

INDONESIA–THAILAND EXTRADITION COOPERATION: ANALYSIS OF THE 1976 TREATY OF EXTRADITION IN THE ENFORCEMENT OF HUMAN TRAFFICKING LAWS

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Abstract

Human trafficking is a form of transnational organized crime that requires effective international cooperation in law enforcement. One such cooperation mechanism is extradition, as stipulated in the 1976 Extradition Agreement between Indonesia and Thailand, which was ratified through Law No. 2 of 1978. This study aims to analyze the implementation of the extradition treaty between Indonesia and Thailand in handling human trafficking crimes and to identify the obstacles that affect its effectiveness. The research method used is normative legal research with a legislative and conceptual approach. The research data were obtained through a literature study of legislation, legal literature, and relevant research results, then analyzed qualitatively using a descriptive-analytical method. The results of the research show that the implementation of extradition between Indonesia and Thailand still faces various obstacles, including differences in legal systems, administrative constraints, the application of the principle of non-extradition to its own citizens, and differences in human rights protection standards, including those related to the possibility of applying the death penalty. In the context of international law, the refusal of extradition does not eliminate the obligation of the state to prosecute perpetrators based on the Aut Dedere Aut Judicare principle as stipulated in the Palermo Convention. Therefore, it is necessary to strengthen bilateral and regional cooperation, including the optimization of Mutual Legal Assistance and the utilization of ASEAN cooperation mechanisms to increase the effectiveness of combating human trafficking.

Keywords: *Extradition; Human Trafficking; International Cooperation; Aut Dedere Aut Judicare; ASEAN.*

INTRODUCTION

One of the most serious types of transnational organized crime in the modern international legal system is human trafficking. This crime not only seriously violates human rights, but it also has big effects on the countries involved in terms of safety, economy, and social issues. In reality, human trafficking crimes frequently entail well-structured transnational networks, necessitating a legal response that transcends national jurisdiction. So, working together with other countries is an important way to fight this crime, especially through extradition and mutual legal assistance.

Extradition is a way for countries to work together legally on an international level. It lets one country hand over criminals who are on its territory to another country that has the power to prosecute them or enforce court decisions against them (Wiridin, 2025).

In the world, human trafficking has become one of the biggest illegal businesses, with sexual exploitation, child trafficking, labor exploitation, and other forms of modern exploitation. This shows that human trafficking is not just a crime, but also has a lot to do with migration, poverty, economic inequality, and weak legal systems that protect vulnerable



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groups. This complexity renders human trafficking a crime that is challenging to eliminate without robust and efficient cross-border collaboration.

Human trafficking is a major problem in Southeast Asia because people move between countries a lot, the economies of the countries are at different stages of development, and regional relations are getting stronger. Indonesia and Thailand occupy a strategically significant position, functioning as both source and destination nations, as well as transit points, for individuals subjected to human trafficking. The geographical proximity of these countries, coupled with their regional economic interdependencies and substantial labor migration patterns, constitutes a set of structural elements that exacerbate the vulnerability to human trafficking within their borders. The United Nations Office on Drugs and Crime (UNODC) identifies the Mekong–ASEAN region, which encompasses Thailand and is linked to Indonesia through human trafficking networks, as a primary global route for this illicit activity. Consequently, the number of trafficking victims continues to escalate annually (Isa et al., 2025).

As globalization has grown and information technology has gotten better, the way people are trafficked has also changed a lot. Cyber-trafficking is a new type of human trafficking that has come about. Previously, human trafficking primarily encompassed the exploitation of individuals through forced labor or direct sexual exploitation. However, this practice has evolved to include the recruitment, transportation, and exploitation of victims within digital crime networks, such as illicit online

gambling platforms, online scams, and various forms of cybercrime. This trend is increasingly prevalent in Southeast Asia, particularly in areas connected to transnational crime networks operating within the Mekong region. This shift underscores the transformation of human trafficking due to advancements in digital technology, which complicates the collection of legal evidence and the facilitation of cross-border law enforcement cooperation. Consequently, this situation necessitates a critical examination of the effectiveness of existing international legal cooperation mechanisms, including the 1976 extradition agreement between Indonesia and Thailand, in addressing the complexities of digital evidence in contemporary human trafficking cases (Atmasasmita, 2007).

The Treaty of Extradition between the Government of the Kingdom of Thailand and the Government of the Republic of Indonesia of 1976 formally governs extradition cooperation between Indonesia and Thailand. Indonesia later ratified this treaty through Law Number 2 of 1978. This agreement gives both countries the right to send criminals who have fled or are in the jurisdiction of another country back to that country so they can be tried there. Extradition is a crucial mechanism in the international legal system for enforcing laws against transnational crimes; without it, offenders can easily evade prosecution by fleeing to another country.

The principle of double criminality is one of the most important ideas behind extradition. This principle says that an act can only be used as the basis for an extradition request if both the requesting

country and the requested country see it as a crime. So, the success of the extradition process depends a lot on how well the two countries' definitions of crimes match up or work together. In the context of human trafficking, the application of this principle is critical due to potential discrepancies in the definitions or components of criminal acts between Indonesian national law and Thai law. Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons in Indonesia broadly defines human trafficking to include the recruitment, transportation, harboring, transfer, or receipt of a person by means of threats of violence, deception, or abuse of power for exploitation. If these definitions or elements do not fully align with the prevailing laws and regulations in Thailand, such discrepancies may serve as legal justifications for denying extradition requests based on the principle of double criminality (Kirmila, 2024).

Extradition between Indonesia and Thailand is also hard to do for other reasons besides the fact that the legal definitions are different. Many studies show that the differences in the two countries' legal systems, long and complicated administrative processes, the limited capacity of law enforcement agencies, and the principle of not extraditing its own citizens are all obstacles to implementing extradition agreements between the two countries. These challenges frequently impede or obstruct the extradition process, particularly in instances of human trafficking that involve intricate transnational networks (Komang Okta Setiawan, 2020).

Law No. 21 of 2007, the Indonesian law designed to combat human trafficking, establishes a national framework for this fight. The law mandates that the state actively works to prevent and penalize human trafficking offenses, while also providing assistance and protection to those victimized. But national law enforcement doesn't always work well when the people who commit crimes are outside the state's jurisdiction. In these situations, having a good extradition system is very important to make sure that people who commit crimes can't get out of legal trouble just by moving to another country.

From this description, it is clear that Indonesia and Thailand have had an extradition agreement since 1976. However, the growing complexity of human trafficking crimes, especially cyber-trafficking, makes it harder for the two countries to work together on extradition. Consequently, a thorough investigation is warranted concerning the regulation and practical application of the 1976 Indonesia-Thailand extradition agreement within the context of anti-human trafficking law enforcement, particularly focusing on the principle of double criminality and the various legal and administrative obstacles encountered. This study endeavors to contribute to the field of international legal studies, specifically concerning extradition cooperation within the ASEAN region, and to inform the development of legal policies that are better suited to the evolving landscape of contemporary transnational crime.

RESEARCH METHOD

This study employs a normative legal research methodology, utilizing both a

statutory and a conceptual approach. This approach examines the legal principles governing extradition cooperation between Indonesia and Thailand, specifically the 1976 Extradition Agreement, and its connection to the regulation of human trafficking offenses within Indonesia's national criminal law (Wiraguna, 2024). The research data sources are secondary legal materials, which include primary, secondary, and tertiary legal materials. Primary legal materials comprise pertinent legislation and international legal instruments, including Law No. 1 of 1979 on Extradition, Law No. 21 of 2007 on the Eradication of Human Trafficking, and the 1976 Indonesia-Thailand Extradition Agreement. Secondary legal materials encompass books, scientific journals, and prior research findings, whereas tertiary legal materials, including legal dictionaries, serve to elucidate legal terminology and concepts (Olvie Ester Sumual, 2019). Data collection was carried out through library research. Additionally, the legal materials were subjected to qualitative analysis through descriptive-analytical methods to elucidate the legal frameworks for extradition between Indonesia and Thailand, and to evaluate their enforcement in combating human trafficking offenses.

RESULTS AND DISCUSSION

A. Regulations on Extradition Cooperation between Indonesia and Thailand in the 1976 Treaty of Extradition

The study's findings indicate that extradition cooperation between Indonesia and Thailand is firmly

grounded in the 1976 Extradition Treaty, ratified by the Governments of the Kingdom of Thailand and the Republic of Indonesia. The treaty requires both nations to extradite individuals suspected of or convicted of extraditable offenses. So, there is a bilateral legal instrument that serves as the basis for cross-border law enforcement cooperation. The existence of this treaty demonstrates that both nations have long been dedicated to enhancing collaboration in the fight against transnational crime, particularly concerning offenders who evade legal action by fleeing to another country's jurisdiction (Dimas et al., 2024).

The agreement's terms are based on the general rules of extradition in international law. For example, the principle of double criminality says that the act that is being requested for extradition must be a crime in both countries. This agreement also talks about the principle of specialty, which says that the prosecution can only happen for the crimes that are the reason for the extradition request. These two principles are very important for keeping a balance between protecting human rights and enforcing the law effectively. They also make sure that the extradition process does not violate the sovereignty of the country that has been asked to hand over the perpetrator (Damayanti & Paramudhita, 2024).

Upon further examination, the structure of the 1976 Indonesia-Thailand Extradition Agreement employs a list-based system or a system of enumerated offenses. The only crimes that can be used to ask for extradition in this system are those that are clearly listed. This model is a classic way that was used in early

extradition treaties. More flexible methods, like the eliminative system, which uses the lowest criminal penalty as the basis for extradition, have since been developed. The list system has the benefit of giving people legal certainty because it clearly defines the types of crimes that can be extradited. But the downside of this system is that it doesn't work well with new types of crimes that have come up since the treaty was signed.

This condition is pertinent when associated with the crime of human trafficking. The term "human trafficking" was not widely used in international law when the Indonesia-Thailand Extradition Treaty was signed in 1976. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) was adopted in 2000 as part of the United Nations Convention Against Transnational Organized Crime. It was then that comprehensive rules on human trafficking were put in place. So, it's not surprising that the 1976 Extradition Treaty doesn't specifically list human trafficking as a crime.

However, a normative analysis of the crimes enumerated in the agreement indicates that human trafficking can still be classified under several existing categories of crime. One of the most important groups is crimes against morality. A lot of human trafficking cases are connected to sexual abuse, forced prostitution, and taking advantage of women and children. In this context, human trafficking practices intended for sexual exploitation can be categorized as moral violations, which are recognized as crimes warranting extradition.

Some parts of human trafficking crimes are also similar to kidnapping or illegal imprisonment crimes. In many cases of human trafficking, victims are tricked or forced into working for someone else, then taken to a certain place and kept there against their will so that they can be used. The components of forced transfer, detention, and the limitation of the victims' freedom resemble the characteristics of kidnapping or unlawful imprisonment. So, in a broad sense, human trafficking can be considered a crime that can be used as the basis for an extradition request.

Human trafficking can be examined not only through the interpretation of crime categories but also by the severity of criminal penalties. In contemporary international legal practice, a crime is typically extraditable if it entails a minimum incarceration period, generally exceeding one year. Indonesian national law says that people who commit human trafficking can go to prison for at least three years and at most fifteen years. So, using the minimum criminal penalty approach, it's clear that human trafficking is a serious crime that could be used as the basis for an extradition request (Dimas et al., 2024).

In addition to the principles of double criminality and specificity, the 1976 Extradition Treaty also provides for exceptions for political offenses (political offense exception). This provision is in line with common practice in international law, which aims to protect state sovereignty and prevent the abuse of extradition mechanisms for political purposes. However, developments in international criminal law show a tendency to narrow the scope of this

exception, especially regarding serious transnational crimes such as human trafficking (Agulia et al., 2025).

Human trafficking is now widely regarded as a serious crime that cannot be categorized as a political crime, but rather as a serious violation of human rights. Various international legal instruments, including the United Nations Convention Against Transnational Organized Crime, classify human trafficking as part of transnational organized crime that requires strong international cooperation in its handling. Therefore, there is no legal basis that can be used to exclude the crime of human trafficking from the extradition mechanism between Indonesia and Thailand (Dewanto et al., 2024).

Based on this analysis, it can be concluded that even though the crime of human trafficking is not explicitly mentioned in the list of crimes in the 1976 Indonesia–Thailand Extradition Agreement of 1976, normatively, this crime can still be included through interpretation of other crime categories such as crimes against morality and kidnapping, as well as through a criminal threat level approach that indicates that human trafficking is a serious crime. Therefore, the interpretation of the agreement should not be done narrowly, but must be done progressively in order to remain relevant to the increasingly complex developments of modern transnational crime.

B. Implementation of the Extradition Agreement in the Enforcement of Human Trafficking Crimes

The extradition agreement between Indonesia and Thailand has not been optimally implemented in law

enforcement practice. Research on international legal cooperation indicates that the extradition process frequently encounters delays, stemming from intricate administrative procedures and inadequate inter-agency communication. This situation directly affects the efficacy of law enforcement, especially in the context of human trafficking cases, which necessitate prompt action to safeguard victims and avert further offenses (Nazmi & Hayati, 2023). The administrative procedures involved in extradition requests typically engage multiple institutions, including the police, the prosecutor's office, the ministry of foreign affairs, and the judicial authorities within each nation.

Inefficient collaboration among these entities frequently results in delays concerning the submission of extradition request documentation and the fulfillment of requisite legal obligations, thus extending the duration of the perpetrator's transfer to the nation that made the request.

Furthermore, disparities in the legal frameworks of Indonesia and Thailand significantly impact the extradition process. Indonesia's legal system, which is primarily based on civil law traditions, is also shaped by customary and Islamic law. In contrast, Thailand operates under a civil law system that, in practice, incorporates common law principles, often described as a mixed legal system. These distinctions are evident in the procedures governing evidence, the powers vested in law enforcement personnel, and the judicial mechanisms responsible for processing extradition requests. In Thailand, judges may require initial evidence or sufficient preliminary

evidence before approving extradition requests from other countries. This initial evidence requirement differs from the procedures in Indonesia. As a result, extradition documents from Indonesian authorities might be sent back for revision if they don't meet the evidence standards set by Thai courts. These technical differences often create legal obstacles in the extradition process, which can slow down the resolution of international cases (Panjaitan, 2022).

Therefore, the Extradition Agreement between Indonesia and Thailand, signed in 1976, hasn't been fully effective in cases involving human trafficking investigations. Although the agreement was ratified through Law No. 2 of 1978 and became part of national law, in practice, the extradition mechanism still faces procedural and administrative obstacles.

As a result, the handling of human trafficking cases is hampered, especially when the perpetrators are outside the jurisdiction of the competent state. This situation has implications for the limited effectiveness of Law No. 21 of 2007 on the Eradication of Human Trafficking, as the success of prosecutions is highly dependent on the effectiveness of the applicable extradition mechanism (Hidayat et al., 2025). Therefore, the effectiveness of extradition cooperation is an important factor in ensuring that perpetrators of human trafficking crimes cannot avoid legal responsibility by fleeing to another country.

Furthermore, human trafficking crimes are generally carried out by organized international networks and are transnational in nature. Therefore, close cooperation between Indonesian and Thai

law enforcement agencies is necessary, not only in terms of extradition, but also in the exchange of information, joint investigations, and protection of victims. In the context of international criminal law, human trafficking is also often categorized as part of Transnational Organized Crime, which is a crime committed by organized groups operating in more than one country. These characteristics make human trafficking an extraordinary crime that requires special handling and intensive international cooperation. In practice, perpetrators of these crimes often have extensive networks, economic power, and even support from certain parties, which can complicate the law enforcement process. It is also not uncommon for information about arrest plans or extradition requests to leak before the perpetrators are successfully apprehended, giving them the opportunity to flee to another country. In such circumstances, cooperation between international police agencies such as Interpol and regional police networks such as ASEANAPOL is crucial to support the implementation of extradition through the exchange of intelligence data, the issuance of red notices, and the coordination of cross-border arrests.

The effectiveness of the implementation of extradition agreements is also greatly influenced by the dynamics of diplomatic relations between the requesting country and the requested country. Harmonious and mutually supportive bilateral relations between Indonesia and Thailand generally create a conducive environment for legal cooperation, including in the field of extradition. However, in practice, certain

political interests and diplomatic considerations can affect the speed and success of the extradition process (Ratri et al., 2024). These factors can influence the priority given to a case, especially if it relates to national interests, economic relations, or political stability in each country.

Ultimately, the success of prosecuting human trafficking crimes depends not only on the implementation of extradition, but also on the continuity of the legal process after the perpetrator is handed over to the requesting country. Challenges often arise in the collection and submission of evidence, especially if the evidence is located abroad or involves testimony from victims across national borders. In this context, it is important to understand that extradition is essentially only a mechanism to bring perpetrators to trial, while bringing evidence located in the jurisdiction of another country requires a different mechanism of legal cooperation, namely through mutual legal assistance (MLA).

Without strong MLA cooperation between Indonesia and Thailand, the extradition process can be less effective because even if the perpetrator has been successfully handed over to the requesting country, the evidentiary process in court can be hampered by limited access to documents, witnesses, and evidence located abroad. Therefore, strengthening MLA cooperation, forming joint investigation teams, and improving coordination between law enforcement agencies in both countries are important steps to ensure that the prosecution of perpetrators of human trafficking crimes can be carried out comprehensively and effectively.

C. Obstacles and Efforts to Strengthen Indonesia-Thailand Extradition Cooperation

This study also reveals several major obstacles in the implementation of extradition cooperation between Indonesia and Thailand. These obstacles include the application of the principle of non-extradition of its own citizens, concerns regarding the protection of the human rights of suspects or convicts, and differences in national interests between the two countries. These factors often cause extradition requests to be rejected or delayed (Apriyani, 2023). In international legal practice, many countries still maintain a policy of not extraditing their own citizens on the grounds of protecting state sovereignty and guaranteeing legal protection for their citizens. However, in the context of serious crimes such as human trafficking, the application of this principle can create obstacles in the law enforcement process if the country that refuses extradition does not immediately prosecute the perpetrators within its own jurisdiction.

Another obstacle that affects the effectiveness of extradition is the difference in human rights protection standards in each country. Before agreeing to an extradition request, the requested country often considers the possibility of inhumane treatment, injustice in the legal process, or the threat of punishment that is deemed inconsistent with human rights principles. Although these considerations are important from a human rights protection perspective, this situation can slow down or even hinder

the prosecution of perpetrators of human trafficking (Pradhani & Sari, 2022).

As a concrete example, differences in policies regarding the death penalty are often taken into consideration in extradition proceedings. In recent years, Thailand has shown a tendency to limit the use of the death penalty and strengthen its approach to protecting human rights in its judicial system. At the same time, Indonesia still maintains the death penalty for certain crimes such as narcotics and terrorism. These policy differences can raise concerns for the requested country if the extradited suspect could potentially face the death penalty in the requesting country. In some international cases, the requested country may refuse the extradition request or require diplomatic assurances that the suspect will not be sentenced to or executed by the death penalty. This phenomenon shows that human rights protection is often an important factor that influences the success of extradition requests (Chandra, 2022).

Without strengthening sustainable collaboration mechanisms, the potential for an increase in human trafficking crimes will continue to grow in line with the dynamics of globalization and technological advances. Human trafficking networks are becoming increasingly organized and able to exploit differences in legal systems between countries to avoid law enforcement. This situation shows that extradition agreements cannot stand alone but must be supported by strong political commitment, coordination between law enforcement agencies, and policy

harmonization at the national and regional levels. Therefore, optimizing extradition cooperation between Indonesia and Thailand, both bilaterally and within the ASEAN framework, is a strategic step to ensure that human traffickers cannot exploit national borders to avoid legal responsibility (Setiawan, 2021).

In addition, regional reports also show that Southeast Asia, particularly the Mekong region and its surroundings, is one of the regions with a high level of transnational crime activity. The 2024–2025 ASEANAPOL report notes that human trafficking remains one of the most prevalent forms of transnational organized crime in the region, with increasingly complex patterns of operation and the use of digital technology to recruit and move victims across borders. This situation calls for more intensive cooperation between ASEAN member states, including Indonesia and Thailand, in the exchange of intelligence information, joint law enforcement operations, and coordination in the extradition process of criminals.

The application of the principle of non-extradition of its own citizens is one of the classic challenges in international extradition cooperation. Basically, this principle aims to maintain state sovereignty and protect the rights of its citizens. However, in the context of human trafficking crimes, the application of this principle has the potential to create impunity if it is not balanced with the state's sincerity to prosecute perpetrators in its own jurisdiction. In international legal literature, the obligation of a state to extradite or prosecute perpetrators is known as the *Aut Dedere Aut Judicare* principle, which requires a state to

surrender perpetrators to another competent state or prosecute them in its own country if the extradition request is rejected.

This principle is also reinforced in various international legal instruments, including the United Nations Convention Against Transnational Organized Crime or the Palermo Convention, which affirms that states parties shall not allow perpetrators of serious transnational crimes to escape legal responsibility solely on the grounds of nationality. Thus, if Indonesia or Thailand rejects an extradition request for its own citizens, the country still has a legal obligation to effectively investigate, prosecute, and try the perpetrators of the crime (Batubara, 2025).

To overcome these challenges, it is necessary to strengthen cooperation mechanisms through ongoing legal dialogue and the renewal of bilateral agreements in line with developments in international legal standards. In addition, optimizing cooperation instruments and forums within ASEAN can promote policy harmonization and increase trust among member countries. One relevant instrument is the ASEAN Model Treaty on Extradition, which is designed as a guideline for member countries in establishing more uniform and effective extradition cooperation. This regional instrument has the potential to complement or serve as a supplementary framework for existing bilateral extradition agreements.

In the context of Indonesia-Thailand relations, the ASEAN Model Treaty on Extradition could serve as an important reference for revising the 1976 Extradition Treaty, which is now nearly

five decades old. The old treaty was drafted in a different international legal context than the current one, in which transnational crimes have become more complex and organized. Therefore, harmonizing extradition provisions with ASEAN regional standards can help close legal loopholes, speed up administrative processes, and increase the effectiveness of cross-border law enforcement cooperation (Anwar, 2024).

Although the 1976 Extradition Agreement has provided a legal basis for cooperation between Indonesia and Thailand, its effectiveness in law enforcement against human trafficking crimes is highly dependent on the political commitment of both countries, synergy between law enforcement agencies, and the ability to update cooperation mechanisms to adapt to developments in transnational crime (Wiraguna, 2024). With the strengthening of bilateral cooperation supported by ASEAN regional mechanisms and the application of international legal principles such as *Aut Dedere Aut Judicare*, it is hoped that efforts to eradicate human trafficking can be carried out more effectively and provide optimal protection for victims.

CONCLUSION

Based on the results of the research and discussion described above, several conclusions can be drawn as follows:

The 1976 Extradition Agreement between Indonesia and Thailand, which was ratified through Law Number 2 of 1978, provides a legal basis for cooperation between the two countries in handing over transnational criminals, including human traffickers. In addition, its provisions are also related to Law No.

1 of 1979 on Extradition and Law No. 21 of 2007 on the Eradication of Trafficking in Persons. However, in practice, the implementation of the agreement has not been fully optimized due to various obstacles, such as complex administrative procedures, ineffective inter-agency coordination, and differences in legal systems and standards of proof between Indonesia and Thailand in processing extradition requests.

The implementation of extradition in cases of human trafficking also faces obstacles related to the principle of non-extradition of its own citizens, differences in human rights protection standards, and political considerations and national interests of each country. In some cases, differences in criminal sentencing policies, including the possibility of the death penalty, can be grounds for the requested country to delay or refuse an extradition request. From an international law perspective, if a country refuses an extradition request, it still has an obligation to prosecute the perpetrator based on the principle of *Aut Dedere Aut Judicare*, as affirmed in the United Nations Convention Against Transnational Organized Crime (Palermo Convention). This principle is important to ensure that perpetrators of human trafficking as part of Transnational Organized Crime cannot avoid legal responsibility by exploiting differences in jurisdiction between countries.

To improve the effectiveness of law enforcement against human trafficking crimes, it is necessary to strengthen cooperation between Indonesia and Thailand through increased coordination between law enforcement agencies, optimization of mutual legal assistance

mechanisms, and utilization of international police cooperation networks such as Interpol and ASEANAPOL. In addition, updating or adjusting the 1976 Extradition Agreement should also be considered to be more adaptive to current developments in transnational crime. In the regional context, optimizing cooperation within the ASEAN framework, including through the ASEAN Model Treaty on Extradition, can be a complementary instrument to strengthen extradition mechanisms and increase the effectiveness of combating human trafficking in the Southeast Asian region.

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