

**PROTECTION OF TRAFFICKED VICTIMS: A COMPARATIVE STUDY
BETWEEN MALAYSIA AND THE UNITED STATES OF AMERICA**

By

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Submitted in Partial Fulfilment of the Requirements
for the Bachelor in Legal Studies (Hons)

**Universiti Teknologi MARA
Faculty of Law**

December 2013

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

Abstract

This research is regarding the protection provided to the victims of human right trafficking. The law which we are focusing in this research is the law provided in Malaysia, Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM). Comparison was made with law in United States of America which is Victims of Trafficking and Violence Protection Act (TVPA) 2000.

In this research too, the scenario of human trafficking in ASEAN region are also being highlighted. Various countries around ASEAN are being discussed by providing an overview of human trafficking activities in each countries. Each country are being classified in different tier according to their efforts in combating the issue of human rights based on the Trafficking in Person (TIP) Report.

This research focus on various types of protections which are being protected by the law in both countries in term of shelters, medical assistance, civil remedies and also legal assistance. Comparison were made in order to identify the lacunae in Malaysian law and highlight the strength of the law which are being provided in United States.

Lastly recommendation were made at the end of this research on what efforts the Malaysian government and authorities can do in order to be more effective in tacking the issue of human rights in Malaysia. Particularly in safe guarding the rights of the victims of human trafficking.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv-v
List of Cases/Statutes	vi

CHAPTER ONE: INTRODUCTION

1.1 Research Background	1-2
1.2 Problem Statement	3
1.3 Research Objective	3
1.4 Research Methodology	4-5
1.5 Literature Review	6-22
1.6 Scope and Limitation	23-24
1.7 Significance of Research	25-26
1.8 Provisional Plans	27-29

CHAPTER 2: AN OVERVIEW OF TRAFFICKING IN PERSON SCENARIO IN ASEAN

2.1 Individual Country Report On Trafficking in Person (TIP)	30-32
2.1.1 Indonesia	33-34
2.1.2 Cambodia	35-36
2.1.3 Laos	36-37
2.1.4 Myanmar	37-38
2.1.5 Philippines	38-39
2.1.6 Singapore	39-40
2.1.7 Thailand	40-42
2.1.8 Socialist Republic of Vietnam	42-43
2.1.9 Brunei Darussalam	43-45
2.1.10 Malaysia	45-48
2.2 Conclusion	48-54

CHAPTER 3: MALAYSIAN LAW ON TRAFFICKING IN PERSON

3.1 Introduction	55
3.2 Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM)	56-59
3.3 The Trafficking In Person Report 2012	59-61
3.4 Situation in Malaysia	61-65
3.5 Provisions of Immigration Act 1959/63 Regarding the Issues Of Trafficking	65-69
3.6 Inadequacy of Protection and Care of Trafficked Persons	69-71
3.7 Error in Enforcement and Implementation in Malaysia	71-75
3.8 Conclusion	75

CHAPTER 4: COMPARATIVE STUDY BETWEEN HUMAN TRAFFICKING LAW IN UNITED STATES OF AMERICA AND MALAYSIA

4.1 History Of Human Trafficking In United State of America	76-78
4.2 Human Trafficking Law in United States of America	78
4.2.1 Establishment of Task force to Monitor and Combat Trafficking	78-83
4.2.2 Definition of “Human Trafficking” Under TVPA 2000	83-85
4.3 Protection offered for victims of human trafficking under Victims of Trafficking and Violence Protection Act (TVPA) 2000	85
4.3.1 Shelters and Medical Assistance	85-86
4.3.2 Prosecution and legal assistance.	86-89
4.4 Example of cases/situation under TVPA	89-91
4.5 Comparison between Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007(ATIPSOM) and Victims of Trafficking and Violence Protection Act (TVPA) 2000	91-96
4.6 Conclusion	96-97

CHAPTER 5: RECOMMENDATIONS

5.1 Dealing with the challenges	99-104
5.1.1 Provide legal assistance to the trafficked victims for them to take legal action against the trafficker	104-106
5.1.2 Provide better shelter to the victims	106-107
5.1.3 Provide civil remedies for the victims	107-108
5.2 Conclusion	108-109
 Bibliography	 110-112

CHAPTER 1

INTRODUCTION

1.1 Research Background

Every year the United States Department of State will release Trafficking in Persons Report which will categorize countries around the world in 3 different Tiers. Countries which are listed in Tier 1 are considered as country that took the issue regarding human trafficking seriously and made a magnificent effort to overcome the problem. While countries that are listed in Tier 2 are considered countries complying with the minimum efforts to eradicate human trafficking problems. Malaysia is placed in Tier 2 in the report that has been released for the past 3 consecutive years. This clearly show that Malaysia has not taken any drastic actions to tackle the issue and has been neglecting this issue. Malaysia only react to overcome this issue when the country was placed in Tier 3 and ever since has come with a national plan which is entitled “PelanTindakanKebangsaanAntipemerdagangan Orang” to tackle this issue. Malaysia is consider lucky that it was not place back in Tier 3 for the past few years because they keep their standard just above the minimum standard required by the United States Department of State and because of this there is a need to review on the effectiveness of implementation of the law in Malaysia which is the Anti-Trafficking in Person and Anti-Smuggling of Migrants Act 2007.

Even though the victim’s rights is embodied under the law of the nation, the implementation of it in practice would deprived their entitlement to that law. The question is this, what obligations do States owe to the victims of trafficking? While there seems to be a general agreement on the need for protection of victims, the precise contours and limits of that protection have not yet been firmly established. In order for the implementation to be successful, what regards a person as a “victim of trafficking “has to be identified. The Council of Europe Convention on Action against Trafficking in Human Being defined victim as “any natural person who is subjected to trafficking in human being”. However, the process of identifying victims of trafficking is a complicated one. If such difficulties and delays result in