

Chapter 3

Human Trafficking and Forced Labour in Southeast Asia: Legal Framework and a Way Forward

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ABSTRACT

Human trafficking and forced labour are not new issues in Southeast Asia, and they are still prevalent today. This chapter explores the social and ecological dynamics of migration and trafficking, as well as the underlying causes of these problems, especially in multinational corporations. This chapter also examines the international and regional laws relating to human trafficking and forced labour. Although many international instruments have been established, these issues are still growing as many trafficking victims are still trapped in a variety of industries. The complexity of the global supply and demand chain have directly enabled human trafficking to be more profitable. Many countries have taken various initiatives to promulgate their home legislation to combat human trafficking. Nevertheless, the continued existence of human trafficking demonstrates a lack of enforcement. Finally, the study emphasises the significance of coordination and collaboration across member states, including transparent data exchange on human trafficking and forced labour.

INTRODUCTION

People migrate for many reasons, including political, economic, and social factors. In many countries, some people migrate in search of work or economic opportunities. Ironically, not everyone can afford to migrate. Migration is not a new occurrence, nevertheless, incidences of illegal migration and exploitation

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of migrants by organised criminal groups are a new type of transnational crime (Triandafyllidou, 2018). Human trafficking is the third most common global crime, after drug and weapons trafficking. The global supply and demand chains have enabled human trafficking more profitable, since the operation to transport victims across borders is less complex and cheaper, making the practice of human trafficking more profitable (Banks, 2019). While in Southeast Asia, human trafficking and forced labour are not new issues and are still widespread today. The region is known for being a rapidly growing source of sex and forced labour, with profits of more than hundreds of millions of dollars (Yang, 2016).

With a growing market for sex tourism in Cambodia, Thailand, and Malaysia, human trafficking mainly takes the form of sexual exploitation. On the other hand, forced labour is considered to be the most widespread in Indonesia (Luong, 2020). Poverty and the desire for economic access are triggering the problem to rise in the region (Yang, 2016) and the increase in human trafficking is a direct effect of social change and industrialisation, which have tended to erode human values in society (Yuliartini & Mangku, 2020). In 2022, 93 percent of countries had specific legislation on trafficking in persons and all 10 ASEAN members had the same. ASEAN members have initiated the ASEAN Plan of Action, which complements the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) which was introduced in 2015. This Plan of Action seeks to address measures to prevent trafficking in persons as well as the protection for victims. It also stipulates the importance of regional and international cooperation and coordination.

Apart from that, there are also several bilateral instruments among the member states to specifically address the effort to eliminate human trafficking, particularly women and children. Nevertheless, these problems have become more complex and exist in various forms, and are considered serious social problems as always highlighted by official discourse and media reporting. In light of these problems, the authors discuss the root causes of migration and trafficking in specific contexts. This chapter contributes a conceptual reflection on the relationship between human smuggling, trafficking, and forced labour. The study is based on a qualitative analysis of documentary sources, such as judicial acts, institutional reports, legislative documents, and journal articles. Doctrinal research or also known as the black letter law approach was employed in this chapter which is based on secondary information available, particularly the law and policies on human trafficking and forced labour at international, regional, and national levels. Lastly, the paper addresses the importance of coordination and cooperation among member states including transparent data sharing, whereby to illustrate the need for reliable data on human trafficking and forced labour.

This chapter offers a conceptual understanding of the social and ecological dynamics of migration and trafficking, as well as the underlying causes of these problems, especially in multinational corporations. The first part of the chapter will be devoted to the definition of the problems; migration, human trafficking, and forced labour. The second part will delve into the scenario of forced labour in multinational corporations before discussing the international laws on human trafficking and forced labour. In the context of Southeast Asia, the authors discuss the regional instrument and legislative framework that is relevant to the issues. The findings, in the context of the existing scholarly debates, provide that although many international instruments have been established, these issues are still growing as many trafficking victims are still trapped in a variety of industries. The complexity of the global supply and demand chain has directly enabled human trafficking to be more profitable. Many countries have taken various initiatives to promulgate their home legislation to combat human trafficking. The continued existence of human trafficking demonstrates a lack of enforcement of the law which requires coordina-

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