

# 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.

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 REPUBLIK Indonesia 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 June 2008.

<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: "Masa Depan ASEAN Vision 2020: Tantangan dan Peluang" (CGIS Jakarta, 2001). Page 87.

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.