

CHAPTER ONE

INTRODUCTION

A. Background

Transnational crime has been the world crucial issue since the 20th century, and it hasn't been settled yet until this time. Southeast Asia which is an area of dense traffic flow as well as various countries is also impacted by transnational crime. The data obtained from the largest country in Southeast Asia which is Indonesia shows that in 2013 the Police of Republic of Indonesia has handled 32.933 cases of transnational crime. It increases from the previous year which just 21.457 cases.¹ The data shows us that the transnational crime is a serious issue nowadays in facing the globalization.

Transnational crime includes offences whose inception, prevention, and/or direct or indirect effects involve more than one country.² According to United Nations (UN) organized crime groups consist of “three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses ... in order to obtain, directly or indirectly, a financial

¹ Data of Transnational Crime 2013, RobinOps Criminal Investigation Agency of Indonesian Republic Police, http://www.humas.polri.go.id/informasi-publik/documents/REKAPITULASI_KEJAHATAN_TRANSNATIONAL_2013. Accessed on October 5th, 2015 at 4:15 p.m.

² Gerhard O. W. Mueller, 1998, “Transnational Crime: Definitions and Concepts”, *Transnational Organized Crime*, Vol. 4, Autumn/Winter, Numbers 3&4.

or other material benefit.”³ As a whole, Asia has some of the world’s fastest growing economies and globalization, it is in line with the development of a crime what so-called as transnational crime. The fundamental factors underlying the growth and increasingly international character of transnational crime are the technological explosion and economic boom of the post-second World War period as well as the current geopolitical situation, which has been rapidly evolving since the collapse of the socialist world.

Transnational crimes which include the non-traditional threat have become a threat to countries in the ASEAN⁴ region. It was just begun when the ASEAN economic crisis in 1998 that led to the rise of criminal cases in the Southeast Asian area.⁵ Transnational crime has the potential of eroding this central belief thereby affecting the political, economic and social well-being of Southeast Asia. If the globalization era emerged or developed past few years, criminals had long ago used the concept of globalization without being confronted by rules of law even that occurred in a wide range of countries in the

³ The United Nations Convention Against Transnational Organized Crime. Available at http://www.unodc.org/unodc/en/crime_cicp_convention.html, Accessed on October 12th, 2015 at 8:15 p.m.

⁴ The Association of Southeast Asian Nations or ASEAN, was established on 8 August 1967 in Bangkok, Thailand, with the signing of the ASEAN Declaration (Bangkok Declaration) by the Founding Fathers of ASEAN, namely Indonesia, Malaysia, Philippines, Singapore and Thailand. The member states are all the Southeast Asian country, except Timor Leste, Papua New Guinea.

⁵ Bambang Cipto, 2007, *Hubungan Internasional di Asia Tenggara: Teropong Terhadap Dinamika, Realitas, dan Masa Depan*, Yogyakarta: Pustaka Pelajar, p. 80.

world today. The law with its all limitations becomes a protector for offenders of such crimes.⁶

In November 1994, the United Nation sponsored an international conference to develop strategies to combat transnational crime. Then, in 2000 the United Nation also had validated the United Nations Convention against Transnational Organized Crime as known as Palermo Convention⁷. This convention is the main international instrument in fighting transnational organized crime. It opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy and entered into force on 29 September 2003.⁸

The United Nation Convention on Transnational Organized Crime has classified the transnational crime into; Human Trafficking and Smuggling, Drug/Narcotic Trafficking, Firearms Trafficking, Environmental Resource Trafficking, Cybercrime, Maritime Piracy, Product Counterfeiting/Intellectual Property Theft (IP).⁹ The crime which can be called as transnational crime has some characteristics including; 1) the offense is committed in more than one country, 2) preparation, planning, direction and control are performed in other

⁶ R. Makbul Padmanagara, 2007, *Kejahatan Internasional, Tantangan dan Upaya Pemecahan*, Majalah Interpol Indonesia, p. 58.

⁷ The Palermo Convention is convention that was adopted by the United Nations to supplement the 2000 Convention against Transnational Organized Crime.

⁸ United Nations Convention against Transnational Organized Crime and the Protocols Thereto, <https://www.unodc.org/unodc/treaties/CTOC/>, Accessed on October 15th, 2015 at 1:35 p.m.

⁹ André Standing, rapporteur, December 2010, *Transnational Organized Crime and the Palermo Convention: A Reality Check*, New York: International Peace Institute.

countries, 3) involving organized criminal group in which the crime is committed in more than one country, 4) have a serious impact in the other countries.

In recognizing the urgency to tackle the transnational crime and its effect, ASEAN countries have taken concerted efforts to combat such crime since early 1970s. The Philippines was chosen as the host country on the inaugural Meeting of the ASEAN Ministers of Interior/Home Affairs on Transnational Crime on 20 December 1997 in Manila. Despite from giving each country the opportunity to exchange views on the situation in ASEAN regarding on the transnational crime, the meeting also discussed on the harmful effects suffered by member countries and the need to improve regional cooperation in combating transnational crime. The highlight of the meeting was the signing of the ASEAN Declaration on Transnational Crime by the Ministers. The document reflected ASEAN that countries have resolved in dealing with transnational crime and its intention to work together with the international community in combating transnational crime.

In line with the characteristics of transnational crime, the new transnational dangers faced by ASEAN have important features. Firstly, the common threats challenge as the serious challenges that have to be faced by ASEAN countries. Secondly, they were often linked to the effects of globalization. Thirdly and more importantly, they obeyed no transnational boundaries.¹⁰

¹⁰ Amitav Acharya, 2009, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order, Third Edition*, New York: Routledge, p. 59.

Since the transnational crime is the complex issue faced by countries in the world, the security has to be strengthened, as well as in Southeast Asia.¹¹ The rapid growth of the transnational crime is the key challenge to the Southeast Asia. ASEAN, the multilateral organization in Southeast Asia has emerged three pillars to face the growth of economic and globalization and its impact which be implemented by the end of 2015 as the response to them. The three pillars are ASEAN Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community.¹² The main point that is discussed is the ASEAN Security Community pillar.

ASEAN Security Community is the first pillar which is proposed by Indonesia which has an aim to ensure that countries in the region live at peace with one another and with the world in a just, democratic and harmonious environment. The ASEAN Security Community contemplates the following three key characteristics: A Rules-based Community of shared values and norms; A Cohesive, Peaceful, Stable and Resilient Region with shared responsibility for comprehensive security; and A Dynamic and Outward-looking Region in an increasingly integrated and interdependent world.¹³ The issue of transnational crime has become the important issue handled by ASEAN Security Community. ASEAN itself put an attention concerning with combating transnational crime

¹¹ Roderic G. Broadhurst, Vy Le, October 2012, "Transnational Organized Crime in East and South East Asia," *SSRN Electronic Journal*, DOI: 10.2139/ssrn.2121197.

¹² About ASEAN, ASEAN Secretary, Available at <http://www.asean.org/asean/about-asean>, Accessed on October 14th, 2015 at 3:20 p.m.

¹³ ASEAN Political-Security Community Blueprint, June 2009, Jakarta: ASEAN Secretariat.

until the Blueprint of ASEAN Security Community has been made. One of the agenda of the blueprint of ASC is handling the transnational crime by ASEAN Multilateral Meeting on transnational crime which will be held twice a year with the ASEAN countries as a host.

Unlike a 'security regime' in which the renunciation of the use and the threat of the use of force are prompted only 'by the existence of balance power or a mutual-deterrence situation', ASEAN Security Community is based on the fundamental, unambiguous and long-term convergence of interests among ASEAN members in the avoidance of war.¹⁴

The statement above is the statement which is stated in the Indonesian Foreign Ministry Paper. The statement declares that the ASEAN Security Community is the place for the ASEAN members which has the same interest concerning the action of strengthening the security through peace way and avoid the war in settling the disputes.

Even though ASEAN has taken a concern on the security matters, it is still categorized as an unsuccessful action. It is because the implementation of the Blueprint of ASEAN Security Community cannot be well-implemented. This condition is based on fact that there is no further discussion and adoption or ratification of a document as the action of the implementation of ASEAN Security Community Blueprint. The situation creates a big challenge to the Southeast

¹⁴ Ministry of Foreign Affairs, Indonesia, Deplu Paper on ASEAN Political-Security Community, tabled at the ASEAN ministerial meeting in Cambodia, 16-18 June 3003, p.5.

Asian countries as the member of ASEAN to take a serious action towards the issue.

B. Research Problem

1. Why implementing the security pillar in combating transnational crime in Southeast Asia is important?
2. What is the challenge faced by Southeast Asian Countries dealing with the issue of security in Southeast Asia?

C. Objectives of Research

1. To develop the understanding on the ASEAN Security Community pillar in combating transnational crime through the implementation of ASEAN Security Community Blueprint by the end of 2015.
2. To highlight the challenges on the issue of security faced by Southeast Asian countries

D. Benefits of Research

1. Theoretical Benefits

There has been some researches concerning on the issue of ASEAN Security Community and its matters. But, almost all of the researches have been done on the matters under the challenges in common. So far, there is no research which covers the issue of ASEAN Security challenge which focuses

on the implementation of ASEAN action of plan and the method to combat it. The advantage of this research is giving the understanding on the issue of security threat i.e. non-traditional threat includes transnational crime therein. The concern is being serious since the promulgation of transnational crime in the Blueprint of ASEAN Security Community. The research is required on the Southeast Asian countries as well as ASEAN in combating the transnational crime such as the ASEAN Declaration on Transnational Crime, the United Nation Convention against Transnational Organized Crime, and other regulation which is in relation with the issue of security and transnational crime.

2. Practical Benefits

The implementation of ASEAN Security Community Blueprint cannot be well undertaken by the members of ASEAN as what expected by the ASEAN's members before. Therefore, this research will give the insight on the implementation of ASEAN Security Community Blueprint and action on combating the transnational crime in Southeast Asia which dealing with the national security and international security.