

RESEARCH ARTICLE

HUMAN TRAFFICKING IN THAILAND IN PERSPECTIVE OF HUMAN RIGHTS LAW

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ABSTRACT

Trafficking in human beings is increasingly due to the greatest gain of the perpetrators. Human trafficking is a global humanitarian problem. With the involvement of many countries, both as a country of origin, **destination**, and transit country, making this problem more complex. The complexity of the problems is increasing as the neighbors and organized transnational crime networks are organized. Thailand is one of the transit countries, sources, and destinations for international human trafficking. These conditions led to the Government of Thailand began to realize the urgency of the dangers of human trafficking. This problem is increasingly complex because human trafficking is related to child and female prostitution.

Keywords: *Human Trafficking, Human Rights, Thailand*

INTRODUCTION

The rapid impact of globalization has such a profound effect on a country, the development of various industries in the world today can be seen so vastly that it chooses aims to improve the economy of a country, this reflects globalization. Globalization is an international union of individuals with information networks and economic, social, and political institutions occurring rapidly and profoundly at a dose never experienced during the history of the previous world. In other words, globalization is something new that has never been seen before and change old habits into new habits ([Williamson, 2017](#); [Majeed & Malik, 2017](#)).

The existence of globalization is a system that can facilitate various countries in this world can be connected to each other easily and futures, the impact caused by the existence of globalization can be a positive impact or negative impact. At first glance there are two factors driving globalization according to Spillane ([2019](#)) that is the first is the shift and development led by the government to market-led development and second is the advance in technology that facilitate coordination of production and marketing at global level.

From these two factors there is a more important role in the process of accelerating the process of globalization is the progress in technology, especially information technology, production, and transportation with the progress caused by the things that lead to the easier and cheaper flow of goods, services, knowledge, and human resources from a country to another country becomes a mixed and integrated country and the population of the world. This is what causes human trade in the world.

According to Siegrid Tautz, Angela Bahr and Sonja Wolthe ([2006](#)), the cause of the rampant cases of trafficking is due to the fact that when the East and West borders of the post-Cold War are open and economic globalization is increasing which causes cases of trafficking and child exploitation are increasing tremendously in Asia and Africa. Trafficking in persons under the definition of article 3 of the UN Protocol is the recruitment, transfer, transfer, holding and receiving of persons by threat or other lies or vulnerable positions or payments or gain advantage to obtain the consent of someone in charge of others. The Existence of trafficking has been prevalent in various countries, especially developing countries, Thailand where the country is still developing in Southeast Asia which has a high level of human trafficking. In this case, human trafficking that occurred in Thailand is a very crucial event ([Zimmerman & Kiss, 2017](#);

Farrel, Dank, de Vries, Kafafian, Hughes, & Lockwood, 2019; Thinyane & Bhat, 2019).

Human trafficking in Thailand is increasing from year to year, giving the government serious attention to this case. The trafficking victims in Thailand are mostly women and children. Trafficking in Thailand is forced to become a low-wage laborer, 57% of workers there in Thailand is a victim of human trafficking. Human trafficking has a negative effect on social life, especially the social of the victims. The tremendous human trafficking in Thailand in the last period has given the government serious attention to the case and Thailand has its own way of avoiding an increase in human trafficking. The increase of Thai economy can be seen from the development of its tourism industry sector which is the main industry in Thailand (Greenbaum & Bodrick, 2017; Willis, Wick, Bykowski, doran, Li, & Tran, 2021).

In addition to the tourism industry, Thailand also advanced to its agricultural industry and the fishery industry. The increase in these three industries had a negative impact as it resulted in trafficking in persons forced into forced labor by being forced laborers and commercial sex workers in sex tourism in Thailand (Malikhao & Servaes, 2017; Jermittiparsert, 2017). Thailand became the country of origin, transit country, and the largest destination of victims of human trafficking originating from various countries. Thailand is a center of sexual and labor exploitation in the Greater Sub-Mekong Area. So, the human trafficking also involves countries directly adjacent to Thai territory such as Laos, Myanmar, and Cambodia.

At the same time Thailand is also one of the countries with the current the largest migration especially in the Sub-Mekong Region. As a transit country of human trafficking, Thailand becomes a victim of trade returns originating from Russia, Poland, the Czech Republic, and South America. Generally, Thailand also sends trafficking victims to other countries such as Japan as the priority destination of the Netherlands, Germany, Australia via Malaysia, Hongkong, India, Malaysia, and the Middle East region for the purpose of foreign sex business.

METHOD

This paper is based on literature research by exploring the variants of secondary sources contained in several studies that are suppressed in written text in the form of books, papers, journal articles and relevant reports. The procedures are commonly used: (1) inventorying and identification of literature related to

trafficking, (2) recognizing the diverse patterns of cases that arise, then analyzing and presenting descriptively various cases then linked to the context of globalization, and (3) conclusion.

HUMAN TRAFFICKING IN THAILAND AND ITS COMPARISON WITH INDONESIA: A LEGAL PERSPECTIVE

Human trafficking is a modern form of slavery, taking place both at the national and international levels. With the development of information technology, communication and transformation mode of trafficking human traffics increasingly sophisticated. Trafficking is not an ordinary, organized, and transnational, so it can be categorized as transnational organized crime. Such is the sophisticated way of trading people who must be followed by a legal device that can trap the perpetrator. A special legal instrument is required which covers aspects of prevention, protection, rehabilitation, repudiation, and social reintegration. Trafficking can happen to every human being, especially to women, thus effort protection of women and children is one that must be implemented ([Jones, King, & Edwards, 2018](#)).

Human trafficking, today, is a matter of concern to the public, both nationally and internationally. Various efforts have been made to prevent the occurrence of human trafficking practices. Normatively, legal rules have been created to prevent and deal with human trafficking. However, trafficking persists, especially with regard to women and children. The complexity of the problem of human trafficking is exacerbated by the ignorance of the victims. Victims of human trafficking willingly pay someone to go and enter a country and work as prostitution. After working as a prostitute for some time, he can return to his home country by bringing in some life ([Santad, Ratchadapunnathikul, 2018](#); [Malikhao & Servaes, 2017](#)).

increase in trafficking in Thailand are driven by cultural factors and economic factors. Based on the cultural factors of Thailand has a high level of trade because of the social practices in the culture that allows human trafficking to flourish. Buddhism as a major religion in Thailand also seems to provide a space of tolerance to the development of human trafficking. In Buddhist understanding, women have more responsibility to meet the needs of their

families. While from economic factors, understanding is based on the flow of migration that occurred in Thailand. Human trafficking itself is a consequence of the presence of migratory flows especially in areas with close borders. Trafficking to Thailand is dominated by commodities originating from neighboring countries such as Myanmar, Cambodia, Laos, and surrounding areas.

In Article Universal Declaration of Human Rights, it is stated no shall be held in slavery or servitude: "*slave trade shall be prohibited in all their forms*". The prohibition of slavery is also contained in The International Covenant on Civil and Political Rights. By a different sentence but having the same meaning as the clearly states that "no one shall be held in Slavery: Slavery and the slave-trade in all their forms shall be prohibited. Thus, slavery is a prohibition (Arby, Damayanti, & Dipokusomo, 2021; Pimonsaengsuriya, 2019; Nugraha, 2018).

In organization, it is not explained what is meant by slavery. The notion of slavery, according to the status or condition of a person over whom any or all the powers attach to the rights of ownership are exercised. In fact, issues related to slavery are qualified as international crimes, in addition to war crimes and crimes against humanity. Therefore, this issue becomes an important issue for any country to engage in its national law, even in a state of war or emergency (Nugraha, 2018; Prasetya, 2020).

The development internationally, has brought the problem of slavery into international problems. Slavery has evolved as a juice cogens. The International Criminal Tribunal for The Former Yugoslavia has decided that enslavement is included in the definition of crimes against humanity. Similarly, the International Criminal Court Statute, enslavement and sexual slavery are said to be crimes. According to the ICC, enslavement is defined as the exercise of any or all the powers attaching to the right of ownership over a person.

In Article, it expressly States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and the exploitation of prostitution of women. Especially those related to women. The provisions as contained in Article of CEDAW indicate that the problem of "traffic in woman" and prostitution of woman is very contrary to humanity and dangerous for the individual concerned and the family and society at large. Therefore, States Parties shall sanction any person who: (1) seeks, moves, or invites others, for the purpose of prostitution, even if the person concerned agrees; (2) exploiting others as prostitution, even if the person agrees. In addition to these issues, CEDAW has also provided limits on treating women in doing the work in Article (Banuati, 2020; Arista, 2018; Syapriyani, 2020; Tastama, 2019; Latifiani, 2019; Selyawati, 2017).

Convention stipulates the notion of force or compulsory labor as all work or service which is exacted from any person under the menace of any penalty, and for which the said person has not been offered voluntarily. More than 25 years later, the approved additional instruments, later referred to as the Abolition of Forced Labor Convention. In the convention, what is meant by "*suppression of forced labor*" is "*political coercion, labor discipline, or racial, national or religious discrimination; as a method of mobilizing and using the laboratory for purposes of economic development; an as punishment for having participated in strikes*" (Selyawati, 2017).

Problems related to children, cannot be separated from the attention of the international community. In short, all forms of child exploitation should get the attention of all countries. Convention on the Rights of the Child is one of the conventions governing matters relating to the protection of children's rights. Article states that what is meant by child is every human being under the law applicable to the child, the majority is attained earlier. Under this provision, it is further determined that there is a necessity for the state to pay attention to all forms of violence against children. This is clearly stated in Article The treatment of children committed by force is very likely.

The illegal use of children for sexual interest and the use of children for pornographic matters is of concern, as set forth in Article whereas trafficking in children also receives attention as stated in Article States Parties shall take all appropriate national, bilateral, and multilateral measures to prevent the abduction of the sale of or traffic in children for any aspect of the child's welfare. Seeing the provisions contained in it appears has not organized a complete set of things related to the child.

The contained are then complemented by Optional Protocol to the Convention on the Rights of The Child. This protocol extends the notion of "sale of child, child prostitution, and child pornography. The prohibition of trafficking and the exploitation of children is also addressed in Convention on the Worst Form of Labor. In relation to child labor, the approved instruments relating to the Minimum Age Convention. Along with the development of child labor, then the Worst Forms of Child Labor Convention was established. Worst Forms of child Labor is defined as all forms of slavery or labor compound, including forced or compulsory recruitment of children for armed conflict.

International law also provides protection to individuals, as migrants or migrant workers. The international instrument concerned is the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In this Convention it is stated that the right to life of migrants and

members of their families shall be protected by law. Legal protection is not only from the recipient country but also from the country where the worker belongs. Protection against migrant workers, an extension of human rights that need to be protected by law. The problem is the illegal migrant worker, the rights are clearly stated in Article 8.

The Convention is intended to allow migrants workers to be free from all forms of slavery, and pressures. The State shall sanction any person / group of persons who commit violence against migrant workers. Listening to what has been described above, it is clear that "human trafficking" is very important to note and dealt with. To that end, international institutions have also regulated the issue in international instruments.

The main thing in the handling of human trafficking is the formation of vision and cooperation that continues ongoing. Human trafficking case which is a transnational organized crime is a transnational crime committed by a group of people where the activity of this crime is not only involving one country only so that Thailand can own to solve this problem. Establishment of Laws in Overcoming Eradication of Trafficking in Persons and Migration Flows Thai Government Cooperation with Southeast Asian Countries and International Institutions.

Looking at the development and enhancement of human trafficking issues in Thailand, the UNIAP Thailand builds a knowledge base on human trafficking through:

- (1) consolidation of lessons learned, and good practices developed from various sectors.
- (2) facilitate the development of national public library resources The ineffectiveness of Thai Government Program 509 on trafficking and migration of human problems.
- (3) acts as Information Clearing House on all trade initiatives in Thailand.
- (4) developing information kits trading and translating documents of importance from English to Thailand.
- (5) disseminating information on trafficking in Thailand through the national email network and Thai newspapers to increase coverage for all stakeholders in Thailand.

UNIAP has implemented an agenda in Thailand to reduce and respond to human trafficking issues. Some of the things that have been done by UNIAP are policy making and coordination with Thailand in the form of prevention, protection, and prosecution. **The first** is Policy and Coordination, which combines all types of interventions on human trafficking at the central and

provincial levels. **The Second** is the prevention done by UNIAP for Thailand, that is activity in location sources and destinations including awareness-raising campaign activities on human trafficking and safe migration, as well as education, capacity building and vocational training. The Third is protection undertaken by UNIAP in reducing trafficking conditions in Thailand, with activities at local sources and destinations including rescue, identification, rehabilitation, legal aid, acceptance and reintegration. Last is prosecution, which is done from traders and exploiters in Thailand are required to strengthen by applying new regulations regarding Anti Trafficking in Persons Act B.E 2551 (2008) effective on 5 June. This applies to everyone based on equality, not just women and children.

CONCLUSION

This study concluded that human trafficking one of the serious problems. Because this trafficking seizes or violates human rights for people who become victims of trafficking. As for the factors that cause the occurrence of trafficking is due to economic weakness or due to poverty, minimal / low education, attitude that is always less satisfied with the economic income in Thailand so that victims, and lifestyle hedonism. In dealing with trafficking cases, the efforts of the Thai government are: *First*, combating trafficking in Thailand, involving Thai authorities and other special teams. *Second*, providing capacity building and direct assistance to victims of trafficking. *Third*, support the enforcement of human rights. *Fourth*, the Thai government cooperates with international parties in relation to the eradication of human trafficking. The impact of trafficking is a negative impact. For example, the victim of trafficking is a woman, certainly will always feel not confident when going to marry his partner because previously been a victim of rape by traffickers and feel tend to blame him. While the negative impact for the Thai government is that the lack of concern for the people. And judged by the public that the Thai government has not been on the side of victims of trafficking practices. In Thai human rights enforcement must be based on conventions or instruments of international law relating to trafficking in persons.

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