

**THE ASEAN'S RESPONSES TOWARD  
HUMAN TRAFFICKING IN SOUTHEAST ASIA**

**UNDERGRADUATE THESIS**



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# CHAPTER I

## INTRODUCTION

### A. Background

ASEAN stand for Association of South East Asia Nations. Established on 8 August 1967 in Bangkok, ASEAN's founding fathers were 5 (five) foreign minister of Southeast Asia countries, they are Indonesia, Malaysia, Thailand, Philippine and Singapore, resulted joint declaration called ASEAN Declaration or Bangkok Declaration (see attachment I). As enlargement of ASEAN, other countries on region also joined the Association; they are Brunei Darussalam, Cambodia, Laos PDR, Myanmar, and Vietnam.<sup>1</sup>

The main purpose of ASEAN is strengthening the regional cooperation. The member states of ASEAN were had many conflicts among themselves in early times after World War II, such as *Konfrontasi*<sup>2</sup> between Malaysia and Indonesia, dispute of Sabah territory between Malaysia and Philippine and Communism ideology of Vietnam.<sup>3</sup> Although many disputes were occurred between the members previously,

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<sup>1</sup> ASEAN Selayang Pandang (Jakarta, Direktorat Jenderal ASEAN DEPLU RI 2005). Page 1.

<sup>2</sup> The Indonesia-Malaysia confrontation was a discontinuous war over the future of Borneo Island, between British-backed Malaysia and Indonesia in 1962-1966. Konfrontasi came from Indonesian and Malay language. Singapore was part of Malaysia at the time.

<sup>3</sup> Robert O. Tilman, External Beyond: external threat perception in the ASEAN region. (Singapore, ISEAS 1983). Page 49.

ASEAN has mission to keep comprehensive regional stability by preventing the growth of potential problems, conflicts and its sources.

There are main principles of ASEAN, as followed:<sup>4</sup>

1. Respect independence, equality, integrity, and sovereignty of all states.
2. Each states has right to solve own national issue without having external interference.
3. Problem solving and dispute settlement between states conducted safely.
4. Refuse to use force and repression.
5. Develop the cooperation among states effectively.

Since the beginning of its establishment, ASEAN as regional organization has priority in stability and security of Southeast Asia region. This priority actually made to keep regional stability and security in post Cold War era such as politic, economic and security problems. Member states have potential delicate condition toward stability and security threats, considering their geographic condition, differences ideology and internal conflict. Recently, ASEAN still faces many complex threats, especially non-traditional threats such transnational crimes.

The word "transnational" describes crimes that are not only international, crimes that cross borders between countries, but crimes that by their nature have border crossings as an essential part of the criminal activity. Transnational crimes also include crimes that take place in one country, but their consequences

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<sup>4</sup> Direktorat Jenderal Kerjasama ASEAN DEPLU RI (Jakarta, ASEAN Secretariat, 2004). Page 2 – 3.

significantly affect another country. However, transnational crime use take place from one to another country. Examples of transnational crimes are: 1. trafficking in human beings; 2. people smuggling; 3. illegal arms trade; 4. sex slavery; 5. terrorism (to be distinguished from domestic terrorism).<sup>5</sup> The transnational crime is conducted by an organized group which has purpose to raise money by trading commodities illegally. These group's actions involving weapon trade, illegal drugs distribution, blackmail, pornography, prostitution, human trafficking, cyber crime, ecology crime, etc. the symptom of transnational crimes emerge after the post Cold War and become more serious in early of financial crisis in Southeast Asian. Inferior condition of economy become one reason why transnational crimes growth faster in the region.<sup>6</sup> One of threat in the Southeast Asia region is human trafficking and human right issue or used to call Human Security.

The United Nations (UN) defines “trafficking in persons” as 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 to

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<sup>5</sup> [http://www.wikipedia.org/wiki/transnational\\_crime](http://www.wikipedia.org/wiki/transnational_crime). Accessed on 11 June2008.

<sup>6</sup> John McFarlane, “Transnational Crime and the Asia Pacific Security”, in *The Many Faces of Asian Security*, edited by Sheldon W. Simon. (Lanham and Oxford: Rowman & Littlefield Publisher, Ltd. 2001). Page 200.



achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>7</sup>

Human trafficking crime is hard to detect compare with other crime such illegal drugs distribution. This crime involving illegal labor trade from Indonesia and Philippine to Malaysia and Singapore, highly demand of prostitution in most of Southeast Asian (especially Thailand) is one of reason woman trafficking in the region, children also becomes victim of this crime as underage labors.<sup>8</sup> Human right issue also becomes concern in Southeast Asian. Ironically, human right which correlated with individual security is collision with old model of national security. The guarantee of individual security in one country is depend on the political ideology of the state, if the state tend to be democracy, then the individual security in society is more protected.<sup>9</sup> A principle of non-interference becomes challenge for ASEAN in facing human right violence in Burma and other member states. That principle is no longer relevant since human right issue becomes a global concern, even in the UN forum.

Indonesia as one of founding father ASEAN becomes a source of human trafficking in Southeast Asia nowadays with Malaysia as the No 1 destination of

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<sup>7</sup> <http://www.stoptrafficking.org>. 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Supplement to the UN Convention against Transnational Organized Crime. Accessed on 11 June 2008.

<sup>8</sup> Ralf Emmers and Leonard C. Sebastian, "Terrorism and Transnational Crime in the Southeast Asian International Relations". (Lanham, MD: Rowman & Littlefield Publisher, Inc., 2005). Page 178.

<sup>9</sup> M. Riefqi Muna, "ASEAN dan Tantangan di bidang Keamanan: Di Luar Batas Konvensional", in book with title: 'Menuju ASEAN Vision 2020: Tantangan dan Inisiatif'. (CSIS Jakarta, 2001). Page 97.

Indonesian victims of human trafficking, according to the International Organization for Migration. Out of 1,231 Indonesians who were trafficked from March 2005 to July 2006, 929 of them (75.5 per cent) were taken to Malaysia, where they were forced into prostitution, and forced labor with unfair wages or work as domestic maids.<sup>10</sup> The number of men who became trafficked is rarely to be identified.

ASEAN member countries have committed to the fight against trafficking in persons. This includes commitments to work together to prevent trafficking, to identify and protect the victims, and to ensure that criminals are punished. To succeed in the fight against such trafficking, ASEAN member countries need access to the best possible information. This includes the raw data about the trafficking situation, and the information and knowledge this can generate about how to do to prevent trafficking, protect victims and prosecute traffickers.<sup>11</sup>

The condition above is making leaders of Southeast Asia countries realize about negative impact of human trafficking issue for regional stability and need serious action to overcome it. They also realize that ASEAN as regional organization in Southeast Asia region should be more pro-active and play significant role to face the threats, in order to achieve ASEAN's purpose which is create peace and stability of the region.

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<sup>10</sup> <http://www.humantrafficking.org/countries/malaysia>. Accessed on 11 June 2008.

<sup>11</sup> <http://www.humantrafficking.org/publications/595>. Accessed on 11 June 2008.

## **B. Research Objectives**

This research with title The Responses of ASEAN toward Human Trafficking in Southeast Asia has several purposes, as followed:

1. Understanding the history of security issues in Southeast Asia and the history of ASEAN.
2. Analyzing about human trafficking issue in Southeast Asia, especially from Indonesia as source country to Malaysia as receiver country.
3. Observing the effort of ASEAN to overcome human trafficking in the region in order to keep regional stability and security.

## **C. Research Question**

The ASEAN is challenged by human trafficking problem that occurred in Southeast Asia which can contribute negative impact to regional stability.

Based on the background that has explained above, the research question is: “What policies that taken by ASEAN on combating human trafficking in Southeast Asia?”

## **D. Theoretical Framework**

In order to analyze the effort of ASEAN to overcome the problem of human trafficking, the concept of diplomacy will be used.

Diplomacy concept is based on the definition of diplomacy itself, which is intimately connected with interstate relations, is the art of forwarding the interests of

state through negotiation and peaceful means, if possible, in relation to other states. If peaceful means fail to obtain the desired objective, diplomacy permits to take resort to threat or actual use of force as means to achieve its ends.

Based on the above-mentioned definition, there are few points that can be examined, such: first, the most important element of diplomacy is negotiation. Second, the use of negotiation is to further the interest of state concerned. Third, diplomatic measures are adopted through peaceful means. Fourth, such techniques of diplomacy which are often being used to prepare for combat, but this condition are rarely happened. Fifth, diplomacy is closely connected with the aim of foreign policy. Sixth, modern diplomacy is closely related with to the state-system. Seventh, diplomacy is also bound to inter-state representation.<sup>12</sup>

The instruments of diplomacy according to *Kautilya*, the ancient Indian master of diplomacy are acknowledged in four principles namely, *sama*, *dana*, *danda*, and *beda*. The behavior of state to achieve diplomatic objectives through those principles instrument is known by modern author as cooperation, accommodation, and opposition. In sum, diplomacy is the negotiation way to further the states, organization or group's interest through peaceful means, but cannot avoid the use of force.

There are several types of diplomacy, as followed:<sup>13</sup>

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<sup>12</sup> Earnest Satow, A guide to Diplomatic practice, (Academic paperback Ltd., 1980). Page 3.

<sup>13</sup> S.L. Roy, Diplomacy, (Sterling Publishers Ltd., 1984). Page 91 – 135.

1. Commercial diplomacy is diplomacy based on economic instrument of one state to pursue its interest toward other.
2. Democratic diplomacy is diplomacy that based on major citizens, which people may know negotiation progress but sometime give no concern into it.
3. Totalitarian diplomacy is diplomacy due to many factors, such extremist nationalism, economic nationalism and ideological consideration.
4. Diplomacy by conference is diplomacy through meeting, dialogue forum (conference) in order to achieve mutual understanding.
5. Quite diplomacy is diplomacy that based on persuade of several major states or group in influence a majority's decision.
6. Preventive diplomacy is diplomacy that is used to avoid other influence toward themselves, such happened to non-bloc states during cold war.
7. Resource diplomacy is diplomacy to achieve interests through resource that possessed by a state. Today, this kind of diplomacy is commonly happened and advanced into technology resource.

Based on the diplomacy types above, the way of ASEAN on overcoming the problem of human trafficking is using the diplomacy by conference, since ASEAN based on its principles only can do the meeting and dialogue forum to solve the problem.

Concern of ASEAN in security became higher in the post Cold War era, when non-traditional issues of security were growth, many transnational crimes arose causing instability in Southeast Asia and nowadays, the issue of human trafficking also took much attention of ASEAN. However, instability in the region that is caused

by non-traditional issues, force ASEAN to play its role as regional organization in keeping security in Southeast Asia region. As an organization that built based on amity with principle of non-interference and consensus-based decision making, ASEAN conduct a meeting, forum and summit to solve the security problems that occurred but could not force member state to implement it directly. The member states will consider the results from ASEAN's meeting as a basis or reference in making policy and then implementing it into their national aspect.

On human trafficking issues, the ARF (ASEAN Regional Forum) as a board in giving advice for making policy, but not in making policy. The ASEAN Ministerial Meeting on Transnational Crimes (AMMTC) will be a board in making the plan of actions but could not interfere member states to implement it, based on the meeting, member states will be suggested to sign and ratified it. For example, ARF EGM (Experts' Group Meeting) make advice in human trafficking based on UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, then AMMTC has order to suggest member states to ratify it.

ASEAN consider meeting and forum are effective ways in solving problems that emerge in Southeast Asia. ASEAN need much effort to overcome any human trafficking that develops in Southeast Asia which operates smoothly and hard to detect. Through meeting, forum, and diplomacy which result the declarations, ASEAN tries to work together and build strong coordination in order to combat human trafficking and afford a comprehensive security, so the regional stability can be achieved according to ASEAN vision by 2015.

### **E. The Hypothesis**

The efforts need to be taken by ASEAN to overcome that issue is ASEAN build regional cooperation based on meeting and conference, then resulted declarations to prevent and overcome the internal threats such human trafficking as basic frame in making national policy of its member countries.

### **F. The Method of Research**

The research is using descriptive method. This method is to describe and analyze about ASEAN's effort to overcome human trafficking in Southeast Asia.

This research use library research to collect secondary sources which data are from books, journal, internet, newspaper and other related references.

### **G. The Range of Research**

In making the research to be focus, the range of research is from 1999 until 2007. However, the research is opened for other relevant data outside that range as long as it connected to support research.

### **H. The Composition of Research**

- ❖ Chapter I : This chapter about introduction which is included background, research question, theoretical framework, purposes of research, hypothesis, research method and range of research.

- ❖ Chapter II : This chapter will give general description about ASEAN and its historical security at glance.
- ❖ Chapter III : This chapter describes about ASEAN's security concept and human trafficking issue in Southeast Asia in general, describes data and the causes of human trafficking.
- ❖ Chapter IV : This chapter describes and observes policies that made by ASEAN in order to overcome human trafficking issue.
- ❖ Chapter V : Conclusion.



## CHAPTER II

### ASEAN AND REGIONAL SECURITY IN SOUTHEAST ASIA

#### A. Profile of ASEAN

In 8 August 1967, five *founding fathers of ASEAN (Association of Southeast Asia Nations)*, who are Adam Malik from Indonesia, Thanat Koman from Thailand, S. Rajaratman from Singapura, Narsisco Ramos from Filipina, and Tun Abdul Razak from Malaysia, gathered in Bangkok and made history above Southeast Asia region by built group of Southeast Asia nations, recognized as Declaration of Bangkok

Based on the Declaration of Bangkok, ASEAN has purposes such as: <sup>14</sup>

1. Increasing economic development, social, and culture in the region by togetherness and sprit of amity to strengthen the foundation of Southeast Asia nations which prosper and peace.
2. Increasing regional peace and stability by respect justice among nations in the region based on United Nations treaties.
3. Developing active cooperation and mutual assistance on issues that become general concern in sectors of economy, social, politic, technology, knowledge and administration.
4. Build mutual assistance in form of training and research in education, profession, technic and administration sectors.

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<sup>14</sup> ASEAN Selayang Pandang (Jakarta, Direktorat Jenderal ASEAN DEPLU RI 2007). Page 2.

5. Held effective cooperation in agriculture and industry, expanding trade and international commodities, fixing the transportation and communication and developing the life quality of ASEAN citizens.
6. Increasing the analysis of Southeast Asia
7. Maintaining strong cooperation with other international and regional organization which have same missions.

Main principle of ASEAN is equality among members without decreasing their sovereignty then consensus and consultation, common interest and solidarity with spirit of ASEAN becomes characteristic of this cooperation.

#### **A.1. Membership of ASEAN**

The membership of ASEAN is opened for every Southeast Asia nations with requirement that each candidate agree with principles and purposes of ASEAN which state on Declaration of ASEAN and all treaty that made by ASEAN. Otherwise, need consensus from other member nations about the candidate nation.

The process of ASEAN expand until ASEAN-10 is created as followed:<sup>15</sup>

1. After five founding nations, Brunei Darussalam was officialy accepted to be the 6<sup>th</sup> member on 7 January 1984 in Jakarta.
2. Vietnam are accepted to be the 7<sup>th</sup> member of ASEAN on 29 – 30 July 1995 in Bandar Seri Begawan.

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<sup>15</sup> Idem. Page 3.

3. Laos and Myanmar became member on 23 July 1997 in Subang Jaya, Malaysia.
4. Cambodia became fully member of ASEAN on 30 April 1999 in Hanoi.

## **A.2. Organization Structure of ASEAN<sup>16</sup>**

Based on Bangkok Declaration, organization structure of ASEAN consists of: ASEAN Ministerial Meeting (AMM) which is meeting of Minister of Foreign Affairs ASEAN; ASEAN Standing Committee (ASC) which consists of ambassador from ASEAN member nations and headed by Minister of Foreign Affairs who become head of ASC; permanent and ad-hoc committees; and National Secretariat in each ASEAN member nations.

Nowadays, the structure has been developed according to the advance of cooperation and changed, as followed:

### **1. ASEAN Summit**

ASEAN summit is a meeting of ASEAN Head of States which posses highest authority in ASEAN body. There are two ASEAN summits which are informal and formal. On the 4<sup>th</sup> Formal ASEAN summit 1992 in Singapore declared that formal ASEAN summit will be held every 3 (three) years with informal summit between that time-range. However, considering the fast development of ASEAN cooperation, ASEAN decided to conduct formal summit annually and eliminate informal summit.

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<sup>16</sup> Idem. Page 14 – 23.

## **2. ASEAN Ministerial Meeting (AMM)**

Decisions of ASEAN summit will be implemented through AMM. AMM has role and responsible to formulate guideline and conduct activities coordination which has decided in summit. In particular situation, Minister of Foreign Affairs can held meeting annually. On the 3<sup>rd</sup> formal ASEAN summit declared that other ministers could be involved in AMM if needed.

## **3. ASEAN Economic Ministerial Meeting (AEM)**

AEM is the highest body in determining economic cooperation and policy of ASEAN. AEM is held annually before summit. AEM was embodied since the 2<sup>nd</sup> ASEAN summit. The result of AEM and AMM will be brought to the ASEAN summit.

## **4. ASEAN Sector Ministerial Meeting (ASM)**

Besides the meeting of Minister of Foreign Affairs and Minister of Economy, ASEAN also conduct meeting of sector Ministers, such:

### **a. Ministerial meeting based on ASEAN Security Community (ASC):**

- ASEAN Defense Ministers' Meeting (ADMM) established in 2006;
- ASEAN Law Ministers' Meeting (ALAWMM) established in 1986; and
- ASEAN Ministerial Meeting on Transnational Crime (AMMTC) established in 1997.

**b. Ministerial meeting based on ASEAN Economy Community (AEC):**

- ASEAN Free Trade Area (AFTA) Council established in 1992;
- ASEAN Investment Area (AIA) Council established in 1998;
- ASEAN Ministerial Meeting on Agriculture and Forestry (AMAF) established in 1979;
- ASEAN Ministers on Energy Meeting (AMEM) established in 1980;
- ASEAN Finance Ministers' Meeting (AFMM) established in 1997;
- ASEAN Mekong Basin Development Cooperation (AMBDC) established in 1996;
- ASEAN Telecommunications and Information Technology Ministers' Meeting (TELMIN) established in 2001;
- ASEAN Transport Ministers' Meeting (ATM) established in 1996; and
- ASEAN Tourism Ministers' Meeting (M-ATM) established in 1998.

**c. Ministerial Meeting based on Social and Culture Community (ASCC):**

- ASEAN Ministers Responsible for Culture and Arts (AMCA) established in 2003;
- ASEAN Ministerial Meeting on Disaster Management (AMMDM) established in 2004;
- ASEAN Education Minister Meeting (ASED) established in 2006;
- ASEAN Ministerial Meeting on Science and Technology (AMMST) established in 1980;

- ASEAN Ministerial Meeting on the Environment (AMME) established in 1981;
- ASEAN Ministerial Meeting on Haze (AMMH) established in 1997;
- ASEAN Health minister Meeting (AHMM) established in 1980;
- ASEAN Ministers Responsible for Information (AMRI) established in 1989;
- ASEAN Labor Ministers Meeting (ALMM) established in 1975;
- ASEAN Ministerial Meeting on Social Welfare and Development (AMMSWD) established in 1979;
- ASEAN Ministers Meeting on Rural Development and Poverty Eradication (AMRDPE) established in 1997; and
- ASEAN Ministerial Meeting on Youth (AMMY) established in 1992.

##### **5. ASEAN Standing Committee (ASC)**

ASC is responsible to AMM and it conducts activities between 2 (two) AMM. Now, ASC is headed by appointed Minister of Foreign Affairs who becomes host of AMM and the members are General Secretary ASEAN and General Director of National Secretary ASEAN. Job desk of ASC is supervising all activity of functional committees, external relation, including the progress of cooperation and operational of ASEAN Secretariat. In a year, ASC held meeting around 4 – 6 times, where the first and the last meeting held in nation which becomes host of AMM and other meeting held in ASEAN Secretariat, Jakarta.

- **ASEAN Senior Officials Meeting (ASEAN SOM)**

ASEAN SOM officially embodied as a part of ASEAN mechanism on the 3<sup>rd</sup> ASEAN summit and responsible to handle cooperation in political and security sectors. SOM is responsible to AMM.

- **ASEAN Senior Economic Officials Meeting (SEOM)**

SEOM officially embodied as a part of ASEAN mechanism on the 3<sup>rd</sup> ASEAN summit in Manila. SEOM can make working groups depend on it need. SEOM is meet regularly and responsible to AEM.

- **Other ASEAN Senior Officials Meeting (OSOM)**

OSOM depend on each ministerial sector, there are: ASEAN Defense Senior Officials Meeting (ADSOM), ASEAN Senior Law Officials' Meeting (ASLOM), Senior Transport Officials' Meeting (STOM), Telecommunication Senior Officials' Meeting (TELSOM), Senior Officials Meeting on Youth (SOMY), and Senior Officials' Meeting on Education (SOMED).

## **6. Joint Consultative Meeting (JCM)**

JCM is embodied on the 3<sup>rd</sup> ASEAN summit in Manila, including ASEAN General Secretary, SOM, SEOM, and other ASEAN General Director.

## **7. ASEAN meeting with Dialogue Partner**

Each member nations of ASEAN has responsible as coordinator to cooperate with one of dialogue partners. According to the 18<sup>th</sup> AMM's decision in Kuala Lumpur, coordinator country are appointed every 3 (three) years alphabetically. The list of coordinator for ASEAN cooperation with dialogue partners during 2006 – 2009 are as followed:

- Brunei Darussalam, coordinator ASEAN-China;
- Cambodia, coordinator ASEAN-European Union;
- Indonesia, coordinator ASEAN-India;
- Laos, coordinator ASEAN-Japan;
- Malaysia, coordinator ASEAN-South Korea;
- Myanmar, coordinator ASEAN-New Zealand;
- Philippine, coordinator ASEAN-Russia;
- Singapore, coordinator ASEAN-United States;
- Thailand, coordinator ASEAN-Australia; and
- Vietnam, coordinator ASEAN-Canada.

Especially for relation between ASEAN and UNDP, ASEAN Secretariat is appointed as permanent coordinator. Another dialogue partner is Pakistan with ASEAN Secretariat as coordinator.



## **8. ASEAN Committees for the 3<sup>rd</sup> dialogue partner countries**

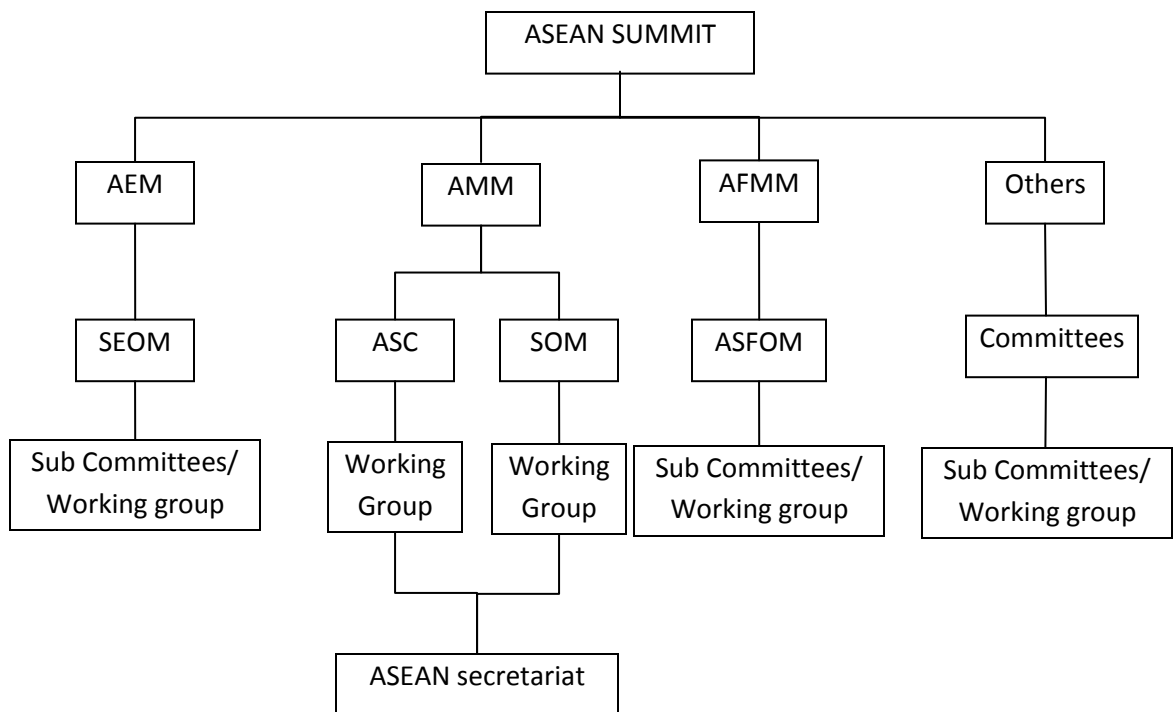
Besides assigning coordinator country, ASEAN also create committee in each dialogue partner countries as connector for every ASEAN dialogue activity. This committee consists of ambassadors from ASEAN nations who assigned in accreditation countries as followed:

- ASEAN Brussels Committee (ABC);
- ASEAN Canberra Committee (ACC);
- ASEAN Committee in Beijing (ACB);
- ASEAN Committee in Moscow (ACM);
- ASEAN Committee in Seoul (ACS);
- ASEAN Committee in Tokyo (ACT);
- ASEAN Committee in Wellington (ACW);
- ASEAN Geneva Committee (AGC);
- ASEAN Islamabad Committee (AIC);
- ASEAN London Committee (ALC);
- ASEAN New Delhi Committee (ANDC);
- ASEAN New York Committee (ANYC)
- ASEAN Ottawa Committee (AOC);
- ASEAN Paris Committee (APC); and
- ASEAN Washington Committee (AWC).

## 9. ASEAN National Secretary (ANS)

In Declaration of Bangkok states that to operate mission and purposes of ASEAN, it is necessary to build ANS in each member nation. ANS has responsible to conduct ASEAN activities in the name of each nation and serve annually meeting or Special Meeting of Ministers of Foreign Affair, ASC and committees meetings.

**Chart of ASEAN Organization Structure**



Source: <http://www.asean.org/13105.htm>

### A.3. ASEAN Secretariat<sup>17</sup>

In the first decade of ASEAN establishment, the rising of cooperation program was motivating ASEAN to build general secretariat. The function is assisting ASEAN member nations to maintain and coordinate ASEAN activities and review it.

On the 1<sup>st</sup> ASEAN summit in Bali, 1976, the ministers of Foreign Affairs ASEAN signed *the Agreement on the Establishment of the ASEAN Secretariat*. In the beginning, secretariat has functions as administrative body that assists coordination of ASEAN activities and provides communication means (mediator) for member nations, committees, between ASEAN and other dialogue partners and other organizations.

Next, in order to strengthen ASEAN secretariat, the ministers of Foreign Affairs amended *the Agreement on the Establishment of the ASEAN Secretariat* through a protocol in Manila, 1992. The protocol gave new status for General Secretary to be in the same level with minister and pursue job desks to impetus, suggest, coordinate, and conduct ASEAN activities.

General Secretary ASEAN is appointed every 5 (five) years and responsible to ASEAN summit, AMM, and ASC. As time goes by, the job desk of secretariat becomes broader, the protocol arrange about extending the Vice General Secretary ASEAN from 1 (one) to 2 (two) persons with job to help the General Secretary. In

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<sup>17</sup> Op Cit. page 23 – 24.

following years, the staff of secretariat also extended and selected through open recruitment.

Following are the names of General Secretary ASEAN until today:

1. Hartono Dharsono (Indonesia), 7 June 1976 - 18 February 1978;
2. Umarjadi Notowijono (Indonesia), 19 February 1978 - 30 June 1978;
3. Datuk Ali Bin Abdullah (Malaysia), 10 July 1978 - 30 June 1980;
4. Narciso G. Reyes (Philippine), 1 July 1980 - 1 July 1982;
5. Chan Kai Yau (Singapore), 18 July 1982 - 15 July 1984;
6. Phan Wannamethee (Thailand), 16 July 1984 - 15 July 1986;
7. Roderick Yong (Brunei Darussalam), 16 July 1986 - 16 July 1989;
8. Rusli Noor (Indonesia), 17 July 1989 - 1 January 1993;
9. Datuk Ajit Singh (Malaysia), 1 January 1993 - 31 December 1997;
10. Rodolfo C. Severino (Philippine), 1 January 1998 - 31 December 2002;
11. Ong Keng Yong (Singapore), 1 January 2003 – 31 December 2007; and
12. Surin Pitsuwan (Thailand), 1 January 2008 – Now.

## **B. Regional Security in Southeast Asia**

ASEAN was built based on willingness of its member nations to put strong foundation for improving regional cooperation in Southeast Asia in the spirit of togetherness in order to create peace, development, and prosperity into the Southeast Asia region. The member nations recognize their own duties toward the association that built with mission to revitalize global interest of multicultural tradition in the

region, advancing life quality of Southeast Asia people who live beyond their region by increasing competency, mobilize coalition between people of Southeast Asia and external community of ASEAN through cross culture program in order to keep stability and state security inside the Southeast Asia region. Since its establishment, ASEAN held annual general assembly each November.

The nations in Southeast Asia are considered success to live side by side in the middle of pluralistic in the post cold war. These nations are united to be ASEAN which had dominant purpose in economy rather than military or security. However, the economy sector that have purpose in prosperity cannot be reached if the stability and security in the region cannot be accomplished.

Entering 21<sup>st</sup> century, security challenge of ASEAN is more complex and including two aspects, which are conventional and non-conventional. The security challenge of ASEAN has changed and always be changed. Dimension of security definition also change, not only about military aspect (conventional) but also non-military aspects (non-conventional). Redefinition about security will change security agenda of ASEAN in the future in order to create peace region.

In conventional aspect, ASEAN will not face military confrontation between its member nations. This condition contribute advantages for regional security structure, due to bilateral problems can be solved through diplomacy means. Treaty of Amity and Cooperation (TAC) becomes a basic principle to live in harmony. Potential conflict of border problem will not be developed into open conflict among ASEAN nations. However, ASEAN faces a uncertain security condition in Asia-

Pacific. ASEAN cannot liberate itself from bigger regional context, such condition on east Asia, especially Korea and conflict between Taiwan-China. If that so, the security challenge of ASEAN become wider and out of geographic matter and military aspect into individual aspect or human security (non-conventional threats). The establishment of ASEAN Regional Forum (ARF) has show responsibility and concern of ASEAN toward the security issues that it face today's.<sup>18</sup>

Considering the complex and dynamic of security and stability issues in the region recently, it makes challenges of ASEAN become harder to overcome. It depends on ASEAN preparation to anticipate the challenges in security and stability issues such transnational crimes and other threat in the future. The cooperation should be held to overcome the threats, not only by ASEAN members and its national regulation but also cooperation among international community.

Based on reality above, ASEAN is challenged by complex security issues in the future that could threat other aspect, if ASEAN has no preparation to overcome it and the problems need to be solved immediately.

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<sup>18</sup> M. Riefqi Muna, ASEAN dan Tantangan di Bidang Keamanan: Di Luar Batas Konvensional. (Jakarta, CSIS). Page 92.

# **CHAPTER III**

## **SECURITY CHALLENGE AND HUMAN TRAFFICKING ISSUE**

### **IN SOUTHEAST ASIA**

#### **A. Security Challenge in Southeast Asia**

Security challenges that faced by ASEAN are depend on significant changes that happened, whether in the international level or local level. Nowadays, ASEAN exist in the world which is globalized (macro) and has tendency to be integrated, in another side, it has tendency of fragmentation (micro).<sup>19</sup>

Beside condition above, ASEAN also face a basic change about security issue. The security agenda of ASEAN has changed, according to redefinition about security in the region. Observing the dimension of conventional security which focus on high politics, military security, and classical national power are become old fashioned for ASEAN, since those factors are no longer enough to be a framework thinking over security issues, whether national or international security.

#### **A.1. Conventional Security (Traditional Threat)**

Entering 21<sup>st</sup> century, the challenge of ASEAN in traditional security will be how to harmonize the political ideology differentiate between its member nations.

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<sup>19</sup> Robert Mandel, *The Changing Concept of Security*. (London, Greenwood Press, 1994). Page 43.

The effort in harmonizing political ideology among member nations will be particular problem, although the potential conflict almost zero. However, SEAN still facing the threat from claim dispute about South China sea which involving 4 (four) ASEAN member (Brunei, Malaysia, Philippine, and Vietnam) versus China is becoming potential conflict in the future, if the peace settlement such Workshop for the South China Sea is failed to bring claimer countries take diplomacy ways.<sup>20</sup>

Old security construction which is focusing on state security and built based on regional resilience principle is only small part of comprehensive security for Southeast Asia.

#### **A.1.a. ASEAN and Regional Security**

The ability of ASEAN in arranging the regional security is influenced by two factors. First, the interests of power states which become parameter for ASEAN security policy. Second, the different perspective of member nations in observing the security issue which cause ASEAN hard to formulate regional security for Southeast Asia, although potential conflict for this factor are nearly zero.<sup>21</sup>

ASEAN itself observe security in comprehensive perspective. The security includes politic, economy, military, and social that interacts each other in all level of

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<sup>20</sup> <http://www.southchinasea.org/docs/Indicators-Conflict%20in%20Asia.doc>. Accessed on 11 June 2008.

<sup>21</sup> Herman Joseph Kraft, *Unofficial Diplomacy in the Southeast Asia*. (CANCAPS Papier No.22, February 2001).



analysis. In this perspective, the member nation count on ASEAN to give them three functions of security, as followed:<sup>22</sup>

1. The establishment of political and economy cooperation will make ASEAN ease its track record of confrontation in the past and build the future cooperatively.
2. Situation above will give benefit to economic condition of ASEAN member nations and then will assist them to create political stability by helping their citizens economically.
3. Promoting internal security will create stronger ASEAN in facing external power.

Although the old concept of security (conventional) become small piece of comprehensive security, but ASEAN still concern in matter of state security.

## **A.2. Non-conventional Security (Non-traditional Threat)**

Structure of security is not only about state or national security which is observed as existent of a state, whether from internal or external threats, called traditional threat. The security agenda is extended, not only in matter of traditional threats but also non-traditional threats which has pattern of trans-nation or trans-boundary. Today, the non-traditional threats are contributing significant impact to the security which will give disadvantages for political, economy, and social as well.

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<sup>22</sup> "ASEAN and the Management of Regional Security" (Vancouver, Pacific Affairs, Summer 1998).

This condition will disturb the ASEAN plan to create comprehensive security for its member.

The aspect of non-traditional security challenge is more comprehensive. Non-traditional security including many aspects, from human security, environmental security, food supply security, economy security to social-culture security, where those aspects are out of military aspects. In the future, those security matters will become broader and the impact will influence other level of analysis, such state or international level. In this research, the matter of human security will be a major topic, especially in form of human trafficking.<sup>23</sup>

#### **A.2.a. Human Security**

Definition of human security for ASEAN is the citizens secure from any threats, whether from survival threats or lower level of threat. According to that context of definition, a state cannot claim their country is safe if the citizens (human/individual) in that country still facing serious problem of security. Moreover, the threats can be from the state itself in form of repression or state-violence. Since the matter of human security becomes universal problem, the guarantee for human right by a state is compulsory.

For ASEAN, the agenda of human security still become homework and need concern, since individual security commonly get clash with old model of national

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<sup>23</sup> M. Riefqi Muna, *Cooperative Security in the Post Cold War Regional Security Architecture in Southeast Asia*. (Canberra, Australian Defense Studies Center, 1999). Page 32.

security. A guarantee of human security is depend on the political ideology that possessed by a state. In this context, ASEAN is facing serious problem since not all member nations have same ideology. Take example in Myanmar (Burma) where the military regime practices repression toward its citizen. ASEAN with non-interference principle is no longer relevant in facing Myanmar case, since the matter of human security become universal problem, including in United Nations. If ASEAN still maintain that principle, it will create assumption that ASEAN support undemocratic government which have problem with human right. Due to human security become universal matter, ASEAN will face serious problem in the future, not only from internal perspective or regional, but also from global.<sup>24</sup> Another threat for human security that become homework for ASEAN is human trafficking, since this crime arose in Southeast Asia and the form of it activity is violence of human right.

## **B. Human Trafficking**

Another security challenge for ASEAN is about trans-national crimes. Based on UN Conventional against Transnational Organized Crimes, the word "transnational" describes crimes that are not only international, crimes that cross borders between countries, but crimes that by their nature have border crossings as an essential part of the criminal activity. Transnational crimes also include crimes that take place in one country, but their consequences significantly affect another country.

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<sup>24</sup> Paul Dobb, "*The Prospect for Southeast Asia's Security*" in conference held by "Research Institute for Democracy and Peace (RIDeP)". 2 – 4 May 2000.

However, transnational crime use take place from one to another country. Examples of transnational crimes are: 1. trafficking in human beings; 2. people smuggling; 3. illegal arms trade; 4. sex slavery; 5. terrorism (to be distinguished from domestic terrorism).<sup>25</sup> The transnational crime is conducted by an organized group which has purpose to raise money by trading commodities illegally. These group's actions involving weapon trade, illegal drugs distribution, blackmail, pornography, prostitution, human trafficking, cyber crime, ecology crime, etc. the symptom of transnational crimes emerge after the post Cold War and become more serious in early of financial crisis in Southeast Asian. Inferior condition of economy become one reason why transnational crimes growth faster in the region.<sup>26</sup>

One of major problem from trans-national crimes is human trafficking, since it the process, number, and quality in trafficking persons by the organized crime become smooth and hard to detect.

The United Nations (UN) defines "trafficking in persons" as 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 to

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<sup>25</sup> [http://www.wikipedia.org/wiki/transnational\\_crime](http://www.wikipedia.org/wiki/transnational_crime). Accessed on 11 June2008.

<sup>26</sup> John McFarlane, "Transnational Crime and the Asia Pacific Security", in *The Many Faces of Asian Security*, edited by Sheldon W. Simon. (Lanham and Oxford: Rowman & Littlefield Publisher, Ltd. 2001). Page 200.

achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>27</sup>

Based on the above definition, the following table can be a useful tool to analyze individual cases to determine if they fall into the category of trafficking or not. A human trafficking case should have at least one of the elements within the three criteria of process, means and goal.

<b>Process</b>	+	<b>Means</b>	+	<b>Goals</b>
<b>Recruitment</b>		Threat		Prostitution
<b>Transportation</b>		Coercion		Pornography
<b>Transfer</b>		Abduction		Sexual Violence/Exploitation
<b>Harboring</b>		Fraud		Forced Labor/employment with
<b>Receipt</b>		Deceit		unfair wages
		Deception		Slavery/Similar practices
		Abuse of Power		

*Source: 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Supplement to the UN Convention against Transnational Organized Crime.*

If an individual case has one element from each of the three criteria, it falls into the trafficking category, regardless the consent of victims.

<sup>27</sup> <http://www.stoptrafficking.org>. 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Supplement to the UN Convention against Transnational Organized Crime. Accessed on 11 June 2008.

## **B.1. Human Trafficking in Southeast Asia**

The human trafficking case usually happened in southeast Asia, whether within or abroad of country, since the demand from receiving country is high and according to its purposes, there are several forms of human trafficking of women and children, as followed:<sup>28</sup>

### **1. Forced Sex Work & Sexual Exploitation**

In many cases, women and girls are promised employment as migrant workers, domestic helpers, restaurant workers, shopkeepers, or other unskilled jobs but then are forced into sex work once they arrive at their destination. In other circumstances, women are aware that they will enter the sex industry but are deceived about the conditions of work and are then forcibly confined and not allowed to refuse the work.

### **2. Domestic Work**

Domestic workers both abroad are trafficked into abusive labor conditions that include the following: forced long working hours, illegal confinement, non-payment of wages or reduced wages, debt bondage, physical and psychological abuse, sexual assault, denial of food or insufficient food, and the denied ability to practice religion or being required to violate religious practices. Some employers and agents hold passports and other documents to ensure workers do not try to run away.

### **3. Other Forms of Migrant Work**

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<sup>28</sup> <http://www.solidaritycenter.org/files/IndoTraffickingFactCauses>. Accessed on 15 July 2008.

Although many Indonesians migrate as domestic workers, others are promised unskilled jobs in factories, restaurants, cottage industries, or small shops. Some of these migrant workers are trafficked into abusive and hazardous working conditions with little to no pay. Many are trapped in such work through debt bondage, coercion, or violence.

#### 4. Cultural Dancers & Entertainers

Women and girls are promised work as cultural dancers, singers, or entertainers in a foreign country. Upon arrival, many women are forced into sex work or other slave-like working conditions.

#### 5. Mail Order Brides

Some women and girls who have migrated abroad as wives of foreign nationals have been deceived about the nature of the marriage. In such cases, husbands force their new brides into slave-like labor for their family or sell them into the sex industry.

#### 6. Certain Forms of Child Labor

Some (not all) of the children engaged in street begging, offshore fishing, and work on plantations have been trafficked into their current situation.

#### 7. Baby Trafficking

Some Indonesian migrant workers are deceived into false marriages while working abroad and are then forced to give up their babies for illegal adoption. In other cases, housewives are deceived by a trusted domestic helper who runs away with the child to sell it on the black market.

There is no one cause of human trafficking. Trafficking is caused by an entire range of different conditions and issues. These include:<sup>29</sup>

1. Lack of Awareness

Many people who migrate for work within Indonesia or abroad are unaware of the dangers of trafficking and the ways migrant workers are deceived or pushed into abusive or slave-like labor.

2. Poverty

Poverty has forced many households to devise survival strategies which have included migrating for work and bonded labor, which is the renting out of a person's labor to pay off a debt or a loan.

3. Material Expectations

The desire for consumer products and higher standards of living fuel migration and render migrants vulnerable to trafficking.

4. Cultural Factors

The following cultural factors contribute to trafficking:

- a. Women's Role in the Family: Although cultural norms stress that a woman's place is at home as wife and mother, it is acknowledged that women may have to become supplementary wage earners in times of family need. A sense of duty and obligation drives many women to migrate for work in order to support their families.

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<sup>29</sup> [http://www.idlo.int/docNews/Human\\_trafficking.pdf](http://www.idlo.int/docNews/Human_trafficking.pdf). Accessed on 15 July 2008.



- b. Children's Role in the Family: Obedience to parents and an obligation to support the family makes children vulnerable to trafficking. Child labor, child migration for work, and child bonded labor are deemed acceptable family financial strategies to survive.
- c. Early Marriage: Early marriage has serious implications for girls, including health hazards, end of schooling, limited economic opportunities, disruption of personal development, and, often, early divorce. Divorced girls are legally seen as adults and are vulnerable to trafficking due to their economic vulnerability.
- d. History of Bonded Labor: The practice of renting out one's labor or that of a family member to pay off a loan is an accepted family survival strategy. People placed into bonded labor are especially vulnerable to abusive and slave-like work conditions.

#### 5. Lack of Birth Registry

People without proper identification are easier prey to trafficking since their age and nationality may not be documented. Children, who are trafficked, for example, are more easily passed off as adults to anyone who asks.

#### 6. Lack of Education

People with limited education have fewer viable job skills and opportunities and are thus more prone to trafficking as they look to migrate for unskilled work.

#### 7. Corruption & Weak Enforcement of Laws

Corrupt law enforcement and immigration officials can be bribed by traffickers to overlook criminal activities. Public administrators can also be bribed to falsify information on ID cards, birth certificates, and passports which makes migrant workers more vulnerable to trafficking due to illegal migration. Lack of state funds budgeted for counter trafficking efforts hamper the ability of law enforcers to effectively deter and prosecute traffickers.

The human trafficking phenomenon has contributed much exploitation for victims. It happens from the beginning when victims still in their origin area, to the place they have been boarded, until they return to their home (if they could). Exploitation contains many aspects, whether economy, sexual, physical, until physic. As followed:<sup>30</sup>

1. Fraud

The women or children who become target of level one trafficker – usually called *Calo* – are being deceived by many promises about having better job, high standard wage and easy job. Next, travel agents usually deceive the victims by serving ticket, passport, and hostel until fraud ID card. In harboring process, traffickers will give some money for Trans border polices. In receiving country, there will be someone who will put victims to illegal job, non standard wage and so on.

2. Sexual exploitation

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<sup>30</sup> Muhammad Farid, *Perdagangan (“trafficking”) anak dan perempuan : masalah definisi.* (Yogyakarta, PSKK UGM, 2000)

Most of victims usually will work as prostitute in receiving country. Before financial crisis happened in Indonesia, for one virgin girl were sold around 6 (six) million Rupiahs.

### 3. Sexual abuse

Besides fraud and being forced, usually victims get sexual abuse. For example, the pimp must try first the virgin girl, only for proven. This activity usually called as “test drive”. When police held surveillance, some men will be hired to be “artificial husband” for those women or the pimps will pay some money to officers with bonus, sexual intercourse.

### 4. Debt and cutting wage

The traffickers usually bind victims by telling them some big amount of debt that they should pay. This debt was created because the traffickers must pay for administration, documents, transportation, etc that they spent for the victims. The debt could be decreased by cutting the wage of victims and the traffickers will use same reason for years in order to keep victims as long as they can.

### 5. Sexual diseases

The victims who work for prostitution or having sexual abuse will be in major risk for infecting by sexual diseases, such HIV/AIDS, Gonorrhea, etc. this situation will give negative impact for harmony in family and they can infect other person or the fetus.

### 6. Mental disorder

The victims, who work under force, have unfair treatment and other pressure will have big risk for having mental disorder. This situation is a crime for human right.

Human trafficking is happened because of many factors and the groups of crime are working very organized that make it hard to detect. There are several elements which have possibility to conduct in order to overcome human trafficking, such: Prevention, rescue/escape, protection, prosecution, rehabilitation, repatriation, reintegration, advocacy, awareness raising, research, training, international initiatives, regional initiatives, and media. Those factors are needed to be linked each other and work in synergy to fight human trafficking succeed.<sup>31</sup> However, the best way to combat human trafficking is coming from the person (women, men, and children) or include in prevention factor. The phrase “an ounce of prevention is worth a pound of cure” is showing how important the preventive action as significant factor in cutting the cycle of human trafficking.

The preventive action can be done if people have awareness and well enough information about indicators of human trafficking. The state has duty to safe its citizen from this crime. Since human trafficking is categorized as a crime for human right which is became universal issue, if the state failed to stop or even reduce the number of human trafficking, it can create assumption that state allow the crime for human right arise.

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<sup>31</sup> [www.humantrafficking.org/combat\\_trafficking](http://www.humantrafficking.org/combat_trafficking). Accessed on 15 July 2008.

### **B.1.a. Indonesia – Malaysia**

The identified data report out of 1,231 Indonesians who were trafficked from March 2005 to July 2006, 929 of them (75.5 per cent) were taken to Malaysia, where they were forced into prostitution, and forced labor with unfair wages or work as domestic maids.<sup>32</sup> Total of women who have been captured by Polisi Di Raja Malaysia (Malaysian police officer) and department of Immigration Malaysia as victims of women trafficking for prostitution in last 3 years (from 2005 – 2007) are about 6425 persons. Statistical data from United Nation Children Fund's in Jakarta shows that women and children trade under age for sexual commercialization were about 40.000 – 70.000. From that number, around 6700 persons are in Malaysia.<sup>33</sup> The number of men who became trafficked is rarely to be identified.

Indonesia as a state with predicate a number one supplier of immigrant worker – in terms of human trafficking – to Malaysia, have to do something to overcome the human trafficking. However, the problem cannot be solved if only one state that does the actions, it needs cooperation from the receiving country – in this case, Malaysia – to make war on human trafficking succeed.

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<sup>32</sup> <http://www.humantrafficking.org/countries/malaysia>. Accessed on 17 June 2008.

<sup>33</sup> [http://www.gatra.com/2007-06-12/versi\\_cetak.php?id=105263](http://www.gatra.com/2007-06-12/versi_cetak.php?id=105263). Accessed on 17 June 2008.

### **B.1.b. Myanmar, Cambodia, Lao PDR – Thailand**

Several months ago, the world was shocked by the news reported that over hundred women and children were died during the way to Thailand from Myanmar, those are recognized as trafficking victims.

A number of women and girls from Burma, Cambodia, and Vietnam transit through Thailand's southern border to Malaysia for sexual exploitation primarily in Johor Bahru, across from Singapore. Anecdotal evidence also points to an increase in trafficking of foreign migrants for sexual exploitation. Burmese, Khmer, Lao and ethnic minority girls/young women have been reported trafficked in border areas and into major urban centres and sometimes through Thailand to third countries such as Malaysia, Japan and destinations in Europe and North America.

Thailand is a destination country for men, women, and children who are trafficked from Burma, Cambodia, Laos, People's Republic of China, Russia, and Uzbekistan for sexual and labor exploitation. Children are trafficked for commercial sex and forced labor in begging, fishing, and fish processing. Sometimes entire families were trafficked for forced labor in sweatshops. Many Burmese victims voluntarily migrate to Thailand and are later coerced into work in agriculture, factories, construction, commercial fisheries industries, begging, or as domestic servants. The IOM and a government university reported that fishing, construction, commercial agriculture and domestic service are the industries with the most documented migrant workers in forced labor, including children. In September police raided a shrimp processing factory in Samut Sakhon and found more than 100

Burmese workers who had been held on the premises against their will. The traffickers were loosely organized small groups, with Burmese, Laotian, Cambodian, and Thai individuals who transported victims along the Thai border for forced labor.<sup>34</sup>

The identified data report from 2006 – 2007 that 946 Burmese were trafficked from Myanmar to Thailand, and IOM reported around 527 Laotian became victim to Thailand and 815 Cambodian also.<sup>35</sup>

### **B.1.c. Philippine – Singapore, Malaysia**

Philippine men, women, and girls were trafficked for labor and sexual exploitation to Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, Bahrain, Malaysia, Hong Kong, Singapore, Japan, South Africa, North America, and Europe. Many Filipino men and women voluntarily migrate to work abroad but later coerced into exploitative conditions.

The data reported that over than 1.100 Filipino were trafficked during 2006 – March 2007 and the number increased significantly.<sup>36</sup>

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<sup>34</sup> <http://www.humantrafficking.org/countries/thailand>. Accessed on 14 October 2008.

<sup>35</sup> <http://www.iom-seasia.org/thailand>. Accessed on 14 October 2008.

<sup>36</sup> <http://www.humantrafficking.org/countries/philippine>. Accessed on 14 October 2008.

#### **B.1.d. Vietnam – Cambodia, Thailand, Malaysia**

Vietnamese men, women, and girls are trafficked for sexual and labor exploitation in Cambodia, the People's Republic of China (P.R.C.), Thailand, Hong Kong, Macau, Malaysia, Taiwan, South Korea, the United Kingdom, and the Czech Republic for commercial sexual exploitation. Women and men are trafficked for forced labor as factories and construction or as domestic servants. Vietnamese trafficking victims are recruited through fraudulent marriages, false promises of employment, licensed and unlicensed migrant labor recruiting agencies.

Many Vietnamese women and girls are trafficked through Dong Tham, An Giang, and Kien Giang to Cambodia for sexual exploitation. In 2004 to 2007, Cambodian police estimated that more than 500 girls were in brothels through Cambodia, many of whom were Vietnamese. The World Human Rights Organization and UNICEF estimate that one-third of the prostitutes in Cambodia are under the age of 18, the majority of whom are Vietnamese.<sup>37</sup>

#### **B.1.e. Indonesia, Philippine, Thailand – Singapore**

Singapore is a destination country for women and girls who are trafficked from Thailand, the Philippines, the People's Republic of China, and Indonesia for commercial sexual and labor exploitation. Some women voluntarily migrate to Singapore to work as prostitutes but are later coerced into sexual servitude.<sup>38</sup>

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<sup>37</sup> <http://www.humantrafficking.org/countries/vietnam>. Accessed on 14 October 2008.

<sup>38</sup> <http://www.humantrafficking.org/countries/singapore>. Accessed on 14 October 2008.



Based on description above, following table can be a useful guidance to understand the situation of human trafficking in the member countries of ASEAN:

<b>Country</b>	<b>Situation</b>	<b>Data report / Year</b>	<b>Form of Trafficking</b>
<b>Cambodia</b>	Source, transit, and destination	815 victims/2006 to 2007	Prostitution, labor exploitation
<b>Indonesia</b>	Source, transit, and destination	929 victims/ March 2005 to July 2006	Prostitution, labor exploitation
<b>Lao PDR</b>	Source, transit, and destination	527 victims/2006 to 2007	Prostitution, labor exploitation
<b>Malaysia</b>	Destination and source	< 100 victims/2006	Labor exploitation
<b>Myanmar</b>	source and transit	946 victims/2006 to 2007	Prostitution, labor exploitation
<b>Philippines</b>	Source, transit, and destination	1.100 victims/2006 to March 2007	Prostitution, labor exploitation
<b>Singapore</b>	Destination	n/a	n/a
<b>Thailand</b>	Source, transit, destination	1.315 victims/2005 to 2007	Prostitution, labor exploitation
<b>Vietnam</b>	Source and destination	> 500 victims/ 2004 to 2007	Prostitution, labor exploitation

Source: humantrafficking.org; iom-seasia.org; undp.org.

Human trafficking issue in Southeast Asia becomes serious problem in this region. Human trafficking can be categorized as violence of human security that threatening human right. Since human right is a universal issue, ASEAN should think smart and act effectively to avoid global assumption that ASEAN allow human right violence happened in its region.

This condition are contributing significant problem for ASEAN, since the matter of human trafficking correlated with human security which is universal matter and could create instability for regional security. The condition also make leaders of Southeast Asia countries realize about negative impact of human trafficking issue for regional stability and need serious action to overcome it. They also realize that ASEAN as regional organization in Southeast Asia region should be more pro-active and play significant role to face the threats, in order to achieve ASEAN's purpose which is create peace and stability of the region.

**CHAPTER IV**

**ASEAN EFFORTS TO OVERCOME HUMAN TRAFFICKING IN  
SOUTHEAST ASIA**

The enemy beyond is importance, but its nature and its overall importance must be kept in perspective. The fact is that no ASEAN country is seriously concerned about its external threat. When asked which was more threatening to their countries in the coming decade, the world beyond or the world within, almost all ASEAN leaders responded without hesitation that their most serious challenges were internal, not external. The most serious threats perceived by ASEAN are domestic threat.<sup>39</sup>

The ASEAN has declared in many ministerial meetings to overcome the threat of transnational crimes – include human trafficking – collectively among the member nations. Implicitly, due to different perception about threat, variety of domestic context, and the eagerness of member to solve this problem are making the ability to overcome the problem differently.

As a regional organization which has membership system based on “mutual understanding”, ASEAN has no authority to interference its members. That condition also in line with another ASEAN’s principle, which is mutual respect for the

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<sup>39</sup> Robert O. Tilman. External Beyond: external threat perception in the ASEAN region. (Singapore, ISEAS 2000). Page 50-51.

sovereignty of member nations. Therefore, ASEAN's efforts to overcome human trafficking problem in Southeast Asia are limited to the things that will be described below.

### **A. ASEAN Meetings and Declarations about Transnational Crimes, particularly in Human Trafficking**

Responding toward the transnational crimes threat in the region, the rising of hope in ASEAN body and emerging of demand from other group outside has made ASEAN built dialogue between nations in Southeast Asia through the meetings to discuss about transnational crime in the region, where ASEAN put human trafficking issue as part of it. The meetings of ASEAN in facing transnational crimes threat in Southeast Asia are followed:

#### **1. The 1<sup>st</sup> ASEAN Ministerial Meeting on Transnational Crime**

This meeting was held in Manila, Philippines, on 18 – 20 December 1997, which were resulted the ASEAN Declaration on Transnational Crime. The declaration focuses on the need to strengthen the commitment of the member nations to cooperate at regional level in combating transnational crime (human trafficking issue include in it), encourage networking of relevant agencies and organization, and cooperation with the UN. It also suggests the establishment of ASEAN Centre on Transnational Crimes (ACTC) and assigning the national police to exchange information among the member. The associated plan of action commits to:

- Ensure that human trafficking is crime in all member countries.
- Ensure national policies are consistent within the ASEAN region.
- Identify for the law enforcement official to work together.
- Arrange joint training for law enforcement official.
- Develop a regional training program on victim assistance and public prevention.

The declaration is signed by all member nations which committed to combat transnational crimes such as drugs trafficking and trafficking on women and children, as well as other transnational crimes.<sup>40</sup>

## **2. The 2<sup>nd</sup> Annual Senior Officials Meeting on Transnational Crime (SOMTC)**

The 2<sup>nd</sup> annual SOMTC which related to transnational crimes problem was held in Kuala Lumpur, on 16 – 17 May 2002. The meeting has resulted A Work Program to Implement the ASEAN Plan of Action to Combat Transnational Crime that combine specific endeavor of ASEAN in order to combat transnational crime comprehensively. That plan of action content of 6 (six) cooperation field as followed:

- Exchange information between member nations;
- Establish cooperation in legal arrangement;
- Work together on law enforcement matters;

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<sup>40</sup> <http://www.aseansec.org/5634.htm>. Accessed on 10 August 2008.

- Conduct training;
- Strengthen the institutional capacity-building; and
- Encourage extra-regional cooperation.<sup>41</sup>

### **3. The Ha Noi Plan of Action**

The plan of action was resulted in Ha Noi, Vietnam, on 1998, which was developed a series of plan of action to increase ASEAN's capacity to achieve the goals stated in ASEAN Vision 2020. It contained measures related to immigration and human trafficking, particularly in strengthening of ASEAN collaboration on combating the trafficking of, and crimes of violence against, women and children (men are excluded). The associated Ha Noi declaration also restated ASEAN's goals to tackle transnational crimes such as smuggling and trafficking in person.<sup>42</sup>

### **4. The 3<sup>rd</sup> Meeting of ASEAN Directors General of Immigration Department and Heads of Consular Affairs Division of the ASEAN Ministers of Foreign Affairs.**

The meeting was held in Ha Noi on 1999. The meeting agreed to establish the High Level Ad-Hoc Expert Group Meeting on Immigration Meeting to:

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<sup>41</sup> ASEAN, *Annual Report of the Association of South East Asian Nations 2003-2004* (ASEAN Secretariat, Jakarta, 2004). Page 12.

<sup>42</sup> <http://www.aseansec.org/5619.htm>. Accessed on 10 August 2008.

- Establish an institutional framework for ASEAN cooperation on immigration matters so that ASEAN immigration authorities could respond effectively to the needs and aspiration of ASEAN.
- Develop a plan of action for Cooperation of Immigration Matters to maximize the benefits of regional cooperation of immigration matters and to assist in supporting ASEAN efforts stated in ASEAN Vision 2020 and Ha Noi Plan of Action.
- Establish an ASEAN Directory of Immigration Focal Points to facilitate networking among the immigration authorities in the ASEAN.<sup>43</sup>

#### **5. The 4<sup>th</sup> ASEAN Ministerial Meeting on Transnational Crime**

The meeting was held in Bangkok, Thailand, on 8 January 2004 which member nations agreed to strengthen commitment among on combating transnational crime in Southeast Asia. The meeting also produced Joint Communiqué about Security Community that assisting the cooperation among institution and mechanism of ASEAN in strengthening national and regional ability to combat human trafficking, terrorism as well as other transnational crimes.

In other part of the Joint Communiqué, all minister declared their thought about the development of transnational crime – including human trafficking – as

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<sup>43</sup><http://thestar.com.my/news/story.asp?file=/2008/6/10/nation/20080610101452&sect=nation>.  
Accessed on 10 August 2008.

serious threat toward stability, security, and peace of the region. They emphasize their commitment to develop cooperation in combating transnational crime by deciding to take comprehensive coordination and focus on implementing The Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime.<sup>44</sup>

#### **6. The 24<sup>th</sup> and 25<sup>th</sup> ASEAN Chief of Police Conferences (ASEANAPOL Conferences)**

The 24<sup>th</sup> ASEANAPOL conference was held in Chiang Mai, Thailand, on 16 – 20 August 2004 which purpose to increase professionalism of police, strengthen police regional cooperation, and develop brotherhood among ASEAN national polices. That four days conference attended by delegations from ASEAN member and as supervisors was from ASEAN Secretariat, ICPO-INTERPOL, Australian Federal Police, and New Zealand Police.

In relation with human trafficking, the conference agreed to:

- Harmonize and share a common concept and framework of relevant laws;
- Support the adoption of National Action Plans of Member Countries to combat human trafficking;
- Encourage member countries to sign bilateral or multilateral agreements on combating human trafficking and on assistance for victims support;

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<sup>44</sup><http://www.aseansec.org/5620.htm>. Accessed on 10 August 2008.



- Strengthen national, regional, and international networking;
- Maintain close cooperation on the exchange of information and intelligence;
- Emphasize the need to border control;
- Raise public awareness.<sup>45</sup>

The 25<sup>th</sup> ASEANAPOL conference was held in Bali, Indonesia, on May 2005 produced Joint Communiqué<sup>46</sup>, including the resolutions about human trafficking as followed:

- To enhance information exchange among member countries on the identities, movements, and activities of known as transnational crime organizations involved in human trafficking;
- To appoint, update, distribute the contact points of each member country for the purpose to exchange information on human trafficking;
- To encourage member countries to conclude bilateral and multilateral agreements on combating human trafficking and enhance cooperation in border control management.

Since 2004, leader of ASEAN member countries' specialist anti-trafficking law enforcement unit have met regularly to exchange information and close. This process, known as the Heads of Specialist Trafficking Unit Process (HSU) now involve eight of the ten member countries; excluding Brunei Darussalam and

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<sup>45</sup> <http://www.aseansec.org/16327.htm>. Accessed on 10 August 2008.

<sup>46</sup> <http://www.aseansec.org/25ASEANAPOL.htm>. Accessed on 10 August 2008.

Singapore. It has facilitated a system of intelligence and data exchange and recognized as a model of best practice.<sup>47</sup>

## **7. The 10<sup>th</sup> ASEAN Summit**

The 10<sup>th</sup> ASEAN Summit was held in Vientiane, Laos PDR on November 2004, heads of state of 10 countries in Southeast Asia signed a number of declarations. One of those declarations was against the Trafficking of Persons, Particularly Women and Children.<sup>48</sup> The declaration recognizes urgent need to comprehensive approach, including continuing dialogue, exchange information, and cooperation. It acknowledges the social, politic, economic, and other factor that cause people migrate and vulnerable to be trafficked, and commits to human developing and security, and improving quality of life. Besides recognize the inhumanity of trafficking, the declaration also commits to:

- Establish regional network to prevent and combat trafficking in persons, especially women and children, in ASEAN region;
- Adopt measures to protect integrity identity and travel document from fraud;
- Undertake regular exchange of views, information sharing, and relevant cooperation;

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<sup>47</sup> ASEAN, ASEAN Responses to Trafficking in Person: Ending Impunity for traffickers and Securing Justice for Victims (Jakarta, ASEAN Secretariat 2006). Page 17.

<sup>48</sup> <http://www.aseansec.org/16793.htm>. Accessed on 10 August 2008.

- Strengthen cooperation among our respective immigrations and law enforcement law authorities;
- Distinguish victims of trafficking in person from the person responsible for, and identify the country of origin and nationality, ensure the assistance that needed by victims and treated humanely;
- Undertake actions to respect the dignity and human right of victims of trafficking in person;
- Undertake measures/actions against individual and/or organization engaged in trafficking in person and offer assistance to punish such activities;
- Take measure to strengthen regional and international cooperation to prevent and combat trafficking in persons.

The declaration of declarations against the Trafficking of Persons, Particularly Women and Children was established according to the UN against Transnational Organized Crime and the Anti-trafficking Protocol. Following the declaration, there several work plans are held, in 2006, the inter-agency Ad-Hoc Working Group on Trafficking in Persons was created and tasked with the development of a Work Plan to implement the ASEAN Declaration against Trafficking. The 2000 – 2007 Work Plan to implement the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children, prepared by ASEAN secretariat consultation with the Philippines, and were approved by the 7<sup>th</sup> ASEAN Senior Official Meeting on Transnational Crime (SMOTC) in Laos PDR on June 2007. The work plan focuses on

developing common standard and strengthening criminal justice responses. Adoption of this work plan reflects a big step forward. A permanent Trafficking in Persons Working Group was established in June 2007 and have primary responsible for supervising implementation of the Work Plan.<sup>49</sup> Although it commit on law enforcement and useful anti-trafficking tool, the declaration will be stronger if it address and provide commitment on regional cooperation to overcome factors that cause trafficking in persons, instead just identifying the factors.

## 8. ASEAN Regional Forum (ARF) and Workshop

Beside the meetings has explained above, ASEAN also has other meeting based on specific sector and actively conduct the highest ASEAN's dialogue forum or known as ASEAN Regional Forum (ARF) on combating transnational crime as well as trafficking in persons that will be explained on table below:

<b>Time &amp; Place</b>	<b>Meeting</b>
<b>19 – 21 December 2001 New Delhi</b>	ARF Inter-Sectionals Group on Confidence Building Measure
<b>22 – 24 April 2002 Hanoi</b>	ARF Inter-Sectionals Group on Confidence Building Measure
<b>May 2003 Bangkok</b>	ARF Inter-Sectionals Group Meetings on Counter Terrorism and Transnational Crime
<b>March 2004 Semarang</b>	Statement on Strengthening Transport Security against Transnational Crime and Terrorism

<sup>49</sup> <http://www.aseanhrmech.org/news/asean-four-signs-declaration-of-cooperations.htm>. Accessed on 11 August 2008.

<b>9 May 2006 Kuala Lumpur</b>	1 <sup>st</sup> ASEAN Defense Ministers Meeting (ADMM) Have aims to promote regional peace and stability through dialogue and cooperation in defense and security.
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Sources: Emmers and Sebastian, *“Terrorism and Transnational Crime”* in Weatherbee, *“International Relations in Southeast Asia”*. Page 168. And ASEAN Annual Report 2005-2006 (ASEAN Secretariat: Jakarta, July 2006). Page 18.

ASEAN also build diplomacy cooperation by establish ASEAN Committee on Women (ACW) that held workshop about political and economic empowerment of women to reduce their vulnerability to exploitation, and gender mainstreaming of policies and programmes. This workshop based on the Declaration on the Elimination of Violence against Women.<sup>50</sup>

Below is the table that summary the efforts of ASEAN on combating human trafficking in Southeast Asia, as followed:

<b>Date and Place</b>	<b>ASEAN Meetings</b>	<b>Results</b>
<b>18 - 20 November 1997 Manila, Philippine</b>	The 1st ASEAN Ministerial Meeting on Transnational Crime	- To strengthen the commitment of member nations in combating human trafficking. - Establishment of ASEAN Center on Transnational Crimes. - Made associated plan of actions.
<b>16 – 17 May 2002 Kuala Lumpur, Malaysia</b>	The 2 <sup>nd</sup> annual Senior Officials Meeting on Transnational Crimes	- A Work Program to Implement the ASEAN Plan of Action to Combat Transnational Crimes

<sup>50</sup> <http://www.unifem-eseasia.org/project/migrant.htm>. Accessed on 11 August 2008.

<b>B 1998 Ha Noi, Vietnam</b>	The Ha Noi Plan of Action	- strengthen ASEAN collaboration on combating human trafficking. - Ha Noi Declaration.
<b>1999 Ha Noi, Vietnam</b>	The 3rd Meeting of ASEAN Directors General of Immigration Department and Heads of Consular Affairs Division of the ASEAN Ministers of Foreign Affairs	- Establishment The High level Ad-Hoc Expert Group Meeting on Immigration Meeting.
<b>8 January 2004 Bangkok, Thailand</b>	The 4th ASEAN Ministerial Meeting on Transnational Crime	- strengthening commitment of ASEAN on combating transnational crime. - Joint communiqué.
<b>16 – 20 August 2004 Chiang Mai, Thailand</b>	The 24 <sup>th</sup> ASEAN Chiefs of Police Conference (ASEANAPOL)	- Cooperation between national police. - support the adoption of national policy on combating transnational crimes.
<b>May 2005 Bali, Indonesia</b>	The 25 <sup>th</sup> ASEAN Chiefs of Police Conference (ASEANAPOL)	- Joint communiqué. - Support Heads of Specialist Trafficking Unit Process.
<b>November 2004 Vientiane, Laos PDR</b>	The 10 <sup>th</sup> ASEAN Summit	The ASEAN Declaration against trafficking in persons, particularly women and children.

## **B. Analyzing ASEAN Effort on Combating Human Trafficking in Southeast Asia**

As far, ASEAN's response toward human trafficking is reactive approach rather than anticipative. In other words, the effort of ASEAN to overcome the problem still low because what it needs to combat human trafficking is effective actions that conduct comprehensively. So, to anticipate the problem, ASEAN needs to develop basic standard capacity, such as:<sup>51</sup>

### **1. Sound Legal Basis**

The factors that cause security matter are related with development activities, which is impact of economy activity process. The impact commonly spread to other sectors, such social, politic and environment. Due to it problem, the regulation and policy of development should be implemented with strong law enforcement as a basis, especially to prevent irresponsible economic activities and make capital owner do their duty to maintain environment.

### **2. Early Warning System**

This standard is about ability and effort to detect the problem earlier. One significant factor that necessary to improve this standard is by providing accurate and reliable information. Beside government agencies, information could be compiled from many sources, such Non-Governmental Organization, private university, private research institution, and mass media. For doing so, ASEAN

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<sup>51</sup> Bantarto Bandoro & Ananto Gondomono, "ASEAN dan Tantangan Satu Asia Tenggara" (Centre for Strategic and International Studies (CSIS), Jakarta. 1997). Page 55-56.

need to well-opened and encourage those non-government actors. By having cooperation with many information sources, ASEAN have potential chance to anticipate further issues.

### **3. Coordination**

Human trafficking include in transnational crime which has tendency to cross border from one country to another (inter-state problem). Continuing plan of action and dialogue among member countries in ASEAN will be strengthening the coordination in order to redeem and overcome the threat of human trafficking.

ASEAN is not a military alliance that deliberates its member to combat transnational crime especially human trafficking by doing military action simultaneously. However, as a regional organization with many purposes, one of its purposes is provide security for people in terms of human security. ASEAN still ongoing process to achieve stability and peace in Southeast Asia, by making framework of politic and security cooperation among its member countries through meeting, continuing dialogue, declarations and joint communiqué and the Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime.



## **CHAPTER V**

### **CONCLUSION**

After making a research and description toward the effort of ASEAN to overcome human trafficking in Southeast Asia through its meeting and declaration, researcher figures a conclusion.

The case of human trafficking happened in southeast Asia has similar pattern. This crime has no relation with religion, race, culture and ethnic. Everyone, especially women and children, are vulnerable to be a victim of this crime. This phenomenon has growth faster in the region and it close relation with other transnational crimes such terrorism, money laundering, drugs distribution is threatening the human security, stability and peace of Southeast Asia. Ironically, there still lack of action conducted by ASEAN as basis for its member to arrange effective regulation and policy. Since the principle of non-interfere and mutual respect toward sovereignty are implemented, it becomes obstacle for ASEAN in acquiring member countries to adopt any decision or declaration into national policy. However, recent situation has show significant progress on combating human trafficking, according to the United Nations' Convention and Protocol, ASEAN has made declaration on combating the issue. The recent policy that taken by those are describe in following table:

<b>Organization</b>	<b>Declaration and Policy</b>
<b>The United Nations</b>	<i>UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; Supplement to the UN Convention against Transnational Organized Crime in 2000.</i>
<b>ASEAN</b>	<i>ASEAN Declaration Against Trafficking in Persons, Particularly in Women and Children in 2004.</i>

The effort of ASEAN on combating trafficking has faced several challenges that could be obstacles for ASEAN to keep human security in Southeast Asia and bring stability such as:

1. Different perception of human trafficking that cause different response for each member;
2. Limited resources for combating trafficking;
3. A failure to see trafficking as priority that make low anticipation and monitoring;
4. Ineffective implementation and unsafe migration route;
5. Limited cross border cooperation and inappropriate law;
6. Multiplex and complexity nature of trafficking that make investigation difficult and hard to detect;
7. The need to protect victims while punishing trafficker and accomplish the problems;
8. Corruption, low law enforcement and involvement of officials in trafficking.

ASEAN has a potential basic foundation to overcome human trafficking such the declaration against trafficking in persons, particularly women and children. The ASEAN's actions to reduce human trafficking in Southeast Asia could be strengthened by member countries working cooperatively to develop and implement:

1. An integrated approach to human trafficking that facilitates inclusion of human right and victim support;
2. Consistent and synchronize of human trafficking definition in persons in all cases;
3. Compiling and exchange data collection that accurate and reliable;
4. Recognize and adoption best example from within and beyond ASEAN region on combat trafficking;
5. Strong law enforcement, fair justice institution and eliminate corruption;
6. A coordinated migration system and cross border control;
7. Conduct workshop, training and campaign against trafficking to raise public awareness;
8. Coordinate close and effective mutual cooperation among member and ASEAN.

In order to make stability and peace in region, ASEAN endorse the member to harmonize security concept that has changed recently, from state security to human security concept, and support the reconciliation factors that became cause of human trafficking such as political and economic, as well as social factor. Political factor

could be repression from government or state's ideology. Most of member countries are developing countries that still possess many problems in economy sector. The social factor mostly influenced by traditional thought and gender issue.

ASEAN emphasize collective action from all member countries and its institution on combating human trafficking effectively. However, ASEAN needs to amend its principle about non-interfere and mutual respect toward sovereignty as obstacle for ASEAN in continuing the declaration into its member's national policy. The comprehensive anticipative actions will be needed in bringing stability of security and peace in Southeast Asia region, as requirement to achieve goals that outline in ASEAN Vision 2015 and build three pillars of ASEAN Community.

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