at Hasalaka, a location about 110 miles from Colombo. She is 29 years of age. The author states that she looks 10 years older. Her parents told the interviewer that she has lost weight since starting work in the garment factory.
- 4.58 Mallika's village is 4 miles from the factory. There are no buses and, therefore, she has to walk to and from work. She takes one and a half hours to walk the distance. Her basic salary is Rs. 2,500 (US\$ 43). She is a Machine Operator. If she works a whole month without taking a day off she gets an extra Rs. 1,500. But, if she misses one working day they cut Rs. 250.
- 4.59 P.G. Hema Kumari, 34 years, too works at the same factory as a Machine Operator. She lives close to the factory. She has put in 9 years of service in the factory. She gets a basic salary of Rs. 2,525 per month and that is as high as she would be able to go. Hema gets up at 5 a.m. to cook using firewood. After finishing all household chores she goes to bed around 11 p.m and thus her working day, domestic and professional, lasts at least 16 hours. When she has to work overtime at the factory, her mother-in-law prepares the dinner.
- 4.60 The publication also contains an interview with a girl, Ranjani Kumari Herath, from Kandy District, who works in the Biyagama Free Trade Zone near Colombo, as a Machine Operator. She gets a basic salary of Rs. 2,200 per month. She goes home once every two or three months. The up and down journey takes three days. What she does is she leaves her boarding house after work and catches a bus to Kandy which is 74 miles from Colombo. Around mid-night she reaches Kandy and she sleeps in the bus stand, on the cement

floor, till morning. Then she takes bus to a point 4 miles from home. It is mid-afternoon when she reaches home. Early next morning she has to start the journey back.

- 4.61 Women in Garment and Textile Industries in Sri Lanka: Gender Roles and Relations – Study Series 21 – 2001 – Centre for Women's Research, states that the majority of the workers interviewed, in the Export Processing Zones of Katunayake, Biyagama and Koggala, complained of an excessive work load. Other grievances were that they were given work that included continuous standing/sitting, they were moved from place to place and given unfamiliar jobs, they were compelled to work extra hours without additional payment and they were denied entitlements.
- 4.62 The study gives 3 case studies of women garment workers in each of the 3 Export Processing Zones mentioned above, 2 of two rural garment factories, a woman home-based worker in the garment industry in the informal sector, a woman worker in a large privatised powerloom factory, a village-based woman handloom worker and a retrenched woman textile worker.
- 4.63 It adds that their experiences indicate that whether they were employed within the Zone or outside, their labour was exploited for the profit of entrepreneurs and dispensed with arbitrarily to suit the needs of the employer.
- 4.64 The worker in the Katunayake EPZ had started employment in a factory at the commencement of its activities. But, 15 years later some shortcomings in her performance led to harassment and summary dismissal, presumably as youth replaced the older labour force. According to her, other workers too had the same experience. The Biyagama EPZ worker found that the dust in the air in the factories brought on asthma to an extent that it incapacitated her. One of the two rural garment workers has risen from the position of helper to machine operator and then supervisor, and aspires to be the Production Manager of the factory. Nevertheless, her salary has not increased from that of helper, another aspect of labour exploitation. The second rural garment worker has had job instability from the beginning and has been dismissed from two factories for largely unacceptable reasons.
- 4.65 The study further states that the factory workers have had clearly to cope with job insecurity, inhuman treatment, difficult targets and working conditions, minimal facilities, occupational health hazards and in the case of the workers in the Zones, poor accommodation – all aspects of employer–employee relationships in export oriented factories.

5 Recommendations

- As there are instances when the adoption of international instruments on trafficking do not appear to go beyond their signature and ratification by states, an international mechanism should be set up for monitoring their implementation. Where states fail to effectively implement them, the mechanism should publicise particulars to enable civic groups and other interested parties, both local and international, to lobby in relevant fora.

- The international instruments do not contain provision to receive complaints from individuals, groups, states and so forth on violation of provisions in them. The mechanism mentioned above should be able to receive complaints against states as well as individuals and groups and to make inquiries into them.
- In instances where a state has not become a party to a particular international instrument, the mechanism should resort to intense lobbying in international fora with a view to compel the particular state to sign and implement the instrument.
- The domestic laws on trafficking should be reviewed and where they are not adequate to respond to the modes and levels of trafficking in the context of developments that have taken place in the socio-economic environment in the past years, action should be taken to revise and strengthen the laws. Mechanisms for implementation of laws should be strengthened.
- Training should be provided to law enforcement authorities and relevant non-government organizations with regard to application of international instruments as well as local laws.
- Education programmes for empowering women, and for training them in income-generating activities, together with programmes for provision of required capital should be implemented to curb trafficking for sexual exploitation and exploitation of labour which is caused due to poverty.
- Steps should be taken to ensure that victims of trafficking who need refuge are accommodated in appropriate environments and that they are provided with legal aid and counselling. Adequate measures should also be taken for their rehabilitation.
- Non-government organizations should be encouraged and facilitated to undertake awareness and education programmes aimed at combating trafficking. They should also be aided to undertake activities that are connected with the welfare of victims of trafficking, such as legal aid and rehabilitation, and to involve themselves in international lobbying in cases where the migrants are not protected due to the failure of the host country to implement international instruments and other safeguards.
- Programmes on research on trafficking and collection of relevant data should be encouraged and facilitated.

RATIFICATION, BY SRI LANKA, OF INTERNATIONAL INSTRUMENTS ON TRAFFICKING IN PERSONS

INSTRUMENT	DATE OF RATIFICATION
<ul style="list-style-type: none"> • UN Slavery Convention – 1926 • Forced Labour Convention of the International Labour Organization – 1930 • UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others – 1949, which consolidates the following : <ul style="list-style-type: none"> - International Agreement of 1904 for the Suppression of the White Slave Traffic as amended by the UN Protocol of 1948. - International Convention of 1910 for the Suppression of White Slave Traffic as amended by the above Protocol of 1948. - International Convention of 1921 for the Suppression of the Traffic in Women and Children as amended by the UN Protocol of 1947. - International Convention of 1933 for the Suppression of the Traffic in Women of Full Age as amended by the above Protocol of 1947. 	<p>21.3.1958</p> <p>5.4.1950</p> <p>15.4.1958</p>
<ul style="list-style-type: none"> • UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery – 1956. • Abolition of Forced Labour Convention of International Labour Organization – 1957. • International Covenant on Civil and Political Rights – 1966. • Convention Concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, of the International Labour Organization – 1975. 	<p>20.3.1958</p> <p>7.1.2003</p> <p>11.6.1980</p> <p>Not ratified as on 15.1.2004</p>
<ul style="list-style-type: none"> • UN Convention on Elimination of All Forms of Discrimination Against Women – 1979. • UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – 1991. • UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children – 2000, which supplemented. <ul style="list-style-type: none"> - UN Convention Against Transnational Organized Crime – 2000. • Bangkok Accord and Plan of Action – 1998. • SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution – 2002. 	<p>5.10.1981</p> <p>11.3.1996</p> <p>13.10.2000</p> <p>Does not arise</p> <p>Not ratified as on 15.1.2004</p>

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