

ASEAN BRIEFS

Fighting for Freedom:
Combatting Human Trafficking in ASEAN



Vol. 4 / Issue 4 / April 2017



ASEAN Briefs is a regular publication about current developments on ASEAN regionalism, especially in the Political-Security, Economic as well as Socio - Cultural Pillars.

**The Habibie Center -
ASEAN Studies Program ASEAN Briefs**

Project Supervisor:

Rahimah Abdulrahim

(Executive Director)

Hadi Kuntjara

(Deputy Director for Operations)

Head of ASEAN Studies Program/Editor:

A. Ibrahim Almuttaqi

Researcher:

Fina Astriana

Muhamad Arif

Askabea Fadhillah

Agustha Lumban Tobing

Hana Hanifah Bastaman

Vierna Tasya Wensatama

Finance and Administration:

Mila Oktaviani

Design and Publication:

Rahma Simamora

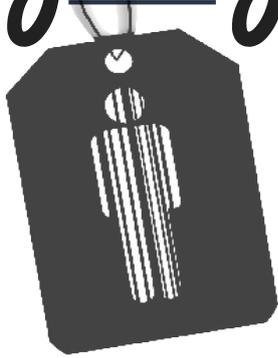
Tongki Ari Wibowo

Executive Summary



This edition of ASEAN Briefs explores the current trend of human trafficking in Southeast Asia and the regional as well as national efforts to combat human trafficking. Regionally and nationally, ASEAN member states have adopted a number of laws and regulations to deal with human trafficking as human rights violation. However, looking at the prevalence of various forms of human trafficking in Southeast Asia, it is clear that the existing approach has not yielded a sustainable result in ending the root cause of this crime. There is an urgency for ASEAN to explore new strategy that considers sustainability in ending the root causes of human trafficking. This Briefs aims to offer a more sustainable strategy to supplement the current approach by paying more attention to the influence of the structure of global and regional economy, as well as the gendered nature of human trafficking policy.

Fighting for Freedom: Combating Human Trafficking in ASEAN



Global trend data:

USD 150 billion

of illegal profits generated by human trafficking per year (ILO estimation 2014)

45.8 million

people trapped in modern slavery (Global Slavery Index 2016)



Regional trend data

Asia Pacific had the biggest number of victims, **30.5 million in 2016** (Global Slavery Index 2016)

Greater Mekong Sub-Region has the most extensive flows

25% of global victims assisted by IOM came from South Asia



more than **1 million Rohingya** are denied citizenship of high risk of human trafficking

6 ASM have ratified **ACTIP:** Philippines, Cambodia, Singapore, Thailand, Vietnam, Myanmar.

92% of **1,525** victims assisted by IOM in ASEAN in **2015** were forced labours





Introduction:

Human trafficking remains one of the toughest transnational crimes yet to be solved. As much as it is a form of crime against human rights, human trafficking is also a form of illegal international business. In 2014, the International Labour Organization (ILO) estimated that human trafficking generates around USD 150 billion of illegal profits a year, which is more than the GDP of most African countries and three times the revenues of Apple.¹ With figure such as that, human trafficking is one of the largest criminal industries in the world.

As an illegal industry, human trafficking has victimised millions of people around the world. According to the Global Slavery Index 2016, there are around 45.8 million people trapped in modern slavery, which is more than the combined population of Malaysia, Singapore, Brunei Darussalam, and Lao PDR.² No region or country around the world is immune from human trafficking. Asia Pacific, however, had the biggest number of victims, which was almost 30.5 million in 2016, followed by Sub-Saharan Africa with around 6.2 million victims.³

Recognising the magnitude of the problem, ASEAN has joined the global effort to combat human trafficking. Human trafficking, especially women and children trafficking, has received considerable attention in ASEAN. At the regional level, several treaty and non-treaty instruments exist as the overall guideline for ASEAN's efforts in countering human trafficking. There are also various national and bilateral instruments that are committed to eliminating trafficking in persons. All these efforts are regarded as an important commitment by ASEAN to deliver more effective counter-trafficking

measures. However, the prevalence of human trafficking cases proves that the existing ASEAN mechanism in countering human trafficking is not effective. Something needs to be fixed.

The focus of this issue of *ASEAN Briefs* is to review the current trend of human trafficking in Southeast Asia and to examine the existing ASEAN mechanism in countering human trafficking. By paying attention to the influence of the structure of global and regional economy, as well as the gendered nature of human trafficking policy, this *Briefs* aims to offer a more sustainable solutions to supplement the existing efforts.

Laws and Order: Legal Instruments to Counter Human Trafficking in ASEAN

Generally, the term “human trafficking” has been used interchangeably with “trafficking in persons” (TIP) and “modern slavery” as an umbrella terms to categorise various forms of human exploitation. All the terms emphasise the element of the use of force, threat or other forms of coercion, and consider victims’ consent to be irrelevant where the use of force has been used. There are various purposes of exploitation, including, but not limited to, sex trafficking, domestic servitude, bonded labour, forced labour, child labour, forced marriage, and child soldiers recruitment. Whilst most cases of human trafficking are considered to be transnational crimes, most international or national regulations have recognised that the means of trafficking and the exploitation can happen both within and across national borders.

In regards to human trafficking, ASEAN has one main treaty and several other supporting instruments. The ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) serves as the main treaty that encompasses the overall guidance for ASEAN's efforts in countering human trafficking. Adopted at the 27th ASEAN Summit in November 2015, the treaty is regarded as an important commitment for ASEAN to deliver more effective counter-trafficking efforts. The treaty supports the UN Protocol to Suppress, Prevent and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol, 2000) and adopted its definition on trafficking.

ASEAN puts all activities that enable trafficking to be illegal and subject to prosecution. ASEAN also emphasises that the consent of the victim is irrelevant when any of the means that include the use of force and coercion have been used.⁴ In other words, all persons who are involved as the object of trafficking must be regarded as victim.⁵ With regard to the purpose of trafficking, ASEAN basically recognises that it can include many forms of exploitation of a person, which is not limited to forced labour or sexual exploitation.⁶ ASEAN also acknowledges that trafficking can happen both within and across national borders.

In ASEAN, human trafficking is framed mainly as a human rights issue. By recalling the Universal Declaration on Human Rights, the ASEAN Charter, and the ASEAN Human Rights Declaration, the ASEAN TIP Convention linked the efforts to eradicate trafficking in persons with the promotion and protection of human rights, fundamental freedoms, fair treatment, and rule of law.⁷ The fight against human trafficking in ASEAN is also supported by the ASEAN Intergovernmental Commission on Human Rights (AICHR). Moreover, with special emphasis on women and children, ASEAN has placed the issue of human trafficking as one of the main agenda of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).

ASEAN member states have also devised several bilateral instruments amongst themselves. As of 2016, bilateral agreements to deal with human trafficking are mainly concentrated in the Greater Mekong Sub-region that involves Thailand, Viet Nam, Cambodia, Lao PDR, and Myanmar.⁸ Similar with the ASEAN TIP Convention, bilateral

instruments addressing human trafficking in the Greater Mekong Sub-region mostly emphasise women and children as victims, and include measures from victim identification to rehabilitation.

Nationally, all ASEAN member states have their own law against human trafficking. Indonesia, for example, has the Law of the Republic of Indonesia No. 21 on Eradication of the Criminal Act of Human Trafficking (2007). Myanmar has its Anti-Trafficking in Persons Law (2005), and Singapore has its Prevention of Human Trafficking Act (2014). Whilst the definition of human trafficking varies, each law has similar components with the UN TIP Protocol. Generally, human trafficking is considered to be a criminal offense and human rights violation with specific emphasis for cases involving women and children as victims. Some countries, such as Singapore, Indonesia and the Philippines extend and add specific definition for various forms of human trafficking purposes, such as debt bondage, servitude, and servile forms of marriage.⁹

Numbers Don't Lie: Human Trafficking Prevalence in Southeast Asia

Even with the existing legal instruments, Southeast Asia remains one of the regions with the highest number of human trafficking offense. Generally, according to the United Nations Office on Drugs and Crime (UNODC) report, Southeast Asia is a destination region for short, medium and long-distance human trafficking.¹⁰ Asia Pacific has been reported as a region with the largest number of human trafficking cases, and within Asia Pacific, the Greater Mekong Sub-region (GMS) has the most extensive flows of migration and human trafficking.¹¹ In fact, in 2015, 25 percent of global human trafficking victims requiring assistance by the International Organization for Migration (IOM) came from ASEAN countries.¹²

The current landscape of human trafficking in Southeast Asia is mainly concerned with the trafficking of displaced Rohingya people. The unresolved conflicts in Myanmar have displaced tens of thousands of Rohingya as well as Kachin and Shan civilians and made them especially vulnerable to trafficking. The government of Myanmar continues to deny citizenship status to more than 1 million Rohingya and detains around 120,000 Muslims in more than 40 camps, putting