



The Role Of Asean Intergovernmental Commision On Human Right (AICHR) On Handling Of Human Trafficking In Indonesia

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ABSTRACT

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The issue of human trafficking is now more pronounced as the government's efforts to eradicate crime are considered to be minimal and less effective. Protection of citizens is absolutely essential because it is a state obligation, but besides that there needs to be cooperation between non-state actors in international world to guarantee the creation of human security. Due to the large number of human trafficking cases in Southeast Asia, encouraging ASEAN countries to establish ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009 in Cambodia. Therefore, this study aims to determine the basis of the establishment of ASEAN Intergovernmental Commission on Human Rights (AICHR), and to know the role of ASEAN Intergovernmental Commission on Human Rights (AICHR) on the handling of trafficking in Indonesia. The research was conducted by using qualitative method with normative approach. The results show that AICHR was formed with six main objectives: 1) Promoting and protecting human rights and the right of freedom of ASEAN nation. 2) To uphold ASEAN peoples' right to live in peace, dignity and prosperity, 3) To realize the objectives of ASEAN organizations as stipulated in the Charter: to maintain stability and harmony in the region while maintaining friendship and cooperation among ASEAN members; 4) Promoting human rights in At the regional level while maintaining the characteristics, historical, cultural and religious differences of each country, as well as maintaining a balance of rights and obligations, 5) Promoting regional cooperation through complementary national and international efforts to promote and protect human rights;) Upholding the international human rights principles embodied in the Universal Declaration of Human Rights, the Vienna Declaration and its implementation program, and other human rights instruments, in which ASEAN members are parties. The role of AICHR in the handling of human trafficking is to conduct consultation, coordination and collaboration with all 3 ASEAN communities: 1) ASEAN Political and Security Community, 2) ASEAN Economic Community, and 3) ASEAN Socio-Cultural Community.

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1. INTRODUCTION

Human trafficking or known as human trafficking is a new form of transnational crime that is increasingly occurring but difficult to detect (Lubis, 2012). Crime in this form is common in developing countries that have large populations with an unequal difference in the number of men and women (Seedat et al., 2009) (Arsono & Atmanti, 2014). In addition, the biggest background for the occurrence of crimes in this form is the existence of economic disparities with many demands for cheap labor, which usually come from abroad. The reason why almost every country is involved in the trafficking network is that the country can function as a country of origin, that is, a country where people are trafficked outside,

Human trafficking can be considered modern slavery (Wheaton et al., 2010) (Allain, 2009) (Wyatt, 2011). Over the past 30 years, 30 million Asians were victims of human trafficking (sexual exploitation only) but during the 16-19 centuries, the number of Africans sold in slavery companies was 12 million (Wyatt, 2011). It is thought that at present, 12.3 million people worldwide are suffering as a result of being victims of human trafficking, and that at least three million Indonesians are victims of human trafficking (Wyatt, 2011) (Juwita, 2014). Also, human trafficking is the highest crime company in the world after drug trafficking and arms trafficking (Lubis, 2012) (Shelley, 2012) (Williams, 2010) (Wheaton et al., 2010). So clearly human trafficking is a very evil thing and needs to be eradicated. However, very few trafficking criminals have been caught. For example, only 50 trafficking criminals were arrested by the police during 2008 and only 139 were arrested during 2009. According to the Indonesian Child Protection Commission (KPAI) the number of child trafficking in Indonesia is increasing every year. From 2011 to July 2015, 860 cases were recorded. In detail, in 2011 there were 160 cases, 2012 as many as 173 cases, 2013 as many as 184 cases, 2014 there were 263 cases, and up to July 2015 the KPAI found reports of child trafficking as many as 80 cases. Although the state has protected children from human trafficking with various regulations, including Law Number 35 of 2014 concerning Child Protection. However, the implementation has not been as expected.

The problem of human trafficking is a common problem that must be immediately sought for solutions of various solutions (Kurniawati, nd) (Haynes, 2014) (Shelley, 2010). Lack of soil fertility in the Madura region because the majority of their families are farmers, the lack of an economy and the demands for meeting increasing economic needs, low education, and the absence of employment opportunities for women, are some of the main push factors for women to become labor Women who later become victims of human trafficking. In addition to this, there are other personal driving forces out. Meanwhile, the pull factor for Madurese women to work in Saudi Arabia and Malaysia is the high monthly wages they will get each month. In Indonesia, human trafficking has been going on for a long time. However, in the absence of a comprehensive law with enforcement laws and coupled with a lack of sensitivity of government officials and public awareness, this crime continues to be a major problem and challenge faced by the government and society. The International Organization for Migration (IOM), since 2005, has identified and assisted 3,339 victims of trafficking in persons in Indonesia. Where nearly 90% of victims are women, and more than 25% are children. Trafficking in persons in Indonesia is a very important issue to discuss, given that many Indonesians are the object of trafficking in persons themselves, so there needs to be an integrated effort from all parties, especially the government (Hidayati, 2012). However, due to the absence of a comprehensive law with enforcement

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In carrying out efforts to prevent and combat trafficking in women that are oriented towards the protection of victims, it is very necessary to have consistency of law enforcement that is victim-centered, which "marries" the desired target of law enforcement against perpetrators and the needs and rights of victims (Kusumawardhani, 2010). Law enforcement officers have a duty to prevent child trafficking problems by using existing laws and regulations. Efforts to prevent and overcome these problems are carried out at the international, regional and local levels, by collaborating with related agencies, in this case the police (ARDIANSJAH, nd) (Indirati, 2014).

Law enforcement officials must be able to work together and work hard to tackle the problem of child trafficking (Ardianto, 2013) (Akbar, 2012) (Wulandari & Wicaksono, 2014). Law enforcement officers at the local level, namely the police as investigators, must be able to properly implement the existing laws and regulations in Indonesia to ensnare the perpetrators so that they can provide a

deterrent effect on the perpetrators of the crime of child trafficking. The regulation related to the issue of child trafficking is Law No. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons (hereinafter referred to as the Trafficking in Persons Law). In addition, the relevant officials must actively carry out activities to prevent the problem of child trafficking. The issue of human trafficking is an implication of the poverty phenomenon. This then becomes a more complex problem because it becomes a transnational organized crime or what can be called a transnational - Crime. Although most cases of human trafficking are criminal acts that cross borders between countries, it also does not rule out the possibility of this crime occurring within one country. Because of the many cases of human trafficking in the Southeast Asian region, it has prompted ASEAN countries to form the ASEAN Intergovernmental Commission On Human Rights (AICHR) in 2009 in Cambodia. International security is an important issue in the current era of globalization. When talking about international security, it no longer only emphasizes state security, but also relates to human security (Adhinata, 2012) (Chandler, 2012). Conventionally, problems regarding security are usually synonymous with relations between countries which can be interpreted as the efforts of a country to maintain and protect the security of its country from attacks or threats by other parties, especially those related to military threats (ROZAK, 2010). This model of security is known as traditional security. During its development, the concept of security has shifted from traditional security which is closely related to the issue of military threats to non-traditional security (ROZAK, 2010). The non-traditional concept of security regarding human security in this paper will focus on the crime of human trafficking that is currently rife in the world (Adhinata, 2012). Human trafficking is a hot issue in the current era of globalization because the existence of this crime has plagued many countries in the world, including Indonesia (Adhinata, 2012).

Human trafficking is not only a matter of criminality alone but also concerns violations of human rights (HAM) (Al Mugoffary, 2009) (Kneebone & Debeljak, 2012) (Chung, 2009). This is related to the violation of the most fundamental human rights, namely the right to freedom, to have a better life, to gain welfare and human rights as beings with dignity. In the crime of human trafficking, These essences have been violated because they treat humans like goods that are traded as profitable commercial commodities which can then be easily exploited (Adhinata, 2012). In Indonesia, trafficking in persons is a crime that has a high rating and is rife. With a large population and a large area, it will have the potential for this type of crime to grow rapidly, plus the many networks of human trafficking syndicates that have given birth to transnational crime (transnational crime) make it easier for this crime to flourish. The problem of human trafficking is now increasingly sticking out because the government's efforts to eradicate this crime are still considered minimal and ineffective.

2. RESEARCH METHOD

The research method used in this study is a qualitative research method (Gunawan, 2013). Qualitative research is to examine the perspectives of participants with strategies that are interactive and flexible. Qualitative research is aimed at understanding social phenomena from the participant's point of view (Gunawan, 2013). Thus the meaning or definition of qualitative research is research that is used to examine the conditions of natural objects where the researcher is the key instrument. The type of research used in this research is descriptive research. This type of descriptive research is a type of research that aims to explain matters of a particular problem or object in detail. Descriptive research is carried out to answer one or more questions about the state of the object or subject of observation in detail (Sitorus, 2011). Data collection techniques used by the author to research are interviews with various competent sources as well as library research (Sarwono, 2010). The author makes an inventory of international conventions, official documents, research results, papers and books relating to the material which is the object of research for further study and study as a whole.

2.1. Data Analysis Methods

In this study, the data analysis method used was a qualitative analysis method (Gunawan, 2013). Qualitative analysis methods, namely by analyzing data in the form of concepts, opinions, opinions

obtained from library research and field research which are processed and analyzed to answer problems and then conclusions are drawn. After the required data has been collected through research methods, it needs to be processed and analyzed properly so that the data is meaningful. The method that researchers use is the deductive method, which is an analytical way of thinking that departs from the basics of general statements in specific statements, with rational reasoning. Then analyzed comparatively,

3. RESULTS AND DISCUSSIONS

3.1. Basis for Establishing the ASEAN Intergovernmental Commission on Human Rights (AICHR)

The ASEAN Human Rights Commission is a comprehensive human rights institution that is responsible for the promotion and protection of human rights in ASEAN. This commission is also an intergovernmental consultative body (consultative intergovernmental body) and an integral part of the structure of the ASEAN Organization. To fulfill its function in promoting and protecting human rights, this Commission has the mandate, among others, to: establish the ASEAN Human Rights Declaration and legal instruments related to human rights; increase public awareness of human rights; promote capacity building (capacity building) of ASEAN Member States to implement effective human rights obligations; strengthening human rights norms in ASEAN; encourage the participation of ASEAN member countries in various international human rights fora; encourage dialogue and consultation as well as cooperation among ASEAN countries involving national, international institutions and other stakeholders; as well as providing advisory service and technical assistance to ASEAN sectoral bodies.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) is part of the implementation of the ASEAN Charter, and was inaugurated on 23 October 2009 during the 16th ASEAN Summit in Hua Hin, Thailand. Dr. Sriprapha Petcharamesree from Thailand who was appointed as the Chair of AICHR. Human rights commissions exist to promote and protect human rights, and regional cooperation on human rights, in member countries (Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. AICHR, there is no human rights cooperation among ASEAN countries, so there is a need for an institution to accommodate human rights issues in ASEAN. The realization of the plan to form the Association of South East Asia Nations (ASEAN) regional human rights commission was carried out at the 42nd Meeting of the ASEAN Foreign Ministers in Thailand, the foreign ministers of all ASEAN have agreed on the Term of Reference (TOR) for the formation of the commission mandated by Article 14 of the Charter This ASEAN. In the TOR, it is said that, AICHR was formed with six main objectives, namely (Rahma, 2014):

- a. Promote and protect the human rights and freedom rights of ASEAN nations.
- b. Uphold the rights of ASEAN peoples to live in peace, dignity and prosperity.
- c. Realizing the goals of the ASEAN organization as stated in the Charter, namely maintaining stability and harmony in the regional region, while maintaining friendship and cooperation between ASEAN members.
- d. Promote human rights at the regional level by taking into account the characteristics, differences in history, culture and religion of each country, and maintaining a balance of rights and obligations.
- e. Enhancing regional cooperation through complementary efforts at the national and international levels in promoting and protecting human rights.
- f. Upholding international human rights principles contained in the Universal Declaration of Human Rights, the Vienna Declaration and its implementation programs, and other human rights instruments, to which ASEAN members are parties.

3.2. The Role of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in Handling the Crime of Human Trafficking in Indonesia.

Trafficking in persons is an international problem, where almost every country in the world has a record of cases of trafficking in persons that occur in their country. Billions of dollars have been generated at

the expense of millions of victims of human trafficking. Boys and girls who are supposed to go to school are forced to become soldiers, do forced labor, or are sold for sexual purposes. Likewise, women and girls who are trafficked for the purpose of various forms of exploitation, such as being forced to become domestic workers, prostitution or forced marriage. Meanwhile, men are often trapped by debt, then become slaves in mining areas, plantations, or other worst forms of labor. Trafficking in persons is a form of crime with low risk but large returns. The very systematic nature of the crimes and the sophisticated mechanisms used are combined with the fact that there are still many countries that do not have laws or regulations as instruments to eradicate this crime. Even so, even if there is already weak law enforcement, so that there are many cases where the perpetrators of trafficking in persons are released easily while the victims are treated as criminals. The issue of trafficking in persons has become a concern for the international community. This is because a number of human rights violations (and hereinafter abbreviated to HAM) are considered as both causes and consequences of trafficking in persons. The human rights violations referred to include forced labor, sexual and labor exploitation, violence, and abuse of victims. Cunning traffickers have exploited poverty, manipulated the hopes and innocence of their victims by using threats, intimidation and violence to make victims undergo forced servitude, undergo peonage, undergo debt bondage, and forced or fake marriages. engage in forced prostitution or to work under conditions comparable to slavery for the benefit of the trafficker. These human rights-based concerns need to be gender-inclusive as well. Gender is considered the determining factor in trade, both in terms of supply and demand. Women and girls are much more likely to be victims of trafficking than are men or boys. Especially when we talk about trafficking for prostitution and other forms of sexual exploitation, and also in the exploitation of domestic work which is more akin to the practice of slavery in the modern era.

Trafficking in persons is a serious manifestation of the feminization of poverty and the larger challenges faced by women and girls in a world characterized by gender discrimination, both inside and outside the labor market. The problem with trafficking in women and girls is the inferior status of women, deeply ingrained cultural prejudices that prevent women from realizing their potential. All of this is exacerbated by the failure of the state to guarantee women's rights. In countries where large numbers of women and girls are trafficked, one finds similar vignettes of women's powerlessness. The state as an institution that has the legitimacy and tools that enable it to implement the human rights principles contained in the Universal Declaration of Human Rights (and hereinafter abbreviated to the International Human Rights Declaration) and bears the greatest responsibility for implementing the protection, respect and fulfillment of human rights. This responsibility basically exists because the state is formed precisely to guarantee the implementation of human rights principles. And the human rights instruments that were formed after that, affirm that respect, protection and fulfillment of human rights are the responsibility of the state. In this regard, it is also the responsibility of the state to guarantee law enforcement against violations of human rights principles. If the state allows the absence of law enforcement or even becomes a part of human rights violations, the state has committed an act which is said to be impunity. The responsibility of the state in relation to human rights is to respect, protect and fulfill (to respect, to protect, to fulfill) human rights. The responsibility to respect human rights is the responsibility of the state not to act or take policies that are contrary to human rights. The responsibility to protect human rights is the responsibility to prevent, stop and punish every violation of human rights. Meanwhile, the responsibility to fulfill human rights is the obligation of the state to implement, provide guarantee the implementation of every human rights through actions and policies. Thus it is an obligation for the state to prevent the continuation of the crime of trafficking in persons as a form of human rights violation, as it is also important for the state to punish human rights violations in the criminal act of trafficking in persons and provide protection to trafficked persons. Talking about human rights, first, it is necessary to review the definition of a rule of law or what is more commonly called the rule of law. The rule of law or rule of law in the sense that according to today's conception, has universal principles, such as recognition and protection of human rights, legality of action. The state in the sense of actions of the State apparatus which can be held accountable by law and guarantees a

free trial. According to the Universal Declaration of Human Rights (UDHR) contained in Article 7 states that: All people are equal before the law and are entitled to the same protection of the law without any discrimination. Everyone has the right to equal protection against any discrimination which violates this Declaration and against any incitement to such discrimination. In line with the socio-political and legal developments in Indonesia, which is called the reform era, the government has made new laws. Especially for human rights issues, initially Indonesia only adhered to the provisions of the United Nations (United Nations), namely the universal declaration of human rights on December 10, 1948, now the Indonesian nation can be proud of the passing of Law Number 39 of 1999 concerning Human Rights. . Considering that it is the state that is in charge of implementing the protection, respect and fulfillment of human rights and so that the principles in the UDHR have legally binding power, it is necessary to form an international agreement on human rights. Specifically for trafficking in persons, the international community has a UN Protocol to prevent, prosecute and punish trafficking in persons, especially women and children (United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) which was formulated in 2000 or also known as the Palermo Protocol. This protocol is complementary to the United Nations Convention against Transnational Organized Crime. As an international organization at the regional level, ASEAN, which was formed on August 8, 1967, continues to develop itself from its limited role in regional forums extending to the international arena. Based on the ASEAN Charter which entered into force on December 15, 2008, the contents of the charter have included a concept known as the 2015 ASEAN Community. ASEAN Intergovernmental Commission on Human Rights (AICHR) on the other hand is one of the results of quality improvement for ASEAN to respond to challenges from the international community, especially regarding the many human rights violations that have occurred in ASEAN. As an umbrella organization in ASEAN, AICHR works with all ASEAN sectoral bodies in the 3 ASEAN pillars, namely, the ASEAN Political and Security Pillar, the ASEAN Economic Pillar, and the ASEAN Socio-Cultural Pillar. AICHR conducts consultation, coordination and collaboration with all 3 ASEAN communities. What is no less important is that AICHR also conducts reviews and recommendations to each pillar / community, especially for human rights issues that are within the scope of each of these pillars, as follows: (a). ASEAN Political and Security Community. (b). ASEAN Economic Community. (c). ASEAN Socio-Cultural Community.

Cooperation between countries can actually provide a breath of fresh air to the criminal act of this person's cultivation. Countries in the world have agreed to eradicate and tackle and even provide assistance to victims. Currently, what the state does in assisting victims is to accommodate and then return or repatriate the victims of human trafficking with funds and costs by the recipient country. Especially for victims who then get into legal problems, the country of origin is allowed to help its citizens get the justice they deserve. The concept of cooperation, according to Douherty and Graff, can be interpreted as: "The set of relationships that are not based on coercion and violence. Cooperation can arise due to the commitment of individuals and the state to get collective welfare ". However, this collective welfare cannot be achieved only by collective cooperation between individuals and the state, but it requires broader cooperation such as international cooperation according to Coplin: Cooperation which was originally formed from one reason where the state wanted to carry out new and better routine interactions. for common goals. These interactions are collective problem-solving activities, which take place either bilaterally or multilaterally. In an international cooperation various kinds of national interests from various countries and nations meet which cannot be fulfilled in their own country. The main issues of international cooperation according to Douherty and Graff: namely: Based on the extent to which the mutual benefits obtained through cooperation can support the conception of the interests of unilateral and competitive action. International cooperation is formed because international life covers various fields such as ideology, politics, economy, socio-culture, environment and defense and security. These various problems have led countries in the world to form an international cooperation.

International cooperation, which can be understood as cooperation in the international community, is a must as a result of the existence of interdependent relations and the increasing

complexity of human relations in the international community. International cooperation occurs because national understanding and having the same goals, a desire that is supported by international conditions that need each other. Cooperation is based on common interests among countries, but these interests are not identical. The purpose of international cooperation is to fulfill the interests of certain countries. The objectives of international cooperation are clearly conceptualized by Plano and Olton (Lorenzo, 2011) (Jack & Roy, 1999), namely: "To fulfill the interests of certain countries and to combine existing competencies so that the common goal can be achieved. The cooperation is then formulated into a forum called an international organization. International organizations are a tool that makes it easier for each of its members to collaborate in the political, economic, social and so on.

4. CONCLUSION

AICHR was formed with six main objectives, namely: 1) Promoting and protecting the human rights and freedoms of ASEAN nations. 2) Upholding the rights of the ASEAN nation to live in peace, dignity and prosperity, 3) Realizing the goals of the ASEAN organization as stated in the Charter, namely maintaining stability and harmony in the regional region, while maintaining friendship and cooperation between ASEAN members, 4) Promoting human rights in at the regional level by taking into account the characteristics, differences in history, culture and religion of each country, and maintaining a balance of rights and obligations, 5) Increasing regional cooperation through efforts at the national and international levels that complement each other in promoting and protecting human rights, and 6) Upholding international human rights principles contained in the Universal Declaration of Human Rights, Vienna Declaration and its implementation program, and other human rights instruments, to which ASEAN members are parties. The role of AICHR in handling human trafficking crimes is to carry out consultation, coordination and collaboration with all 3 ASEAN communities, namely: 1) ASEAN Political and Security Community, 2) ASEAN Economic Community, and 3) ASEAN Socio-Cultural Community.

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