The Phenomenon of Human Trafficking Activities in Southeast Asian

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1.0 Introduction

"Global Security was changed dramatically by the events of 11 September 2001. The definition of security has... once again beed narrowed. The concern is very much national security in a globalized world, in which direct attacks are now, as they were during the Cold War, seen as primary and most imminent challenge.... issues such as the promotion of democratization, respect human rights, and problems with environmental degradation appear, at least for the moment, to have been put on the back-burner"[1].

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The issue of human trafficking is not a brand new agenda when discussing the aspects of security. It has become a threat which is capable of endangering the security and sovereignty of a country. This is due to the fact that human trafficking has become one of the fastest spreading crimes that are actively growing all over the world. In the effort of identifying the actual amount of victims involved in human trafficking, a few studies were done, including researches on the profit made from the human trafficking activity. United Nations (UN) roughly estimates about 700,000 to 4 million women and children are trafficked each year[2].

World's NGO, The International Labour Organization, estimates that 12.3 million forced labour in this world. In fact, 'Free the Slaves' NGO estimates that there are 27 million slaves in the world currently. Basically, almost every country is involved in the human trafficking activity, regardless its role, whether as country of source, transitting country or country of destination. In fact, human trafficking is among the worls's third largest profitting transnational organised crime, after drugs and weapon trafficking.

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[1] Baylis.J&Smith.S. (2005), The Globalization Of World Politics.London:Oxford University.pg 321
[2] Henry Thompson (2006). *International Economics: Global Markets And Competition.*London:World Scientific Publishing.pg 260-266

At the international level, in the effort to overcome human trafficking activity, a few challenges were identified at various levels; one of it being due to the differences in the country's sovereignty and law, where each country has its own sovereignty and law system, causing a big challenge when the victims of this crime are brought out and across the borders of their country. Thus, the government and authorities have difficulties in enforcing the law due to the fact that there are countries without Anti-Human Trafficking law. Besides that, there are human trafficking victims who do not want to expose their identity. This is because when the victims are successfully rescued by the authorities, they fail to give detailed information about themselves and their country of origin. The lack of knowledge regarding human trafficking issues shows that most people in the world know very little and inaccurate information about the human trafficking crime and problems in increasing uniformity in the law system among the country of source, transitting country and country of destination. This is the reality faced at the international level due to differences in laws and sovereignty.

2.0 The Concept of Security and Sovereinty of a Country

> *"Security can no longer be narrowly defined as the absence of armed conflict, be it between or within states. Gross abuses of human rights, the large-scale displacement of civilian populations, international terrorism, the AIDS pandemic, drug and arms trafficking and environmental disasters present a direct threat to human security, forcing us to adopt a much more coordinated approach to a range of issues.[3]"*

From Kofi Annan's statement above, security has a diverse meaning and can be explained in various ways and exists in various situations. Today, threat does not only come from wars that involve weapons, it is more of actions like abusing human rights, massive nonvoluntary human migration, international terrorism, health issues, smuggling, natural disasters and many more. Most importantly, it is closely related to issues that pressures others. According to the United Nations Development Programmers (UNDP)'s report, human security is divided into two; firstly is free from hunger and chronic disease; secondly is free from abuse as well as unknown threats such as environmental disasters. This shows that national threat does not necessarily originate from war alone, bringing a whole new wider definition and larger impact to national threat. Therefore, we should be alert about threats coming from various angles.

Threats are divided into two; one is clearly seen such as war, whereas the other cannot be seen clearly or easily realised, but it gives a negative impact on a country. The latter threat is non traditional, for example natural disaster, contagious disease, economic crisis, poverty, starvation, human trafficking, the influence of bad social culture etc. Besides that, UNDP has classified threat into 7 groups, which nowadays appear as non-tangible threats towards human. These threats are in terms of economy, food, health, environment, personal, human community and security aspect in the politics. Economical security threat involves international poverty that covers the people and the country. This is due to the existence of first world countries and second world countries. Threat in terms of food is defined as starvation and hunger. Besides that, malnutrition is also a threat especially in poorer countries like Africa.

Health threat consists of HIV and AIDS, malaria, and other chronic diseases. Environmental threat is like pollution and natural disasters such as storm, flood, earthquake, landslide and global warming. Threat towards individuals, in the form of violence, is classified as personal security threat. Political opposition is also a form of security threat as it gives a great impact towards a country's political stability. It usually involves dispute in order to gain vote or power. People's security is often threatened via unstable politic, which causes riot and increasing social rate; and so the people's security is threatened. Illegal money laundering is categorized as economical threat. The implication of this is explained in detail in this paper. The concept of security is currently a wider scope, called global security. Globalization gives a different meaning because it spreads across the globe without limits or boundries.

In 1997, a forest fire in Indonesia caused a tensed political relationship among the South East Asian countries because of the economical threat that was caused by the disaster; i.e. decrease in tourists, illegal money laundering and the interruption in the economical currency flow in and out of their respective countries.

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[3] *Kofi Annan.* Definitions Of Human Security, United Nations Definitions .*Www.Gdrc.Org/Sustdev/Husec/Definitions.Pdf*

According to Bank Negara Malaysia's source, in year 2005, the first offender under the Anti-Money Laundering Act 2001 (AMLA), a snatch thief, was successfully convicted with the crime, and he then admitted guilty for five allegations of laundering illegal money amounting up to RM83,216.00 and the accused was jailed up to three years for each offense. Six more people were convicted under the illegal money laundering involving 193 allegations totaling RM 71.3 million. The sovereignty concept originates from the West, more precisely France. The French word is 'soverainte' while in Italian it is called 'sovranus'. In Latin it is called 'supremus', meaning 'the supreme'. In other words, it is defined as priority (most important, highest, honour, respect and dignity). According to K. Ramanathan (2002), the sovereignty concept is closely related to a country's components, such as territory, border, rights, national importance and the people. All these components have their own sovereignty. John Baylis & Steve Smith (2004:29) in The Westphalian Constitution said that sovereignty was:-

> *"Within its borders the state or government has an entitlement to supreme, unqualified, and exclusive political and legal authority".*

From terminology point of view, sovereignty is defined as powerful or the highest. Sovereignty is also defined as exclusive power over something, by the leader, ruler and the people in that particular country. The power within these components cannot be argued with. This is because it is important for a country or the leader to avoid the country from caos. With this, sovereignty and security is the identity of the country besides having its people, borders and its own government, as well as anything at all related to the country's identity. By having sovereignty and security, a country is capable of maintaining its strength and sovereignty as well as guaranteed peace.

3.0 Threat

Security plays an important role in every aspect of life. Security threat is always correlated with traditional threat such as those caused by the armed forces, but this threat is limited to international field of research, especially those related to the status of the countries in their relationships with one another, which only focuses from military point of view. When the Cold War ended in 1989 due to the demolition of the Berlin Wall, the traditional security concept is not the ultimate threat that we are to be aware of in this modern era of security. New threats have evolved and it is known as 'Non Traditional Security Threats'. Non-traditional security threats do not involve war, it occurs owing to other various security threats such as climate, natural disaster, fatal infectious diseases such as SARS, H1N1, HIV, disorganized migration, nutritional and food safety factor, human smuggling and trafficking-in persons, drug trafficking and transborder crimes. Currently, security threat no longer focuses on unilateral factors, many other angles of threat has made the usage of military strength the least threatening factor.

At the same time, the concept of peace has undergone transformation and the types of threats has also evolved from time to time, so if previously types of threat did not have any connection with other countries, today the types of threat that exist are more intra-national and globalised. Non-traditional threat towards peace can be viewed from various motives and non-traditional threat to peace is divided into two. First is violence; threat in terms of violence is not committed to gain financial profit, it is more closely related to politics. Before the September 11th 2001 incident, terrorist attack was not the world's focus, although when WTC collapsed, followed by several bomb attacks in many different countries, violence became an important non-traditional threat. Second threat is one that is committed to gain large profits, such as drugs, robbery and illegal sale of weapons in the black market, money laundering, cyber crimes, weapon smuggling, women and children trafficking, and these are all involved internationally.

4.0 International Transnational Organised Crime and Human Trafficking

Organised crime across borders are crimes committed by an organization from one country and executing the crime in another country where there is a market which is easy to run their operations, while the risk of being caught is very slim. Through a borderless world, crimes are ongoing repeatedly, done by any group of criminals, whether directly or indirectly, and at the same time involving many countries. This can be catogarised as organized crime across borders. The goal of the organization is to commit crimes in order to gain profit and power, by misusing commercial structure, usage of force and violence, influencing politics, media, public administration, justice system and economy. In other words, organized crime happens when any groups with corporate structure commits crime with the main objective being to gain money via illegal activities, success of it being through force and bribery, and these groups increase in number when crossing country borders. According to UN Convention Transnational Organised Crime (2000), trafficking is defined as when a person enters a country illegally by paying in terms of money or any other means that profits a certain party.

According to Anti-Human Trafficking Act (2007)'s Section 2, human trafficking is defined as recruiting, transporting, migrating, protecting, preparing or receiving a person for the reason of exploitation[4]. The activity of human trafficking is one of the oldest crimes and also believed to be a universal industry, not submitted to a certain country to operate. Trafficking In-Persons report by the Department of United States of America estimated human trafficking in that country makes a profit of between US$ 1 billion to US$ 3 billion (RM3.5 billion to RM10.5 billion) per year. It is estimated that around 600,000 to 800,000 people have been a human trafficking syndicate victim, in which 14,500 to 17,500 of them being trafficked in the US per year. At the same time, United Nations Office for Drugs and Crime (UNODC) assumes that human trafficking crime generates a profit of approximately US$ 5 billion to US$ 9 billion (RM17.5 billion to RM31.5 billion) per year. Human trafficking issue has now become a phenomenon that attacks many countries. US have enforced a new law for human trafficking crime, which is Victims of Trafficking and Violence Protection Act of 2000.

This act has broadened the concept of human trafficking, giving a heavier punishment for those involved. Malaysia also enforced Anti Trafficking In Persons Act 2007 (ATIP) to overcome the issue. The existence of this act has given the government the authority to prosecute and give penalty of 20 years imprisonment and fine up to RM500,000. In conjunction with the introduction of the act, the government also established the National Anti-Human Trafficking Council (MAO) which functions to coordinate the policy and the implementation of ATIP. Eventhough the ATIP 2007 report by the US Department of State put Malaysia in the top 16 countries that have the least capability in handling the issue, the existence of ATIP and MAO will prove that this country has the commitment in vanquishing this phenomenon. A Regional Ministerial Conference on People Smuggling, Trafficking In Persons and Related Transnational Crime was held in Bali in February 2002 to show the unified commitment among the Asian Pacific countries[5].

The convention's aim was to build regional cooperation especially in aspects such as sharing information, expertise and laws that are standardized in order to combat people smuggling and trafficking in persons from the beginning stage itself. They believe that it is not only against the country's rights, but also the foundation of various problems besides tarnishing the diplomatic relationship between countries. Even then, many are still confused between the concept of people smuggling and trafficking. According to the UN Convention Transnational Organised Crime (2000), smuggling is when someone enters a country illegally by paying in terms of cash or any other form of profit to a certain party. As for human trafficking, according to Section 2, Anti-Human Trafficking Act 2007, human trafficking basically means recruiting, transporting, migrating, protecting and delivering or receiving a person for the intension of exploiting the person. As for exploiting, according to Section 2, it is defined as any form of exploitation whether it is sexual, forced labour or service, slaving or anything resembling slaving, enslaving or activities against the law or transportation of the human organs[6].

From the definition above, there are a few obvious differences between human smuggling and trafficking. The relationship between the smuggler and the person being smuggled ends when the smuggled person reaches the victim's desired detination and the exploitation element need not be proven as a conviction to the crime. What is important is that human smuggling involves crossing borders of a country illegally. The willingness of the victim to pay an amount of money shows that this is an act of desperation and the victim seem to believe that when the victim finally reaches the country of destination, they will be able to make multiple times of profit. As for trafficking in persons, it does not necessarily mean that they have to cross borders of a country, it can also happen domestically, for example in the issue of forced labour[7]. It is not compulsory for trafficking to involve foreign workers, local workers who are exploited by employees are also categorized as forced labour. The status of the trafficked victim can be either legal or illegal. Most importantly in the trafficking victims, elements of exploitation and force towards the victims exist.

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[4] Dilema Perdagangan Manusia. Utusan Malaysia. 1 Oktober 2009

[5] Trafficking In Person Report yang ke 9 telah di keluarkan oleh Amerika pada 6 June 2009 dengan memaparkan secara menyeluruh keadaan semasa Negara yang mengalami masalah perdagangan manusia ini.
http://www.state.gov/g/tip/rls/tiprpt/2009/.

[6] United Nations Convention Against Transnational Organized Crime.(2000)
www.uncjin.org/Documents/Conventions/...2/convention_eng.pdf

[7] Henry Thompson (2006). Op.cit.pg 260-270

5.0 Who's Responsibility?

Of course it is each country's government's responsibility to make sure the country is peaceful and free of these crimes. This is because these organized crimes usually involve individuals and influencial parties in the particular country. This crime can also jeopardize the safety of the country's borders as well as threaten the international relationship with other countries. In fact all parties from different stages should play their roles in the hope to combat this organized crime. Besides UN, NGO, associations, the community, religious bodies, family and individuals have to cooperate in helping the government. For example:

i.   **Government:** *launched an anti-trafficking public awareness campaign that included advertisements in print media, on the radio, and on television, including television appearances by senior government officials to discuss human trafficking. government launched an action plan to combat trafficking*

ii. **PBB :** *to bring about all nations to work for peace and development based on the principles of justice, human dignity and well-being of all people*

iii. **NGO**: *less an oppositional role and more an operational role*

6.0 Human Trafficking in South East Asia

Human trafficking in the ASEAN region is now looked at as a very serious and worrying matter. This is reflected through the drastic increase in the number of cases caught. How is this possible when various efforts have been done by ASEAN to free it from the Human Trafficking Crime in the year 2020. But then this issue is still a hot topic during the ASEAN Convention. This is due to the existence of the following problems; firstly, job opportunities are limited in their own countries. This refers to Indonesia, which is known for its compact population of people[8]. This has brought the feeling of great depression onto the people of Indonesia as their job opportunity does not accommodate for all. Hence, the migration of many Indonesians to their neighbouring countries in order to look for jobs. But then, with the source of limited money that they have, they are forced to use shortcut by dealing with smuggling syndicates that promise good job opportunity in the neighbouring country. Therefore, upon reaching that particular country, they are force to, lied to, and women especially, are exploited. This situation has contributed to the question of why human trafficking still occurs in the ASEAN region[9]. Second problem occurs due to poverty and political instability in certain countries, making it difficult to battle against human trafficking problem.

As an example, Laos and Cambodia are among the poorer countries that can provide much of their people to be trafficked out of their countries and into those of the people who may be interested in exploiting them. This situation can be a source to transnational crime. The instability of the politics in Myanmar which is still powered by the army, and political crisis in Thailand has opened up the opportunity for these two countries to lean towards this sort of transnational crime. The next factor is the ASEAN region relationship as well as the Non-Interference Policy[10]. This policy of not interfering with other country's affairs may affect the good relationship between the ASEAN member countries. This situation is similar to the 'Mind Your Own Business' concept which may lead to a bad relationship between countries which can also have a bad consequence in the process of irradicating human trafficking because of the possibility of lack of overall cooperation in trying to overcome this issue. Although, this does not necessarily mean that ASEAN should just quietly ignore this issue. Many efforts are being put in order to combat this issue so as to overcome the human trafficking problem in the ASEAN region.

6.1 ASEAN's Steps in Overcoming the Human Traffciking Problem

The ASEAN countries are very committed in planning to deter the human trafficking problem through various ways, that is by punishing the offender and protecting the trafficking victim. This commitment was declared in the ASEAN's Anti Human Trafficking Declaration especially towards women and children who happen to be the victims, as well as ASEAN's Declaration against Transnational Crime, and ASEAN's Vision 2020 to eliminate human trafficking.

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[8] Suahasil Nazara (2001). Recent Trends in Labour Migration Movements and Policies In Indonesia. Dalam International Migration In Asia Trends and Policies.Organisation For Economic Co-operation and development:France. pg.211-230
[9] Sumber diambil dari http://www.humantrafficking.org/
[10] Ghazali Shafie (2002). ASEAN, regionalisme dan isu keselamatan. *Pemikir*. Bil. 27. Januari-Mac. Pg 69

At the same time, a few ASEAN members have accepted UN's Convention to fight against Transnational Crimes and establish UN's Trading Protocol. Various efforts were done by the ASEAN countries to battle the human trafficking problem, among the agreements sealed are[11]:

1. 1998 ASEAN Hanoi Plan of Action
2. 1998 Bangkok Accord
3. 1999 Bangkok Declaration
4. 2000 ARIAT (Asian Regional Initiative Against Trafficking)
5. 2001 East Asia and the Pacific Regional Consultation on the 2nd World Congress on CSEC
6. 2002 Bali Process
7. 2002 ASEAN Plan of Action to Combat TOC
8. 2002 ASEM
9. 2004 Medan Declaration
10. 2004 COMMIT MOU
11. 2004 Vientiane Declaration

The declaration dated November 29th, 2009 happened during the 10th ASEAN Summit in Vientian, Laos and it involved 10 other Asian countries. Some of the contents of the declaration agreed to:

1. Build a central network region to eradicate and deter human trafficking, especially women and children in the ASEAN region.
2. Outline steps to protect ASEAN countries' integrity like passports, legal travelling documents, other formal travelling identity and documents from the fake ones.
3. Exchange opinions, share information about the relevant flow of migration trends and patterns, the enforcement of border control and observatory mechanisms as well as how the laws are enforced and how they should be enforced.
4. Strengthen the cooperation among the ASEAN countries regarding immigration and law enforcement.
5. Differentiate the victims of human trafficking by a certain party and identifying the country of origin of the victim and then later on making sure that the victim is treated in a humane manner such as giving medical treatment and any other form of help such as sending the victim back to their country of origin.
6. Take actions to respect and protect the victim's dignity and human rights.
7. Impose a heavy penalty on individuals who are involved in human trafficking syndicates and work together to punish the activities.
8. Take actions to strengthen the regional and international cooperation to overcome and exterminate human trafficking[12].

6.2 Understand the Agreement among ASEAN Countries in the Issue of Human Traffciking and Labour Employment

1. *Cambodia & Thailand on Bilateral Cooperation in Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking 31 May 2003*
2. *Cambodia & Thailand on cooperation in the employment of workers 31 May 2003*
3. *Lao PDR & Thailand on Cooperation to Combat Trafficking in Persons, Especially Women and Children 13 July 2005*
4. *Lao PDR & Thailand on Employment Cooperation 18 October 2002*
5. *Thailand & Myanmar on Cooperation in the Employment of Workers 21 June 2003*
6. *Vietnam and Cambodia on Bilateral Cooperation in Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking 10 October 2005.*
7. *MOU between the Philippines and Korea on the Sending of Workers to the Republic of Korea 23 April 2004*
8. *MOA relating to the Mobilization of Manpower between the Philippines and Brunei*

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[11] Sumber diambil dari *ASEAN And Trafficking In Person.* International Organization for Migration IOM Report (www.iom.int)
[12] Sumber diambil dari Association Of Southeast Asian nations (ASEAN), http://www.aseansec.org/16793.htm

9. *MOU between <u>Malaysia-Indonesia</u> on the Recruitment and Placement of Indonesian Domestic Workers 13 May 2006*
10. *MOU between <u>Malaysia and Pakistan</u> on Labour 21 October 2003*
11. *<u>India-Malaysia</u> MOU on Labour and Employment*

7.0 Human Trafficking Threat in Malaysia

Nowadays, human trafficking activity causes a country to become densed with people. This actually is a form of threat to many countries, especially Malaysia because it is strategically located and also because it is a peaceful country with a wide range of economical opportunity, making it one of the most potential country to conduct transnational crime and human trafficking actively. The main factor that encourages trafficking in Malaysia is its job opportunity, economic stability, GRO as well as usage of labour in sectors such as construction and agriculture. There are female housemaids from Indonesia, Thailand, Phillipines, Cambodia, Vietnam, Myanmar, Mongolia and China who are forced into prostitution eventhough they were actually given false promises before coming to Malaysia that they would be offered legal jobs here[13]. Individual employment agencies are sometimes used as a disguise to traffic people in, sell women and young girls to house of prostitution, karaoke centres or even pass them to sex traders[14].

Generally, Malaysia is a country of destination for men, women and children who willingly migrate from Indonesia, Nepal, Thailand, China, Phillipines, Myanmar, Cambodia, Bangladesh, Pakistan, India and Vietnam to get jobs. Malaysia is also a country of origin and transitting country for women and children to be traded for the purpose of exploiting them for various reasons such as commercial sex, forced labour and this has caused Malaysia to go down to the 3rd stage in the TIP 2009 report[15]. The trafficking of people up to now is still happening widely in this country because of factors such as high demand from the angle of black market, especially prostitution and sexual services. This particular group is usually deceived by employment agencies who supposedly offer good job opportunities in Malaysia. As a result, upon reaching Malaysia, especially the women, are forced into prostitution after being deceived by the employment agencies, and as a result, abysmal culture exists in this country. Due to this, we can see sex services everywhere and massage parlours opened everyday, and this is a worrying issue as the teenagers in Malaysia have started to follow the European's '*budaya kuning*', in other words a kind of bold culture not normally practiced by the people in the East[16].

Nowadays teenagers seem to follow '*budaya kuning*' as a trend when they spend their time and money for sex services, at the entertainment centres, massage parlours etc. This scenario gives a negative impact for generations to come as well as the government's mission to produce 'first-class-thinking', young generations. Consequently, the country's security will be affected in the future. One of the factors that can threaten the country's security is crimes committed by the refugees that have overpopulated this country and this indirectly focuses toward more crimes because of factors like unorganized employment and later followed by formation of groups that commit crimes. If looked at it closely, it not only gives bad implication to the country, it also disrupts the peace in this country. This will affect the economy of our country, as foreign investors will not invest in a country's market if it is found to be dangerous, hence causing economy downfall in the future[17].

The entry of illegal immigrant via the human trafficking activity causes less demand for local work labour in the market. This is because most illegal immigrants are paid a very small amount and this encourages the employers to take the easy way out and hire illegal immigrants, and causing a bigger problem - unemployment among the locals[18]. This causes unemployment to increase from time to time and in the bigger picture, it gives pressure to the government due to the pressure given by the people who feel that they are not safe in their own country because their welfare is not taken care of. In the future, there is a possibility that this situation may cause younger generations to migrate overseas, and at that time,

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[13] Mohd Na'eim Ajis, et.al. (2010). Managing Foreign Workers in Southeast Asian Countries. Journal of Asia Pacific Studies. Vol. 1. No.3. December. pg 481-506

[14] Ibid. pg 483-484

[15] Trafficking In Person Report .Op.cit.

[16] Azizah Kassim (2001). Intergration of foreign workers and illegal employment in Malaysia. In International Migration In Asia Trends and Policies.Organisation For Economic Co-operation and development:France.pg116-`121

[17]Rencana Bom lama dan Bom Jangka. Utusan Malaysia.3.Mei 2009

[18] Mohd Na'eim Ajis, et.al. (2010). Op.cit. pg 493-499

Malaysians will be victims of human trafficking in another country, spoiling the image and reputation of this country in the eyes of the world[19]. Employers must also take into account this factor, because although maximizing profit is one of the main aims of doing business, it should certainly not be done at the stake of jeopardizing the country's reputation. The security of this country needs to be taken care of, and if there is not a demand for illegal foreign immigrants' labour, human trafficking would not be an issue anymore.

7.1 A Threat towards the Sovereignty of Malaysia

According to statistics there are 614,848 non-Malaysian citizens smuggled into the borders of Sabah and Peninsular Malaysia, although the actual number of illegal immigrants are not able to be identified accurately. Azizah Kassim (2003) stated that more than 500,000 people were smuggled into the country in year 2000[20]. The smuggling of immigrants is one of the issues that slipped through the borders, especially from the aspect of security. The issue of human smuggling is always closely related to criminal activities that threatens the security of the country. During the ASEAN meeting, it was found that human smuggling problem has attracted the attention of many among the Pacific countries. It can cause many implications to many sectors such as politic, economy and social other than having the potential to threaten the security and sovereignty of the territory[21]. Due to the life pressure in the immigrants' country as well as the evolution of smuggling syndicates, the human smuggling process in the South East Asian region has widely expanded in order to gain higher income and lead a better life, and this is seen more intensely happening in Malaysia, Singapore and Thailand[22]. The illegal immigrant problem is closely related to the human smuggling operation which is intelligently arranged by the crime syndicate. This illegal immigrant problem is one of the major threats to countries all over the world. Most transnational crimes like robbery and assasination are closely related to illegal immigrants' activities. In year 1991 alone, 48.2 % armed robbery was said to be performed by illegal immigrants. Without formally recording the ins and outs of these immigrants, it is impossible to track down the movement of this crime[23].

The entry of illegal immigrants into the country brings negative impact to the country, such as competition in trading and labours among the locals. The lower wage attracts employers to take the risk of employing illegal immigrants. The cost of overcoming illegal immigrants has also increased. Now, besides the cost of capturing them, the authorities also have to spend on sending them back to their respective countries of origin. Not only this, economy and social problems also occur due to these illegal immigrants[24]. Smuggling of people is also closely related to smuggling of illegal goods. This situation has forced the government to be more alert at the borderland of states which are connected to the neighbouring countries'. For example, Sabah's Customs Department has recorded 1952 cases in year 2001 with the impound value of RM5,351,771 and in May 2002, 808 cases of seized goods worth sehingga RM1,882,175. Since 2001 to May 2002, about 1276 people were captured and most of them were illegal immigrants who were smuggled into Malaysia. Smuggling activity is a threat to the Malaysian economy because the government lost millions of ringgit from the total collection of tax which can be of good use for the development of the country[25]. The problem that can be anticipated occuring in the local community is the spreading of epidemics brought along by illegal immigrants.

This is because illegal immigrants do not have a legitimate health record. Contagious diseases such as AIDS and others may spread widely. In the economic sector, the country will face problems with the outflow of the currency into the immigrant's country of origin. This will bring loss to the country where the illegal immigrant works. The illegal immigrant also has a high risk of being a victim of exploitation by the employer and especially dangerous for the female immigrants as they may be conned into prostitution. The ASEAN region has become a transit for illegal immigrants because this region is surrounded by the sea which is an easy and cheap route for the international trading. The borders of ASEAN countries are aslo easy to be trespassed because it is nearby and they can easily enter ASEAN countries by land.

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[19] Ibid. 492-495

[20] Azizah Kassim (2003). International migration: prospects and challenges in Malaysia. Dlm Mohd Yaakub Hj Johari dan Chong Shu Yaw (edt). *Reinventing Sabah : Global challenges and policy responses.* Kota Kinabalu: Institute For Development Studies. pg 35

[21] ibid

[22] Henry Thompson (2006). Op.cit.pg 74-80

[23] http://www.crime-research.org/news/2004/01/Mess0601.html, 6 Januari 2004

[24] http://www.aseansec.org/560.htm, 20 Februari 2006

[25] Azizah Kassim (2001).Op.cit.hlm 113-127

Due to this, the problem needs to be given serious thought and is no easy matter[26]. These developments have clearly deteriorated the sovereignty and security of Malaysia. Therefore, it is only wise for Malaysia to give serious attention to this matter to make sure that the issue of human smuggling is defeated in order to protect the security and safety of this country.

7.2 Malaysia's Effort to Overcome Human Trafficking Issue

Malaysia also approved the Anti-Trafficking In-Persons Act 2007 (ATIP) [27] to handle this issue. The existence of this act has given power to the government to prosecute and give jail sentence of up to 20 years and fine up to RM500,000. The government also established National Anti-Human Traffciking Council (MAPO) in 2008 to monitor activities that brings the entry of foreign workers into this country to make sure thay are not exploited as cheap labour and 'sex labour'. The establishment of MAPO is a sequel to the efforts made by government to enforce Anti-Traffciking In-Persons Act 2007[28]. Uniform bodies who are responsible such as the Royal Malaysia Police (PDRM), Volunteers of Malaysian People (RELA), Immigration Department of Malaysia, Royal Malaysian Customs Department, Malaysian Armed Forces and other uniform bodies must take actions which are more proactive in overcoming the smuggling of illegal immigrants for example by monitoring the country coasts and the borderland, actively run operations to prevent prostitution as well as run operations in slum areas so that human trafficking can be deterred[29]. In order to combat this global criminal activity, neighbouring countries such as Singapore, Indonesia, Thailand, Phillipines and others must also form a cooperative regional network as well as share their strengths especially from the aspects of technology, communication and network of security to ensure measures taken to handle the human trafficking syndicate in the international level can be done more systematically and be beneficial to all members for long[30].

8.0 Conclusion

The offence of human trafficking does not involve voluntary elements between victim and the party conducting the trafficking act. It also does not involve any form of reward or service charge like in the smuggling activity. Victims must be proven, without force and exploitation in order to prosecute and convict. Elements of force and exploitation can exist before, during or after the human trafficking occurs. With that, it is difficult for the authorities to take action in the early stage because it needs to be proven that the victim was exploited or not. Although, it cannot be denied that smuggling activity is the beginning to the human trafficking activity. This is because the human smuggling offence often has the potential to be a part of the human trafficking activity. Therefore, what the government needs to do to overcome this issue is give utmost commitment and strategic execution so that the government's efficiency in the system of execution does not go to vain. The execution has to be complete and supported by systematically arranged law aspect, committed employee and up to date finance. This is because, without these elements it is difficult for the government to achieve their estimated target in the principal plan of anti-human trafficking. Most importantly, victims have to be given protection regardless their religion, gender, race and country of origin.

At the same time, every country must sign a memorandum agreement under UN so that the cost for rehabilitation and enforcement can be supported together if one of the victims or criminal involves one of their own citizens. This agreement will allow the countries to be more seious about overcoming this issue. Therefore, this activity can be blocked from the country of origin itself and reduce the burden in the country of destination and encourage legal migration. Regional Ministerial Conference on People Smuggling, Traffciking In-Persons and Related Transnational Crime in Bali in February 2002 has clearly shown united commitment among countries in the Asian Pacific region. The conference has encouraged the countries to work together to form cooperation especially in the aspects of sharing information, expertise and standardized law to ensure the activities are blocked from the root cause itself. They have found that the human smuggling and trafficking activity does not only contravene with the rights of a country, it also causes many sorts of problems other than damaging the diplomatic relationship between countries.

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[26] http://www.crime-research.org/news/2004/01/Mess0601.html, 6 Januari 2004
[27] http://www.humantrafficking.org/countries/malaysia
[28] MAPO Pantau Aktiviti 'jual' Manusia. Utusan Malaysia. 26 Jun 2008.
[29] Azizah Kassim (2001).Op.cit.pg 122-130
[30] Ibid.pg 130-138

At the same time, it is very important to find the root cause of this problem and debate and discuss seriously on how to find a way out of this humanitarian crisis as well as a weak point that can lead to the spreading of this problem all over the world, especially in undeveloped and developing countries where these activities are too active and difficult to be controlled. Hopefully with the involvement and cooperation from all parties, we will be able to move towards zero human smuggling and trafficking in the future.

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