

BONDAGED SOULS

Migration and Situation of Trafficking in Sabah, Malaysia



"We were sold. We were beaten
when we refused to serve..."
Melati, prostituted woman

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CHAPTER 1 INTRODUCTION

1. Background

Human trafficking is a multi-dimensional issue. It is a crime that deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and hinder development in certain areas. The impacts of human trafficking are devastating. Victims may suffer physical and emotional abuse, rape, threats against self and family, and even death. But the devastation also extends beyond individual victims; human trafficking undermines the health, safety, and security of all nations it touches including Malaysia.

Sabah's fluid cultural, social and economic boundaries with both Indonesia and the Philippines renders the role of national identities, citizenship and formal economic networks less important than the informal transnational networks that facilitates the flow of commodities and humans across boundaries, often undetected by the Malaysian/Sabahan state apparatus.

Human trafficking in Sabah is mostly found in the commercial sex industries, plantation sectors, and to a lesser extent, in the domestic work and service sectors.¹ In the sex industries, the majority of trafficked girls from outside Sabah originate primarily from East Java, South Sulawesi (Torajan), West Kalimantan (Pontianak), the Visayas, Mindanao (Zamboanga), Luzon and to a lesser extent Sarawak. The main trafficking destinations for sex employment are major cities (division centers: Tawau, Sandakan, Kota Kinabalu, Keningau), though Sabah often serves as a transit point for further trafficking into Labuan (Federal administered territory), Sarawak and Peninsular Malaysia. Not only from Indonesia and the Philippines, women and men from Myanmar and Cambodia are trafficked for labor exploitation (especially factory work and construction work), sexual exploitation and domestic work.

The main trafficking destinations for trafficked plantation labour are primarily scattered around the Tawau (incl. Lahad Datu), Sandakan, Bahagian Pendalaman (Keningau) and Kudat Divisions. Undocumented Indonesian labour are usually trafficked through Tawau/Kalabakan, while Filipino labour through Semporna and Sandakan.

1.1. *Government of Malaysia responses to human trafficking*

The Government of Malaysia made some progress in investigating sex trafficking offenses and punishing trafficking offenders in 2008, but has not demonstrated efforts to investigate, prosecute, or convict offenders of labor trafficking. Malaysian law prohibits all forms of human trafficking through Act 670 comprehensive anti-trafficking law, which prescribes penalties that are commensurate with those

¹ One sector that the assessment team has not been able to cover is the fisheries industries.

prescribed for other grave offenses, such as rape. In December 2008, the government convicted its first trafficking offender under the 2007 anti-trafficking law.

While Malaysia showed modest efforts to protect victims of sex trafficking in 2008, its efforts to protect victims of labor trafficking remained inadequate. Numerous source country governments of migrant workers in Malaysia expressed concern about the lack of legal protections in place for foreign workers, particularly those subjected to involuntary servitude.

There was no widespread effort by the Government of Malaysia to identify trafficking victims among vulnerable migrant groups, such as girls and women detained for involvement in prostitution or the thousands of undocumented migrant workers rounded up by RELA, a government sponsored public security auxiliary force.

The Women's Ministry developed information brochures on trafficking in English and Malay for NGOs to distribute to the public, and started a women's hotline for victims of trafficking. The government condoned the confiscation of passports by employers. There were no visible measures taken by the government to reduce the demand for forced labor or for commercial sex acts.

The Ministry for Women, Family, and Community Development continued to run two trafficking shelters, which held suspected and confirmed trafficking victims until they were repatriated to their home countries. In 2008, the Ministry renovated a third shelter in the East Malaysian state of Sabah. In 2008, the police referred 98 potential trafficking victims to the government shelters in Kuala Lumpur, 34 of which were certified by magistrates as officially recognized trafficking victims.

The Government of Malaysia must comply with the minimum standards for the elimination of trafficking and has to make significant efforts to do so, despite some progress in enforcing the country's new antitrafficking law. Hence, in the context of current situation of trafficking in persons in Malaysia, this training module is developed as an effort to encourage awareness raising for Sabah state government, NGOs, FBOs and related institutions.

2. Objectives

Training modules and video was created as an effective educational tool for each institution to strive to combat trafficking. In addition, the most important goal is to provide step-by-step advice on how to run a workshop or training to provide information for policy makers and other stakeholders about the problems of cross-border trafficking, where Malaysia is a destination area)

Inside this video training modules, there are appropriate materials for facilitators, both experienced and inexperienced in the field of trafficking. This module is designed to assist organizations in educating and give the understanding of the various circles and institutions on what should be known about the trafficking.

All training modules are very flexible and can be used for various purposes: from a short presentation to complete training. Presentations or workshops can last for 1 or 2 days. Given a series of exercises that can be selected, the facilitator can adapt the training modules according to time and needs of the target participants of their training.

Episodes in this training video raised a variety of concrete examples of the trafficking issue in a strong and emotional manners. All the victims want to be interviewed because they want their voice heard and contribute to the struggle to stop the atrocities of trafficking.

3. Users

Users of this manual may vary, including: Government officials, law enforcement authorities, international agencies and civil society organizations, academicians and the general public -- to help educate and provide insight to the various circles and institutions on what should be known about cross-border trafficking, in which Malaysia especially Sabah has become destination area. This guide can be used flexibly for a short presentation to complete the training module in which the facilitator can adjust the training according to time and targets the needs of their trainees. This training package also includes a training video which is divided into four episodes, namely Migration and Trafficking, modus operandi and Debt Bondage, Exploitation, and the Plan of Action.

4. Group's Target

Participants are not limited to; Malaysian stakeholders, especially Sabah and other international public. It is important for facilitators to understand the target group of participants before the training sessions were conducted, to assist the facilitator in the preparation of training materials in accordance with the deepening of the desired target, especially in facilitating the 'Action Plan'. Target group 'Policy makers' need to be carefully understood and identify laws and policies that have implications for the handling of this crime, whether the existing legal system can address challenges complexity of this crime, etc.. The target group of 'law enforcement' is demanded to identify whether the implementation of the law has been implemented as specified in the existing Act and regulations.

There are several reasons why law enforcement efforts is difficult to be done considering that knowledge, perceptions and attitudes/beliefs are not equally shared for law enforcement officials. Among them are: (taken from the book Derita Bisu 2)

- **Confusion about "What is Trafficking"**

Many law enforcement do not have a clear understanding of trafficking. For example, they may see human trafficking for sexual exploitation purposes and may not ever think that there are other forms of trafficking such as forced labor, kidnapping, confinement, document forgery, smuggling, corruption and many more.

- **Lack of empathy for the victims of trafficking**

Many law enforcement officials who only see the victims of trafficking as a witness that can help them find and punish perpetrators. Some other law enforcement agencies may think that the victim deserves to be treated as criminal for not having official documents. Or even thought that women who fell into prostitution had previously been a prostitute. Number of gender stereotypes about prostitution and sex outside of marriage, causing many people to think that a rape victim to sexual exploitation or forced to enjoy the sexual act to her. They may feel that the victim was "naughty" and does not deserve to be treated with respect.

- **Confusion or ignorance of how to use existing laws to combat trafficking**

There is now a legal definition of trafficking contained in the UN Protocol to Prevent 2000, Cope and Punish Trafficking in human beings, especially Women and Children; supplements the UN Convention on Transnational Crime. In addition, Malaysia already have anti-trafficking law known as the Act of 670 in 2007. Before the policy makers renewing the law with more specific language in dealing with trafficking, law enforcement agencies will feel confused in using existing law to combat trafficking. As a facilitator, you need to help them discuss the various laws that are relevant to trafficking and how to use it.

- **Denial that may occur when given the understanding of the trafficking problem**

Does the law enforcers and other stakeholder present in training session or workshops because they really want to understand the trafficking or come out of necessity? Will they feel less comfortable to talk openly about their lack of knowledge? Will they be "felt" assaulted and held to account answers to the problems related to trafficking?

- **Self-image**

Law enforcement has a very hard work to be performed each day. Many of them risked their lives to bring criminals to justice. Therefore, you will need to treat them with respect if you want to succeed in changing their attitudes and perception, by following these principles:

- **Do not treat them as fool.** Suppose they understand the basics and encourage them to continue to explore and understand this problem.
- **Do not blame them.** Especially when struggling with the problems of corruption or lack of concern
- **Give them a chance to talk.** Because each law enforcement may interpret the law differently, they may need to debate certain issues so that they can better understand the trafficking.

Number of participants

This module is designed to be used flexibly. Ideally the number of participants should be between 12 and 25. However, you also can use it with five law enforcement agencies in closed session or 50 law enforcement agencies in a large classroom or meeting.

Duration

This module has six sessions, each session is designed with a duration of between 60-120 minutes. All the sessions can be run in a half day or a maximum of two days.

5. Facilitator Guide

5.1. Planning and preparation training

5.1.1. Identifying potential participants

Assessing training needs is the first step in developing a training plan. The greater the training program tailored to the needs, the greater the possibility of such training provides positive results. One of the training needs assessments is associated with potential participants.

- Selection of individuals or groups to participate in training: Who will benefit most from the existence of this training and who may use and distribute the impact of this training?
- Time and place: When and where this training will be held?

5.1.2. Selecting a team of facilitators

The training is aimed at building awareness of the facilitator is expected to have technical knowledge about the subject of training, such as the understanding of trafficking, human rights, and set of laws relevant to the issue of trafficking. Training of facilitators for the participatory demands have advanced training and facilitation skills, good organization and careful planning, and have patience, enthusiasm and ability to improvise and adapt to the needs of participants. Therefore, the training facilitator should be familiar in conducting participatory training.

In general, a competent facilitators able to conduct a brief session for several hours to several days. However, a training can be done more effectively with a team of facilitators. There are several advantages in working with a team, for example:

- Personality, skills and facilitators of different styles to make the participants gain variation so that training becomes more attractive.
- Participatory training requires a strong physical and mental. More than one means more people who share the workload and the greater and it improves capacity and creativity to make high-quality training.
- The facilitator will hold a session in turn, take control as leader and serves as co-facilitators in turn. This will give time to the facilitator to 'recharge their batteries', to be ready to lead the next session. This is very important especially when improvisation is required..

- Facilitators can synergistically help each other ensuring the key points are addressed correctly, so it can improve the quality of training.

5.1.3. Prepare training program

In chapter III training module is designed for two-day training course and quite flexible. Below are examples of training programs organized for two days. You can adjust according to the time you have.

Time	Activities	Person in Charge
Day 1		
09.00 - 09.10 09.20 - 09.20 09.20 - 09.30	Opening ceremony Introduction of participants and contract learning and training purposes	
09.30 - 10.30	Session 1 Definition of Trafficking	
10.30 - 10.45	Break	
10.45 - 12.00	Session 2 Migration and Trafficking	
12.00 - 13.00	Lunch	
13.00 - 14.30	Session 3 Modus Operandi and Debt Bondage	
14.30 - 14.45	Break	
14.45 - 16.00	Session 4 Exploitation	
Day2		
09.00 - 10.30	Session 5 The impact of trafficking	
10.30 - 10.45	Break	
10.45 - 12.45	Session 6 Recommended Actions	
12.45 - 13.00	Closing ceremony	
13.00 - 14.00	Lunch	

This program is an flexible guideline that can be modified and tailored to local circumstances and needs of participants.

5.2. Interactive Training

The composition of trafficking training is not just sharing information, but open participants mind so they can take action against traffickers and helped resolve the issue.

In order to achieve the goal, we must encourage each target group to participate as much as possible within the training process. Therefore, training sessions should be filled with lively discussion and activities and can trigger critical thinking.

Our approach will vary according to age and background of participants. For example, it will not be appropriate to use the "game" as a delivery method to groups of senior lawyers, but this technique may be effective for younger group of participant. However, in principle, the facilitator must act as interactive as possible to maximize the impact.

Interactive training provides opportunity for participants to:

- Develop the knowledge they already have
- Navigating the expertise and new thoughts
- Understand how to apply what they have learned in the real world

5.3. Group dynamics (taken from 3-R Trainer's Kit, ILO 2008)

Size and composition also affect the dynamic of group training. Large groups means more talent, knowledge and skills, but a smaller chance to participate actively in its entirety. While small groups allows more active participation but its contribution is very limited scope. Several different training methods appropriate when applied to different groups of its size. For example, the lecture method can be given to groups large and small, otherwise the game or role-playing methods are ineffective or impossible when applied to large groups. You need to decide which type of group dynamics that you want for each exercise. General participation patterns for different size groups can be seen in the box below.

Public Participation Patterns in Multiple Groups	
3-6 people	Each person can speak.
7-10 people	Almost everyone can speak. People who talk less taciturn. One or two people did not speak at all.
11-18 people	5-6 people talking. 3-4 other people to participate on occasion.
19-30 people	3-4 people dominate.
30+ people	Small likelihood of participation.

For effective training or workshops, you can choose groups with a total of not more than 25 people, if you want all people have the opportunity to participate actively and equally. Between 26 to 35 participants can still be arranged, but you need to frequently break them into groups of smaller and just discuss the topic a little more.

5.3.1. Room settings *(taken from the 3-R Trainer's Kit, ILO 2008)*

Choose the place and the training room is one important aspect in the preparation of training. Sometimes we have no choice, but, as a coach, we need to understand the types of spaces and locations that may affect the ability of participants to learn. Participatory training includes activities that require physical space that can be used to move. Facilities within or outside the room is a good place and advised to use both types of facilities. Before deciding to place the training, you should:

Some Options Space Settings

1. Tables/Chairs Back Into Line



Advantages:

- Able to accommodate more people into the room
- Every person facing forward

Weakness

- Too formal; people tend to sit in the back row first
- There is no eye contact between fellow participants
- Coaches cannot run in the middle of Participants
- Unable to easily split the participants into small groups

2. U Shape



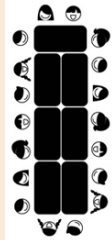
Advantages:

- Coaches can be eye contact with all participants
- Coaches can walk in the midst of the participants

Weakness

- There is no eye contact between participants who were sitting along the arm U
- Unable to accommodate more people
- Unable to easily split the participants into small groups

3. Models Conference



Advantages:

- The majority of participants can make eye contact

Weakness

- Unable to accommodate more people
- Unable to easily split the participants into small groups
- Some participants may conduct their own discussions and disturbing event

4. Fish Bone Model





Advantages:

- Whether the forum plenary and group work
- Coaches can walk in the midst of the participants with easy

Weakness

- Unable to accommodate more people
- Only some participants could contact each other's eyes
- Participants at the end will feel neglected

<p>5. The Circle Shape/Semi-Circle</p> 	<p>Advantages</p> <ul style="list-style-type: none"> • Informal, relaxed, equal • Everyone can make eye contact • Participants did not feel stuck in one place and easy to move in a variety of exercises <p>Weakness</p> <ul style="list-style-type: none"> • Only a few people can hold • There is no average workplace • May intimidate a shy person • In a large circle, participants will sit too far with those who sat opposite 	<p>6. Table prepared Rings</p> 	<p>Advantages</p> <ul style="list-style-type: none"> • Participants close to the other participants • Coaches can walk in the midst of the participants with easy • Ideal for work groups <p>Weakness</p> <ul style="list-style-type: none"> • Eating too many places • Participants on the opposite side cannot make eye contact with other participants
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Setting the standard spatial model (option 1, 2 and 3 in Box 8) are not suitable for training with interactive exercises that much, except for the plenary session. The main considerations in selecting the appropriate settings for participatory training include:

- The seat should not remain and there is enough space for all activities that are already planned.
- Seating should allow for eye contact between trainers and participants.
- Coaches can view all participants and can be walked in the midst of them with ease.
- Participants can be split into small working groups with ease.

In a training session or workshop that lasted several days, is a good idea to vary the room setting. Advantages include:

- To obtain the optimal model space settings for each of the training
- To encourage the involvement of communication and networking among participants and avoid any grouping
- To refresh periodically re-training atmosphere.

References:

<http://www.state.gov/g/tip/rls/tiprpt/2009/123123.htm>, accessed on April 11, 2010

http://www.nottrafficking.org/reports_docs/cambodia/datasheet_cambodia, accessed on April 11, 2010

http://www.nottrafficking.org/reports_docs/myanmar/datasheet_myanmar, accessed on April 11, 2010

Derita Bisu, Buku Panduan Fasilitator 1 & 2, Jakarta 2005

3-R Trainer's Kit, ILO Jakarta 2008

CHAPTER 2 MIGRATION HISTORY IN SABAH-MALAYSIA

2.1. Migrations, Labour Migrations & The Feminization of Migrations

Migrations have been an integral part of human life throughout history. Ecological pressures, warfare, slavery, forced displacements, trade or the basic pursuit for better livelihoods have motivated humans in migrating, whether in short or long distances, throughout the world.

Labour migrations have been a direct outcome of mass-industrialization and the expansion of agriculture that occurred in the 18th century. The age of colonialism since the 18th century has also promoted the exportation and importation of plantation labour on a worldwide scale.

The post-war world since 1945 saw a rapid process of industrialization and expansion of agriculture in the post-colonial world. Urbanization has commenced on an unprecedented scale, while the disparities in capital, resources and labour distribution between countries have triggered international labour migrations even within the developing world. The expansion and diversification of the service sectors have also raised the demand of labour supplies.

Capitalism and uneven economic development have also contributed to widespread urban and rural poverty. The need for poor families in securing income from poorly paid jobs has given pressure to women and even children in entering international labour markets.

Perhaps the most notable feature of female migration is the extent to which it is founded upon the continued reproduction and exploitation of gender inequalities by global capitalism. For the most part, female labor migrants perform 'women's work' as nannies, maids and sex workers –the worst possible occupational niches in terms of remuneration, working conditions, legal protections and social recognition. In this way, gender acts as a basic organizing principle of labor markets in destination countries, reproducing and reinforcing pre-existing gender patterns that oppress women. But it is not only women who perform these jobs, but women of a particular race, class, and/or nationality –i.e., gender cross-cuts with other forms of oppression to facilitate the economic exploitation of women migrants and their relegation to a servile (maids) and/or despised (sex workers) status. Gender inequality in the source countries also plays an important role in the migratory decision, in a number of ways: for instance, women are often 'selected' to migrate by their families based on the expectation that they will sacrifice themselves to a greater degree than men for the welfare of their families –i.e., work harder, remit a higher proportion of their earnings, spend less on themselves, endure worse living conditions.

(Feminization of Migration 2007: Gender, Remittances and Development [2007: 2-3], United Nations International Research and Training/Institute for the Advancement of Women (UN-INSTRAW), www.un-instraw.org)

2.2. Migrations into Sabah

Sabah has been for the large part of its history a plantation state. The primacy of the plantation sectors to Sabah since the rule of the North Borneo Company (1884-1946) required the mass importation of coolie labour from its labour-surplus neighbours. It is known that the exportation of Javanese coolie labour to North Borneo occurred since colonial times. Even later British colonial administrators were often preoccupied by corporate requests for labour imports.²

The history of migrations into Sabah can be classified into four major stages:³

- a. The unrestricted inter-island hopping of seafaring communities from the region's archipelago states;
- b. The British "importation" of foreign laborers during the colonial era;
- c. The "exodus" of Muslim refugees from the southern Philippines in the 1970s and
- d. The successive influxes of laborers from neighbouring countries in response to the rubber and timber economic booms from the 1950s until the early 1980s.

These migration processes have resulted in a population mix that is not only ethnically highly diverse, but in a demography that maintains fluid and open social and kinship connections across international boundaries. The latest population estimates for Sabah in 2006 were as follows:

	Ethnic Group	Percentage	Population	Total
1	Kadazan-Dusun	17.80%	533,466	
2	Bajau	13.40%	401,598	
3	Malay	11.52%	345,254	
4	Chinese	9.60%	287,712	
5	Murut	3.30%	98,901	
6	Indian	0.37%	11,089	
7	Other Bumiputera:	14.60%	437,562	
	Rungus, Iranun, Bisaya,			
	Tatana, Lun Dayeh, Tindal,			
	Tobilung, Kimaragang,			

² See British Colonial Office, "Labour and Immigration Situation, Borneo Territories", CO 1022/124 (UK National Archives).

³ Kurus (1998; cf. Uesugi 2002: 45)

	Suluk, Ubian, Tagal,			
	Timogun, Nabay, Kedayan,			
	Orang Sungai, Makiang, Minokok,			
	Mangka'ak, Lobu, Bonggi,			
	Tidong, Ida'an, Begahak,			
	Kagayan, Talantang, Tinagas,			
	Banjar, Gana, Kuijau,			
	Tombonuo, Dumpas, Peluan,			
	Baukan, Sino, Bugis, Jawa			
8	Others	4.80%	143,856	
9	Non-Citizens (Filipino, Indonesian)	25%	749,250	
	All			2,997,000

Source: Malaysia Statistics Department, 2006

Sabah's timber and plantation boom since the 1970s required the mass recruitment of 'unskilled' labour. Simultaneously, improved education in Sabah has provided upward social mobility for many local Sabahans, resulting in an ever declining supply of local Sabahans who like to enter manual jobs in the rural sectors.

With the expansion of these industries, Sabahan cities enjoyed economic growth that simultaneously increased the growth of the service industries. The unstoppable expansion of hotels, restaurants, shops, medium and small-sized businesses, and the sex industry has given pressure to labour requirements beyond traditional male-based labour who previously dominated the rural sectors. This is the prime background to the increased feminization of migrations from Indonesia and the Philippines into Sabah.

The increase of informal recruitment of women, girls and child labour into the service industries, as well as male labour for the rural industries, provides a ripe setting for human trafficking practices.

2.3. Contextualizing Sabah in the Philippine-Indonesian Spatial Axis

The fluidity of pre-colonial settlement patterns between the Sulu & Sulawesi Seas coupled with the colonial era importation of coolie labour, labour importation from Indonesia and the Philippines that coincided with Sabah's timber & plantation booms

(1950-80s), the continuing wave of labour migrations at the onslaught of the 1997 Asian financial crisis and an unresolved refugee crisis has resulted in a demographic mix in Sabah where no clear-cut social and cultural boundary with the Philippines and Indonesia exists, particularly in eastern Sabah. In such a demographic mix, the role of (official) national identities and citizenship is constantly undermined by the importance of kinship networks, ethnic association as well as religious identities transcending the boundaries. Similarly, these informal networks have been significant to the mobilization of labour and other economic resources. Exacerbating the problem, Sabah's long and uncontrollable maritime and terrestrial boundaries in the eastern part with its two neighbouring countries presents a ripe setting for the undetected flows of humans and commodities.

Sandakan and Semporna serve as major coastal hubs between Sabah and the southern Philippines. It has been indicated that Sandakan continue to serve as a major hub for illicit weapons smuggling into the Philippines since the 1970s, and a major sanctuary for MILF leaders and activities.⁴ These weapon-smuggling networks in Sandakan also facilitate the trade of other forms of contraband, ranging from salted fish to human trafficking.⁵

Tawau, on the other hand, is an important entry point for both legal and illegal entry into Sabah from Indonesia, especially from Nunukan and Sebatik island. A secondary entry point for undocumented entries is the village of Kalabakan, where a logpond jetty provides instant access from the open seas to the interior regions of the Tawau Division.

2.4. Vulnerable Target Groups.

Unlike other states within Malaysia, Sabah has a significant ratio of 'recorded' non-citizens' (24.8 percent) from the total population number. The 'non-citizens' category officially includes 1) foreigners, both Indonesians and Filipinos, holding *permanent residence* (PR) visas, 2) Filipinos⁶ holding IMM13 refugee status papers, including their offspring (who do not necessarily hold proper documentation). Others who are included in this category are undocumented spouses of legal passport or Malaysian IC (Identity Card) holders.

Sabah is reported to be one of the poorest states in Malaysia with a prevalence of over 20% of households living below the national poverty line.⁷ Poverty incidence is particularly high among the 'non-citizens' (e.g. Suluk, Bajau Laut), Kadazan-Dusun and other smaller indigenous *Bumiputera* groups.

⁴ See Rabasa (2007: 148-167)

⁵ Information from Mr. Razali, Kastam Diraja Malaysia, Kota Kinabalu, 2 Feb. 2010.

⁶ The term 'Filipino' in this report is used for the convenience of identifying any ethnic group originating from territories under current Philippines' jurisdiction, although they may not necessarily subscribe themselves to a single Filipino national identity, as is particularly the case of the Sulu-Tausugs and the Bajaus.

⁷ *Sabah's Human Development Progress and Challenges*, UNDP Malaysia (2008)

This large segment of ‘non-citizens’ is potentially brewing a boom of uneducated children entering the labour market in the near future. There is a widespread problem throughout Sabah of Sulu-Tausug and Bajau laut children from Filipino parents begging in the streets or being employed, forced by parents, as petty traders. In Keningau and Kota Kinabalu, the team observed that many Suluk children (including boys and girls) selling cigarettes in the streets are addicted to glue-sniffing. One research member observed how a Suluk girl selling cigarettes in Keningau was approached by an adult stranger who attempted to introduce certain substances to her.

The trafficking of Sabahan girls to Peninsular Malaysia and Singapore has recently become the focus of public concern. Such incidents were reported in the local press. Sabahan youth from poorer backgrounds are also reported to endure appalling working conditions in Peninsular Malaysia. Further studies are needed to investigate the breadth and scope of the trafficking of local Sabahans to Peninsular Malaysia.⁸

2.4. Trafficking & Debt Bondage in Assessed Sites

Trafficking/debt-bondage is found to be rampant in the following occupation sectors: the commercial sex (and entertainment) industries, oil-palm estate plantations, domestic work, the plywood & pulp industries, and to a far lesser extent, the service sectors (e.g. shopkeeping).

2.4.1. How People are Smuggled – Field Observations from Tawau

There are many procedures through which victims are trafficked into Sabah. The most popular method is by entering Sabah legally with the required documents. There are, however, many loopholes by which underaged girls enter both legal and illegal labour markets in Sabah. The most popular method is by misrepresenting the girl’s / boy’s actual age, which is usually arranged by recruiting agencies – often in co-operation with immigration officials. Once the girls and boys receive their passports, they are even considered fit to enter Sabah through the official TKI system (*Tenaga Kerja Indonesia* – the official government-run recruitment and placement system). There are many cases where legal TKI labour, upon arrival, are being diverted to employers other than those recorded on the actual contract and official Job Order documents.⁹ For women and girls trafficked for the sex industries, the usual method used is by entering on a social visit visa (see the previous section on commercial sex workers).

The other method through which victims are trafficked into Sabah is colloquially known as *ikut jalan samping* (lit. ‘through the side route’ – entering by bypassing immigration procedures). There are three routes used in this method for the trafficking of persons from East Kalimantan into Sabah. The first route is for trafficked persons boarding the regular ferry boats that run from Nunukan (or Sungai Nyamuk on Sebatik island) to Tawau. Upon arrival at the main jetty, those without legal documents

⁸ Information from Sr. Angelina Peter, Good Shepherd Convent, Kota Kinabalu, 16 January 2010. Similar concerns were voiced by Haji Awang Damit Bin Hj. Awang Anak (Sabah Vice Secretary of the Ministry of Youth & Sports), Kota Kinabalu, 2 February 2010.

⁹ Interview with the Vice Consul for Labour Affairs of the Indonesian Consulate in Tawau, 27 January 2010.

duck and hide inside the ferry until other passengers have gone ashore. They will stay on board until the ferry boat reaches the floating fuel station, approximately 300 meters away from the main harbour jetty. Small boats will approach the fuel station to bring the undocumented passengers ashore. In cases when marine police boats are on guard, passengers usually pay a bribe between RM 10 to 30 to the police officers.

The second route is by boarding the smaller speedboats (that can hold 20-30 passengers each) that run daily from Nunukan (or Sungai Nyamuk on Sebatik island) to Tawau. These speedboats will berth near an unguarded Pantai Batu harbour front to disembark undocumented passengers before continuing to the major harbour jetty. Passengers may pay up to IDR 300,000 – 500,000 per person to the boatman or his associate who can guarantee the absence of the marine police (some boatmen have direct mobile phone contact with certain marine police officers). If the marine police happen to be unknown officers to the boatmen, passengers usually have to bribe RM 20-30 per person to the officer. Some speedboat trips may be entirely cancelled if the shore is guarded by marine police officers that are known to be ‘uncorruptable’.¹⁰

Image 1&2: Trafficking Routes into Tawau



¹⁰ Interview with Mansyur, a local trafficking operative, Tawau, 29 January 2010. The team observed and recorded the undocumented entries from the Pantai Batu harbour front.

CHAPTER 3 MODULE SESSIONS

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS SESSION 1 TRAFFICKING DEFINITIONS

SESSION DESCRIPTION

STEPS	CONTENTS	TIME ALLOCATION
1	Introduction <ul style="list-style-type: none">• Group introduction• Training & Session objectives• Learning Contract	17 minutes
2	Brainstorming: “What does the word ‘trafficking’ imply to you?”	10 minutes
3	Explanation on trafficking definitions under UN Conventions and Act 670/2007.	15 minutes
4	Group discussions	20 minutes
5	Conclusions	2 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- Conventional and legal definitions of ‘trafficking’, and how it crucially affects state efforts in combating the crime. Vague understanding of the definitions may confuse and hinder law enforcers in combating trafficking.
- The **Trafficking Framework** and its three major elements: **Process, Means and Purpose**.
- Awareness that trafficking constitutes a crime that should be combated.

Session Outcome

By the end of the session, participants should be able to:

- Understand and apply the definition of trafficking and its three major elements in analyzing cases.
- Review the discussed cases studies and further discuss ways to identify and define trafficking.
- Agree upon the fact that trafficking constitutes a crime that should be combated.

Materials

- Computer/laptop
- LCD projector, screen, audio amplification (or TV)
- Flip chart
- Marker
- Slide presentation #1: Training Objectives
- Slide presentation #2: Session 1 Objectives
- Slide presentation #3: Trafficking definition according to UN conventions.
- Slide presentation #4: Trafficking definition in Act 670/2007, Part I Section 2
- Slide presentation #5: Trafficking definition in Act 670/2007, Part III Section 13
- Slide presentation #6: The Trafficking Framework: Process, Means, and Purpose
- Slide presentation #7: Trafficking definition in Act 670/2007, Part III Section 16
- Slide presentation #8: Trafficking definition in Act 670/2007, Part I Section 2 and Part III Section 14
- Slide presentation #9a - #9f Case studies and Analysis
- Handouts for participants:
 - Trafficking definitions (UN conventions & Act 670/2007)
 - The Trafficking Framework: **Process, Means, and Purpose**

DURATION

57-67 minutes

SESSION PLAN

STEP 1 INTRODUCTION

17
MINUTES

Introduction – 12 minutes (or may be adjusted to the number of participants)

1.1. Self-introduction of the facilitator. As the facilitator, you should introduce yourself and the entire training team, including your present affiliation and activities. Provide a brief professional background of yourself in order for participants to appreciate your expertise as a facilitator.

- 1.2. Self-introduction of participants.** Ask the participants to briefly introduce themselves to the group, by stating their names, position, affiliation and their origins. Limit each introduction to 25-30 seconds. If there are over 25 participants, the self-introduction session of participants may be skipped.

Training Objectives & Learning Contract – 5 minutes

- 1.3. Introduction to training objectives:** The facilitator introduces the overall training objectives (by showing slide presentation #1), targeted to assist law enforcement agencies (e.g. police officers, prosecutors, judges, employment supervisors, immigration officials and others) in gaining a deeper understanding and awareness on trafficking, its dangers and how to enforce relevant legal instruments to combat trafficking. This training session will discuss 6 main topics, which will be divided into 6 sessions:

- Trafficking Definitions
- Migration and Trafficking
- Modus Operandi and Debt-Bondage
- Exploitation
- Macro and Micro Consequences
- Recommended Actions

- 1.4. Explaining the objectives of Session 1.** The facilitator shows presentation slide #2 containing the objectives of Session 1, as follows:

- The ways by which trafficking is legally defined, and how it crucially affects state efforts in combating the crime. Vague understanding of the definitions may confuse and hinder law enforcers in combating trafficking.
- The Trafficking Framework and its three major elements: Proces, Means and Purpose. For children, consent is irrelevant with or without conditions of ‘Means’ being met.
- Awareness that trafficking constitutes a crime that should be combated.

- 1.5. Agreeing the learning contract.** Before the sessions start, the facilitator asks the participants to agree on a set of rules in order to maintain order and the effectiveness of the entire training session. The Facilitator prepares the Learning Contract flip chart, and informs that videos will be screened as information tools for session 2, 3 and 4. The facilitator asks the participants to agree on the following points:

- Participants are required to attend the entire training sessions.
- Participants should arrive on time.
- Except for in-between breaks, smoking is not allowed during sessions.
- Except for in-between breaks, cellphones should be turned off during sessions.
- Each Participant should respect the opinion of others.
- Participants should help maintain cleanliness of the training venue.

- 1.6. The facilitator should allow participants to contribute additional rules to the agreed points where needed, and add these to the flip chart.
- 1.7. The first session will be focused on trafficking definitions. The facilitator starts by stating, “Let us now start our first session where we will focus on trafficking definitions.

STEP 2 BRAINSTORMING: “What does the word ‘trafficking’ imply to you?”

10
MINUTES

- 2.1. Explore the various perceptions participants may hold on the term ‘trafficking’. The facilitator starts by posing the following question, “What does the word ‘trafficking’ imply to you?”. Explain that the session’s objective is to explore the participants’ existing perceptions on trafficking definitions. The facilitator allows several seconds for the participants to prepare their answers.
- 2.2. Presentation of participants’ opinions. After the presentations, the facilitator invites 3 to 4 participants to present their definitions. The facilitator may note down important points presented on the flip chart. (Note to facilitators: some participants may dwell on very broad trafficking definitions, and others may find difficulties in defining trafficking. The facilitator notes down important points, as well as the difficulties participants face in defining or identifying trafficking cases).
- 2.3. End of Brainstorm – Introduction to next steps. The facilitator explains that subsequent sessions will focus on trafficking definitions and its major elements. This will be complemented by video screenings for each session.

STEP 3 Explanation on Trafficking Definitions under UN Conventions and Act 670/2007

15
MINUTES

- 3.1. Trafficking definition according to UN conventions. The facilitator opens the session by saying, “Let us focus now on the trafficking definition according to the **2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children – Protocol to the Convention against Transnational Organized Crime**. The facilitator shows the presentation and invites a participant to read out its contents.

United Nations (UN) definition:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring 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.

(UN Protocol to the Convention against Transnational Organized Crime, 2000)

The facilitator invites the participants to focus on the trafficking definition according to the Malaysian Act 670/2007.

3.2. Trafficking definition according to Act 670/2007. The facilitator focuses on the trafficking definition contained within Act 670 Part 1 Section 2, which states:

**Trafficking definition under Act 670/2007 Part 1
Section 2**

"trafficking in persons" or "traffics in persons" means the recruiting, transporting, transferring, harboring, providing or receiving of a person for the purpose of exploitation;

The facilitator should highlight substantive elements within the definition, such as the PROCESS referring to the movement of a person from one place through recruitment, transportation and transferring for the PURPOSE of EXPLOITATION.

Furthermore, the facilitator should explain the substantive focus of Act 670/2007 Part III Section 13 which explains the MEANS usually employed by traffickers in the trafficking of persons, such as (a) threat; (b) use of force or other forms of coercion; (c) abduction; (d) fraud; (e) deception; (f) abuse of power; (g) the abuse of the position of vulnerability of a person to an act of trafficking in persons; or the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person. The facilitator will do this by showing the following:

Act 670/2007 Part III Section 13

Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:

- a) threat;
- b) use of force or other forms of coercion;
- c) abduction;
- d) fraud;
- e) deception;
- f) abuse of power;
- g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
- h)** the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

3.3. Introduction of the Trafficking Framework. The facilitator will say, “After we have reviewed both the UN Protocol and Act 670 trafficking definitions, it is clear that trafficking comprises of certain PROCESSES, MEANS and PURPOSES.”

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

The facilitator should explain that this framework is a useful tool to analyze and determine whether certain cases could be indicated as trafficking cases, or not. If one condition from each of the three categories above is met, the result is trafficking. Consent of the victim is irrelevant if one of the MEANS above is employed.

The facilitator further informs participants that this framework has already been used by numerous international organizations, such as the IOM (International Organization for Migration), ICMC (International Catholic Migration Commission), UNICEF (The United Nations Children’s Fund) and the ILO (International Labour Organization), as a simplified analysis tool derived from the UN definition in analyzing cases. *Law enforcers are, however, not obliged to use this framework as the sole analytical tool in investigating cases.*

3.4. For children, consent is irrelevant with or without the above MEANS.

The facilitator explains that in the case of victimized children, consent is irrelevant, with or without the MEANS in the trafficking framework. This is also referred to in Act 670 Part III Section 14.

Act 670/2007 Part III Section 16

Consent of trafficked person irrelevant

In a prosecution for an offence under section 12, 13 or 14, it shall not be a defence that the trafficked person consented to the act of trafficking in persons.

'Children' are defined under Act 670/ 2007 Part I Section 2 as any person who is under the age of eighteen years.

Act 670/2007 Part I Section 2

"child" means a person who is under the age of eighteen years;

(Note to facilitators: participants may come from different law enforcement agency backgrounds who usually employ their own set of analysis tools in analyzing trafficking cases. The facilitator should be aware of this and be open to accommodating participants' hands-on knowledge.)

3.5. Conclude the presentation on definitions, and invite participants to enter the case discussions.

The facilitator ends the presentation on trafficking definitions by saying "We have studied two trafficking definitions according to both international and national conventions. Let us now focus on how to analyze cases with the Trafficking Framework tool.

- 4.1. Introduce the group discussion and case studies.** The facilitator says, "After we have understood trafficking definitions, let us now focus on how to analyze cases to determine whether a case could be defined as a trafficking case or not. We will now be presented with various cases for our discussions to be analyzed together by utilizing the Trafficking Framework. Before proceeding, let us focus on the following case and analysis example."

Case example: (modified from a case presented in *Derita Bisu 1*)

Marni is a 16-year old girl. A man came by one day and offered the girls in Marni's village job opportunities as restaurant waitresses in Malaysia. Due to her family's poverty, Marni's parents pressured her to go to Malaysia. Upon arriving, however, Marni was sent to work as a Karaoke bar girl where she was also expected to double as a prostitute.

Answer:

This is a clear **trafficking case**. Marni was recruited and transferred to Malaysia (PROCESS) and was deceived into believing that she was going to work as a restaurant waitress (MEANS), where in reality she ended up working as a Karaoke bar girl for sexual exploitation (PURPOSE). Due to her underaged status (under 18, implying that she is legally defined as a 'child'), her consent in deciding to go and work becomes irrelevant, because it were her parents who abused their powers in forcing her to go (MEANS).

PROCESS	+	MEANS	+	PURPOSE
<ul style="list-style-type: none"> ✓ Recruitment ✓ Transferring 	+	<ul style="list-style-type: none"> ✓ Deceit ✓ The abuse of power 	+	<ul style="list-style-type: none"> ✓ Sexual exploitation

- 4.2. Divide the participants into groups.** The facilitator divides the participants into 3 groups, with each group being presented one case to discuss. The allocated time for discussion will be 5 minutes. The facilitator hands out case studies to each group.

The case of Yon:

Yon, originally coming from Nusa Tenggara, has worked for a long time in Surabaya. After being affected by a mass lay-off, he decided to try his luck working in Sabah upon hearing a friend's success story. Having no money, Yon entered Sabah without papers with the help of his friend. Fearing police detection, Yon asked his friend to secure him a passport. He entrusted his entire salary as an oil palm plantation worker

to his friend in order to secure his papers. After fruitlessly waiting for more than a year, Yon was one day arrested for immigration violations during a police raid. His friend, whom he entrusted his entire salary, disappeared without a trace.

Expected analysis:

This is clearly a **trafficking case**. Yon was transferred from Surabaya and entered Sabah illegally (PROCESS). He was deceived into believing that his money would be used to secure him a passport (MEANS). He had to work for over a year while entrusting his entire salary to his friend, after which he was caught by the police and his friend disappeared (PURPOSE).

PROCESS	+	MEANS	+	PURPOSE
✓ Transferring	+	✓ Deceit	+	✓ Forced labour

The case of Rahma¹³:

Rahma is a 17-year old girl coming from Kota Kinabalu. Her father died of illness when she was 8, and her mother had to work ever since to feed the entire family. As the eldest daughter of 6 children, Rahma could only finish primary school due to the lack of funds. She had to help the family by taking numerous jobs as a shopkeeper. Two years ago, Rahma befriended Abdul from Kota Kinabalu, and they began courting each other. She never suspected that Abdul was a *kempen* (middleman) doubling as a *bapak ayam* (pimp), looking for girls to sell to male customers. Unfortunate for Rahma, she could not escape because Abdul was always keeping his eyes on her. He threatened her that if she'd dared to escape he would inform her family that she worked as an *ayam* (prostitute). Her family still believes until now that she's working as a shopkeeper.

Expected analysis:

Rahma's case could be classified as **child prostitution, not a trafficking case**. Rahma lives and works in Kota Kinabalu (there is no transferring PROCESS involved here). Although she had been deceived (MEANS) by her own 'boyfriend' through the abuse of power and use of threats (MEANS) forcing her into prostitution (PURPOSE), the PROCESS element has not been met.

¹³ Modified case study taken from *Respon LSM terhadap Perdagangan Perempuan*.

The facilitator should stress again that **a trafficking case could only be defined if all PROCESS, MEANS and PURPOSE elements in the Trafficking Framework are met.**

PROCESS	+	MEANS	+	PURPOSE
None	+	<ul style="list-style-type: none"> ✓ Deceit ✓ Abuse of power ✓ Threat 	+	<ul style="list-style-type: none"> ✓ Sexual exploitation

The case of Saiful¹⁴:

Saiful was 8 years old when his parents, attracted by promises of high wages, decided to move and work in Sabah. By using up all their savings, Saiful’s family departed for Sabah through an official labour recruiting agency. Upon arriving, they were sent to work as construction labour with a meagre salary. Although disappointed, Saiful’s father kept on working because they did not have any savings even to meet their daily needs. Unfortunately, Saiful’s father died due to an accident when a concrete pile fell over him.

Expected analysis:

This is clearly a trafficking case. Saiful’s family was recruited and transferred from Indonesia to Sabah, despite entering legally (PROSES). However, Saiful’s father was deceived the promised work was non-existent (MEANS). Instead, he had to work as a low-paid construction worker (PURPOSE), where he even met his death.

PROCESS	+	MEANS	+	PURPOSE
<ul style="list-style-type: none"> ✓ Recruitment ✓ Transferred 	+	<ul style="list-style-type: none"> ✓ Deceit ✓ Fraud 	+	<ul style="list-style-type: none"> ✓ Forced labour

- 4.3. Group discussion.** The facilitator accompanies the groups in the venue to anticipate questions if the cases are not clearly understood.
- 4.4. Sharing of analysis with the larger group.** After the smaller groups have finished discussing and analyzing the cases, they are asked to present their analysis to the larger group. Each group will be asked to write down their analysis on the flip chart.
- 4.5. Summarize the discussion results.** The facilitator will conclude by stating, “We have now learned more about trafficking definitions as stated under Act 670/2007 and the major PROCESS, MEANS and PURPOSE elements of the Trafficking Framework.

¹⁴ Modified case study adapted from *Derita Bisu* (ICMC, 2005).

Based on our new understanding, trafficking is a criminal offense which is legally defined and can be legally prosecuted.”

STEP 5 CONCLUSIONS

5
MINUTES

- 5.1. The facilitator invites participants to agree on an anti-trafficking statement.** Before ending the session, the facilitator concludes with a statement that trafficking constitutes a crime against humanity that must be combated. This statement should be agreed upon and internalized by all stakeholders involved in combating trafficking.
- 5.2. Key points learned from Session 1.** The facilitator will invite a participant to draw a conclusion based on key points from the session on trafficking definitions. After the participant has finished, the facilitator will add a summary by adding additional key points learned from this session, highlighting that:
- The session was aimed at stimulating discussion on trafficking definitions and national instruments that are in place in combating trafficking.
 - Existing laws are adequate in combating trafficking, and **Act 670/2007 provides strong legal basis** for stakeholders in combating human trafficking.
- 5.3. The facilitator ends the session.** Before closing the session, the facilitator should provide an introduction to the next session, which will be focused on migration and trafficking.
- 5.4.** Distribution of handouts for participants.

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 2 MIGRATION & TRAFFICKING

Session Description

STEP	CONTENTS	TIME ALLOCATION
1	Brief review of session 1 and introduction to session 2.	5 minutes
2	Brainstorming: What attracts migrations into Sabah?	5 minutes
3	Video playback (<i>Bondaged Souls</i> , chapters 1-2): "Migration dan Trafficking"	10 minutes
4	Discussion: <ul style="list-style-type: none">• Participants' reactions towards the video• Group discussions: Identifying pull and push factors behind migrations	15 minutes
5	Group discussions: Identifying forms of trafficking, victims and perpetrators.	15 minutes
6	Conclusions	5 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- Identifying push and pull factors behind migrations, and the importance of understanding their linkage to trafficking.
- The importance of knowing various forms of trafficking.
- The importance of identifying trafficking victims and perpetrators.

Session Outcome

By the end of the session, participants are expected to be able to:

- Identify push and pull factors behind migrations, and their linkage to trafficking;
- Identify various forms of trafficking;
- Identify trafficking victims and perpetrators.

Materials

- Training Video DVD (*Bondaged Souls*, chapters 1-2): Migration and Trafficking
- Computer/laptop
- LCD projector, screen, audio amplification (or TV)
- Flip chart

- Markers
- Slide presentation #1: Session 2 Objectives
- Slide presentation #2: Push and Pull Factors behind Migrations
- Slide presentation #3: The Trafficking Framework: Process, Means, and Purpose
- Slide presentation #4: Map of Migration Routes
- Handouts for participants: Conclusions on push and pull factors behind migrations, forms of trafficking; the identification of trafficking victims and perpetrators (traffickers).

Duration

55-60 minutes

Session Plan

STEP 1 Brief Review of Session 1 and Introduction to Session 2	5 MINUTES
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- 1.1 Opening.** Session 2 will commence immediately after Session 1. If a different facilitator will be leading the session, she/ he may introduce her / himself during the start of this session.
- 1.2 Invite participants to review the trafficking definitions discussed in the previous session,** especially the three elements of the **trafficking framework** (process, means and purpose). Explain that this session is going to zoom into the push and pull factors behind migrations that often leads to trafficking; various forms of trafficking modes and how to identify trafficking victims and perpetrators.
- 1.3 The facilitator explains the objectives of Session 2.** While showing slide presentation # 1, the facilitator will inform participants that the session will invite participants to understand:
- Push and pull factors behind migrations that often lead to trafficking.
 - Various trafficking modes that is prevalent in the following occupation sectors: domestic work / housekeeping, migrant labour and prostitution.
 - Vulnerable trafficking targets (victims)
 - Identifying trafficking perpetrators

STEP 2 BRAINSTORMING: What attracts migrations into Sabah?

5
MINUTES

- 2.1. Brainstorming to explore participants' perspectives on Sabah's attractiveness to migrants.** The facilitator will start by saying, "Before we watch the next video episode on migration and trafficking, I would like to pose a brief question for you to discuss with your fellow participant sitting next to you. The question is: why, in your opinion, do many migrants from neighbouring countries choose Sabah as a migration destination?"
- 2.2. Participants discuss their opinions.** Allow participants to discuss for 2 minutes before writing down their answers on flip charts.
- 2.3. Presentation.** The facilitator invites 2 participants to briefly present their opinions.
- 2.4. End the brainstorm session and introduce the next step.** The facilitator invites participants to watch the video, and explains that the upcoming episode will focus on migration and trafficking. Invite participants to pay close attention while watching. The participants should be able to identify and memorize the various push and pull factors behind migrations, the various modes of trafficking, the victims and the perpetrators from the case studies presented in the video. The participants may take notes during or after watching.

STEP 3 VIDEO PLAYBACK (*Bondaged Souls*, chapters 1-2): "Migration and Trafficking"

10
MINUTES

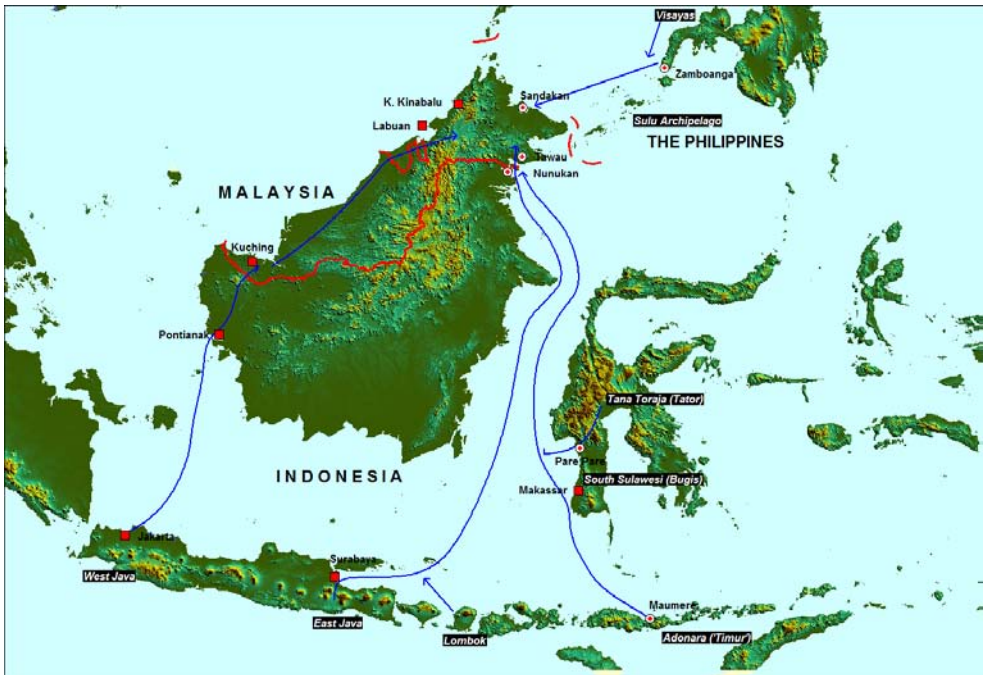
- 3.1. Video playback.** The facilitator should not leave the venue as she/he should be on standby to anticipate technical problems (e.g. defective audio, wiring problems) that may occur during the screening.

- 4.1. **Discussing participants' reaction towards the video.** After watching, the facilitator will ask for the participants' reaction towards the contents of the video, "What is your opinion after watching this video?" Allow 2-3 minutes for participants to voice their opinions.
- 4.2. **The linkage between migration and trafficking.** The facilitator will start the discussion by saying, "We have obtained much information from the video. Let us deepen and synchronize our understanding on the linkage between undocumented migration and trafficking."
- 4.3. **Recalling information as told by Yanto and Pandasan in the video.** The facilitator should ask, "Based on information told by Yanto and Pandasan in the video, what are the various ethnic groups that have migrated into Sabah?"

Expected answers (based on the video):

Yanto stated that there are 5 main ethnic groups that have migrated from Indonesia into Sabah: the Bugis, the Javanese, the Torajans (Tator; an abbreviation of 'Tana Toraja'), Butonese and the Timorese ('Timur' – an umbrella identity for those coming from the eastern Nusa Tenggara islands). Pandasan stated that there are 2 main ethnic groups who migrated from the Philippines into Sabah: the Suluk (or Tausug) and those coming from Basilan.

Note to facilitators: Knowledgeable participants may also answer other known ethnic groups that have migrated into Sabah (e.g. for Indonesians: Lombok, Makassarese, Mandarese, Tidongs, Tagals, Lun Dayeh, Kenyahs; or for 'Filipinos': Bajau, Sama, migrants from the Visayas, 'Tagalogs' (an umbrella identity for those coming from Luzon)). The facilitator should be open to accommodate the knowledge of participants'.



Map of Migration

Group Discussion. The facilitator will divide the participants into 2 groups to discuss the triggering factors behind migrations. These factors could be classified into 2: **push** and **pull** factors. One group will be assigned to discuss the pull factors, while the other will discuss the push factors.

- a. Question posed to the 'pull factor' group: Why has Sabah become an attractive destination for migrations from neighbouring countries?

Expected answers (based on the video):

- Available job vacancies in occupations that younger Malaysians / Sabahans deem as unattractive and would rarely enter such as in the construction and plantation sectors (Source: Permanent Secretary to the Sabah Minister of Youth and Sports).
- Rapid development which requires mass recruitment of labour. (Source: Permanent Secretary to the Sabah Minister of Youth and Sports).
- Geographical proximity and ease of transportation into Sabah. (Source: Indonesian Vice-Consul on Labour Affairs in Tawau)
- Relatively higher wages in Sabah (Source: Customs Official)

- b. Question posed to the 'push factor' group: Why has Sabah become an attractive destination for migrations from neighbouring countries?

Expected answers (based on the video):

- Low wages in migrants' places of origin;
- Armed conflict (e.g. Mindanao refugees in Pulau Gaya);
- Poverty;
- Lack of job vacancies;
- Relative ease in obtaining border passes ;
- Longstanding migration traditions/networks (Source: Indonesian Vice-Consul on Labour Affairs in Tawau)

4.4 Group discussions. Allow 15 minutes for the groups to discuss and write their answers on flip charts. The facilitator should walk around visiting each groups to anticipate questions that may arise.

4.5 Group presentations. The groups present their answers, and the facilitator will verify, clarify and highlight these against the correct answers which will be displayed on slide presentation #2: Push and Pull Factors behind Migrations.

Pull Factors	Push Factors
<ul style="list-style-type: none"> • Available job vacancies in occupations that younger Malaysians / Sabahans deem as unattractive and would rarely enter such as in the construction and plantation sectors (Source: Permanent Secretary to the Sabah Minister of Youth and Sports). • Rapid development which requires mass recruitment of labour. (Source: Permanent Secretary to the Sabah Minister of Youth and Sports). • Geographical proximity and ease of transportation into Sabah. (Source: Indonesian Vice-Consul on Labour Affairs in Tawau) • Relatively higher wages (Source: Customs official) 	<ul style="list-style-type: none"> • Lower wages in places of origin • Armed conflict • Poverty • Limited job vacancies • Relative ease in obtaining border passes • Longstanding migration traditions / networks (Source: Indonesian Vice-Consul on Labour Affairs in Tawau)

4.6. The facilitator displays the Trafficking Framework. The facilitator will invite participants to the Trafficking Framework (slide presentation #3), and explains that **the increase in migration trends attracts third parties to exploit the situation**. This happens not only during the recruitment and transferring process of would-be migrants, often through fraud or deceit such as by providing false information on actual working conditions, but also during employment through various methods such as coercion, threats, the abuse of power and debt-bondage.

The Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

4.7. The facilitator displays slide presentation #4: Migration Routes

STEP 5 Group Discussions: Identifying Forms of Trafficking, Victims and Perpetrators

15
MINUTES

5.1 Continuing the discussions. The facilitator requests the participants to return to their respective groups (there is no need to re-organize the groups). Each group will be assigned case studies from the video to be discussed. The facilitator should allow each group 10 minutes to discuss.

5.2 The facilitator provides brief case summaries, as follows:

The case of Melati: As seen on video, Melati claimed that she was invited by her friend to work as a restaurant waitress in Malaysia. Upon arriving in Kuching, it turned out they were both transferred by the agent to Limbang and sold-off to become a sex worker to a pimp (*bapak ayam*). She was physically threatened if she refused to do so, and wasn't allowed to go out or keep her cell phone, which disabled her to communicate with others. Who is the victim and who are the perpetrators in this case study?

The case of Marcus: As seen on video, Marcus claimed that he was persuaded by his friend to work in Malaysia for an ostensible monthly salary of RM 2,000. He has not, however, received his salary, even after having worked for 6 months. He has never received or seen his passport, despite claims by his boss that his salary is being deducted and withheld in order to cover the necessary immigration papers. Without money and identification papers, Marcus decided to run away. Who is the victim and who are the perpetrators in this case study?

5.3 Group discussion. The facilitator should walk around visiting each group to anticipate questions that may arise.

5.4 Group presentations. After each group has presented their analysis, the facilitator will clarify the analysis by stressing and / or adding key points that were not yet mentioned during the presentations.

Expected analysis (guideline for the facilitator):

1. MELATI is the **trafficking victim**

PROCESS	+	MEANS	+	PURPOSE
<ul style="list-style-type: none"> ✓ Recruitment ✓ Transferring ✓ Harboursing 	+	<ul style="list-style-type: none"> ✓ Deception & Fraud (misled about the actual work) ✓ Coercion (through confinement) ✓ Threats ✓ The abuse of power 	+	<ul style="list-style-type: none"> ✓ Forced labour ✓ Slavery / similar practices ✓ Prostitution

2. MARCUS is the **trafficking victim**

PROCESS	+	MEANS	+	PURPOSE
<ul style="list-style-type: none"> ✓ Recruitment ✓ Transferring 	+	<ul style="list-style-type: none"> ✓ Deception & Fraud ✓ Debt-bondage ✓ The abuse of power 	+	<ul style="list-style-type: none"> ✓ Forced labour ✓ Slavery / similar practices

5.5 Analysis using the Trafficking Framework. The facilitator emphasizes that both Melati and Marcus are in these cases trafficking victims. They have been both recruited and transferred across the border (PROCESS), deceived, threatened, coerced and, in Marcus' case, bonded by debt (MEANS) to become forced labour in slavery-like conditions, and in Melati's case, a prostitute (PURPOSE).

5.6 Large group discussion. The facilitator will use both cases to invite all participants to identify the perpetrators.

Expected Analysis:

In Melati's case, the trafficking perpetrators are:

- The agent, who transferred them from Kuching to Limbang. (harboursing, transferring and selling them off to a pimp in Limbang)
- The pimp (*bapak ayam*) (through harboursing, the use of threats, and coercion for the purpose of prostitution)

In Marcus' case, the trafficking perpetrators are:

- The 'friend' (through recruitment, deception / fraud by promising an ostensible high salary)
- The 'boss' (by withholding Marcus' salary, ostensibly for arranging legal working documents, leading to debt-bondage, for the purpose of slavery-like forced labour)

6.1. Key points learned from session 2. The facilitator briefly summarizes the key points learned from session 2, which are:

- The Malaysian state of Sabah is one major destination for migrants coming from from the neighboring Indonesia and the Philippines. Migrations into Sabah are caused by various push and pull factors which is also linked to various forms of trafficking.
- Trafficking constitutes a crime against humanity, and therefore, it is important to re-emphasize that a clear and shared understanding on trafficking definitions is crucial and helpful to identifying the various existing trafficking modes, its victims and perpetrators. Trafficking modes come under various forms and guises, not only sexual exploitation as it is commonly perceived.
- The perpetrators of trafficking cover a wide range of, sometimes unexpected, personalities: friends, agents, supervisors, employers and pimps.

6.2. The facilitator concludes the session. Before ending the session, the facilitator provides a brief introduction to the next session, which will focus on the *modus operandi* and debt-bondage often encountered in trafficking cases.

6.3. Participants receive the handouts.

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 3 *MODUS OPERANDI* AND DEBT-BONDAGE

Session Description

STEP	CONTENTS	TIME ALLOCATION
1	Brief review of session 1 and introduction to Session 3.	5 minutes
2	Video playback (<i>Bondaged Souls</i> , chapter 3): “ <i>Modus Operandi</i> and Debt-Bondage”	10 minutes
3	Case study analysis	25 minutes
4	Group discussion: What is ‘Debt Bondage’?	15 minutes
5	Conclusions	5 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- The various *modus operandi* (modes of operation) employed by traffickers.
- The role of debt-bondage as a recurrent and significant element in the majority of trafficking cases.

Session Outcome

By the end of the session, participants are expected to be able to:

- Understand the various *modus operandi* employed by traffickers.
- Understand that traffickers constantly modify their modes of operation.
- Understand that debt-bondage is often used to exploit trafficking victims.

Materials

- Training Video DVD (*Bondaged Souls*, chapter 3)
- Computer/laptop
- LCD projector, screen, audio amplification (or TV)
- Meta-plan cards
- Markers
- Slide presentation #1: Session 3 Objectives
- Slide presentation #2: Trafficking definition according to UN conventions.

- Slide presentation #3: The Trafficking Framework
- Slide presentation #4: Act 670/2007 Part III Section 13
- Slide presentation #5: Act 670/2007 Part III Section 14
- Slide presentation #6: Act 670/2007 Part III Section 15
- Slide presentation #7: Conclusions
- Handouts for participants: Case studies (Udin, The Bonded Family, Florensus)
- Handouts for participants: Case studies (Marcus, Florensus)
- Handouts for participants: Act 670/2007 Part III Section 13, 14 and 15

Duration

55-60 minutes

Session Plan

STEP 1 Brief Review of Session 1 and Introduction to Session 3	5 MINUTES
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1.1. Opening. Session 3 immediately starts after session 2. It is necessary for the facilitator to do a review of session 1 by inviting participants to focus back on the UN definition on trafficking, Act 670/2007 Part III Section 13 and the Trafficking Framework. The facilitator will first display the UN definition on trafficking.

Definition under the UN Palermo Protocol:

"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.

(UN Protocol to the Convention against Transnational Organised Crime, 2000)

Next, the facilitator invites the participants to recall again the Trafficking Framework:

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Finally, the facilitator will again display the trafficking definition under Act 670/2007 Part III Section 13:

Act 670/2007 Part III Section 13

Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:

- a) threat;
- b) use of force or other forms of coercion;
- c) abduction;
- d) fraud;
- e) deception;
- f) abuse of power;
- g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
- h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

1.2 Remind the participants on key points learned from the previous session.

Participants are invited to recall the root causes behind trafficking, and how it is linked to migration. Further, the participants are invited to recall the various forms of trafficking, its victims and perpetrators.

1.3 The facilitator introduces the objectives of session 3 (by displaying slide presentation # 1). In this session, participants are invited to understand:

- The various *modus operandi* or modes of operations, employed by human traffickers.
- The scope of commonly employed means by traffickers, which includes the use of threats, coercion, kidnapping, deception, deceit, fraud, the abuse of power and debt bondage.

1.4. Conditioning participants before video playback. The facilitator explains that the following video chapter will focus on *modus operandi* commonly employed by traffickers. Ask the participants to pay special attention to the traffickers and the modes they employ.

STEP 2 Video Playback (<i>Bondaged Souls</i>, chapter 3) “<i>Modus Operandi</i> and Debt-Bondage”	10 MINUTES
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- 2.1. Video playback.** The facilitator should not leave the venue as she/he should be on standby to anticipate technical problems (e.g. defective audio, wiring problems) that may occur during the screening.

STEP 3 Case Study Analysis	25 MINUTES
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- 3.1. Participants’ reaction towards the video.** The facilitator asks the participants’ opinion on the video. The participants should be encouraged to openly voice their opinions on what they have watched. The facilitator should avoid giving judgements over the participants’ opinions at this stage.
- 3.2 Participants are split into groups.** The facilitator invites participants to split into 3 groups through the Fish Bowl game.

<i>Fish Bowl</i> ¹⁵	
Objective:	The game is aimed at creating an enjoyable atmosphere and to increase enthusiasm, while simultaneously functioning as a tool for small group formation.
Duration:	5 minutes
Steps:	<ol style="list-style-type: none"> 1) Invite the participants to an open air space large enough for participants to run around. 2) The participants will form ‘fish bowls’ according to the size as instructed by the facilitator. For example, when the facilitator instructs “2 bowls, 1 fish!”, 2 participants will form a ‘bowl’ by joining their hands while the third person will become the ‘fish’ by standing inside the ‘bowl’ They will remain in position until the facilitator gives the next instruction such as “4 bowls, 2 fish!” (4 participants forming 1 ‘bowl’, and 2 others becoming the ‘fish’).

¹⁵ Adapted from the 3-R *Trainer’s Kit*, ILO, Jakarta, 2008.

Notes:	<p>3) Start the game, and keep changing the size of the 'bowls' and number of 'fish' until the desired number of groups are achieved.</p> <p>This is an enjoyable method to split a large group of participants into smaller groups. A small group of 7 participants may be formed when the facilitator instructs "4 bowls, 3 fish!" The facilitator should be aware of certain cultural sensitivities where physical contact between different sexes would create discomfort for some.</p>
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3.3 Case study analysis. After the groups are formed, the facilitator instructs each group to analyze the case studies presented in the video, by identifying the perpetrators (traffickers), the employed means / modes and forms of trafficking. Each group will receive a meta-plan cards and paper-tape. **Red** cards are for '**traffickers**', **green** cards for the '**modus operandi**', and the **yellow** cards for '**forms of trafficking**'.

3.4 The facilitator hands out the following case study sheets

a. The case of Udin, the '*Bapak Ayam*' (pimp)

Udin traffics, harbours and employs girls who are brought in from Nunukan (in Indonesia) to Tawau (in Sabah). He usually lures girls with promises of providing girls with easy work that are highly paid. Sometimes he uses marriages as a pretext for recruiting girls to Malaysia. The girl whom he 'marries' would easily be persuaded to recruit her girlfriends to come along to Malaysia. Upon arrival in Sabah, the girls will be coerced into providing sexual 'services' to customers. They will be beaten, deprived of food and confined if they refuse to do so, while being fully watched over by bodyguards. After a period, girls may be sold off to other pimps. Udin prefers trafficking young girls under 20 due to their high 'sale' value, especially for virgins whom customers are willing to pay for a lofty price. Girls are often moved around, between karaoke bars and different hotels in order to avoid police detection.

b. The Bondaged Family case (as told by the Indonesian Vice Consul in Tawau)

A family from South Sulawesi was recruited in coming to Malaysia by a fellow villager, who worked as a plantation *mandor* (supervisor) in Sabah. The family, consisting of husband, wife and two children, were lured by promises of a lucrative salary. They departed to Sabah after having sold their house and land to cover the travel expenses. The *mandor* arranged for the family to enter Sabah through Nunukan without passports, and were sold of for RM 1,600 to a plantation contractor. The family were employed as plantation workers, but were not able to receive any salary before the RM 1,600 debt was fully recouped by the contractor. The eldest daughter had to work as a shopkeeper, but even this was not sufficient for the daily survival of the family, who did not posses any money due to their debts.

c. The case of Florensius

Florensius along with 3 other friends came to Sabah to work as oil palm plantation croppers. At the time of the interview, none had any passports since coming to Sabah. The contractor (*tauke*) who employed them promised that he would secure them the legal papers. They worked for 6 months, not receiving any salary believing that the monthly deduction of RM 50 would be used to arrange for passports and working permits. However, the *tauke* has never been able to show receipts as proof of the ongoing legalisation process. Moreover, despite being once ‘photographed’, they have never been required to fill forms, nor asked for their names or place of birth, which would be normal to any formal legalisation process. Florensius began to doubt that they will ever receive their passports.

- 3.5 Group discussion.** Allow 10 minutes for the participants to discuss within groups. Remind them again that ‘consent of the victim should be considered irrelevant.’
- 3.6 Group presentation.** For the next 10 minutes, the groups will be invited to present their analysis by sticking the meta-plan cards on a whiteboard or the flip chart.

Expected analysis:

a. The case of Udin

TRAFFICKER	MODUS OPERANDI	FORM
<ul style="list-style-type: none">• Udin• Other pimps• Bodyguards	<ul style="list-style-type: none">• Fraud and deceit: they lure girls through false statements. (high salary, easy work) or faux marriage.• The use of threats (physical harm)• Transferring to other pimps)• Confinement• Abuse of power	<ul style="list-style-type: none">• Sexual exploitation & prostitution

b. The Bondaged family case (as told by the Indonesian Vice Consul in Tawau)

TRAFFICKER	MODUS OPERANDI	FORM
<ul style="list-style-type: none"> • Fellow villager (<i>mandor</i>) • The employer / contractor (<i>tauke</i>) 	<ul style="list-style-type: none"> • Fraud and deceit: the <i>mandor</i> lured them by false statements (high salary, easy work); • Debt-bondage: the employer withholding salary payments before the family could repay their debts, abusing the position of vulnerability. 	<ul style="list-style-type: none"> • Forced labour / slavery-like conditions.

c. The case of Florensius

TRAFFICKER	MODUS OPERANDI	FORM
<ul style="list-style-type: none"> • The employer / <i>tauke</i>. 	<ul style="list-style-type: none"> • Fraud and deceit: The <i>tauke</i> could not prove whether he actually arranges for the victim's legalization process. • Debt-bondage: the employer withholding salary payments, abusing the position of vulnerability. 	<ul style="list-style-type: none"> • Forced labour / slavery-like conditions.

3.7 The facilitator emphasizes that the identified ‘modus operandi’ are trafficking offences. These are legally defined under Act 670/2007 Part III Section 13, 14 and 15. The facilitator displays the relevant legislation:

Act 670/2007 Part III Section 13

Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:
- (a) threat;
 - (b) use of force or other forms of coercion;
 - (c) abduction;
 - (d) fraud;
 - (e) deception;
 - (f) abuse of power;
 - (g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
 - (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 14

Offence of trafficking in children

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 15
Offence of profiting from exploitation of a trafficked person

Any person who profits from the exploitation of a trafficked person commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to a fine of not less than fifty thousand ringgit but not exceeding five hundred thousand ringgit.

STEP 4 What is 'Debt Bondage'?

**15
MINUTES**

- 4.1. Brainstorming on 'debt bondage'.** The facilitator explains that the identified modus operandi from the previous step enables us to recognize the practice of debt-bondage, and should ask the participants, "What does debt-bondage mean to you?" Ask the participants to express the word 'debt-bondage' through local concepts / or local language if locally-defined cultural concepts on debt-bondage exist. Encourage the participants to explain concisely.
- 4.2. The facilitator takes notes of the answers.** The facilitator should write these down on the flip charts (any assistant to the facilitator may write down the key points only). The facilitator should not intervene in judging or clarifying the answers at this stage (even if the answers may end up being irrelevant to 'debt-bondage')
- 4.3. Recalling previous case studies from the video.** The facilitator provides a flashback to previous case studies to be discussed in the larger group.

The facilitator refers back to the case study of Marcus. Marcus claimed that he was persuaded by his friend to work in Malaysia for an ostensible monthly salary of RM 2,000. He has not, however, received his salary, even after having worked for 6 months. He has never received or seen his passport, despite claims by his boss that his salary was being deducted and withheld in order to cover the necessary immigration papers. Without money and identification papers, Marcus decided to run away.

The facilitator refers back to the case study of Florensus. Florensus along with 3 other friends came to Sabah to work as oil palm plantation croppers. At the time of the

interview, none had any passports since coming to Sabah. The contractor (*tauke*) who employed them promised that he would secure them the legal papers. They worked for 6 months, not receiving any salary believing that the monthly deduction of RM 50 would be used to arrange for passports and working permits. However, the *tauke* has never been able to show receipts as proof of the ongoing legalisation process. Moreover, despite being once ‘photographed’, they have never been required to fill forms, nor asked for their names or place of birth, which would be normal to any formal legalisation process. Florensus began to doubt that they will ever receive their passports. Next, the facilitator invites the participants to recall again the Trafficking Framework:

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Based on the case studies presented in the video, the facilitator explains how victims like Marcus and Florensus ended up being bonded by debt, which started from their recruitment process up to their employment.

4.4. The major elements of debt-bondage that could be highlighted:

- a) The absence of transparency and clarity regarding some person's debt and the terms or mechanisms for repayment.
- b) Personal services or servitude that is considered as collateral for debt repayment.
- c) The supposed value of services provided by the victim (debtor) rarely decreases the value of the debt or impacts the repayment period.

STEP 5 CONCLUSIONS

5
MINUTES

5.1 Key points learned from session 3. The facilitator briefly summarizes the key points learned from session 3:

- Traffickers use various modes in achieving their objectives. Traffickers very often attempt to cheat around existing legal loopholes. It is therefore important for law enforcers not only to limit themselves to isolated interpretations of trafficking modes as legally defined under existing legislation, but also to understand the linkages between PROCESS, MEANS and PURPOSES which make up the major elements of a trafficking offense.
- Debt-bondage is a recurring mode of operation used by traffickers in exploiting their victims. Debt bondage could not be easily detected, but tangible giveaway signs could be detected from its direct effects among victims, such as regular overtime work, signs of overworked labour regardless of their physical health, confinement within the working place, physical signs of torture, etc.
- The major elements of debt-bondage:
 - a) The absence of transparency and clarity regarding some person's debt and the terms or mechanisms for repayment.
 - b) Personal services or servitude that is considered as collateral for debt repayment.
 - c) The supposed value of services provided by the victim (debtor) that rarely affects the value of debt or repayment period.

5.2. The facilitator concludes the session. The facilitator will introduce the next session which is going to focus on exploitation.

5.3. The participants receive handouts for the next session.

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 4 EXPLOITATION

Session Description

Steps	Contents	Time Allocation
1	Brief review of sessions 1 - 3 and introduction to Session 4	5-10 minutes
2	Brainstorming: "What is Exploitation?"	5 minutes
3	Video playback (<i>Bondaged Souls</i> , chapter 4): "Exploitation"	10 minutes
4	Discussing participants' reaction towards the video and identifying forms of exploitation	30 minutes
5	Conclusions	5 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- The definitions of exploitation;
- The various forms of exploitation

Session Outcome

By the end of the session, participants are expected to:

- Have a common understanding of how exploitation is defined under Act 670/2007 Part I Section 2.
- Have the ability to identify various forms of exploitation.

Materials

- Training Video DVD (*Bondaged Souls*, chapter 4)
- Computer/laptop
- LCD projector, screen
- Flip chart
- Marker
- Meta-plan cards
- Masking tape
- Slide presentation #1: Session 4 Objectives
- Slide presentation #2: Definition of exploitation under Act 670 Part I Section 2
- Slide presentation #3: Definition of exploitation under the UN Palermo Protocol
- Handouts for participants: Exploitation definitions under Act 670/2007 and the UN Palermo Protocol.
- Handouts for participants: Forms of Exploitation

Duration

60 minutes

Session Plan

STEP 1 Brief Review of Sessions 1 - 3 and Introduction to Session 4	5 MINUTES
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- 1.1. Opening.** If session 4 commences on the second day of the training, the facilitator should check whether there are any absent participants. If there are, he should ask the participants whether the absence of certain participants would not hinder the training session.
- 1.2. Brief review on previous sessions.** The facilitator invites the participants to focus back on the preceding sessions, such as the trafficking definitions, migration and trafficking, modus operandi, debt bondage, and how these all are interlinked. The facilitator displays the Trafficking Framework.

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence/ Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery/ Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

- 1.3. Introduction to the objectives of session 4.** The facilitator displays slide presentation #1 on Session Objectives.

Step 2 BRAINSTORMING: “What is Exploitation?”

5
MINUTES

- 2.1. Explore the various perceptions participants may hold on the term ‘exploitation’.** The facilitator opens the discussions posing the following question, “What is ‘exploitation’?”. Explain that the session’s objective is to explore the participants’ existing perceptions on exploitation. The facilitator allows several seconds for the participants to prepare their answers.
- 2.2. Participant’s reaction towards exploitation.** The facilitator invites 3 to 4 participants to present their opinions. The assistant to the facilitator, or one participant, may assist in writing down the key points of the presented opinions on the flip chart. The facilitator closes the brainstorming session by informing participants that some answers will be presented in the upcoming video.
- 2.3. Introduction to the video.** The facilitator invites participants to watch the video, and explains that the upcoming episode will focus on exploitation. Invite participants to pay close attention while watching. The participants should be able to identify various forms of exploitation from the video, and take notes from the video.

Step 3 Video Playback (*Bondaged Souls*, chapter 4): “Exploitation”

10
MINUTES

- 3.1. Video playback.** The facilitator should not leave the venue as she/he should be on standby to anticipate technical problems (e.g. defective audio, wiring problems) that may occur during the screening.

STEP 4 Discussing Participants’ Reaction towards the Video & Identifying Forms of Exploitation

30
MINUTES

- 4.1. Discussing participants’ reaction towards the video.** After watching, the facilitator will ask for the participants’ reaction towards the contents of the video, “How do you

feel about the video, and has the content in the video changed some of your perceptions on 'exploitation'? Allow 2-3 minutes for participants to voice their opinions.

4.2. Presentation on notes from the video. The facilitator invites participants to present their notes on exploitation taken during the video playback. The assistant to the facilitator or another participant may be asked to write their answers on the flip chart. Highlight the keywords that are relevant to the definition of exploitation. Afterwards, the participants are asked to formulate together a definition of exploitation based on the presentations.

4.3. Discussing the definition of 'exploitation'. The facilitator will lead the participants in making a comparison between the presented definitions and the definitions of exploitation under Act 670/2007 Part I Section 2, and the UN Palermo Protocol Article 3:

Act 670/2007 Part I Section 2

"exploitation" means all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs;

Definition under the UN Palermo Protocol:

"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;

UN Protocol to the Convention against Transnational Organised Crime, 2000

An important point to note is the irrelevance of one's past sexual history to be used as defense in a prosecuted trafficking case that involves sexual exploitation, as stipulated in Act 670/2007 Part III Section 17:

Act 670/2007 Part III Section 17

Past sexual behaviour irrelevant

A trafficked person's past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the trafficked person was engaged in other sexual behaviour or to prove the trafficked person's sexual predisposition.

- 4.4. Participants will be divided into discussion groups.** The participants will be divided into 4 groups to further discuss the case studies presented in the video.

Group discussions: Identifying forms of exploitation

- 4.5. Group discussions.** The facilitator hands out exploitation case studies based on the video to each group. Allow the group to discuss for 10 minutes. The facilitator should walk around visiting each group to anticipate questions that may arise.

4.6. Case studies:

#1 The case of Ibu Yani. Bu Yani claims that she owed her employer debts which were ostensibly used to cover passport fees. She had to work for 5 months, often with unpaid overtime, without receiving any salary. During her tenure, she was not allowed to leave her employer's house. What forms of exploitation can be identified from Ibu Yani's story?

Expected analysis: Ibu Yani's case indicates various forms of exploitation, such as the withholding of salary payments while she was forced to work beyond acceptable working hours and not able to leave the house because her papers were kept by her employer. This is an indication of 'forced labour' and 'slavery or similar practices'.

#2 The case of Jenny. Jenny told the story about her sister who worked as a domestic helper. She was overworked until it took toll of her health. She regularly urinated blood due to exhaustion. More than that, she couldn't leave her employer's house because her passport was kept by her employer, and the house was always guarded. What forms of exploitation can be identified from Jenny's sister's story?

Expected analysis: Jenny's sister's case indicates various forms of exploitation, such as the withholding of salary payments, while she was forced to work until her physical health

deteriorated. In addition, she was not able to leave the house because her papers were kept by her employer. This is an indication of 'forced labour' and 'slavery or similar practices'.

#3 The case of Kartini. Kartini claimed that as a domestic helper, she has been constantly forced to work overtime, such ironing and washing clothes up to the early morning hours, with little rest. She worked in Keningau for 6 months without receiving salaries that were ostensibly paid out by her employer, amounting to RM 3,300, to her recruiting agent. She became undernourished because she was only allowed to eat waste food. Moreover, she was constantly abused verbally. She ran away and ended up working for her current employer who never allows her to leave the house without escort. Kartini feels very depressed because she could not even send money home to her ailing father. What forms of exploitation can be identified from Kartini's story?

Expected analysis: Kartini's case indicates various forms of exploitation, such as the withholding of salary payments for 6 months, physical and mental abuse, as well as physical confinement. This is an indication of 'forced labour' and 'slavery or similar practices'.

#4 The case of Eva. Eva claimed that her pimp always forces her to sleep with as many customers as possible, and never allowed to leave the premises of where she works. She is even not allowed to send money home to her child. She is not in a position to refuse when customers insist on using painful sexual accessories on her during working. She once attempted to run away with the help of her friend, a taxi driver, but they were both caught by her boss' spies who are everywhere around Kota Kinabalu. Her friend was beaten, while she was forced back into prostitution. What forms of exploitation can be identified from Eva's story?

Expected analysis: Eva's case indicates various forms of exploitation, such as physical abuse she has to endure as a forced prostitute and confinement. This is an indication of 'sexual exploitation' and 'slavery / servitude'.

- 4.7. Sharing of group discussion results.** After 10 minutes, the groups are invited to write down their discussion results on meta-plan cards which will be shown and presented in front of all other participants.
- 4.8. Facilitating the presentation.** The task of the facilitator is to facilitate the presentation of discussion results, and to cluster the presented analysis in order to highlight key points of all group discussions. Afterwards, the facilitator displays the presentation slide containing the various forms of exploitation, and compares it side-by-side with the discussion results.
- 4.9.** The facilitator highlights the fact that the withholding of passports by employers coupled with other forms of abuse is a practice of exploitation.

Note to facilitators

- 1) *It has been a longstanding practice since the 1980s for employers in Malaysia to keep the passport of their migrant worker employees. This places the employees in vulnerable positions to be exploited. Recent labor regulations in Malaysia that came into effect in 2009 have banned this practice.*
- 2) *Further discussions related to the practice of employers in keeping / withholding passports could also be referred back to the case studies of Marcus and Florensus.*
- 3) *In the legal and social context in Malaysia, commercial sex work is not considered as a legal nor socially acceptable occupation. It is therefore advised for facilitators to use the term 'prostituted women' to highlight the involuntary processes where women are forced into prostitution.*
- 4) *The facilitator should avoid and discourage debates or discussions that would like to apply socially-defined moral and religious perspectives, which often lead to the stigmatization -if not criminalization - of sex workers / prostitutes. This would be counter-productive to efforts in fostering an unbiased legal perspective to the combating of trafficking.*

STEP 5 CONCLUSIONS

**5
MINUTES**

5.1. Discussion summary. The facilitator will summarize the discussion by linking the discussion results with the UN Palermo Protocol and Act 670/2007 Part 1 Section 2, which states that ,“‘exploitation’ means all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs.” The latter definition also elaborates how exploitation could be categorized into **physical**, **psychological** and **sexual** exploitation.

5.2. Key points learned from session 4. The facilitator will add a number of key points to the summary of session 4, as follows:

- Session 4 is aimed at raising understanding on the various forms of exploitation that trafficking victims may endure.
- Act 670/2007 provides strong legal basis to prosecute perpetrators who exploit their victims.

5.3. The facilitator concludes the session. The facilitator will introduce the next session which is going to focus on the impacts of trafficking.

SESSION 5 TRAFFICKING: MICRO AND MACRO IMPACTS

Session Description

STEPS	CONTENTS	TIME ALLOCATION
1	Brief review of session 4 and the Trafficking Framework	5 minutes
2	Introduction and brainstorming session on the micro and macro impacts of trafficking.	10 minutes
3	Group discussion: Impact analysis of trafficking on individual, community and state levels.	25 minutes
4	Needs assessment related to trafficking impacts	30 minutes
5	Categorization of needs	15 minutes
6	Conclusions	5 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- The impact and consequences of trafficking;
- Needs and requirements to mitigate the impacts of trafficking.

Session Outcome

By the end of the session, participants should be able to:

- Identify and understand the various impacts of trafficking on individual, community and state levels;
- Identify the needs and requirements to mitigate the impacts of trafficking on both individual, community and state levels.

Materials

- Computer/laptop
- InFocus, screen
- Flip charts
- Marker
- Slide presentation #1: Session 5 Objectives
- Slide presentation #2: Identification of trafficking impacts
- Slide presentation #3: Act 670/2007 Part V - Care and protection of trafficked persons
- Slide presentation #4: Needs Assessment Table
- Handouts for participants:
 - Case study # 1 Kumala – hairdresser in Malaysia*
 - Case study # 2 Niar – domestic helper in Malaysia*
 - Case study # 3 Imah – domestic helper in Malaysia*
- Handouts for participants: Act 670/2007 Part V
- Masking tape

Duration

90 minutes

Session Plan

STEP 1	Brief Review of Session 4 and The Trafficking Framework	5 MINUTES
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- 1.1. Brief review of session 4 and the Trafficking Framework.** The facilitator invites 2-3 participants to provide a brief review of session 4. The facilitator should highlight the importance for participants to understand the Trafficking Framework.
- 1.2. Introduction to session objectives.** The facilitator displays slide presentation #1, and explains that the session is focused on the impact of trafficking on individual, community and state levels, with particular reference to Malaysia as a receiving destination of trafficking victims.

STEP 2 Introduction and Brainstorming Session on The Micro and Macro Impacts of Trafficking	10 MINUTES
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- 2.1. Brainstorm session on trafficking impacts.** The facilitator starts by stating that “Trafficking impacts does not only affect individuals, but also the community and state at large” and invites participants for a brainstorming session on trafficking impacts and how it affects individuals, the community and the state. The facilitator should stimulate participants in coming forward with their opinions, particularly on trafficking impacts on the community and state level.
- 2.2. Recording the participants’ opinions.** The facilitator displays slide presentation #2 while guiding and facilitating the brainstorm discussion. The facilitator should write down the opinions on the ‘impact’ column of the following flip chart.

Identification of Trafficking Impacts	
Levels	Impact
Individual	
Community	
State	

Expected opinions / analysis:

Levels	Impact
Individual	Trauma, physical trauma, death, suicide, depression, disease, etc.
Community	Social unrest, crime, HIV/ AIDS epidemic, financial loss on the local economy / employers, etc.
State	International reputation (e.g. Tier 3 in international anti-trafficking rankings), the loss of state revenue, the waste of state resources, worsening bilateral relations with neighbouring countries, etc.

2.3. Participants are divided into groups. The facilitator divides the participants into 3 groups, and hands out case studies for each group to discuss¹⁶:

#1 The Case study of Kumala – hairdresser

Kumala, 36 years old, was offered by a lady in Madiun (Indonesia) a job in a supermarket in Kota Kinabalu (Malaysia). Attracted by promises of a high salary, she decided to depart to Malaysia. While traveling on the boat, an Ambonese man warned her that many women have been deceived by such employment promises.

Upon arrival, she was not brought to Kota Kinabalu, but ended up instead working as a hairdresser in Labuan. The hair saloon turned out to be a facade to a brothel. Realizing she had been duped, Kumala decided to run away. She was caught by her boss on her first attempt, and was confined because he claimed that she still owed him RM 5,000 - the price she was sold. She later contacted the Ambonese man whom she previously met on the boat. His friend managed to rescue her, but she wasn’t able to retrieve any of her salaries. She returned to Indonesia and temporarily lives in Nunukan with a Florenese family.

¹⁶ All case studies adopted from *Jeratan Hutang dalam Perdagangan Manusia* (“Debt Bondage and Human Trafficking”) (Sirait, G.M, et.al., Jakarta, Center for Social Development, Unika Atma Jaya, 2007.)

#2 The Case study of Niar – domestic helper

Niar, 25, originates from Pontianak in West Kalimantan. The fourth child out of seven siblings, she is currently married to Aloy (from Flores) and gave birth to two children. Niar hasn't worked since marriage.

She was previously approached by one of her uncles in Sanggau to work in Malaysia. He promised that she could at least earn RM 150 per month, and that she may have a rise to RM 220 if she could satisfy her employers. Her uncle brought her to a 'boss' in Kuching, who sold her off to an agent, and who later sold her off again to an employer in Kota Kinabalu.

Niar could not contact her family ever since arriving in Kuching. She only knew that all her travel costs were paid for by her uncle, who was then reimbursed by her employer. Niar didn't receive her salary for 1 year and 8 months. Her employer claims that her salary was paid out to her uncle. She could only secure small loans for her daily needs.

Without sufficient money and identification papers, Niar was confined to her employer's house where she was not given adequate food. She was also verbally and physically abused by her employer and his wife. She was once beaten when she fell ill and refused to take the medicines given to her. She was not brought to a medical doctor. When she felt she couldn't hold it any longer, she decided to run away to her Florenese friend. This is here she is introduced to her current husband Aloysius, who brought her to safety in Tawau. She has two children, but is still longing to return home.

#3 The Case Study of Imah – domestic helper

Imah departed to Malaysia from her village in Solor (Indonesia). She was 19 years old back then. Her departure was arranged by Djoni, a recruiting agent for migrant workers to Malaysia. She and her parents both trusted Djoni in helping to find her a job as a domestic helper in Malaysia.

Imah headed first to Nunukan where her passport was being arranged. After receiving a passport, valid for 3 years, Imah was brought to Kota Kinabalu to further secure an employer and working permits. Her elder sister who had worked in Sabah as a domestic worker assisted her in finding an employer.

Imah had worked for 4 months when she was arrested and jailed. Her employer had always claimed that the monthly RM 100 deduction from her RM 150 salary was used to secure working permits. She then realized that her employer has never arranged her working permits. Imah spent 6 weeks at the detention center where she was held with other Indonesian workers who all had similar problems with their passports and working permits. The detention period traumatized her, and she decided not to return to Malaysia again after being deported.

STEP 3 Group Discussion: Impact Analysis of Trafficking on Individual, Community and State Levels

25
MINUTES

- 3.1 Introduction to group discussions.** The facilitator invites participants to discuss in groups to identify the trafficking impacts on individuals, the community and the state. The case study handouts are helping tools for groups to analyze the various impacts of trafficking. The presented case studies highlight the impacts of trafficking on individual levels. Groups are also reminded to reflect back on trafficking definitions, modus operandi, debt bondage and exploitation from previous sessions. The groups are encouraged to focus extensively on trafficking impacts on the community and the state. Each group should write down the discussion results on a flip chart.
- 3.2 Group discussions.** Allow the group to discuss for 10 minutes. The facilitator should walk around visiting each group to anticipate questions that may arise
- 3.3 Group presentations.** Each group will appoint one spokesperson to present the discussion results for approximately 5 minutes the discussion results. Each presentation will be followed by short Q & A sessions.

STEP 4 Needs Assessment Related to Trafficking Impacts

30
MINUTES

- 4.1 Review of Act 670/2007 Part V.** The facilitator distributes the handout sheet containing Act 670/2007 Part V on *Care and protection of trafficked persons*. The facilitator reviews the contents of Part V by displaying slide presentation #3. The groups may use the contents of Part V to guide their next round of discussions.

Act 670/2007 Part V
Care and protection of trafficked persons

The sections in Part V cover the following:

- Place of refuge
- Appointment of Protection Officers
- Taking a person into temporary custody
- Person in temporary custody in need of medical examination or treatment
- Medical examination and treatment
- Authorization for hospitalization
- Control over hospitalized person
- Steps to be taken after medical examination or treatment
- No liability incurred for giving authorization
- Investigation, enquiry and Protection Order
- Recording of evidence of trafficked person
- Application by parent, guardian or relative
- Release of trafficked person
- Trafficked person who escapes or is removed from place of refuge
- Offence of removing or helping a trafficked person to escape from place of refuge
- Power of Minister to remove trafficked person from one place of refuge to another

4.2 Explanation on the importance of the formulation of Needs Assessments. The facilitator explains that the identified trafficking impacts on individuals, the community and the state have to be efficiently addressed. The next round of discussions will be focused on formulating a **needs assessment** based on the discussed impacts.

4.3 Group discussion. The facilitator displays slide presentation #4 'Needs Assessment Table' to guide the group discussions. Allow 15 minutes for group discussions.

Needs Assessment Table	
Levels	Requirements
Individual	
Community	
State	

Facilitator's Note:

Impact	Needs
<u>Individual</u> - Trauma - Disease / permanent disability / HIV infection - The inability to return home - Death - Material loss, etc.	- Counseling - Health services - Protection - Repatriation - Legal counseling and services
<u>Community</u> - HIV/AIDS epidemic - Criminal activities - Others	- HIV/AIDS awareness campaigns - The increase of law enforcement and security measures
<u>State</u> - Political standing / international reputation - Bilateral relations with neighbouring countries - others	- Policies to increase assistance and support for victims - Bilateral and/or multilateral cooperation in combating trafficking

4.4 Group presentations. Each group will appoint one spokesperson to present the discussion results for approximately 5 minutes the discussion results. Each presentation will be followed by short Q & A sessions.

Facilitator's Note:

The facilitator should ensure that the identified needs assessments should match and address the previously identified trafficking impacts. The needs assessment should be specific and concrete in order to make it implementable.

STEP 5 Categorization of Requirements/Needs

15
MINUTES

5.1. Discussion on the categorization of requirements / needs. After the group presentations have finished, the facilitator guides the discussion of the larger group. Invite the participants to focus on the identified needs assessments written down on the flip charts. Encourage participants to formulate more general categories for the identified requirements. The facilitator may start by grouping together requirements / needs that show overlapping similarities. The new categories should be written down on a new flip chart.

5.2. The expected categorization:

- Protection and support of victims of trafficking in persons (individual level)
 - health
 - repatriation
 - social rehabilitation/psychosocial
 - legal aid
 - reintegration
- Prevention and advocacy (community level)
 - awareness raising
 - livelihood improvement
 - network building
- Law enforcement (state level)

STEP 6 CONCLUSIONS

5
MINUTES

6.1. Key points learned from session 5. The facilitator underlines that this session:

- Demonstrates that trafficking brings both material and non-material impacts that negatively affects both the individual, community and the state;
- Highlights that trafficking impacts should be tackled by concrete interventions based on the needs assessment.

6.2. The facilitator concludes the session. The facilitator informs the participants that the results of the group discussions will be used as the basis for the formulation of recommended actions, which will be discussed in the following session.

AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 6 EFFORTS IN COMBATING HUMAN TRAFFICKING

SESSION DESCRIPTION

STEPS	CONTENTS	TIME ALLOCATION
1	Introduction to session objectives	5 minutes
2	Video playback (<i>Bondaged Souls</i> , chapter 5): <i>Past and ongoing measures to combat human trafficking in Southeast Asia</i>	5 minutes
3	Brainstorming <ul style="list-style-type: none"> Participants' reaction to the video message. Sharing of experiences in combating and handling human trafficking cases. 	5-10 minutes
4	Group discussion to formulate recommended actions.	30 minutes
5	Group presentations of recommended actions	30 minutes
6	Conclusions	5 minutes

Session Objectives

By the end of the session, participants should have acquired knowledge on:

- Identifying actions to be taken in order to combat trafficking.

Session Outcome

By the end of the session, participants are expected to be able to:

- Formulate recommended actions, identify implementing agents, mechanisms and potential partnerships in combating trafficking.

Materials

- Training video (*Bondaged Souls*, chapter 5)
- Computer/laptop
- LCD projector, screen, audio amplification (or TV)
- Slide presentation #1: Session 6 Objectives

- Slide presentation #2: Matrix of Recommended Actions
- Worksheet: Matrix of Recommended Actions
- Flip chart
- Markers

Duration

120 minutes

Session Plan

STEP 1 Introduction to Session Objectives and Outcome

5
MINUTES

- 1.1. **Introduction to session objectives.** The facilitator should start by explaining that this would be the last session of the training. Participants will formulate recommended actions, which are expected to be implemented by various institutions in efforts to combat trafficking. These recommended actions would constitute initial steps for participants to apply their acquired knowledge from previous sessions in designing implementable activities to combat trafficking in Malaysia.
- 1.2. **Introduction to the video.** The facilitator informs that the participants will view an episode on past and ongoing measures to combat human trafficking in Southeast Asia. The facilitator asks participants to focus on the video contents, and if needed, take notes in their notebooks.

STEP 2 Video Playback (*Bondaged Souls*, chapter 5): *Past and ongoing measures to combat human trafficking in Southeast Asia*

5-10
MINUTES

- 2.1. **Video playback.** The facilitator should not leave the venue as she/he should be on standby to anticipate technical problems (e.g. defective audio, wiring problems) that may occur during the screening.

STEP 3 Participants' Reaction Towards Tthe Video

15
MINUTES

- 3.1. **Participants' reaction towards the video.** After watching, the facilitator will ask the participants' opinion, and whether they have encountered new knowledge from watching the video. Allow 5 minutes for participants to voice their opinions.
- 3.2. **Experience-sharing.** The facilitator starts the brainstorming session where participants are invited to relate their own experiences regarding challenges in combating trafficking in Malaysia. The facilitator should encourage participants to come forward with answers based on their own experiences. Write down the answers on the flip chart.
- 3.3. **Open and show the flip chart from session 5 (on needs and requirements).** When participants are finished with the brainstorming session, the facilitator reopens the flip chart from the previous session containing the needs and requirements in combating trafficking in Malaysia.
- 3.4. **Explanation on Recommended Actions.** The facilitator explains that the participants will be divided up into different formations from previous group discussion sessions. The assignment of each group is now to formulate feasible recommended actions based on the needs and requirements identified.

STEP 4 Group Discussion to Formulate Recommended Actions

30
MINUTES

- 4.1. **Participants are divided into discussion groups.** The groups are divided based on the organizational scope/backgrounds of participants. Participants with very specific backgrounds are free to choose which group to join.
- 4.2. **Explanation on the Recommended Actions matrix.** The facilitator shows Slide Presentation #2 as an example. The participants are asked to follow the example in filling the Recommended Actions matrix. The facilitator explains that the matrix contains a time table for each participant's institution to follow up on a short term (e.g. 1 year) basis in efforts to combat trafficking. Remind the participants that the recommended actions should be specific and within the scope of each institution's capacity.

Worksheet

RECOMMENDED ACTIONS

INSTITUTION :

DATE :

NO	CLUSTER	ACTIVITY according to priorities	Mechanisms to implement the activity	Responsible Government Agencies or/and Stakeholders	Potential partners (government agencies, NGOs, FBOs and CBOs)
1.	Protection and care - Health - Return - Social rehabilitation/ psycho-social services - Legal aid - Reintegration				
2	Prevention and advocacy - Awareness-raising - Livelihood - Network-building				
3	Law enforcement				

- The first column contains the clusters of needs and requirements as identified during session 5.
- The second column contains the activities according to priorities. Remind the participants that the recommended activities should be specific and concrete in order to address the needs and requirements.
- The third column contains the mechanisms of the recommended activities.
- The fourth column contains the list of responsible government agencies and / or stakeholders who will primarily implement / assist in the recommended activities
- The fifth column contains potential partners, such as government agencies, non-government organizations (NGOs), faith-based organizations (FBOs), civil-based organizations (CBOs) and / or other community-based organizations.

4.3. Principles in formulating Recommended Actions. The facilitator reminds the groups to incorporate the following principles:

- a) realistic planning
- b) implementability
- c) tangibility/measurability

- 4.4. Group discussion.** Allow 40 minutes for the groups to formulate recommended actions on a worksheet. Each group may write down the discussion results on a flip chart or (if applicable) on laptop computers.
- 4.5. During the group discussions,** the facilitator should walk around visiting each group to anticipate questions that may arise on the formulation of recommended actions.

STEP 5 Presentation of Recommended Actions

**30
MINUTES**

- 5.1. Group presentations.** Invite one group to start with the presentations. Allow 5 minutes for each group to present their recommendations, and another 10 minutes for each group to respond to reactions (e.g. clarifications, proposals) from the floor.
- 5.2. Review of the group discussions.** The facilitator reviews the output of the group discussions, and assesses it against the required incorporated principles: a) realistic planning; b) implement ability; and c) tangibility/measurability.

STEP 6 CONCLUSIONS

**5
MINUTES**

- 6.1.** After all groups have finished presenting the recommended actions, the facilitator should re-emphasize that these should be considered as initial steps for each participant's affiliated institution in initiating commitments to combat trafficking in Malaysia. The recommendations ultimately embody efforts to fully implement Act 670/2007 to combat trafficking in persons throughout Malaysia, be they local citizens or migrants.

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 1 TRAFFICKING: DEFINITIONS

United Nations (UN) definition in the 'Palermo Protocol':

"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.

(UN Protocol to the Convention against Transnational Organised Crime, Palermo, 2000)

Trafficking definition under Act 670/2007 Part I Section 2

"trafficking in persons" or "traffics in persons" means the recruiting, transporting, transferring, harbouring, providing or receiving of a person for the purpose of exploitation;

"child" means a person who is under the age of eighteen years;

Act 670/2007 Part III Section 13

Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:
- (a) threat;
 - (b) use of force or other forms of coercion;
 - (c) abduction;
 - (d) fraud;
 - (e) deception;
 - (f) abuse of power;
 - (g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
 - (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 14

Offence of trafficking in children

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 16

Consent of trafficked person irrelevant

In a prosecution for an offence under section 12, 13 or 14, it shall not be a defence that the trafficked person consented to the act of trafficking in persons.

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 2 Participant Handouts

Push and Pull Factors behind Migrations

Pull Factors	Push Factors

Analysis Sheet: The case of MELATI

PROCESS	+	MEANS	+	PURPOSE
	+		+	

Analysis Sheet: The case of MARCUS

PROCESS	+	MEANS	+	PURPOSE
	+		+	

| 2

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 2 Participant Handouts

| 1

CASE STUDIES (from the Video DVD *Bondaged Souls*, chapter 3)

a. The case of Udin, the '*Bapak Ayam*' (pimp)

Udin traffics, harbours and employs girls who are brought in from Nunukan (in Indonesia) to Tawau (in Sabah). He usually lures girls with promises of providing girls with easy work that are highly paid. Sometimes he uses marriages as a pretext for recruiting girls to Malaysia. The girl whom he 'marries' would easily be persuaded to recruit her girlfriends to come along to Malaysia. Upon arrival in Sabah, the girls will be coerced into providing sexual 'services' to customers. They will be beaten, deprived of food and confined if they refuse to do so, while being fully watched over by bodyguards. After a period, girls may be sold off to other pimps. Udin prefers trafficking young girls under 20 due to their high 'sale' value, especially for virgins whom customers are willing to pay for a lofty price. Girls are often moved around, between karaoke bars and different hotels in order to avoid police detection.

TRAFFICKER	MODUS OPERANDI	FORM

b. The Bondaged Family case (as told by the Indonesian Vice Consul in Tawau)

A family from South Sulawesi was recruited in coming to Malaysia by a fellow villager, who worked as a plantation *mandor* (supervisor) in Sabah. The family, consisting of husband, wife and two children, were lured by promises of a lucrative salary. They departed to Sabah after having sold their house and land to cover the travel expenses. The *mandor* arranged for the family to enter Sabah through Nunukan without passports, and were sold of for RM 1,600 to a plantation contractor. The family were employed as plantation workers, but were not able to receive any salary before the RM 1,600 debt was fully recouped by the contractor. The eldest daughter had to work as a shopkeeper, but even this was not sufficient for the daily survival of the family, who did not posses any money due to their debts.

TRAFFICKER	MODUS OPERANDI	FORM

c. **The case of Florensius**

Florensius along with 3 other friends came to Sabah to work as oil palm plantation croppers. At the time of the interview, none had any passports since coming to Sabah. The contractor (*tauke*) who employed them promised that he would secure them the legal papers. They worked for 6 months, not receiving any salary believing that the monthly deduction of RM 50 would be used to arrange for passports and working permits. However, the *tauke* has never been able to show receipts as proof of the ongoing legalisation process. Moreover, despite being once ‘photographed’, they have never been required to fill forms, nor asked for their names or place of birth, which would be normal to any formal legalisation process. Florensius began to doubt that they will ever receive their passports.

TRAFFICKER	MODUS OPERANDI	FORM

Act 670/2007 Part III Section 13

Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:
- (a) threat;
 - (b) use of force or other forms of coercion;
 - (c) abduction;
 - (d) fraud;
 - (e) deception;
 - (f) abuse of power;
 - (g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
 - (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 14

Offence of trafficking in children

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 15

Offence of profiting from exploitation of a trafficked person

Any person who profits from the exploitation of a trafficked person commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to a fine of not less than fifty thousand ringgit but not exceeding five hundred thousand ringgit.

DEBT-BONDAGE CASE STUDIES

- a. **The case of Marcus:** Marcus claimed that he was persuaded by his friend to work in Malaysia for an ostensible monthly salary of RM 2,000. He has not, however, received his salary, even after having worked for 6 months. He has never received or seen his passport, despite claims by his boss that his salary was being deducted and withheld in order to cover the necessary immigration papers. Without money and identification papers, Marcus decided to run away.
- b. **The case of Florentius.** Florentius along with 3 other friends came to Sabah to work as oil palm plantation croppers. At the time of the interview, none had any passports since coming to Sabah. The contractor (*tauke*) who employed them promised that he would secure them the legal papers. They worked for 6 months, not receiving any salary believing that the monthly deduction of RM 50 would be used to arrange for passports and working permits. However, the *tauke* has never been able to show receipts as proof of the ongoing legalisation process. Moreover, despite being once 'photographed', they have never been required to fill forms, nor asked for their names or place of birth, which would be normal to any formal legalisation process. Florentius began to doubt that they will ever receive their passports.

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

SESSION 4 Participant Handouts

"Exploitation definition in the 'Palermo Protocol':

"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;
(UN Protocol to the Convention against Transnational Organised Crime, Palermo, 2000)

Act 670/2007 Part I Section 2

"exploitation" means all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs;

An important point to note is the irrelevance of one's past sexual history to be used as defense in a prosecuted trafficking case that involves sexual exploitation, as stipulated in Act 670/2007 Part III Section 17:

Act 670/2007 Part III Section 17
Past sexual behaviour irrelevant

A trafficked person's past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the trafficked person was engaged in other sexual behaviour or to prove the trafficked person's sexual predisposition.

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Case studies of Exploitation:

#1 The case of Ibu Yani. Bu Yani claims that she owed her employer debts which were ostensibly used to cover passport fees. She had to work for 5 months, often with unpaid overtime, without receiving any salary. During her tenure, she was not allowed to leave her employer's house. What forms of exploitation can be identified from Ibu Yani's story?

| 3

#2 The case of Jenny. Jenny told the story about her sister who worked as a domestic helper. She was overworked until it took toll of her health. She regularly urinated blood due to exhaustion. More than that, she couldn't leave her employer's house because her passport was kept by her employer, and the house was always guarded. What forms of exploitation can be identified from Jenny's sister's story?

#3 The case of Kartini. Kartini claimed that as a domestic helper, she has been constantly forced to work overtime, such ironing and washing clothes up to the early morning hours, with little rest. She worked in Keningau for 6 months without receiving salaries that were ostensibly paid out by her employer, amounting to RM 3,300, to her recruiting agent. She became undernourished because she was only allowed to eat waste food. Moreover, she was constantly abused verbally. She ran away and ended up working for her current employer who never allows her to leave the house without escort. Kartini feels very depressed because she could not even send money home to her ailing father. What forms of exploitation can be identified from Kartini's story?

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 5 Participant Handouts

Case Studies on Trafficking Impacts.

#1 The Case study of Kumala – hairdresser

Kumala, 36 years old, was offered by a lady in Madiun (Indonesia) a job in a supermarket in Kota Kinabalu (Malaysia). Attracted by promises of a high salary, she decided to depart to Malaysia. While traveling on the boat, an Ambonese man warned her that many women have been deceived by such employment promises.

Upon arrival, she was not brought to Kota Kinabalu, but ended up instead working as a hairdresser in Labuan. The hair saloon turned out to be a facade to a brothel. Realizing she had been duped, Kumala decided to run away. She was caught by her boss on her first attempt, and was confined because he claimed that she still owed him RM 5,000 - the price she was sold. She later contacted the Ambonese man whom she previously met on the boat. His friend managed to rescue her, but she wasn't able to retrieve any of her salaries. She returned to Indonesia and temporarily lives in Nunukan with a Florenese family.

#2 The Case study of Niar – domestic helper

Niar, 25, originates from Pontianak in West Kalimantan. The fourth child out of seven siblings, she is currently married to Aloy (from Flores) and gave birth to two children. Niar hasn't worked since marriage.

She was previously approached by one of her uncles in Sanggau to work in Malaysia. He promised that she could at least earn RM 150 per month, and that she may have a rise to RM 220 if she could satisfy her employers. Her uncle brought her to a 'boss' in Kuching, who sold her off to an agent, and who later sold her off again to an employer in Kota Kinabalu.

Niar could not contact her family ever since arriving in Kuching. She only knew that all her travel costs were paid for by her uncle, who was then reimbursed by her employer. Niar didn't receive her salary for 1

year and 8 months. Her employer claims that her salary was paid out to her uncle. She could only secure small loans for her daily needs.

Without sufficient money and identification papers, Niar was confined to her employer's house where she was not given adequate food. She was also verbally and physically abused by her employer and his wife. She was once beaten when she fell ill and refused to take the medicines given to her. She was not brought to a medical doctor.

When she felt she couldn't hold it any longer, she decided to run away to her Florenese friend. This is where she is introduced to her current husband Aloysius, who brought her to safety in Tawau. She has two children, but is still longing to return home.

#3 The Case study of Imah – domestic helper

Imah departed to Malaysia from her village in Solor (Indonesia). She was 19 years old back then. Her departure was arranged by Djoni, a recruiting agent for migrant workers to Malaysia. She and her parents both trusted Djoni in helping to find her a job as a domestic helper in Malaysia.

Imah headed first to Nunukan where her passport was being arranged. After receiving a passport, valid for 3 years, Imah was brought to Kota Kinabalu to further secure an employer and working permits. Her elder sister who had worked in Sabah as a domestic worker assisted her in finding an employer.

Imah had worked for 4 months when she was arrested and jailed. Her employer had always claimed that the monthly RM 100 deduction from her RM 150 salary was used to secure working permits. She then realized that her employer has never arranged her working permits. Imah spent 6 weeks at the detention center where she was held with other Indonesian workers who all had similar problems with their passports and working permits. The detention period traumatized her, and she decided not to return to Malaysia again after being deported.

Identification of Trafficking Impacts	
Levels	Impact
Individual	
Community	
State	

Act 670/2007 PartV Care and protection of trafficked persons

The sections in Part V cover the following:

- Place of refuge
- Appointment of Protection Officers
- Taking a person into temporary custody
- Person in temporary custody in need of medical examination or treatment
- Medical examination and treatment
- Authorization for hospitalization
- Control over hospitalized person
- Steps to be taken after medical examination or treatment
- No liability incurred for giving authorization
- Investigation, enquiry and Protection Order
- Recording of evidence of trafficked person
- Application by parent, guardian or relative
- Release of trafficked person
- Trafficked person who escapes or is removed from place of refuge
- Offence of removing or helping a trafficked person to escape from place of refuge
- Power of Minister to remove trafficked person from one place of refuge to another

Needs Assessment Table

Needs Assessment Table	
Levels	Requirements
Individual	
Community	
State	

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

SESSION 6 Participants Handouts

Worksheet

RECOMMENDED ACTIONS

INSTITUTION :

DATE :

NO	CLUSTER	ACTIVITY according to priorities	Mechanisms to implement the activity	Responsible Government Agencies or/and Stakeholders	Potential partners (government agencies, NGOs, FBOs and CBOs)
1.	Protection and care <ul style="list-style-type: none">- Health- Return- Social rehabilitation/ psycho-social services- Legal aid- Reintegration				
2	Prevention and advocacy <ul style="list-style-type: none">- Awareness-raising- Livelihood- Network-building				
3	Law enforcement				

TRAFFICKING AWARENESS-RAISING TRAINING FOR LAW ENFORCERS

Training Objectives

The Trafficking Awareness-Raising Training for Law Enforcers is aimed at:

- Assisting law enforcement agencies (e.g. police officers, prosecutors, judges, employment supervisors, immigration officials and others) in gaining a deeper understanding on trafficking;
- Raising awareness on trafficking and its dangers;
- Assisting law enforcers in enforcing relevant legal instruments to combat trafficking

The training will be divided into 6 sessions:

- Trafficking: Definitions
- Migration and Trafficking
- Modus Operandi and Debt-Bondage
 - Exploitation
- Macro and Micro Impacts
- Recommended Actions

Session 1

Trafficking: Definitions

Session 1 – Slide Presentation
#2

Session 1 Objectives

The objectives of Session 1 are to explain:

- The ways by which trafficking is legally defined, and how it crucially affects state efforts in combating the crime. Vague understanding of the definitions may confuse and hinder law enforcers in combating trafficking;
- The major trafficking elements: Process, Means and Purpose;
- Awareness that trafficking constitutes a crime that should be combated.

Session 1 Outcome

By the end of the session, participants should be able to:

- Understand how trafficking is defined under the UN Palermo Protocol and Act 670/2007;
- Understand the Trafficking Framework and its three major elements: Proces, Means and Purpose;
- Agree on the fact that trafficking constitutes a crime that should be combated.

United Nations (UN) definition:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring 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.

(UN Protocol to the Convention against Transnational Organized Crime, 2000)

**Trafficking definition under Act
670/2007 Part 1 Section 2**

“trafficking in persons” or “traffics in persons” means the recruiting, transporting, transferring, harboring, providing or receiving of a person for the purpose of exploitation;

Act 670/2007 Part III Section 13
**Offence of trafficking in persons by means of threat,
force, etc.**

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:
- a) threat;
 - b) use of force or other forms of coercion;
 - c) abduction;
 - d) fraud;
 - e) deception;
 - f) abuse of power;
 - g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
 - h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
		or		or
Transportation		Coercion		Pornography
		or		or
Transferring		Abduction		Violence/ Sexual Exploitation
		or		or
Harboring		Fraud		Forced Labour
		or		or
Receiving		Deceit		Slavery/ Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Act 670/2007 Part III Section 16
Consent of trafficked person irrelevant

In a prosecution for an offence under section 12, 13 or 14, it shall not be a defence that the trafficked person consented to the act of trafficking in persons.

Act 670/2007 Part I Section 2
"child" means a person who is under the age of eighteen years;

Act 670/2007 Part III Section 14
Offence of trafficking in children

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Case Studies

The case of Marni:

Marni is a 16-year old girl. A man came by one day and offered the girls in Marni's village job opportunities as restaurant waitresses in Malaysia. Due to her family's poverty, Marni's parents pressured her to go to Malaysia. Upon arriving, however, Marni was sent to work as a Karaoke bar girl where she was also expected to double as a prostitute.

Analysis:

This is a clear **trafficking case**. Marni was recruited and transferred to Malaysia (PROCESS) and was deceived into believing that she was going to work as a restaurant waitress (MEANS), where in reality she ended up working as a Karaoke bar girl for sexual exploitation (PURPOSE). Due to her underaged status (under 18, implying that she is legally defined as a 'child'), her consent in deciding to go and work becomes irrelevant, because it were her parents who abused their powers in forcing her to go (MEANS).

PROCESS	+	MEANS	+	PURPOSE
None	+	<ul style="list-style-type: none"> ✓ Deceit ✓ Abuse of power ✓ Threat 	+	<ul style="list-style-type: none"> ✓ Sexual exploitation

The case of Yon:

Yon, originally coming from Nusa Tenggara, has worked for a long time in Surabaya. After being affected by a mass lay-off, he decided to try his luck working in Sabah upon hearing a friend's success story. Having no money, Yon entered Sabah without papers with the help of his friend. Fearing police detection, Yon asked his friend to secure him a passport. He entrusted his entire salary as an oil palm plantation worker to his friend in order to secure his papers. After fruitlessly waiting for more than a year, Yon was one day arrested for immigration violations during a police raid. His friend, whom he entrusted his entire salary, disappeared without a trace.

Analysis:

This is clearly a **trafficking case**. Yon was transferred from Surabaya and entered Sabah illegally (PROCESS). He was deceived into believing that his money would be used to secure him a passport (MEANS). He had to work for over a year while entrusting his entire salary to his friend, after which he was caught by the police and his friend disappeared (PURPOSE).

PROCESS	+	MEANS	+	PURPOSE
<ul style="list-style-type: none"> ✓ Recruitment ✓ Transferred 	+	<ul style="list-style-type: none"> ✓ Deceit ✓ Fraud 	+	<ul style="list-style-type: none"> ✓ Forced labour

The case of Rahma:

Rahma is a 17-year old girl coming from Kota Kinabalu. Her father died of illness when she was 8, and her mother had to work ever since to feed the entire family. As the eldest daughter of 6 children, Rahma could only finish primary school due to the lack of funds.

She had to help the family by taking numerous jobs as a shopkeeper. Two years ago, Rahma befriended Abdul from Kota Kinabalu, and they began courting each other. She never suspected that Abdul was a kempen (middleman) doubling as a bapak ayam (pimp), looking for girls to sell to male customers.

Unfortunate for Rahma, she could not escape because Abdul was always keeping his eyes on her. He threatened her that if she'd dared to escape he would inform her family that she worked as an ayam (prostitute). Her family still believes until now that she's working as a shopkeeper.

Analysis:

Rahma's case could be classified as **child prostitution, not a trafficking case**. Rahma lives and works in Kota Kinabalu (there is no transferring PROCESS involved here). Although she had been deceived (MEANS) by her own 'boyfriend' through the abuse of power and use of threats (MEANS) forcing her into prostitution (PURPOSE), the PROCESS element has not been met.

PROCESS	+	MEANS	+	PURPOSE
None	+	✓ Deceit ✓ Abuse of power ✓ Threat	+	✓ Sexual exploitation

Session 2

Migration & Trafficking

Session 2 – Slide Presentation
#1

Session 2 Objectives

By the end of the session, participants should have acquired knowledge on:

- Identifying push and pull factors behind migrations, and the importance of understanding their linkage to trafficking;
- The importance of knowing various forms of trafficking;
- The importance of identifying trafficking victims and perpetrators.

Session 2 Outcome

By the end of the session, participants are expected to be able to:

- Identify push and pull factors behind migrations, and their linkage to trafficking;
 - Identify various forms of trafficking;
 - Identify trafficking victims and perpetrators.

Pull Factors	Push Factors
<ul style="list-style-type: none"> Available job vacancies in occupations that younger Malaysians / Sabahans deem as unattractive and would rarely enter such as in the construction and plantation sectors (Source: Permanent Secretary to the Sabah Minister of Youth and Sports). Rapid development which requires mass recruitment of labour. (Source: Permanent Secretary to the Sabah Minister of Youth and Sports). Geographical proximity and ease of transportation into Sabah. (Source: Indonesian Vice-Consul on Labour Affairs in Tawau) Relatively higher wages (Source: Customs official) 	<ul style="list-style-type: none"> Lower wages in places of origin Armed conflict Poverty Limited job vacancies Relative ease in obtaining border passes Longstanding migration traditions / networks (Source: Indonesian Vice-Consul on Labour Affairs in Tawau)

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence/ Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery/ Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

MIGRATION ROUTES



Session 3

Modus Operandi and Debt-Bondage

Session 3 Objectives

By the end of the session, participants should have acquired knowledge on:

- The various *modus operandi* (modes of operation) employed by traffickers.
- The role of debt-bondage as a recurrent and significant element in the majority of trafficking cases.

Session 3 Outcome

By the end of the session, participants are expected to be able to:

- Understand the various *modus operandi* employed by traffickers.
- Understand that traffickers constantly modify their modes of operation.
- Understand that debt-bondage is often used to exploit trafficking victims.

Definition under the UN Palermo Protocol:

"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;

UN Protocol to the Convention against Transnational Organised Crime, 2000

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Act 670/2007 Part III Section 13
Offence of trafficking in persons by means of threat, force, etc.

13. Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means:
- (a) threat;
 - (b) use of force or other forms of coercion;
 - (c) abduction;
 - (d) fraud;
 - (e) deception;
 - (f) abuse of power;
 - (g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or
 - (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 14
Offence of trafficking in children

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

Act 670/2007 Part III Section 15
Offence of profiting from exploitation of a trafficked person

Any person who profits from the exploitation of a trafficked person commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to a fine of not less than fifty thousand ringgit but not exceeding five hundred thousand ringgit.

CONCLUSIONS

Key points learned from session 3:

- Traffickers use various modes in achieving their objectives. Traffickers very often attempt to cheat around existing legal loopholes. It is therefore important for law enforcers not only to limit themselves to isolated interpretations of trafficking modes as legally defined under existing legislation, but also to understand the linkages between PROCESS, MEANS and PURPOSES which make up the major elements of a trafficking offense.
- Debt-bondage is a recurring mode of operation used by traffickers in exploiting their victims. Debt bondage could not be easily detected, but tangible giveaway signs could be detected from its direct effects among victims, such as regular overtime work, signs of overworked labour regardless of their physical health, confinement within the working place, physical signs of torture, etc.

The major elements of debt-bondage:

- The absence of transparency and clarity regarding some person's debt and the terms or mechanisms for repayment.
 - Personal services or servitude that is considered as collateral for debt repayment.
- The supposed value of services provided by the victim (debtor) that rarely affects the value of debt or repayment period.

Session 4

Exploitation

Session 4 – Slide Presentation #1

Session 4 Objectives

By the end of the session, participants should have acquired knowledge on:

- The definitions of exploitation;
- The various forms of exploitation

Session 4 Outcome

By the end of the session, participants are expected to:

- Have a common understanding of how exploitation is defined under Act 670/2007 Part I Section 2.
 - Have the ability to identify various forms of exploitation.

Trafficking Framework

PROCESS	+	MEANS	+	PURPOSE
Recruitment		Threat		Prostitution
or		or		or
Transportation		Coercion		Pornography
or		or		or
Transferring		Abduction		Violence / Sexual Exploitation
or		or		or
Harboring		Fraud		Forced Labour
or		or		or
Receiving		Deceit		Slavery / Similar Practices
		or		or
		Deception		Abuse of reproductive Organs
		or		
		The Abuse of Power		
		or		
		Debt Bondage		
1	+	1	+	1
Consent of victim is irrelevant.				

Act 670/2007 Part I Section 2

“exploitation” means all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs;

Act 670/2007 Part III Section 17 Past sexual behaviour irrelevant

A trafficked person’s past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the trafficked person was engaged in other sexual behaviour or to prove the trafficked person’s sexual predisposition.

Definition under the UN Palermo Protocol:

"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;

UN Protocol to the Convention against Transnational Organised Crime, 2000

Session 5

Macro and Micro Impacts

Session 5 Objectives

By the end of the session, participants should have acquired knowledge on:

- The impact and consequences of trafficking;
- Needs and requirements to mitigate the impacts of trafficking.

Session 5 Outcome

By the end of the session, participants should be able to:

- Identify and understand the various impacts of trafficking on individual, community and state levels;
- Identify the needs and requirements to mitigate the impacts of trafficking on both individual, community and state levels.

Identification of Trafficking Impacts	
Levels	Impact
Individual	
Community	
State	

Levels	Impact
Individual	Trauma, physical trauma, death, suicide, depression, disease, etc.
Community	Social unrest, crime, HIV/AIDS epidemic, financial loss on the local economy / employers, etc.
State	International reputation (e.g. Tier 3 in international anti-trafficking rankings), the loss of state revenue, the waste of state resources, worsening bilateral relations with neighbouring countries, etc.

Act 670/2007 Part V
Care and protection of trafficked persons

The sections in Part V cover the following:

- Place of refuge
- Appointment of Protection Officers
- Taking a person into temporary custody
- Person in temporary custody in need of medical examination or treatment
- Medical examination and treatment
- Authorization for hospitalization
- Control over hospitalized person
- Steps to be taken after medical examination or treatment
- No liability incurred for giving authorization
- Investigation, enquiry and Protection Order
- Recording of evidence of trafficked person
- Application by parent, guardian or relative
- Release of trafficked person
- Trafficked person who escapes or is removed from place of refuge
- Offence of removing or helping a trafficked person to escape from place of refuge
- Power of Minister to remove trafficked person from one place of refuge to another

Needs Assessment Table	
Levels	Requirements
Individual	
Community	
State	

Session 6
Recommended Actions

Session 6 Objectives

By the end of the session, participants should have acquired knowledge on identifying actions to be taken in order to combat trafficking.

Session 6 Outcome

By the end of the session, participants are expected to be able to formulate recommended actions, identify implementing agents, mechanisms and potential partnerships in combating trafficking.

Worksheet

RECOMMENDED ACTIONS

INSTITUTION :

DATE :

NO	CLUSTER	ACTIVITY according to priorities	Mechanisms to implement the activity	Responsible Government Agencies or/and Stakeholders	Potential partners (government agencies, NGOs, FBOs and CBOs)
1.	Protection and care: - Health - Return - Social rehabilitation/ psycho-social services - Legal aid - Reintegration				
2	Prevention and advocacy - Awareness-raising - Livelihood - Network-building				
3	Law enforcement				

Human trafficking is a modern form of slavery where women, children and even males are unmercifully sold off as commodities, exploited and dehumanized. This training manual is a companion to the video DVD/VCD *Bondaged Souls* that reveals the suffering of trafficking victims telling their personal stories about the intricate workings of the human trafficking business in Sabah, Malaysia. The transnational nature of human trafficking as a crime against humanity poses enormous challenges to governments worldwide. Concerted effort is needed in providing support trafficking victims and to ultimately bring its perpetrators to justice. This manual is aimed at enhancing the capacity of law enforcers in identifying trafficking cases, its victims and perpetrators, and how to initiate further steps in combating human trafficking.

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Republic of Indonesia

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