

MUI TSAI IN STRAIT SETTLEMENTS (MALAYA) 1920s-1950s: A CONFLICT OF LAW AND DEFINITION*

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Abstract

The Mui Tsai system has been described as domestic servitude, a form of slavery, and in the same breath, a charitable act. These descriptions are at opposite ends, and it is this conflict of definition that has resulted in much debate surrounding the Mui Tsai practice. In the Strait Settlements between the 1920s-1950s a number of key legislative provisions were passed by the then Colonial government in an attempt to regulate and to eradicate this practice; in particular the Female Domestic Servants Ordinance 1925 and the Mui Tsai Ordinance 1932. While legal effort to legislate the Mui Tsai practice was made, it continued to flourish. The article examines this conflict, the complexities within the Chinese customary practices surrounding the Mui Tsai in the Strait Settlements, and how English law evolved and attempted to mould existing definitions to fit the various permutations and versions of what a Mui Tsai is. The article also reveals in its wake, the superficiality of the Strait Settlements government in approaching the concept of Mui Tsai and concludes with several possibilities on why these efforts were thwarted. Although much has been written on this practice in Hong Kong, comparatively little has been documented in Malaya and in the Strait Settlements, particularly from a legal perspective. It is this lacuna that the article hopes to fill.

Introduction

I desire to make it clear that both the Governor and I are determined to effect the abolition of the system at the earliest practicable date, and I have indicated to the Governor that I expect the change to be carried out within a year.¹

These words were spoken in 1922 by Sir Winston Churchill, then Prime Minister of the United Kingdom, in response to a question asked by the Duke of Devonshire in the House of Commons on the Mui Tsai system in the British Colonies. The Mui Tsai system was deemed² to be an abhorrent Chinese customary practice akin to slavery whose existence embarrassed the United Kingdom government. Although the ‘governor’ in the statement referred to the Governor of Hong Kong, this statement makes clear his intention (and as such the intention of the Colonial government) to eradicate the Mui Tsai system. Yet, on 29 March 1931, these words were recalled in verbatim at the House of Lords, by Lord Passfield the then Secretary of State for the Colonies, in recognition that this issue “...is by no means a new one”. Similarly, official records, newspapers and correspondences all through the 1940’s and into the early 1950’s continue to evidence its presence; in the span of 30 years the issue remained an active one. Different ordinances were passed, amended and repealed; yet the law failed, to some extent, to keep the promise made in 1922. Indeed it was “long the centre of considerable controversy in Malaya, in which Chinese conservatism came into collision with modern western ideas of welfare”.³

The Mui Tsai system originated in China and while the practice migrated to parts of Southeast Asia, it was principally in Hong Kong and to a smaller extent, Malaya. The Mui Tsai system flourished in Hong Kong, and much has been written on it from a sociological or historic

point of view;⁴ sympathetic views⁵ and autobiographies⁶ have also been written on the struggles of the Mui Tsai. Some academic work has focused on the role of British Missionaries and activists, in particular women,⁷ in the context of labour, feminist histories and those of health and medicine.⁸

However, almost nothing has been written exclusively from the legal perspective with regards to the Mui Tsai system in British Malaya,⁹ and more specifically, in the Strait Settlements.¹⁰ Some work has been done by Leow¹¹ documenting the abolition of Mui Tsai in British Malaya and Hong Kong. Her work demonstrated that trans-racial considerations as well as a recasting of the Mui Tsai problem to a wider social issue of child welfare influenced the abolition of Mui Tsai particularly in Malaya. While part of her work focused on Malaya it did not fully consider the legal efforts undertaken to eradicate Mui Tsai as a social issue and from that perspective, the legislative struggles that the colonial government faced. Given that this area of interest is a small one,¹² little secondary material exists.

As such, this article will explore and examine some of the many challenges and difficulties faced by the Colonial government in dealing with the Mui Tsai issue, with particular emphasis on the legal challenges. It will demonstrate why it was, to some extent, difficult for the British government to succeed in eradicating it. It will also reveal how existing conflicts between Chinese customary practices and English law developed and shaped subsequent legislations, in particular the Mui Tsai Ordinance 1932, and how legal processes were introduced in response to these challenges. The article is divided into several sections, with the first being the introduction to the article. The second section will outline the establishment of English laws into the Strait Settlements, Malaya; while the following sections will discuss factors leading to the exodus of the Chinese to the Strait Settlements. Having done so, the article will introduce the concept and the person that is a Mui Tsai and will examine the challenges, and subsequent success surrounding the development of a legal definition of a Mui Tsai. It will conclude by demonstrating that regardless of the new legal definition, the amended definitions or existing legal efforts, larger challenges remained, and that those went largely unresolved.

It is this lacuna in legal knowledge that the article hopes to fill. The parameters of the article are drawn to encompass the challenges and the legislations passed within the 1920s to the early 1950s in the Strait Settlements, with minor references made outside this period and to the situation in Hong Kong, for contrast. This was an active period in history given the number of legislations passed to by the colonial government in an attempt to curb the Mui Tsai issue.

There are many concepts that are inextricably bound to the history and system of Mui Tsai. Concepts that pre-dominate and challenge existing colonial laws were, amongst others, those that questioned the definition of the patriarchal 'family', the concept of slavery, the definition of domestic servant, and the idea of a person as a chattel. Given the obvious limitations, this article will attempt only to discuss in detail one such conflict: that of the legal definition of Mui Tsai. Some discussion will be made of the other above mentioned conflicts however these are superficial and have been inserted only to provide a more holistic viewpoint.

The Introduction of English Law into Malaya

From as early as the fifteen hundreds, the Malay region had been known to the British. The abundance of its natural resources and the desire to establish and secure a seaborne route for the development of the spice trade were the primary objectives in seeking for and securing a new station on the Malay Peninsula.¹³ Penang came into the possession of the English East India Company established in the closing years of 1600, through Francis Light in 1786.¹⁴

When Penang was first occupied by Francis Light, it was reported to be ‘virtually uninhabited’¹⁵ although, there were a number of records suggesting to the contrary.¹⁶ It was the earlier claim that opened the way for the English Crown to christen it the Prince of Wales Island, and to take possession of the territory. The then existing law for the Crown of England was that as a “general rule when Englishmen established themselves in an uninhabited or barbarous country they carry with them the laws and sovereignty of their own country.”¹⁷ Should the land be inhabited upon arrived, the law that would apply would be the existing law in force, at the time of acquisition.¹⁸ As such, given that Penang was deemed uninhabited, the *lex loci* of the land would automatically be the law of England.¹⁹

Yet, for the first twenty years there was “legal chaos” and the law in force was essentially the “law of nature”²⁰ or in other reports, “justice according to the dictates of their conscience.”²¹ Disagreements flourished over which law prevailed, with the colonial administrators inclined towards English law, which they were more familiar with.²²

The matter was finally settled in the 1872 decision of *Ong Cheng Neo v Yeap Cheah Neo*,²³ when the Privy Council held that “...it is immaterial to consider whether Prince of Wales island or as it is called Penang, should be regarded as ceded or newly settled territory, for there is no trace of any laws having been established there before it was acquired by the East Indian Company. In either view the law of England must be taken to be the governing law, so far as it is applicable to the circumstances of the place, and modified in its application by these circumstances”.²⁴

Having accepted that the substantive law of England, would govern the island; the Crown, under the Charter of Justice, then established its legal authority and jurisdiction over the island with the setting up of the Court of Judicature of Prince of Wales Island, on 25 March 1807. This court would have the jurisdiction and powers of the Superior Courts in England and would exercise its jurisdiction “as far as circumstances will admit” and “so far as the several religions, manners and customs of the inhabitants will admit.”²⁵ On 27 November 1826, a second Charter of Justice was passed with the main object of extending the court’s jurisdiction to encompass Singapore and Malacca. The new court was named the “Court of Judicature of Prince of Wales’ Island, Singapore and Malacca”.²⁶ With the passing of the second Charter of Justice, the influence and authority of English law in the Strait Settlement was firmly established. By this time the second Charter of Justice was established, Penang was already a flourishing settlement.²⁷

Expansion and Immigration of the Chinese in Malaya

In the diary of Captain Francis Light there is a record made indicating that the first Chinese (whether or not they were immigrants at the time) came soon after he landed on the island of Penang²⁸ ostensibly to welcome him and make his acquaintance. Captain Light had landed in Point Penaggar, a site on the northeast of the island on 17 July 1786 days before; having successfully entered into an agreement with the then King of Kedah, for the cession of the island.²⁹

Evidence of the start of a Chinese settlement in the Strait Settlements are inconclusive, although records have suggested that there were Chinese planters and settlers living along the peninsula coasts that “pre-date the English settlement (in 1786) by several decades”.³⁰ In Singapore, it was recorded that from as early as the fourteenth century, there were Chinese settlers in Singapore³¹ and in the Malay states, a small Chinese community was said to have

existed from the time of the “Melaka period” circa 1500.³² In 1832 when Newbold arrived in Malacca to take up his posting as an ensign, at the 23rd Madras Light Infantry, he observed that –

Some persons have ascribed their emigration [the Chinese] to the influence of European protection; but this can hardly be the case, since it is known by the natives to have continued from *a very remote period*. The early European navigators found colonies of Chinese scattered over Java, Borneo and other islands. They are also located in states removed beyond the pale of British dominion...³³

While the exact inception of the Chinese in the Strait Settlements cannot be accurately ascertained, what is certain is that growing economic opportunities, established and protected by the British³⁴ was one primary impetus for mass migration.³⁵ British advancement in the region from as early as the sixteenth century was a pull factor for Chinese immigrants. As British power and influence over the Malay States grew, so too did the number of Chinese. It was recorded that “the success of the settlement was immediate and startling, so that within three years from its acquisition Captain Light was able to report that there was a population of 10,000 on the island...the bulk of the first settlers were Chinese, Malays and Chulias...”³⁶

The original intent of the Chinese migrant was never to emigrate; ancestor worship and the need to maintain the welfare of the dead, discouraged desertion. Failure to attend to rituals and offerings amounted to unfilial conduct.³⁷ The objective was to work, remit money back home³⁸ and in due time, to return to their homes. Smith suggests that “...generally speaking, no Chinese leaves his home not intending to return. His hope is always to come back rich, to die and be buried where his ancestors are buried”.³⁹ Indeed he notes that their ideal in life is to be “fixed like a plant on his peculiar spot, to draw nutrition, propagate and rot...”⁴⁰ This is reflected in the way the Chinese in Malaya often referred to themselves as Nanyang Chinese (or South Seas Chinese), suggesting that they were first and foremost, Chinese, who were physically overseas or away from mainland China. They retained their identities and links to their homeland and their cultural values⁴¹ regardless of physicality. This blind loyalty to their customs, traditions and habit, was not confined only to the immigrant Chinese who were born and bred in China but to the locally born Chinese as well.⁴²

In fact, under the Ch’ing Dynasty,⁴³ living away from China was akin to colluding with enemies of the state, a treason amounting to death.⁴⁴ Thus it was often thought that those who left the confines of the Middle Kingdom had to be “forced by dire necessity”⁴⁵ given how much was at stake. Necessity was the primary reason for the highest number of migrants from China to Southeast Asia⁴⁶ during this period; internal problems in China, necessity, poverty, overpopulation, natural calamities and exploitation in the provinces of China had taken its toll primarily amongst the rural population.⁴⁷

Chinese were initially recruited for spice plantations and the service sectors within the Malay states and in the Strait Settlements. In the early 1900s Chinese predominantly worked in rubber plantations. However, with the discovery of tin ore deposits in the second half of the 19th Century, emigration exploded with a great influx of Chinese labour that flowed in and continued to do so till the early twentieth century.⁴⁸ Chinese immigrants were attracted to the growing colonial economy and to the British colonial government they “presented a useful source of cheap labour.”⁴⁹ In the mid-1800’s their status, that of cheap menial labourers (also referred to as ‘coolies’) were frequently reported in British government records suggesting a firm

establishment of the Chinese labour market during this time.⁵⁰ Chinese were not limited geographically nor were they bound to any one industry. It was reported that the Chinese grew numerically "...until they were found in every part of the Peninsula".⁵¹ working in almost every possible field of industry. Vaughan suggests that they were "everything" from actors, acrobats, fishmongers, fruit-sellers, pawn-brokers, paper lantern makers to beggars, idle vagabonds or "samsengs" and thieves.⁵² The average Chinese immigrant arrived as a "penniless labourer"⁵³ with nothing more than the clothes on their backs.⁵⁴ Often lured to the Malay states through stories of great riches and wealth, many ended in nameless graves. While a minority, through their "active, industrious, persevering..."⁵⁵ abilities were impelled towards success, the majority of immigrants who failed to become wealthy then began viewing the idea of return to China, with little hope. Thus began the process of transformation from sojourners to settlers.⁵⁶

Having as a priority, the success of trade and commerce; the existing colonial administration kept a firm grasp over more profitable issues, generally eschewing concerns within the realm of custom, religion, belief or practices of the people. The British was determined to intervene as little as possible, given that intervention was "expensive" and doing so "increased their liability."⁵⁷ Thus adhering to the policy of indirect rule, Captain Light who regarded the Chinese as an enigmatic lot, "clannish, secretive and mysterious"⁵⁸ and a people who spoke various dialects, posited himself as a "benevolent respectful ruler..." who did not meddle into the affairs of this group of individuals, but relied on appointed representatives under the Kapitan Cina system to keep them in check.⁵⁹

The Kapitan Cina system, was a system whereby the administration of the Chinese community was delegated to a headman, a captain, who was a leader of the community.⁶⁰ Prior to the appointment of the British Recorder (judge) in 1901, the Kapitan Cina operating on Chinese laws and customs maintained a reasonable level of social control through law and order within this migrant population.⁶¹ They were the 'police' and provided the 'legal' framework, with assistance from Secret Societies.⁶²

The Kapitan Cina had absolute authority over criminal and civil matters of the Chinese, although in serious cases involving murder or fraud, or involving Europeans, they had no authority.⁶³ The system served as a link between the British administration and the Chinese community. During this period, the Chinese community was autonomous and functioned with little involvement from the British; till the system was abolished in 1840.

The erosion of the autonomous Chinese community began with the decree of the Charters of Justice and the introduction of direct rule by the British. Regardless of this shift, the British administration continued to be mindful of Chinese customary laws in the colony. In family matters such as marriage and divorce, English law accorded colonial judges that freedom to sanction or nullify such unions, if it were conducted according to the law of the place.⁶⁴

By the early 1900, British colonial courts and British law were applying principles of English common law and the rules of equity, tort and criminal laws in the Strait Settlements. While the courts continued to recognise Chinese laws and customs during this period, the gradual introduction of English common law into all aspects of life within the Strait Settlements were 'encroaching' upon it. Issues surrounding laws governing the family (previously within the bastion of Chinese customary laws) such as inheritance of property by will, intestacy, guardianship and infants, gradually took on an English flavour, applying British laws.⁶⁵ While this had as an indirect effect diminished their significance, Chinese customary law and its influence over the Chinese, prevailed.

The earlier migrants in the late eighteenth century were mostly, if not entirely,⁶⁶ men. Males outnumbered females by large margins.⁶⁷ Although, some Chinese immigrants found native wives, the large majority of the male population were “young, unmarried or had left their views in China”.⁶⁸ Khor suggested that the number of men was more than double that of Chinese women, when he noted that “in the second half of the 19th Century... it was apparent that males outstripped females by 50:1.”⁶⁹ Little effort was made to restrict men from migrating, but ‘great precautions’ were made to prevent Chinese women from doing the same.⁷⁰

Lee, in her research on female migration from China to Malaya noted that before 1920 there was an ‘insignificant’ number of (though not totally absent, e.g. in the 1880s there were only 3) women migrating.⁷¹ Among the key inhibitors was the traditional role of the women in the family. In patriarchal Chinese societies, traditional attitudes encouraged women to stay close to home where they were guarded and watched by those who remained behind, to ensure that they remained faithful to their marriage vows.⁷² Similarly, having married into their husband’s families they were required to care for the needs of their in-laws as well as to bear an heir.⁷³

Apart from this, the unequal balance between men and women was also due to legal restrictions. While the Chinese government took a lax attitude toward the immigration of men, it took an opposite reaction to women migrating.⁷⁴ As a result, Chinese women were poorly represented, not only in Malaya but in most of Southeast Asia, before the twentieth century.⁷⁵

After 1920, many factors influenced and facilitated the immigration of women.⁷⁶ Amongst them was the introduction of the Aliens Ordinance 1933 that regulated admission of aliens into Singapore. The Ordinance though directed at limiting the influx of men (by placing quota’s on males) thus raising the price of (ship) passage for them, had the indirect consequence of encouraging women (who were non-quota passengers) to emigrate.⁷⁷ The Ordinance also limited the number of alien deck passengers admitted. As such, female deck passengers being non-quota passengers were thus exempted from limitation and admitted without restriction. Singapore and Malaya was a single unit during this period, and for the purposes of immigration control⁷⁸ all migrants entered the Strait Settlements via Singapore.

Bastin further suggests that yet another factor caused the increase. He said that –

...shipping companies were simply allotted their quota of the total permitted, and left to make their own arrangement. Since passages to Malaya were in keen demand, the price rose quite sharply...a situation arose in which the demand for passages from the lodging houses in South China exceeded the supply, and the companies were in a position to select those to whom they would sell. Naturally they gave preference to those who bought non-quota tickets; and since the sale of these tickets was highly profitable, the lodging houses were given a strong inducement to encourage women to migrate to Malaya...⁷⁹

It was so rampant that it was estimated that “...between 1933 to 1938 Malaya received more than 190,000 female deck passengers between the ages of 18 to 40.”⁸⁰ The quota system effected traditional limitations and encouraged many Chinese families to release their daughters for labour migration; a role traditionally performed by the males.⁸¹ It was the intention of the colonial government to allow for the increase of female migrants, as this led to the growth of Chinese families, in particular working class families, and a more stable work force.⁸²

With the increase of women in the population, Chinese society evolved from a “sojourner society to a settler society”.⁸³ Chinese families generally congregated in the urban areas where

housing was more readily available. It gradually increased as communities grew, giving birth to a permanent and distinctive Chinese cultural identity in Malaya.⁸⁴

The Mui Tsai System and their Entry into Malaya

A Mui Tsai (妹子), is defined as “a girl who has been transferred from her own family, either directly or through a third party, to another family with the intention that she...be used as a domestic servant, not in receipt of regular wages and (not) at liberty to leave her employer’s family of her own free will or at the will of her parent.”⁸⁵

Mui Tsai is a colloquial expression in the Cantonese dialect, which in itself literally means – little younger sister. It is commonly used on a young girl. In Malaya, given the heterogeneous society, it took on several variations. The Hokkiens used the term ‘Cha Boh Kan’ (查某嫻仔) whereas in Mandarin the spoken and written term used is ‘Pei Nui’ (婢女). There are also variations to the spelling of this word.⁸⁶ However, it is the Cantonese term Mui Tsai (and spelled as such) that was used by the English to describe a system known during this period, as encapsulating a unique form of servitude.⁸⁷

Young girls, often as young as eight or nine, were transferred from their biological families (usually from poor homes) to a recipient family (commonly a rich one) to be utilised as a domestic servant. Such transfers were marked with the drawing up of a document of transfer; often in red paper. These generally detail the consideration of a nominal sum transferred, with little or no terms of service listed. Purcell eloquently describes the transaction, and the expectation of both parties, when he said –

...in China where the status of girls is low, families are usually large and such a high proportion of the people live on the verge of starvation with conditions aggravated from time to time by floods, famines, droughts, pestilence and banditry...the transference of Mui Tsai served the purpose of saving from death girls who otherwise could not be provided for. On the employer’s side the acquisition of a Mui Tsai might be due to feelings of charity for the poor or to the knowledge that that he or usually she, would obtain a servant over whom there would be greater control than over a hired person and who would virtually be one of the family...⁸⁸

It is expected that the master or his mistress will marry the Mui Tsai off when she reaches eighteen years or so;⁸⁹ at marriage their obligation to their ‘owners’ will be complete and the Mui Tsai becomes a free person.⁹⁰ During the period of her service, the Mui Tsai ‘belongs’ to her master/mistress and generally has no contact with her biological parents; they become her legal guardians.

This practice of obtaining a Mui Tsai for domestic use has long been practiced. Chinese history records that the transfer of daughters to domestic servitude were common and not interfered with by law, regardless of the Penal Code.⁹¹ Many Chinese families were accustomed to it, and some were even given a Mui Tsai as part of their trousseaux upon marriage.⁹²

Although, the Mui Tsai was primarily purchased for domestic work, a well-endowed girl may be made to play a different role. In this instance, she may be utilised by her mistress to entice the master to stay home by serving his sexual needs, or the needs of any other members of the family. Sexual abuse of Mui Tsais have been recorded and in most instances tolerated in Chinese households.⁹³ There are records of abuses within the Mui Tsai system, yet it has been

suggested that "...it must not be suppose that the abuses were general. In the generality of Chinese families the mui-tsai were kindly treated and occupied a position of considerable privilege, though always lower than that of a daughter of the house."⁹⁴

Upon arrival at the Strait Settlements, many Chinese intermarried and in time hybrid communities developed. Extracting traditions gradually dissipated over time and were influenced by local structures and indigenous value systems. These influences modified and affected or in some cases, reinforced patterns of behaviour.⁹⁵ Clearly, the notion of a Chinese family in the Strait Settlements was somewhat different from that of China, yet polygamy, female subordination and customary forms of marriage continued;⁹⁶ and as a by-product of the continuity of these values, the Mui Tsai system flourished.

No clear record exists as to the first date of introduction or recognition of such a practice in Malaya, although from as early as 1915, it was recorded in the case of Ngai Lau Shia (where the court in Singapore considered the matter of Chinese marriage, polygamy and presumption of marriage) that the deceased (on the facts) had a second marriage in October 1866, and had subsequently taken "a slave girl and two maidservants" to look after his non-principal wife and child. In other parts of the facts presented there was further use of the term 'slave girl' in different circumstances.⁹⁷ The absence of the term Mui Tsai in the court record makes accurate determination as to whether the slave girl had in fact been a Mui Tsai, arguable. However, there is a strong presumption (given the express distinction made between the servants' and her status, and the common use of this term during that time, to describe a Mui Tsai) that the 'slave girl' had in fact been a Mui Tsai. Lebra concurs in her report that before 1930, "although never recognised by the Malayan government, the practice existed in Malaya and other parts of Southeast Asia".⁹⁸ In 1936 it was suggested that "a typical sum for a Mui Tsai would be between \$150 and \$250"⁹⁹ although it has been reported that the price "varied from anything up to \$500"¹⁰⁰ depending on her age, and circumstances of the purchasing family.

Similarly, when William Alexander Pickering, a young interpreter trained in several Chinese dialects came to Malaya in 1872, he had observed that there was a growing influence of secret societies and that these societies were involved in, amongst others, the trade of women and children. Girls were sold "...into slavery in rich households. The latter were known as Mui Tsai...or chabohkan in Penang".¹⁰¹

This inflow of Mui Tsai with Chinese migration¹⁰² was a result of necessity, in particular "war and famine"¹⁰³ with young girls often traded by their family for a sum of money.¹⁰⁴ Political conditions and extreme poverty forced countless parents to entrust their daughters "...to relatives or fellow villages, to take them to relatives or friends in Nanyang to seek a better future through marriage or employment, usually in domestic service...".¹⁰⁵ Other reasons recorded for the sale of daughters, were that girls could not carry on the family name, were expensive to up keep given that parents had to arrange and bear expenses for their marriage especially in large families and superstition as to time or circumstances connected with the birth of the child.¹⁰⁶ Notwithstanding these reasons, there are reports suggesting an even greater level of triviality, whereby girls could simply be given away as a wedding gift or for "strange considerations as a pair of red candles or a packet of red paper containing a silver coin".¹⁰⁷

While the Mui Tsai system was principally considered as a charitable Chinese practice, its arrival in the Strait Settlements unfortunately resulted in a variation "...to the worse than in the Chinese original".¹⁰⁸ In China, Mui Tsai's were commonly transferred to families that lived within some degree of proximity to the girl's biological parents or relatives and as such, a loose form of supervision could be maintained over the girl's welfare at the employer's home.

However, in the Strait Settlements such surveillance was not possible given the physical distance between the two.¹⁰⁹

Attempts at Regulating the System: Challenges in Defining Mui Tsai

Before 1925, the colonial government took the position that the Mui Tsai system “had its good points and contended themselves with preventing abuses.”¹¹⁰

Reports that Mui Tsai were treated like slaves were abundant. Jackson notes that Mui Tsais were “virtually slaves of those who accompanied them overseas”¹¹¹ given that they were likely traded by their families for the price of their ship fare to Malaya. Equally there were those that thought otherwise.¹¹² Sir Cecil Clementi, former Governor of Malaya was one of them, he defined the system as being a “humane and benevolent” one; that they were “as a rule well treated” with cases of abuse being a rarity.¹¹³ It was a “matter of common knowledge that the Chinese as a race are remarkably fond of and kind to children.”¹¹⁴

Purcell notes that up until 1925, the official attitude of the colonial government was that existing laws were sufficient to protect the welfare of the Mui Tsai. Penal laws were utilised for the protection of the person; the Women and Girl’s Protection Ordinance 1914 (and subsequent amendments) protected against procurement and prostitution; and the Children Ordinance 1927 safeguarded against cruelty and abuses to the child. Together with these legislations was the Po Leung Kuk, a charitable institution for the reception of women and girls who were in need of refuge. Sir George Maxwell, writing to the Colonial Office in 1934 reiterated this position when he said that “the attitude of the Malayan Governments has always been that of ‘non recognition’...the policy continued until 1925 when pressure was brought to bear upon the government...”¹¹⁵

As a result, desiring to remove any possible vestige¹¹⁶ or “shadow of suspicion that it had countenanced or ever would countenance, the employment of such persons under such conditions...”¹¹⁷ the Attorney General introduced, the Female Domestic Servants Bill at the Legislative Council of the Strait Settlements, on 24 August 1925. The Female Domestic Servants Ordinance 1925 (“the Ordinance”) was passed on November 1925 and came into force on 1 January 1926. In this Ordinance, a Mui Tsai was for the first time, legally defined. Section 2(i) and (ii) reads –

- (i) a female domestic servant whose employer for the time being shall have made, directly or indirectly, within or without the Colony, any payment to any person for the purpose of securing the services of such female as a domestic servant or whose services have as a matter of fact been secured by the payment of money to a third person; or
- (ii) a female domestic servant whose employer for the time being shall, within or without the Colony, have acquired the custody, possession or control of such female from, or upon the death of, any former employer who made any such payment as aforesaid.

The Women and Girls Protection Ordinance 1914, was also amended in 1925 to insert an identical definition of Mui Tsai. Yet this legal definition was later reported to have “proved to be practically useless owing to two main defects, which were the narrowness of the definition and the placing of the onus of proof of the girl’s age and purchase on the prosecution”.¹¹⁸ It is the earlier defect that will be discussed.¹¹⁹ The narrowness of the definition resulted in a

disappointing report made by the Acting Secretary for Chinese Affairs at the Legislative Council of the Strait Settlements in 1932, when he said that “only two prosecutions have ever been taken under it; one of those had to be withdrawn because of the age of the girl could not be proved and in the other case a rather small fine was imposed”.¹²⁰

Section 2 of the Ordinance contained a number of ‘pit falls’ that limited its effectiveness; beginning with the words: “for the purposes of securing the services of such female as a domestic servant”.

Here, the definition was drawn to incorporate dealings whereby females were acquired for domestic purposes. As a result, employers when questioned often said that these girls were their adopted daughters and had not been secured as a domestic servant for domestic purposes. Any domestic work rendered by the girls was merely household chores, done as part of a member of the family. This was not simply a pretext to elude the authorities,¹²¹ given that the Ordinance made the employment of any female domestic servant under the age of ten, an offence punishable by a period of imprisonment and or a fine.¹²² The rationale for considering these girls as adopted daughters arose primarily from custom which regarded the Mui Tsai as a member of the family,¹²³ as oppose to a paid domestic, who was not. It was also a customary obligation that the employer would in due time marry-off these girls, and that she will upon her marriage receive a dowry again reinforcing this idea of kinship.¹²⁴

Yet, the terms here are not euphemisms; an adopted daughter is not a synonym of a Mui Tsai. Indeed there is a considerable difference between a girl received into a household as an adopted daughter as oppose to a Mui Tsai. Clear distinctions within a Chinese household are not often easy to make, Watson suggests that “servants, including servile menials are often spoken of as kin, and kin were sometimes treated as servants”.¹²⁵ Further she observed that Mui Tsai were among those that “defy easy categorisation” given that they “...came closest to assuming a kin role” yet continued to have a marginal status.¹²⁶

It was this complexity in categorizing the Mui Tsai, which added to the difficulty in determining the presence of such a girl within a Chinese household.

Additionally, the definition failed to consider other forms of dealings, not only where girls were acquired as adopted daughters but where girls were transferred for determinable periods, as a pledge for a loan taken by their biological parents. In such instances, upon repayment of the full sum taken, girls were returned to their families and all services rendered during the period of stay, is deemed to be ‘interest’ earned by the recipient family.¹²⁷ These girls did not always fall within the purview of the definition. They lived in a state of transition and until such time that repayment was made in full they remain unfree and are in essence, a Mui Tsai. Yet, the definition under section 2 of the Ordinance did not recognise this fluidity.

Further, a girl may have been transferred to the recipient family as a ‘san po tsai’ (媳婦仔) or a little sister in-law, betrothed to the son of the family. However, should he reject her when the time to marry drew near, she would in essence fall back into a position of a Mui Tsai. Conversely, a Mui Tsai transferred as one, could find herself adopted at a future date, or taken on as a concubine and established legitimately in a household. This flexible status that could be altered or reverted subject to circumstances was not considered within the legal definition.¹²⁸

The definition also failed to mention the difference between the concept of sale or gift. Under section 2 of the Ordinance, a Mui Tsai is defined as one to whose “...services have as a matter of fact been secured by the payment of money.” As indicated, one of the key characteristics similar to all Mui Tsai transactions is the exchange of money upon the transfer of

the girl to the recipient family. The presence of money is a common feature in the Chinese society, and is found in every social arrangement or event be it a betrothal, marriage, birth, concubinage, adoption, or death. Under English law, money consideration given at a transaction is often considered as one part of the legal definition of a contract for 'sale'.

Yet, Sir George Maxwell, a senior Colonial Administrator in the Strait Settlements and in British Malaya, distinguishes the exchange of money in a Mui Tsai situation from other sale transactions. He writes that the exchange of money is akin to -

...the passing of a token which has some symbolical or even mystical meaning, connected with some tradition of immemorial age, with some old superstition or with a deeply religious belief...that the British Government should not brand as a sale... relationships of marriage or adoption... merely because Chinese custom makes them the occasions of incidental monetary bargains; and I would go further, and say that the same argument for keeping an open mind applies to transfers of children for domestic service...

Given that the passing of money is a common occurrence in the Chinese culture; there are marked differences in the Chinese language for the word 'sale'. One such difference is the usage of the word 'gu' 沽 and 'ci' 賜. The former is used when the girls are bought and sold; whereas the latter is utilized when the girl is endowed by her biological parents to the recipient family. In both instances money passes hands, however in the earlier the perception of the transaction is one of a sale and in the latter a gift.

This differentiation between the two is relevant given the opposing effect it generates. Historically, the Chinese considered the transfer of their daughters as being a legitimate and acceptable transaction. To the Chinese, the right to dispose of a daughter was not only an integral part of the right of a patriarch, it was an act dictated by the needs of the family.¹²⁹ A customary prerogative not superseded even by existing laws.¹³⁰ Thus, to the Chinese there is delineation between a 'legitimate' and 'illegitimate' transfer with the latter being similar to an act of kidnapping.¹³¹ As a result, the disposition and transfer of a daughter by her parent(s) was accepted as legitimate and money passing hands in such instance is deemed a gift. Whereas an illegitimate transfer is the kidnapping and sale of a person by one who has no right over their victim; as such she is then sold for money consideration.

Section 2 of the Ordinance again failed to make a differentiation between the two types of transactions and the unique significance of money in these instances.

Attempts at Regulating the System: Rethinking the Definition

In 1932 the definition of Mui Tsai was reconsidered. At the first reading of the Mui Tsai Bill, the Acting Secretary for Chinese Affairs, Mr A B Jordan recognised the unique challenges present that had resulted in the ineffectiveness of the Female Domestic Servants Ordinance to deal with the question of Mui Tsai.

He informed the Legislative Council that the new Mui Tsai Ordinance 1932 ("MTO") would provide a wider legal definition and the expectation that it would close all loop-holes in the law "through which evil-doers can escape".¹³² He expands on this by remarking that the new definition is "drawn in a way that will include all the varied forms of acquiring female children current in the Colony" and "is drawn too in order to overcome the fiction that a girl is an adopted daughter".¹³³

Under section 2 of the MTO, it reads –

Mui Tsai” means a female domestic servant the custody, possession, control or guardianship of whom has been acquired, either directly or indirectly, within or without the Colony, by way of purchase, gift or inheritance, or by way of pledge for or in settlement of a debt;

Provided that any female domestic servant the custody, possession, control or guardianship of whom has been acquired in any such manner as aforesaid shall cease to be a Mui Tsai on attaining the age of eighteen years or on marriage, whichever shall first happen.

The new Mui Tsai definition successfully achieved this end by inserting key terms that removed the challenges discussed in the first definition (under Part V). The introduction of the word “guardianship” encompassed the situation where a Mui Tsai could be referred to as an adopted daughter, whereas inserting the words “by way of purchase, gift or inheritance” is a clear recognition by the Legislative Council of the unique Chinese custom discussed above. The word “by way of pledge for or in settlement of a debt” also expressly identifies and provides for the fluidity of the position of a Mui Tsai.¹³⁴

Aside from the extended definition of Mui Tsai, the MTO also introduced several key provisions. Primarily it made, under section 3, the acquiring of a new Mui Tsai after the commencement of the MTO an offence. It also required every person with a Mui Tsai in his custody to “register such Mui Tsai in the prescribed manner within six months after such commencement” of the MTO,¹³⁵ and anyone found with an unregistered Mui Tsai after the six month period will be liable to a fine or a period of imprisonment.¹³⁶ The MTO also made it an offence under section 7 to “overwork or ill-treat” a Mui Tsai, while requiring employers to provide her with a wage, sufficient food, clothing and medical attention if she were ill.¹³⁷

With the introduction of the new, wider definition of Mui Tsai, the requirement for registration and the ban on obtaining new Mui Tsai, the MTO was expected to be a success, and the eradication of the practice, simply a matter of time. The new definition, given the complexities present, had been drafted more generously and had gone further than its Hong Kong counterpart.

Yet, regardless of the efforts made, the words ‘female domestic servant’ in the opening words of the definition, had undermined its value.¹³⁸ Not long after, it was discovered that regardless of the legal requirement for registration there was still a wide spread level of tolerance toward the system and a substantial degree of inactivity towards registration. It was reported that “the usual view is that throughout Malaya registration was incomplete to quite a serious degree”.¹³⁹ In Singapore, it was “certainly incomplete”¹⁴⁰ and that it would be a “wild guess”¹⁴¹ to say to what extent it was, with similar feedback from Malacca and Penang.¹⁴² In more callous terms the MTO was described as a piece of legislation that had “holes in it so large that a carriage and pair can be driven through them”.¹⁴³

As a result, in 1936 the Mui Tsai Commission arrived in Malaya to observe and study the prevalent custom and the condition of life and treatment of a Mui Tsai in Malaya. During their visit, the commission interviewed witnesses, collected questionnaires that were distributed prior to their arrival, and took oral testimonies from residents and committees. Regardless of having done a thorough and extensive study, the committee was unable to produce a unified report; this

resulted in a majority as well as a minority report. The earlier majority report recommended for things to remain as it was and that it would be a “long and tedious”¹⁴⁴ business should there be a real attempt to abolish the system. The minority report’s recommendation on the other hand, went completely against the majority report, advocating strongly for an even tougher all-embracing scheme of protection.¹⁴⁵ It recommended for amongst others, a scheme of protection for all children and the registration of all forms of adoption.¹⁴⁶

The Minority report was subsequently accepted by the government of the Strait Settlements,¹⁴⁷ and many of its recommendations found its way into the Part II of the Children Ordinance 1939.¹⁴⁸

Larger Challenges to Regulating the System

The Mui Tsai controversy is a transnational one; and a system intricately tied to the Chinese identity. It has been suggested that much of the effort made by the Colonial government to regulate the controversy was based on a body of knowledge developed by the British to understand the Chinese domestic life. This ‘official’ imperial perspective of what is a Chinese, or what is Chinese tradition or practice, assisted the British in deciding how best to deal with the Mui Tsai problem.¹⁴⁹ This imposition of the British ‘version’ of Chinese identity produced and circulated between various colonies was to be applied generally despite obvious divides. It was an exercise to differentiate ‘us’ and ‘others’¹⁵⁰ and it was this exercise that limited their knowledge of what was deemed as ‘Chinese tradition’ and Chinese ‘domestic life’ in Malaya. Ironically, all this was aimed at trying to ‘know’ the Chinese better and thus establish better control.¹⁵¹ As such, the practice of Mui Tsai (and the answers required to eradicate it) continued to flourish hampered by a colonial version of the practice, considered from a transnational level with little appreciation for the local context.

This led to a belief that when legislation was passed in Canton regulating the Mui Tsai problem, the Mui Tsai system locally would also improve as these would “gradually have an educative influence on the Chinese who emigrate to Malaya.”¹⁵² This idea that legislation passed regulating the Chinese and the problem of Mui Tsai in Canton, would in some way influence and transform the Mui Tsai practice (hundreds of miles away) in Malaya, is over simplification. One that was recognised by the Colonial Office in 1932 when it became clear that the legislation had not the impact expected and that such laws were “only window dressing for foreign edification”.¹⁵³

Leow concurs in her research that colonial officials took refuge in the idea that the Mui Tsai problem was largely and essentially a Chinese problem, with general statements on the Chinese as a homogenous group, frequently found. Officials regarded the Chinese as ‘secretive’ people not easily understood;¹⁵⁴ and held to notions that “... Chinese and Asiatic girls take up prostitution as a career just as our girls take up service or nursing and think nothing of it.”¹⁵⁵ Being regarded as a Chinese problem, no real attempt was made to seriously study the issue outside of the Chinese context.¹⁵⁶

It is in keeping strictly with the prevailing and pervasive version of a Mui Tsai that contributed to the weak reception and success of MTO in the Strait Settlements. Given the geographical distance and the heterogeneous nature of the Strait Settlements, the notion of Mui Tsai had evolved. What was originally a Chinese construct had developed to include non-Chinese Mui Tsai. Oral and written statements collected by the Mui Tsai Commission recorded this fact. R.P Bingham, Assistant Protector of Chinese Singapore noted that there were Siamese girls registered as Mui Tsai.¹⁵⁷ It was also recorded that “it is quite easy for the Malays to acquire

these girls”¹⁵⁸ and that they were indeed acquired. Sir George Maxwell’s report further suggested that evidence was present suggesting that the Mui Tsai system was common among Arab families, that there were Tamil, Indian and Malay Mui Tsai present in the Strait Settlements.¹⁵⁹

Yet, the Majority report failed to make mention of this. It was the omission of this ‘curious evidence’ as pointed out by Sir George Maxwell that demonstrate another side of the complex Mui Tsai problem. The existence of children of all nationalities was unaccounted for, and the acceptance and practice of the Mui Tsai system by other ethnic groups within the Settlements, was not addressed. He further reports that “it seems absurd to deal with the children of all these nationalities as ‘Mui Tsai’ and to register them under the provisions of a “Mui Tsai Ordinance”...the instances of these children serve to show that what we have really to consider is not so much a Mui Tsai problem as a problem of the young child in a stranger’s home”.¹⁶⁰

Although ‘absurd’, it can be argued that the definition of Mui Tsai under section 2 of MTO, having not specified nor limited the nationality of the Mui Tsai, be wide enough to encompass non-Chinese girls. Yet, contrary to this is the argument that the definition and powers of the Protector,¹⁶¹ which is a person accorded powers of protection to particular individuals under his responsibility, is limited to the purview of the Chinese. As such, non-Chinese girls would not have come under his protection or jurisdiction.

The failure of the MTO was certainly was not attributed entirely to the officials who did not recognise the presence of non-Chinese Mui Tsai and as such made no provisions for their protection and registration. There were other fundamental points of conflict in the Strait Settlements at the time – to name a few, the legal definition of slavery, with public opinion still at odds with the English definition; at proprietary rights in human beings, with the heads of Chinese families and clans still holding on the notion that they have absolute rights over the other members of the family, in particular the women and children; that the Chinese and English concepts of patriarchal families were yet in sync; and individual rights and notions of justice for both, being at polar ends. Points of weighty contention, while outside of the purview of this article, nevertheless contributed to the outcome of the MTO.

Conclusion

In the 30-year period that the Mui Tsai phenomenon held sway in British Malaya the Colonial government’s agenda to answer the foundational question “how best to save or protect these young girls”¹⁶² remained unsuccessfully resolved. This article explored the Mui Tsai practice within British Malaya, specifically the Strait Settlements and unpackaged some of the general underlying complexities experienced transnationally as well as locally. It demonstrated how the understanding of fundamental legal and non-legal notions surrounding this question came into conflict in the Strait Settlements. Prevailing Chinese customary perceptions and practices were often in contention with existing imperial ideas of propriety and right, with poor attempts at regulating a pre-dominantly Chinese concept of ‘adopted daughter’ or ‘domestic servants.’ A clash of traditional ideas and western notions of ‘slavery’ and ‘welfare’ resulted in ineffective legislation. Responding to and rethinking challenges, colonial law evolved to develop laws that encompassed these customary practices. Yet in hindsight the changes made were superficial. The extended definition failed to address beyond the apparent, to where a much larger concern resided. The law had attempted to regulate the Mui Tsai practice, but that effort had simply solved the tip of a larger more complex phenomenon that the Colonial government had failed to recognise.

The divergent outcome of the Mui Tsai Commission presented a larger more realistic picture that resulted in the principal addition of part II within the Children Ordinance 1939; inserting with much anticipation the protection for such ‘transferred children’ that the Mui Tsai Ordinance had failed to provide for. Yet in spite of its efforts and the evolution of the law, Mui Tsai legislation never had an opportunity to blossom. In the wake of the Second World War and the cry for independence post-1945,¹⁶³ the concerns for the welfare of the Mui Tsai lost its urgency and gradually, in time, disappeared into the annals of history.

Notes

* Part of this paper has been presented at the British Legal History Conference, University of Reading, UK, 2015.

¹ Hansard, “Mui Tsai in Hong Kong”, House of Lords Debate, 26 March 1931 Vol. 80 cc. 605-9.

² At least to a faction of the government of the day.

³ Victor Purcell, *The Chinese in Malaya*, Kuala Lumpur: Oxford University Press, 1967, p. 180.

⁴ For examples of the work done on Mui Tsai in Hong Kong see, John M Carroll, “A National Custom: Debating Female Servitude in Late Nineteenth-Century Hong Kong”, *Modern Asian Studies*, vol. 43,6, 2009, pp. 1463-1493; Susan Pederson, “The Maternalist Moment in British Colonial Policy: The Controversy over ‘Child Slavery’ in Hong Kong 1917-1941”, *The Past and Present Society*, No. 171, May 2001, Oxford Journals, Oxford University Press, pp. 161-202; The Mui Tsai System in China, Hong Kong and Malaya, (1936) 34 Int’l Lab. Rev 663; Norman Miners, *Hong Kong Under Imperial Rule*, New York, Oxford University Press, 1987, Chap. 7 & 8.

⁵ Maria Jaschok, *Concubines and Bondservants: A Social History*, London: Zed Books, 1988.

⁶ Janet Lim, *Sold for Silver: An Autobiography*, London: Collins, 1958.

⁷ See Susan Pederson, “The Maternalist Movement in British Colonial Policy: The Controversy over ‘Child Slavery’ in Hong Kong 1917-1941”, *Supra* note 4.

⁸ See generally Lai Ah Eng, *Peasants, Pullers and Prostitutes: A Preliminary Investigation into the Work of Chinese Women in Colonial Malaya*, Singapore: ISEAS, 1986; Lenore Manderson, *Colonial Desires: Sexuality, Race and Gender in British Malaya*, *Journal of History of Sexuality*, Vol. 7, No. 3, 1997.

⁹ Some work has been done on Mui Tsai in Malaya, however these have been largely considered from sociological or historical perspective. See Rachel Leow, “Do you Own non-Chinese Mui Tsai? Re-Examining Race and Female Servitude in Malaya and Hong Kong, 1919-1939”, *Modern Asian Studies*, Vol. 46 Issue 6, November 2012, pp. 1736-1763; Sharon M Lee, “Female Immigrants and Labor in Colonial Malaya: 1860-1947”, *International Migration Review*, Vol. 23, No. 2, Summer, 1989, pp. 309-331.

¹⁰ The colony of the Strait Settlements consists, as its name implies of several settlements formed around the Strait of Malacca. Their connection is historical rather than natural. It initially included settlements as far as Brunei, the Cocos Islands and Christmas Island. By 1925 the definition of the Strait Settlement had narrowed to that of Singapore, Penang and Malacca with the seat of government established in Singapore; it is this limited definition which is the emphasis and scope of the article.

¹¹ See Rachel Leow, “Do you Own non-Chinese Mui Tsai? Re-Examining Race and Female Servitude in Malaya and Hong Kong, 1919-1939”, *Modern Asian Studies*, Vol. 46 Issue 6, November 2012.

¹² See Victor Purcell, *The Chinese in Malaya*, pp. 182-184;

¹³ Victor Purcell, *Malaya: Outline of a Colony*, London: Thomas Nelson & Sons, 1946, pp. 52-54.

¹⁴ Yeoh Seng Guan et.al (eds.), *Penang and its Region: The Story of an Asian Entrepot*, Singapore: NUS Press, 2009, pp. 9-18.

¹⁵ Captain Francis Light reported it as such, and even the subsequent East India Company officers noted that it was uninhabited. See Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, Selangor: Malaysian Branch of the Royal Asiatic Society, 2004, p. 15; Victor Purcell, *Malaya: outline of a Colony*, see note 5, p. 55; L.A. Mills, “British Malaya 1824-67” (edited for reprinting, with a bibliography of writings in English on British Malaya, 1786-1879 by Turnbull, C.M and a new introductory chapter on European Influence in the Malay Peninsula, 1511-1786, by Bassett, K.D) in *JMBRAS*, 1961, pp. 37-38 noted that when Francis Light landed, Penang was merely a jungle with no inhabitants.

¹⁶ Sir Benson Maxwell R, in *Regina v Williams* (1858) 3 Ky 16 viz. reported that when Penang island was first occupied, there were four Malay families inhabited on the island. See also, Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, Kuala Lumpur: Oxford University Press, 1982, p. 4. Again, Captain Kydd, in his memoir addressed to the Indian Government, he said “Penang...when it was first taken possession of by this Government there were a few Malay families who subsisted by fishing and extracting of wood, oil and Dammer and who lived near the Point where the Fort stands by...one of these people gives an account of there having been about 30 years ago a great many inhabitants on the island...”; reported also in Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 4.

¹⁷ Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 6; reported by Sir William Hackett J in the case of *Fatimah v Logan and Others* (1871).

¹⁸ Huey, “Law, Gongqin, and Transnational Polygamy: Family Matters in Fujian and British Malaya”, in P. Huang and K. Bernhardt (eds.), *Research from Archival Case Records: Law, Society and Culture in China, USA*: Brill, 2014, p. 416.

¹⁹ Although, different versions of the island’s history exists on whether Penang was indeed uninhabited at the time Francis Light arrived, see Muhammad Haji Salleh (ed.), *Early History of Penang*, Pulau Pinang: Penerbit Universiti Sains Malaysia, 2012, pp. 20-31.

²⁰ This was as reported by Dickins, the first professional judge to arrive at the island from England in 1801. See S. Buang, *Malaysian Legal History: Cases and Materials*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1993, p. 6.

²¹ Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 7.

²² Huey, “Law, Gongqin, and Transnational Polygamy: Family Matters in Fujian and British Malaya”, pp. 416-7.
²³ (1872) 1 Ky 326.

²⁴ Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 6.

²⁵ *Ibid.*, p. 12. This idea was also in line with the existing British policy at the time, in the British Proclamation of 1841, it was prescribed that the governance of the British towards its colonies would be one of non-intervention in indigenous customs.

²⁶ *Ibid.*, pp. 26-27.

²⁷ It was recorded that Penang’s population was 23,418 in 1816 and in 1830 this number had grown to 33,959. See T. Braddell, *Statistics of the British Possessions in the Strait of Malacca*, Penang: Penang Gazette Printing Office, 1861, Table 1.

²⁸ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 15, in the book he notes that Light’s diary indicated that Chewan, a Chinese man had presented him with fishing nets several days after he landed at Point Penaggar. Chewan is also known as Koh Lay Huan, who was subsequently appointed as the first Kapitan Cina of Penang. Chewan was but one of a group of Chinese that had “followed Light’s entourage from Kuala Kedah”. Similarly in Victor Purcell’s *Malaya: Outline of a Colony*, see note 5, p. 55 he states that “a few Malay and Chinese fishermen” paid him “seasonal visits” after his arrival. Similarly it is recorded that “Francis light mentioned that he came across about 30 Malays on the shore four days after landing on Penang at Tanjung Penaga”, see Muhammad Haji Salleh, *Early History of Penang*, p. 21.

²⁹ The agreement referred to that entered into between Captain Light and the King of Kedah in 1786 which ceded the island to the British. In fact, it was subsequently renamed the Prince of Wales’ Island on 11 August 1786, the day the Union Jack was hoisted. See generally, Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 3.

³⁰ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 13; see also, C. Turnbull, *The Straits Settlements 1826-67: Indian Presidency to Crown Colony*, Singapore: Oxford University Press, 1972, p. 145.

³¹ C. Turnbull, *A History of Singapore: 1819-1975*, Kuala Lumpur: Oxford University Press, 1977, p. 2.

³² B. Andaya and L. Andaya, *A History of Malaysia*, 2nd ed., UK: Palgrave Publishers, 2001, p. 96.

³³ T.J. Newbold, *Political and Statistical Account of the British Settlements in the Straits of Malacca*, Singapore: Oxford University Press, 1971, pp. 9-10; Italics author’s own.

³⁴ See generally, P. Victor, *The Chinese in Southeast Asia*, London: Oxford University Press, 1965; J. Bastin and R. Winks, *Malaysia: Selected Historical Readings*, Kuala Lumpur: Oxford University Press, 1966; and Lai Ah Eng, note 8. It has even been suggested that the large number of Chinese in Malaya and Singapore during this period “might not have come into existence had there been no European expansion in Asia”, see Yen Ching-Hwang, *A Social History of the Chinese in Singapore and Malaya 1800-1911*, Singapore: Oxford University Press, 1986, p. 3; see also C.M. Turnbull, “The Straits Settlements 1826-67: Indian Presidency to Crown Colony”, pp. 18-21.

³⁵ Three years from the time Captain Light acquired the island of Penang, it was reported that there was a population of 10,000 on the island with the bulk of the first settlers being Chinese, followed by Malays and Chulias. See Braddell, Roland, *The Law of the Straits Settlements: A Commentary*, p. 6. Further, in 1871 it was recorded that there were approximately 9,000 Chinese in Perak, eleven years later in 1882, it was suggested that there were nearly 50,000 Chinese working primarily in the tin mines. By 1891 the number had jumped to approximately 90,000 with similar patterns of population increase in the states of Selangor and Negeri Sembilan. See J. Bastin and R. Winks, *Malaysia: Selected Historical Readings*, p. 271.

³⁶ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 17; Victor Purcell supra note 5, p. 57.

³⁷ V. Purcell, *The Chinese in Southeast Asia*, note 34, p. 26.

³⁸ It was suggested that such large sums of money were remitted each month that “this systematic drainage from our settlements should be checked, and if possible, the greater part of the stream turned to account in the country whence it derives its source”, see T.J. Newbold, note 33, p. 11.

³⁹ A. H. Smith, *Chinese Characteristics*, New York: Simon Publications, 1894, p. 166.

⁴⁰ Ibid.

⁴¹ J. Bastin and R. Winks, *Malaysia: Selected Historical Readings*, p. 272.

⁴² J. D. Vaughan noted that “the Chinese are so attached to the habits of their forefathers that notwithstanding an intercourse in the Straits for many generations with natives of all countries, they have jealously adhered to their ancient manners and customs”, see J. D. Vaughan, *The Manners and Customs of the Chinese of the Strait Settlements*, Singapore: The Mission Press, 1879; Taipei: Ch’eng Wen Publishing Company, 1971, reprint, p. 4; see also generally, Yen Ching-Hwang, *A Social History of the Chinese in Singapore and Malaya 1800-1911*, pp. 16-21 where he notes that even their clothes, food, hair-style and daily items were imported from China directly.

⁴³ The Ch’ing Dynasty or the Qing Dynasty was the last dynasty to rule China, it governed from about 1644 to 1912.

⁴⁴ Sir George Thomas Staunton, *Ta Tsing Leu Lee; Being the Fundamental Laws of the Penal Code of China*, London, 1810, section ccxxv. It explicitly indicates that “all officers of government, soldiers and private citizens, who clandestinely proceed to sea to trade, or who remove to foreign islands for the purpose of inhabiting and cultivating the same, shall be punished according to the law against communicating with rebels and enemies and subsequently suffer death by being beheaded...”

⁴⁵ V. Purcell, *The Chinese in Southeast Asia*, note 34, p. 26.

⁴⁶ See V. Purcell, *The Chinese in Southeast Asia*, note 34, p. 26; and J. Lebra, “Immigration to Southeast Asia”, *Chinese Women in Southeast Asia*, J. Lebra and J. Paulson (eds.), Singapore: Times Books International, 1980, p. 2

⁴⁷ K.H. Lee and C.B. Tan, *The Chinese in Malaysia*, Oxford University Press, 2000, p. 1. The Chinese immigrants were generally reported to have originated from the “southeastern provinces” of China, such as Kwantung, Kwangsi and Fukien; although, it was also reported that there were Chinese from other provinces such as Fukien and Hainan; See Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, pp. 17-19; see also M. Jaschok and S. Miers (eds.), *Women and Chinese Patriarchy: Submission, Servitude and Escape*, Hong Kong: Hong Kong University Press, 1994, p. 20. Exploitation also came in the form of landlords, usurers, mandarins, and tax men, see generally, *Nan-yang wen-t’i wen-ts’ung (Bulletin of Southeast Asian Studies)*, Institute of Southeast Asian Studies, Amoy University, No. 1, 1981, also mentioned in Yen Ching-Hwang, *A Social History of the Chinese in Malaya and Singapore 1800-1911*, note 34, pp. 2-3.

⁴⁸ Lai Ah Eng, *Peasants, Proletarians and Prostitutes*, Singapore: Institute of Southeast Asian Studies, 1986, pp. 12-13; C.N. Parkinson, *British Intervention in Malaya 1867-1877*, Singapore: University of Malaya Press, 1960; C.D. Cowan, *Nineteenth Century Malaya: The Origins of British Political Control*, London: Oxford University Press, 1961; Eunice Thio, *British Policy in the Malay Peninsula 1880 -1910*, Vol. 1, Singapore: University of Malaya Press, 1969.

⁴⁹ Yen Ching-Hwang, *A Social History of the Chinese in Singapore and Malaya 1800-1911*, p. 3.

⁵⁰ The term ‘coolie’ was found in an article (then spelled ‘cooley’) published in the Singapore Chronicle in May 1834, as reported by R.L. Irick, Ch’ing Policy Toward the Coolie Trade 1847-1878, unpublished Ph.D Dissertation, Harvard University, 1971, Vol. 1, p. 4; see also “Chinese Emigration”, *Singapore Chronicle*, 8 May 1834; Yen Ching-Hwang, *Coolies and Mandarins: China’s Protection of Overseas Chinese During the Late Ch’ing Period (1851-1911)*, Singapore: Singapore University Press, 1985, Chap. 2.

⁵¹ J. D. Vaughan, ‘Notes on the Chinese in Penang’, in *JIA*, VII, 1854, pp 1-27. Also cited in, L.A. Mills, *British Malaya: 1824-67*, MBRAS Reprint No. 22, Selangor, 2003, Chapter XI, pp. 236-7.

⁵² Ibid.

⁵³ L. A. Mills, *British Malaya: 1824-67*, p. 238.

⁵⁴ Described by Newbold as being “a blue cotton shirt, trousers, hat, and a pair of shoes”. See T.J. Newbold, note 33, p. 11.

⁵⁵ The Chinese are described as “entirely free of prejudices of caste and superstition, which are grand stumbling blocks to the natives in India”, although, as a race they are also “selfish, sensual, ardent lovers of money, though not misers, inveterate gamblers, and often addicted to smoking opium”; See T.J. Newbold, note 33, p. 13.

⁵⁶ Yen Ching-Hwang, *A Social History of the Chinese in Singapore and Malaya 1800-1911*, note 34, pp. 8-10.

⁵⁷ Victor Purcell, *Malaya: Outline of a Colony*, supra note 5, p. 70.

⁵⁸ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 20.

⁵⁹ “...the policy of the Charters [was] to encourage residence in the settlements by avoiding interference with the observance of several religious manners and customs of inhabitants” (1921) 14 Straits Settlement Law Reports (SSLR) 39.

⁶⁰ This was a very common arrangement in pre-colonial Southeast Asia, the indirect rule through headmen or *kaptian*'s, who were usually men from prominent and respected local Chinese communities. See Anthony Reid (ed.), “Sojourners and Settlers: Histories of Southeast Asia and the Chinese”, G. William Skinner, *Creolized Chinese Societies in Southeast Asia*, Honolulu: University of Hawaii Press, 2001, p. 80.

⁶¹ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 21.

⁶² Maurice Freedman, “Immigrants and Associations: Chinese in Nineteenth-Century Singapore”, *CSSH* 3, 1960, pp. 65-74.

⁶³ Victor Purcell, *The Chinese in Malaya*, see note 3, p. 143; and Huey, “Law, Gongqin, and Transnational Polygamy: Family Matters in Fujian and British Malaya”, p. 418.

⁶⁴ Huey, “Law, Gongqin, and Transnational Polygamy: Family Matters in Fujian and British Malaya”, p. 418.

⁶⁵ *Ibid.*, p. 419.

⁶⁶ The very small number of the early women migrants was either the wives or relatives of the few men who could afford to send money or pay for their passage to the Malay states or they were trafficked.

⁶⁷ It was reported that in 1833, there were 1 female to 8.8 males in Singapore and in 1934 the ratio widened to approximately 1:12 males in Singapore. See “Comparative statement of the Census of 1833 and 1834 (Singapore)”, *Singapore Chronicle*, 24 January 1835. See also, T. Braddell, “Statistics of the British Possessions in the Straits of Malacca”, p. 4 where he notes that in 1860 the ratio of women to men had jumped to 1: 14.4.

⁶⁸ Yen Ching-Hwang, *A Social History of the Chinese in Singapore and Malaya 1800-1911*, p. 248.

⁶⁹ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 36.

⁷⁰ Victor Purcell, *The Chinese in Malaya*, see note 3, pp. 86-87. It was noted that in “1823 there were only 361 women in Malaya, to 2,965 males or 1 in 8. In 1850 there were still only 2,239 women to 25,749 males, which meant an even more disparate ratio of 1 to 12...the basic pattern prevailed in all areas of Southeast Asia.

⁷¹ Sharon M. Lee, “Female Immigrants and Labor in Colonial Malaya: 1860 -1947”, Table 3, note 9, p. 314.

⁷² M. Jaschok and S. Miers, see note 47, p. 20; see also Anthony Reid (ed.), “Sojourners and Settlers: Histories of Southeast Asia and the Chinese”, G. William Skinner, *Creolized Chinese Societies in Southeast Asia*, Honolulu: University of Hawaii Press, 2001, p. 52.

⁷³ Sharon M. Lee, p. 315. For a more comprehensive discussion on the culture and expectations see generally Chen T., *Emigrant Communities in South China*, New York: Institute of Pacific Relations, 1940.

⁷⁴ Victor Purcell, *The Chinese in Malaya*, p. 86; Sharon M. Lee, *Female Immigrants and Labor in Colonial Malaya: 1860 -1947*, note 9, p. 315.

⁷⁵ Although, there were women working in tin mines in Malaya, many of these were local wives of Chinese menfolk. See, Anthony Reid (ed.), “Sojourners and Settlers: Histories of Southeast Asia and the Chinese”, Mary Somers Heidhues, *Chinese Settlements in Rural Southeast Asia: Unwritten Histories*, Honolulu: University of Hawaii Press, 2001, at p. 177.

⁷⁶ Japan's invasion of South China in the Sino-Japanese conflict in 1937, also increased the flow of female immigrants to Malaya.

⁷⁷ J. Lebra, “Immigration to Southeast Asia”, J. Lebra and J. Paulson (eds.), *Chinese Women in Southeast Asia*, Singapore: Times Books International, 1980, p. 7; see also Sharon M. Lee, *Female Immigrants and Labor in Colonial Malaya*, note 9, p. 316.

⁷⁸ Victor Purcell, *The Chinese in Southeast Asia*, note 34, p. 230.

⁷⁹ J. Bastin and R. Winks, *Malaysia: Selected Historical Readings*, p. 277.

- ⁸⁰ W. L. Blyth, "A Historical sketch of Chinese labour in Malaya", *Journal of the Malayan Branch of the Royal Asiatic Society*, XX, Part 1, June 1947, p. 103; see also Sharon M. Lee, note 9, p. 316.
- ⁸¹ Sharon M. Lee, note 9, p. 317.
- ⁸² J.N. Parmer, *Colonial Labour Policy and Administration: A History of Labour in the Rubber Plantation Industry in Malaya, 1910-1941*, New York: Association of Asian Studies, 1960, p. 242.
- ⁸³ K.H. Lee and C.B. Tan, *The Chinese in Malaysia*, Kuala Lumpur: Oxford University Press, 2000, p. 28.
- ⁸⁴ Victor Purcell, *The Chinese in Malaya*, see note 3, p. 175.
- ⁸⁵ The Hong Kong Commission Report 1937, p. 22.
- ⁸⁶ In some reports they were spelled as 'mui jai' or 'mooi jai' or 'moi zai' or 'mei zai'.
- ⁸⁷ Victor Purcell, *The Chinese in Malaya*, see note 3, p. 180.
- ⁸⁸ *Ibid.*, p. 181.
- ⁸⁹ Watson does qualify this noting that in some households, Mui Tsai's fail to obtain their freedom and are kept indefinitely. See, R. S. Watson, "Wives, Concubines and Maids", in *Marriage and Inequality in Chinese Society*, Watson and Ebrey (eds.), USA: University of California Press, 1991, pp. 232-235
- ⁹⁰ *Ibid.*
- ⁹¹ It is generally recognised that such was the prevailing attitude until the foundation of the People's Republic in 1949.
- ⁹² See M. Jaschok and S. Miers, note 47, p. 127.
- ⁹³ *Ibid.*
- ⁹⁴ L. Maartensz, et.al. (eds.), "Eastern Colonies", *Journal of Comparative Legislation and International Law*, Vol. 7 No. 3, 1925, p. 162.
- ⁹⁵ J. Lebra, "Immigration to Southeast Asia", p. 5.
- ⁹⁶ M. Jaschok and S. Miers, note 47, p. 21; see also generally C. Turnbull, *A History of Singapore: 1819-1975*, and J. Lebra, "Immigration to Southeast Asia".
- ⁹⁷ Ngai Lau Shia@Low Hong Sian v Low Chee Neo, (1921) XIV SSLR 35, pp. 73-75.
- ⁹⁸ J. Lebra, "Immigration to Southeast Asia", p. 14.
- ⁹⁹ Statement by Mr Seah Eng Tong, taken in Singapore on 13 June 1936, as part of the evidence collected by the Mui Tsai Commission; see Colonial Office, *Mui Tsai in Hong Kong and Malaya: Report of Commission*, London: Colonial Office, His Majesty's Stationary Office, Vol. III, 1937.
- ¹⁰⁰ "Mui Tsai Commission Arrives", *The Straits Times*, 10 May 1936, p. 14.
- ¹⁰¹ Khor, Neil J K and Khoo, K S, *The Penang Po Leung Kuk: Chinese Women, Prostitution and a Welfare Organisation*, p. 31.
- ¹⁰² The Colonial office recognised that the Mui Tsai practice was spread to Malaya under the influence of the Chinese immigrants, see Report on Commission of Mui Tsai, 1937, CO 825/23/3.
- ¹⁰³ J.P. Rodriguez, *Chronology of World Slavery*, California: ABC-CLIO, 1998, p. 116.
- ¹⁰⁴ During this period, it was recorded that many female immigrants that arrived in Malaya, were traded by their families for the price of their ship fare or as payment to their families. See L. Jackson, "Prostitution", J. Lebra and J. Paulson (eds.), *Chinese Women in Southeast Asia*, Singapore: Times Books International, 1980, p. 33.
- ¹⁰⁵ M. Jaschok and S. Miers, note 47, p. 126.
- ¹⁰⁶ Written answers to Questionnaire by Miss C E Jackson, Methodist Episcopal Church, Singapore, "Mui Tsai in Hong Kong and Malaya: Report of Commission, Vol. III, p. 100.
- ¹⁰⁷ "Mui Tsai Commission Arrives", *The Straits Times*, 10 May 1936, p. 14.
- ¹⁰⁸ J. Lebra, "Immigration to Southeast Asia", p. 14.
- ¹⁰⁹ This fact was stressed in the speeches by Mr. Tan Cheng Lock, in the Legislative Council as well as evidence presented by Sir George Maxwell. In Victor Purcell, *The Chinese in Malaya*, p. 183, he suggested that this fact was confirmed by official reports (as of 30 June 1934) on registered Mui Tsai's, that of a total of 2,749 registered in Malaya, only 10.9 per cent of them had parents in Malaya whose addresses were known to the government J. Lebra, "Immigration to Southeast Asia", p. 14 similarly notes that "in China...daughters were usually sold to persons near their geographic home, where they had personal relations and through this network parents retained some loose surveillance over the welfare of their daughters. In southeast Asia however, such social controls were not operative".
- ¹¹⁰ Victor Purcell, *The Chinese in Malaya*, note 3, p. 182.
- ¹¹¹ L. Jackson, "Prostitution", note 104, p. 33.
- ¹¹² The Honourable Mr. Choo Kia Peng, when addressing the Legislative Council added that he "...wanted to correct an impression in the minds of those who were ignorant of the Mui-Tsai system; it sounded like slave trade but it was not as bad as that. It had been devised by the Chinese from time immemorial to meet the various adverse

conditions of nature and he was sure that without the system, millions of these girls would not have survived” See the correspondence by Sir George Maxwell to the Colonial office, dated 20 April 1932; see 30231/7/34 [No.15], CO 882/16, p. 20.

¹¹³ “Mui Tsai Commission Arrives”, *The Straits Times*, Singapore, 10 May 1936, p. 14.

¹¹⁴ Sir Edward Stubbs to Viscount Milner, 10 July 1920, Public Record Office, London, Colonial Office Papers, CO 129/461, file 43493.

¹¹⁵ In a correspondence by Sir George Maxwell to the Colonial office, dated 20 April 1932; see 30231/7/34 [No.15], CO 882/16, p. 19. Pressure came from different quarters. It was noted that “The Mui Tsai system became an issue under examination by the British Parliament in the 1920s and the League of Nations’ Slavery Committees in the 1930s. Each investigation reached the conclusion that the system was a form of child slavery, because the girls were sold for money and they lost their freedom and rights as a result”, see J.P. Rodriguez, note 103, p. 116. It was also a period of women’s activism, which drew on many traditional ideals and ‘superior’ moral ideas of women, children and family. See also S. Pedersen, “The Maternalist Movement in British Colonial Policy; the Controversy over ‘Child Slavery’ in Hong Kong 1914-1941”, *Past and Present*, No. 171, May 2001, pp. 161-202.

¹¹⁶ Rodriguez reports that “The Mui Tsai system became an issue under examination by the British Parliament in the 1920s and the League of Nations’ Slavery Committees in the 1930s. Each investigation reached the conclusion that the system was a form of child slavery, because the girls were sold for money and they lost their freedom and rights as a result”. Given the possibility that such actions remain and were possibly ‘condoned’ by the existing government, a change of policy became necessary. See J.P. Rodriguez, note 103, p. 116.

¹¹⁷ In a correspondence by Sir George Maxwell to the Colonial office, dated 20 April 1932; see 30231/7/34 [No.15], CO 882/16, p. 19.

¹¹⁸ See “Protection for Young Girls in Colony: New Measure as Sequel to Mui Tsai Report”, *The Straits Budget*, 2 March 1939, p. 25.

¹¹⁹ On the second defect, the failure of the section 2 definition to make any provision for the age of the Mui Tsai - Although the act overall makes it unlawful the “buying or selling of any girl under the age of 10”. Presumption of age is difficult. Proving the age of the girl is for the alleged ‘employer’ or ‘guardian’. Section 3(2) of the Ordinance states that “every person acting in contravention of this section shall, unless he can prove to the satisfaction of the Court that he had reason to believe that such girl was above the age of ten years...” It has been argued that the employer (in most cases being the only person who may have full knowledge and personal details of the Mui Tsai) can more easily prove that the alleged Mui Tsai was a certain age, and proving otherwise becomes difficult for the prosecution. Often arguments arise as to the difficulty in ascertaining the real age of the child. This difficulty is due to reasons such as – the child having passed hands several times, or due to illiteracy of the biological/recipient families, or the general disinclination towards the registration of the birth of girls.

¹²⁰ *Proceedings of the Legislative Council of the Straits Settlements for the year 1932*, Singapore: Government Printing Office, 1933, p. B10.

¹²¹ Under section 2 of the Ordinance, they were defined as the Protectors, or more specifically the Secretary for Chinese Affairs which included also the Protectors of Chinese at Singapore and Penang and any Assistant Protector of Chinese at any Settlement.

¹²² Section 3(1) and (2) of the Female Domestic Servants Ordinance 1925.

¹²³ Victor Purcell, *The Chinese in Malaya*, note 3, p. 181.

¹²⁴ R. S. Watson, note 89, p. 241. Watson notes that “the obligation to marry off the mui jai was often used as a rationale for arguing that these servants were really adopted daughters” although she contends that the reality is that there is a clear difference between daughters, who upon marriage receives a substantial dowry due to her position, whereas the latter only received a token marriage payment. She continues to say that “in fact, village women still denigrate those they dislike by saying that their enemies’ dowries were “as small as a mui jai’s”.

¹²⁵ R. S. Watson, note 89, p. 232.

¹²⁶ *Ibid.*, p. 233.

¹²⁷ Victor Purcell, *The Chinese in Malaya*, note 3, p. 181.

¹²⁸ See Rachel Leow, “Do you own ad non-Chinese Mui Tsai? Re-examining race and Female Servitude in Malaya and Hong Kong, 1919-1939”, *Modern Asian Studies*, Vol. 46, Issue 6, November 2012, pp. 1751.

¹²⁹ M. Jaschok and S. Miers, note 47, p. 18.

¹³⁰ Jaschok suggests that “whereas the British regarded all trading in women as slave dealing, the Chinese distinguished between the ‘legitimate’ rights of the pater familias to transfer women and their illegitimate appropriation by persons other than the head of the family or appointed guardian. And where Article 313 of the Penal Code of 1928 prohibited the sale of children and females, it did not touch on the customary prerogatives of the

pater familias (or of his representative) to transfer female members of the family if it was deemed that circumstances dictated such a measure”, see M. Jaschok and S. Miers, note 47, p. 175

¹³¹ It has been pointed out that in cases of ‘legitimate’ transfer, there is often present, a deeply ingrained feeling of filial duty and an understanding of the reality of poverty, as such the Mui Tsai often recognise the legitimacy of their transfers and accept it as part of their fate; see generally, J.F. Warren, *Rickshaw Coolie: A People’s History of Singapore (1880-1940)*, Singapore: Oxford University Press, 1986.

¹³² *Proceedings of the Legislative Council of the Straits Settlements for the Year 1932*, Singapore: Government Printing Office, 1933, p. B12.

¹³³ *Ibid.*, p. B11.

¹³⁴ Aside from these changes, the definition of Mui Tsai under the Mui Tsai Ordinance 1932 also made express provisions for the age of the girl where the previous one had not.

¹³⁵ Section 4(1) Mui Tsai Ordinance 1932.

¹³⁶ See section 5 read with section 14(2) Mui Tsai Ordinance 1932.

¹³⁷ Section 7(1) and (2) read with section 14(1) where contravention of section 7 is found.

¹³⁸ Sir George Maxwell felt that the solution was to stop focusing on the issue of ‘Mui Tsai’ specifically, to abolish the term completely, and in its place to deal with the problem of protection of children who at a tender age had left their parents for a stranger’s home. See, Sir George Maxwell, “Some Observations on the Report of the Mui Tsai Commission”, 26 March 1937, 55019/37/No.23A, note 57, p. 72.

¹³⁹ As reported by Mr. Fleming, Protector of Chinese, Perak, and reported by Sir George Maxwell, “Some Observations on the Report of the Mui Tsai Commission”, 26 March 1937, 55019/37/No.23A, p. 69.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² In Singapore it was suggested that there were at least another 2,000 unregistered Mui Tsai, whereas in Penang, Mr Blythe the Protector of Chinese estimated that there were at least 200 unregistered Mui Tsai and that there might be more. Whereas, Mr Hay, the Assistant Protector of Chinese in Malacca, suggested that there were only 50-100 ‘real’ Mui Tsai on the register in Malacca, with an equal number not on it. See Sir George Maxwell, “Some Observations on the Report of the Mui Tsai Commission”, 26 March 1937, 55019/37/No.23A, note 38 and 39, p. 69.

¹⁴³ “Mui Tsai Commission Arrives”, *The Straits Times*, 10 May 1936, p. 14.

¹⁴⁴ Great Britain Commission, *Mui Tsai in Hong Kong and Malaya: Report of Commission*, London: His Majesty’s Stationary Office, 1937, p. 245.

¹⁴⁵ *Ibid.*, p. 248.

¹⁴⁶ K. Yuen, “Theorizing the Chinese: The Mui Tsai Controversy and Constructions of Transnational Chineseness in Hong Kong and British Malaya”, *New Zealand Journal of Asian Studies*, Vol. 2, December 2004, p. 100.

¹⁴⁷ The minority report was also accepted by the Malayan governments.

¹⁴⁸ Straits Settlements, Legislation No. 17 of 1939, on 30 June 1939.

¹⁴⁹ K. Yuen, “Theorizing the Chinese: The Mui Tsai Controversy and Constructions of Transnational Chineseness in Hong Kong and Malaya”, pp. 95-110 & 102.

¹⁵⁰ A. Stoler, “Rethinking Colonial Categories: European Communities and the Boundaries of Rule”, in *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule*, Berkeley: University of California Press, 2002, p. 25.

¹⁵¹ K. Yuen, “Theorizing the Chinese: The Mui Tsai Controversy and Constructions of Transnational Chineseness in Hong Kong and Malaya”, pp. 107-108.

¹⁵² Acting Secretary of Chinese Affairs, Federated Malaya State, quote by Governor Clementi of the Straits Settlements, Clementi to Colonial Office, 17 September 1930, CO 273/564/6.

¹⁵³ Minutes, Putley, March 1932, CO 129/539/4.

¹⁵⁴ Report of Interview at the Colonial Office, 3 April 1936, *Evidence*, Vol. I, pp. 16-24.

¹⁵⁵ Letter from F. Wackrill to Alison Neilans, 18 May 1937, CL, 3 AMS/D/04

¹⁵⁶ See Rachel Leow, “Do you Own non-Chinese Mui Tsai? Re-Examining Race and Female Servitude in Malaya and Hong Kong, 1919-1939”, pp. 1736-1763.

¹⁵⁷ *Mui Tsai in Hong Kong and Malaya: Report of Commission*, London: His Majesty’s Stationary Office, Colonial Office, 1937, Vol. III, p. 320.

¹⁵⁸ Dr. Teh Lean Swee’s statement was taken in Ipoh, 27 June 1936, see *Mui Tsai in Hong Kong and Malaya: Report of Commission*, note 157, p. 403.

¹⁵⁹ Sir George Maxwell, “Some Observations on the Report of the Mui Tsai Commission”, 55019/37 [No.23A], *Mui Tsai System in Hong Kong and Malaya: Papers 1934 to 1939*, Colonial Office, Eastern No. 169, CO 882, Part II, p. 71.

¹⁶⁰ Ibid.

¹⁶¹ Section 2 of the MTO defines Protector as “The Secretary for Chinese Affairs and includes the Protectors and Assistant Protectors of Chinese in any Settlement”.

¹⁶² This term was distilled from an official dispatch wherein the intention of the government was clear when it said that “Mui Tsai are very largely children who have not reached the years of discretion and need to be protected from the clutches of procuresses whose business is to entice inexperienced Mui Tsai away to be trained as prostitutes and ultimately sold into prostitution”, see Hong Kong Government to Colonial Office, 20 March 1929, CO 129/453.

¹⁶³ Note that while the urgency for the welfare of the Mui Tsai’s had diminished, it had not disappeared, and post-independence, not only was the Poh Leung Kuk homes still receiving monetary assistance from the Department of Social Welfare, as reported in its 1958 Annual Report, but that the Mui Tsai was still discussed as reported in the Parliamentary Debates. See, Parliamentary Debates, Vol II, No. 11, Wednesday, 10 November 1965, Kuala Lumpur: Government Printers, 1967. Document is also available on line at http://library.perdana.org.my/PLF/Parliament_Hansard/1965/Dewan%20Negara/DN_Dec65/DN22121965.pdf Site accessed, 27 August 2015; see also K. Yuen, 2004, p.100 when she noted that “...the outbreak of World War II, however, essentially put an end to the controversy. After the war, when the last girl on the Mui Tsai register reached the age of eighteen, the controversy theoretically and officially ended.”