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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Analysis of the Implementation of the Palermo Protocol in Asean Countries on the Effectiveness of International Law in Eradication of Human Trafficking

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Abstract. Human trafficking is one of the most pervasive forms of transnational organized crime and remains a serious threat to human rights protection in Southeast Asia. As the primary international legal instrument addressing human trafficking, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) provides a normative framework for states to prevent trafficking, prosecute offenders, and protect victims. This study aims to analyze the implementation of the Palermo Protocol in ASEAN member states and to assess the effectiveness of international law in supporting anti-human trafficking efforts within the region. This research employs a normative juridical method using statutory, conceptual, comparative, and international law approaches. The data were collected through library research involving international legal instruments, national legislation of ASEAN member states, legal doctrines, and relevant academic literature. The data were analyzed qualitatively using a descriptive-analytical method. The findings reveal that the implementation of the Palermo Protocol has encouraged the harmonization of national legal frameworks concerning human trafficking across ASEAN countries. However, its effectiveness continues to face significant challenges, including differences in legal systems, weak cross-border cooperation, limited law enforcement capacity, corruption, and inadequate victim protection mechanisms. Furthermore, state sovereignty concerns and varying institutional capacities affect the level of compliance and the effectiveness of international legal norms within the ASEAN region. The study concludes that enhancing the effectiveness of the Palermo Protocol in combating human trafficking in ASEAN requires stronger regional cooperation, legal harmonization, improved law enforcement capacity, and strengthened human rights-based victim protection mechanisms. As a result, international law can function more effectively as a tool for protecting victims and combating human trafficking in a sustainable manner.



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1. Introduction

Human trafficking is a global problem affecting millions of people every year, including in the ASEAN region. ASEAN member countries are among the countries most affected by human trafficking, with various forms of exploitation occurring, such as forced labor, sex trafficking, and child labor. According to the Global Slavery Index, an estimated 3.8 million people are trapped in modern slavery in the ASEAN region. Human trafficking not only violates human rights but also contributes to organized crime, corruption, and threatens regional stability and security.

ASEAN views human trafficking (Trafficking in Persons/TIP) as a serious threat that impacts the economic, social, and political aspects of the region. To address this problem, ASEAN issued several important agreements, one of which is the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP-WC) which aims to effectively address the common challenges faced by all ASEAN Member States, requiring the preparation of a clear and detailed action plan based on the laws and domestic policies of each member state, while also taking into account relevant international policies. The signing of the ACTIP-WC is a crucial step in building a stronger and more effective legal framework to eradicate human trafficking in ASEAN member countries. This convention also affirms ASEAN's commitment to protecting the rights of victims, especially women and children, and to enhancing regional cooperation in the prevention, prosecution, and protection of victims of human trafficking. The establishment of the ACTIP-WC Especially Women and Children demonstrates ASEAN's understanding of the steps to address the problem of human trafficking and highlights the importance of regional eradication of this transnational crime, where this crime occurs across national borders. The implementation of ACTIP in the ASEAN region in eradicating human trafficking is still relatively less active, as indicated by the increasing number of human trafficking cases in Southeast Asia every year.¹

In Southeast Asia, over 60 percent of the 7,800 identified victims were trafficked for sexual exploitation between 2012 and 2014. Women are also victims of domestic servitude and other forms of forced labor. In many cases, the women and children come from remote and impoverished communities. Forced marriage of women and girls at an early age is rampant in the Mekong region of Cambodia, Myanmar, and Vietnam.²

¹Pinatih, Yustika, and Asih. (2023). ASEANAPOL and the Challenges of Human Trafficking in the Southeast Asian Region: A Case Study of Thailand and Cambodia. *Journal of Social and Political Sciences (JISIP)*. Vol. 12 No. 3, 440-445

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In this regard, international law serves as a key instrument, expected to provide a strong and effective legal basis for combating human trafficking. The phenomenon of human trafficking involves not only legal aspects but also social, economic, and humanitarian dimensions. Therefore, it is crucial to understand how international law plays a role in addressing this challenge amidst diverse interests and global developments.³ According to Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (PTPP), human trafficking is defined as a series of acts that include the recruitment, transportation, harboring, sending, transferring, or receiving of individuals. These acts are carried out using various methods such as threats, pressure, coercion, kidnapping, confinement, forgery, fraud, abuse of power or vulnerability, debt bondage, or the provision of certain rewards.

Therefore, human trafficking requires a focused and comprehensive response from the government. The involvement of various stakeholders, starting from the smallest level, such as the family, extends to the community, local governments, and the central government, all the way to the central government, which must produce integrated and comprehensive solutions. In this regard, international law plays a crucial role through multilateral treaties, which are agreements of cooperation between countries. This initiative provides a solution that can be implemented by the government based on applicable national and international laws and regulations.

The research problem formulation in this study is how the international legal framework regulates human trafficking in general and specifically in the Southeast Asian region, and how the challenges in the implementation and enforcement of international law are faced by countries in this region. This journal aims to analyze the form of international legal regulations related to human trafficking and examine the obstacles that affect the effectiveness of its enforcement in Southeast Asia.

2. Research Methods

1. Types of research

Normative legal research focuses on international and national legal norms, particularly the provisions of the Palermo Protocol (Protocol to Prevent, Suppress,

²UPN Veteran Jakarta. CHAPTER I [Thesis, National Development University Veteran Jakarta]. UPN Veteran Jakarta Repository. <https://repository.upnvj.ac.id/21063/3/BAB%20I.pdf>

³Surya, W., Deri., & Bayu, T (2024). The Role of International Law in Combating Human Trafficking: A Literature Review. *Journal of Politics, Social, Law and Humanities*, vol. 2 (2). Pp 125-136.

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and Punish Trafficking in Persons, Especially Women and Children), as well as laws and regulations in ASEAN countries that regulate the eradication of human trafficking. Law is understood as a system of binding norms and serves as the basis for assessing a state's behavior in fulfilling its international obligations.

2. Research Approach

This research uses a normative juridical approach with several comprehensive legal approaches to analyze the implementation and effectiveness of international law in the ASEAN regional context.

3. Data source

a. Primary Legal Materials

- 1) United Nations Convention against Transnational Organized Crime (UNTOC) 2000
- 2) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) 2000
- 3) ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) 2015
- 4) ASEAN Human Rights Declaration (AHRD) 2012

b. Secondary Legal Materials

- 1) Scientific books
- 2) Relevant reputable National and International Journal Articles

4. Analysis Method

The qualitative analysis was conducted using a normative-juridical approach that is descriptive-analytical and prescriptive. This method was used to deeply examine international legal norms and their implementation in the national legal systems of ASEAN countries, as well as to assess their effectiveness in eradicating human trafficking.



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3. Results and Discussion

Human trafficking is a crime that seriously and complexly violates human rights. International law regulates human trafficking through various conventions and protocols agreed upon by countries around the world. Under international law, the primary legal framework addressing human trafficking is the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), officially known as the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, which is an addition to the UN Convention against Transnational Organized Crime. This protocol was ratified by the UN in 2000. This protocol is also known as the "Trafficking in Persons Protocol" and is designed to address human trafficking in all its forms, including sexual exploitation, forced labor, organs, or other forms of exploitation.⁴

Other countries in Southeast Asia, such as Malaysia, the Philippines, and Thailand, also have similar regulations and policies that adapt international standards to local conditions. However, the main challenges in this region lie in ineffective law enforcement, inter-state coordination, victim protection, and a lack of public awareness and outreach, which continue to perpetuate human trafficking. This protocol is an important international foundation for global efforts to combat human trafficking. Many countries have ratified the Palermo Protocol and enacted national laws to combat the crime of human trafficking in accordance with the protocol's provisions. The issue of human trafficking not only affects the safety of people within a country but also has transboundary effects that can put the security of other countries at risk. This is the basis for the discussion of human trafficking in the Palermo Protocol, with the understanding that individual security is a universal right. In developed countries, the topic of individual security is considered crucial, while in developing countries, this topic has received less serious attention. The 2014 Protocol, which complements Convention No. 29, strengthens states' obligations to prevent forced labor, protect victims, and ensure effective law enforcement against perpetrators. The ILO emphasizes forced labor as one of the main forms of exploitation in human trafficking, especially in the migrant and vulnerable worker sectors. The ILO also issued Convention No. 182 of 1999 which regulates the elimination of the worst forms of child labor, including sexual exploitation and trafficking of children for forced labor. The main objectives of this ILO instrument within the international legal framework include forced labor and human trafficking through strict regulation and monitoring of work practices, protecting victims by providing access to legal

⁴Setiowibowo, Angga Restu Pratama. (2023). Dynamics of Human Trafficking in Southeast Asia: International and National Criminal Law Perspectives. Iblam Repository.

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protection, health services, rehabilitation and social reintegration, responding to perpetrators by determining strict sanctions and ensuring effective law enforcement processes, and encouraging international cooperation among countries to address human trafficking comprehensively, including information exchange and law enforcement coordination.

Southeast Asian countries face significant challenges in enforcing international law on human trafficking. One key challenge is the lack of effective law enforcement. The application of rights at the national level is often inconsistent. Some countries still have weak legal systems, lack coordination between law enforcement agencies, and limitations in identifying and implementing anti-trafficking measures. Furthermore, ASEAN's principle of non-interference hinders regional cooperation. ASEAN's policy of non-interference in the domestic affairs of its member states makes it difficult for ASEAN to ensure that each country effectively implements its anti-trafficking policies.⁵

Lack of awareness and education about human trafficking is a significant challenge facing Southeast Asian countries. Many individuals, particularly those living in rural and remote areas, lack access to or adequate information about the risks associated with human trafficking. This limited information leaves them unaware of the syndicates' modus operandi, which often involves deceptive job offers, promises of high salaries, or better living conditions. As a result, they are more vulnerable to becoming trapped in human trafficking networks. They may be tempted by seemingly lucrative offers, unaware that they could be subjected to sexual exploitation or forced labor. A lack of education about human rights and how to protect themselves further exacerbates the situation, as many individuals do not know how to report or seek help if they feel threatened.

4. Conclusion

Human trafficking in Southeast Asia is a complex, transnational issue closely linked to serious human rights violations. The international community has responded by creating a number of strong legal regulations, such as the Palermo Protocol, the ILO Conventions, CEDAW, and various declarations and conventions under ASEAN. All of these regulations are designed to prevent, prosecute, and end the practice of human trafficking, while ensuring protection for victims. In Southeast Asia, nearly all countries have ratified these international instruments and incorporated them into their national laws. For example, Indonesia issued Law No. 21 of 2007

⁵Pinatih, Yustika, and Asih. (2023). ASEANAPOL and the Challenges of Human Trafficking in the Southeast Asia Region: A Case Study of Thailand and Cambodia. *Journal of Social and Political Sciences (JISIP)*. Vol. 12 No. 3, 440-445.

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concerning the Eradication of the Crime of Human Trafficking. However, despite these laws, their implementation has not always been effective. The main obstacles to enforcing international law on human trafficking in the region are weak national legal systems, rampant corruption, a culture of impunity, poverty, unemployment, and low public awareness of the issue. Furthermore, ASEAN's principle of non-intervention also hinders stronger regional cooperation. The imbalance between prevention, protection, and enforcement efforts in national policies further weakens the ability of countries in the region to combat human trafficking. Therefore, a more comprehensive and integrated approach is needed. Legal reform, strengthening the capacity of law enforcement agencies, increasing cross-border cooperation, and educating the public to raise awareness and concern about this issue are necessary. Southeast Asian countries must also strengthen political commitment and expand the role of civil society in monitoring and addressing human trafficking cases. Without this, existing international legal regulations will remain mere norms without real force on the ground. With strong synergy between law, policy, and collective awareness, the Southeast Asian region has a significant opportunity to address this challenge more effectively and equitably.

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