



Evaluating ASEAN's Willing to Protect Migrant Workers: The Need for Reform

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Abstract

The ten Member States of the Association of Southeast Asian Nations (ASEAN), as one of the economically influential regional organizations globally, are growing significantly in intraregional migration. Intraregional migration follows migrant workers across the country. This paper discusses the current state of migrant worker protection, especially in the context of the developments, challenges, and prospects among ASEAN countries. This paper aims to critically examine why ASEAN is seemingly hard to protect its migrant workers during its importance in the region's economic development. This paper will first show the fundamental and pragmatic factors to the significance yet inadequate protection of migrant workers. Having analyzed the factors, the authors will argue about the ineffective principle of 'The ASEAN Way' in ensuring migrant workers' protection by demonstrating ASEAN member countries' response to migrant workers' rights. In conclusion, this paper proposes institutional reform for ASEAN and provides further research on the issue. The protection of migrant workers is a key feature of the region's labor market. It is expected that each country will have a better regulation to implement a fair labor migration system for the interests of governments, employers, and migrant workers.

Keywords: ASEAN; Migrant Workers; The Reform in ASEAN; Economy

INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) has been one of the economically influential regional organizations in addition to the European Union, the Mercosur, and the African Union. The emerging region is now applying more intertwined economic cooperation with the ASEAN Free Trade Area enactment in January 1993 (Bowles, 1997). This program aims to support trade and manufacturing within ASEAN countries and facilitate economic integration with international allies outside the region by forming alliances, e.g., the ASEAN-US cooperation, the ASEAN EU FTA (suspended in 2009), the ASEAN-China FTA, and the "ASEAN+X" framework (Asvapromtada, 2021; Hoan et al., 2019; Li et al., 2016; Mattheis & Wunderlich, 2017; Loan & Giang, 2020). However, the integration does not stop with these frameworks but later develops into the "ASEAN Community" framework under the following three pillars: Political-Security Community, Economic Community, and Socio-Cultural Community (Chao Jr., 2017). Guided by the motto of "One Vision, One Identity, One Community," ASEAN believes in creating a more integrated community on these aspects (Yap, 2018).

Because of increased cooperation in recent years in ASEAN countries, the need for labor is increasing both within and between countries within the region (Kaur, 2018). A further increase in the mobility of the population within the region is expected due to the rising demand for labor (Mack & Lim, 2017). Migrant workers play a major role in regional development in ASEAN because they meet the need for workers in countries with a lack of human resources. This current state is also beneficial for regional economic growth in realizing rapid development for migrant workers receiving countries and remittance income for migrant workers sending countries (Fagerheim, 2015).

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Despite the promised future, migrant workers' rights have not been the common focus of ASEAN's regional economic integration (UNDP, 2015). ASEAN is not committed to providing full protection by enacting a legally-binding agreement for ASEAN member countries despite migrant workers' massive contribution to the region's economy. After experiencing a tough negotiation process for years, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers 2017 (ASEAN Consensus) has become the beginning of recognition of the protection of migrant workers in ASEAN (Muthia, 2020). Although the ASEAN Consensus is a significant step that reflects the commitment and obligations of each ASEAN member country to protect migrant workers, gaps remain for implementing the consensus. ASEAN's lack of commitment is reflected by its non-legally binding nature of the consensus. In addition, diplomatic principles between member countries, such as the non-interference on state sovereignty, will hamper the process of guaranteeing the protection of migrant workers, especially for the victims of illegal and undocumented migrant workers' in field practices.

The need for a new governance system in ASEAN became stronger after the emergence of the ASEAN Consensus. To ensure the process of protecting migrant workers within ASEAN, an institutional system is needed to ensure that the agreement is properly implemented. The condition of ASEAN, which still does not have binding coordination power, apart from economic agreements, signals the need for a strong institution. This article discusses the dynamics of ASEAN integration and institutions in the context of the protection of migrant workers. Using an institutional approach, this article proposes a wider ASEAN role in regional economic, sociocultural, and security development. This paper proposes the need for ASEAN institutional reform to realize its central role in protecting migrant workers. The reform process includes strengthening the secretariat, changing the decision-making process, and determining the main lines of the value system to be adopted as organizational doctrine in ASEAN.

LITERATURE REVIEW

Universal Human Right Theory

Universal Human Rights theory emphasizes that all individuals inherently possess certain rights (innate, unalienable, and ubiquitous, surpassing national borders, cultural distinctions, and governmental frameworks) just based on their humanity. After the UN General Assembly officially accepted the Universal Declaration of Human Rights (UDHR) in 1948, this theory played a crucial role in determining the progress of international human rights law.

Ignatieff (2001) stated that the process of establishing universally applicable human rights in international law originated with the UDHR. It explained a comprehensive range of civil, political, economic, social, and cultural rights that should be granted to every person. The regulation has also provided the basis for many international rules, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These legal regulations create a worldwide system of human rights in which countries are responsible for safeguarding the rights of their people and can face international examination if they neglect this duty (Nickel, 2007). These rights should also be applicable to labor migrants in every location, especially in ASEAN countries.

Universal Human Rights Theory has been criticized much, despite its extensive acceptance. Cultural relativists contend that human rights are influenced by Western intellectual and cultural customs (Mutua, 2002). They argue that the imposition of global human rights norms may weaken local cultures, traditions, and legal systems, especially in non-Western societies. In addition, practical difficulties exist in implementing and enforcing universal human rights, particularly in regions with inadequate governance systems or where there is a significant emphasis on state sovereignty, as observed in ASEAN countries (Merry, 2006).

In the regional contexts such as ASEAN, this theory highlights the struggles between universalism and regionalism. ASEAN's commitment to the principles of noninterference and respect for state sovereignty frequently clashes with the enforcement of universally recognized human rights norms (Donnelly, 2013). As a result, ASEAN has faced concerns regarding its insufficient framework for safeguarding human rights. Nevertheless, the ASEAN Human Rights Declaration (AHRD) has made efforts to address these conflicts by recognizing universal rights while also noting the unique characteristics of the region (Nickel, 2007).

Dual Labor Market Theory

During the 1970s, Michael Piore established a paradigm that explains the division of labor markets into two separate sectors: primary and secondary. This theory has had a significant impact on explaining the structural factors that motivate labor mobility and the persistent inequality in labor markets. This idea originated as a reaction to the deficiencies of conventional economic theories that presumed a solitary, cohesive labor market. Subsequently, he contended that labor markets were fundamentally segregated into two distinct groups, each regulated by different methods and fulfilling different economic roles. The primary sector is linked to elevated salaries, job stability, and opportunities for advancement, which tend to appeal to native-born workers with the requisite skills and education to qualify for these positions. Conversely, the secondary sector is characterized by meager salaries, unfavorable working conditions, and frequent employee turnover, frequently depending on migrant labor to occupy these roles (Piore, 1979).

Migrant workers frequently cluster in the secondary labor market, characterized by restricted prospects for advancement and susceptibility to exploitation. The recruitment of migrant workers is driven by the need for inexpensive and adaptable labor in the secondary sector. These workers are willing to accept lower wages and inferior working conditions compared to native workers because of economic constraints in their home countries (Reich et al., 1973). This phenomenon contributes to the continuation of a secondary labor market, which in turn reinforces a cycle of inequality and hinders the economic integration of migrant workers (Sassen, 1988).

Liberal Institutionalism Theory

Liberal Institutionalism focuses on the urgency of international institutions in encouraging cooperation between states. This idea states that although the international system lacks a central authority, it is nevertheless feasible and preferable to collaborate. This collaboration is made easier by institutions that help states resolve challenges of trust, coordination, and the implementation of agreements (Grieco, 1988).

A key principle of Liberal Institutionalism is the notion of "absolute gains," which posits that states prioritize their overall benefits derived from cooperation rather than their relative advantages over other states. By contrast, Realist theories emphasize the concept of relative power and the zero-sum aspect of international interactions (Keohane & Martin, 1995). Liberal Institutionalists contend that states are more inclined to collaborate through institutions when they prioritize their overall gains and believe that such cooperation enhances their well-being. Liberal Institutionalism has been extensively applied in diverse international settings, including in the examination of international organizations such as the United Nations, the World Trade Organization, and regional entities like the European Union and ASEAN.

RESEARCH METHOD

The qualitative research methodology was employed in this research by constructing a comprehensive analysis of ASEAN legal frameworks and policy responses related to the protection of migrant workers. To identify the key themes and trends in the protection of migrant workers

within ASEAN, the researchers conducted an extensive review of the existing literature, including academic articles, policy papers, and legal documents. Moreover, the contents of official ASEAN documents and declarations, namely the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, were analyzed to assess the effectiveness and challenges in the implementation of these frameworks.

Official reports and publications from ASEAN, government documents from member states, and international organizations such as the International Labor Organization (ILO) were collected as primary data for this study. These data provided information about ASEAN member states' legal obligations regarding migrant workers and compliance with international standards. The thematic analysis approach was used for analyzing the information to identify recurring patterns and gaps in the protection mechanisms for migrant workers across the region.

Furthermore, a comparative analysis was conducted to compare migrant worker protection in ASEAN with other regional organizations, such as the European Union (EU). This comparative viewpoint highlighted the particular difficulties that ASEAN faces because of its diverse membership and non-interference principle. The results of this investigation can be used to provide suggestions for improving the institutional structure of ASEAN to better defend the rights of migrant workers in the area.

The argument is presented in five sections. The first section describes the current situation of the lack of interest in migrant labor protection in ASEAN. The growth of the influence of migrant workers on the ASEAN economy does not imply a stronger commitment to the protection of migrant workers. The current consensus represents a sign of the neglect of migrant workers' rights within the ASEAN framework. The second section provides current Indonesia's efforts in migrant worker protection within the ASEAN Economic Community. As one of the major sending countries, Indonesia's role in ASEAN has significantly increased to improve its national economy. The third section discusses the dilemmatic principle of 'The ASEAN Way' in which a trademark for ASEAN's non-interference style of diplomacy. The principle of non-interference and the sovereignty of each member country hamper the process of establishing standards for the protection of migrant workers in ASEAN, which should have become a global agreement, as outlined in many ILO conventions. The authors demonstrated Thailand as an example of the inability of ASEAN to coordinate the common goal of migrant worker protection. In the fourth part of this article, an ASEAN institutional reform is proposed. With the change in the organizational system, stronger secretariat political prowess and more binding agreements between member countries, the protection of migrant workers will be more guaranteed. The expectation is that ASEAN reform will enable the integration process of the ASEAN as an economic, sociocultural, and security community. In the last part, the authors conclude that ASEAN needs institutional reform to support the protection of migrant labor in the region and ensure a coherent and interrelated legal framework between ASEAN countries on migrant labor protection. This article uses the terms labor and workers interchangeably.

FINDINGS AND DISCUSSION

ASEAN Countries' Lack of Interest in Migrant Labor Protection

ASEAN's economy depends on its migrant workers, particularly intra-regional migrant workers. This flow of migrating workers was concentrated mostly along corridors involving 90% migrants: Indonesia to Malaysia; Malaysia to Singapore; and Laos PDR, Cambodia, and Myanmar to Thailand (United Nations, 2019). The Asian Development Bank and International Labor Organization estimated that intra-ASEAN labor migration touched 6.9 million in 2015, from 1.5 million in 1997 and will likely increase in the future. Nevertheless, approximately 87% of ASEAN migrant workers are either unskilled or low-skilled (Olivier, 2018). This could lead to difficulties in

retaining employees. South Africa is an example of a country that dealt with the limited scarce skills to reduce the turnover rate (Thusi & Chauke, 2023). The majority of the working population is concentrated in informal sectors where there is no legal or social protection (Hall, 2012).

The nature of ASEAN migrant workers' flows is rather asymmetric and distinguishes between sending and receiving countries. A rather richer and open country in the ASEAN is most likely to be a receiving country, such as Singapore, Brunei Darussalam, Malaysia, and Thailand, while countries with lower economies and abundant workers like Indonesia, Laos, PDR, Myanmar, and the Philippines, are becoming the main sending countries. Harkins and Lindgreen (2018) argued that the significant drivers of migrant worker flows in ASEAN are disparities between countries in economic and social development and demographic differences between countries, as also supported by Pasadilla and Abella (2012), in which receiving countries are trying to support the needs of aging societies while also maintaining productivity.

The mission of protecting migrant workers, despite the status of sending and receiving countries, was first mentioned as 'worker rights' and 'labor migration' in the ASEAN Joint Ministers Meeting in 1984, which implied further notices of migrant labor rights within ASEAN countries years afterward (Auethavornpipat, 2017). The mission was finally emphasized formally by Vientiane Action Program to promote and protect the rights of migrant workers in ASEAN (ASEAN Secretariat, 2004). In Southeast Asia, temporary migrant workers face numerous abuses during the recruitment, employment, and repatriation processes. Ten years ago, ASEAN governments pledged to create a framework to govern the rights of migrant workers. However, multiple standstills have hindered the realization of this commitment (Bal & Gerard, 2017).

In 2007, ASEAN approved the ASEAN Declaration on the Protection and Promotion of Migrant Workers (ADMW), or the so-called Cebu Declaration, conducted with a designated committee on the implementation of ADMW (ACMW). With this declaration, ASEAN principally acknowledges the need for regional governance to protect migrant workers (Allison-Reumann, 2017). However, the operational mechanisms have not yet reached an absolute agreement. Most progress on collaboration within the region is designated for high-skilled workers, with the ratification of labor standards in eight occupations stated in the Mutual Recognition Arrangement (MRA): engineering, nursing, architects, accountant, surveyor, medical practitioners, dental practitioners and tourism professionals (Fukunaga, 2015).

In terms of global governance, the Association of Southeast Asian Nations (ASEAN) member states do not plan to ratify the principles and standards of the United Nations and the ILO as regional entities. However, the already-ratified ASEAN member states have not been implementing the ratified measures well (Prasetyo, 2009). Only Cambodia, Indonesia, and the Philippines have ratified all of the ILO fundamental conventions listed in Table 1.

Table 1. Ratified ILO fundamental conventions on migrant workers within ASEAN countries

Member States	ILO Convention							
	Freedom of Association: The definition of freedom of association.		Forced labor		Discrimination		Child labor	
	C087	C098	C029	C105	C100	C111	C138	C182
Brunei Darussalam							Yes	Yes
Cambodia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Indonesia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lao People's Democratic Republic			Yes		Yes	Yes	Yes	Yes
Malaysia		Yes	Yes	Denounced	Yes		Yes	Yes
Myanmar	Yes		Yes					Yes
Philippines	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Member States	ILO Convention							
	Freedom of Association: The definition of freedom of association.		Forced labor		Discrimination		Child labor	
	C087	C098	C029	C105	C100	C111	C138	C182
Singapore		Yes	Yes	Denounced	Yes		Yes	Yes
Thailand			Yes	Yes	Yes	Yes	Yes	Yes
Viet Nam		Yes	Yes		Yes	Yes	Yes	Yes

Source: ILO Database on International Labor Standards, accessed on March 1, 2020

As not all ASEAN countries have ratified the ILO fundamental conventions, this condition urges ASEAN countries to establish ratifiable agreements to protect migrant workers' rights. [Auethavornpipat \(2017\)](#) highlighted the lack of norm precision between ASEAN member countries to reach a consensus in the negotiations for ratifiable migrant workers protection instruments. The drafting team convened by ACMW, consisting of Malaysia and Thailand as receiving state representatives and Indonesia and the Philippines as sending state representatives, stalled the negotiation process. The Cebu Declaration was then discussed by the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). It needs ten years of back-and-forth debates between migrant workers sending and receiving countries on whether the consensus would be legally binding; whether it would cover undocumented migrant workers; and whether it would cover family members of migrant workers and migrants from outside ASEAN ([Bal & Gerard, 2017](#)). An example situation described in the study conducted by [Arisman \(2020\)](#) showed the safeguarding of migrant workers in Johor Bahru remains inadequate, with many Indonesian migrants having their documents held by employers, particularly in the fisheries sector where this practice is most prevalent. Additionally, domestic workers are the group most likely not to receive a weekly day off. These findings indicate a need for Malaysia to focus more on improving regulations to ensure a safer and more comfortable working environment for migrant workers.

By 2017, ASEAN member countries signed the ASEAN Consensus. This consensus promotes the fair treatment of migrant workers, the right to visit their families, and the prevention of abuse, exploitation, and violence. As expected, the consensus does not oblige ASEAN member countries to ratify the consensus into national law. However, the problem does not stop there. The unclear definition of "fair treatment" might lead to ambiguity due to differences in each country's legal system. The consensus also does not provide any details on how those who receive unfair treatment of file complaints. [Tobing \(2017\)](#) compared this consensus with the European Convention on the Legal Status of Migrant Workers in which it states, "Migrant workers shall be entitled, under the same conditions as nationals, to full legal and judicial protection of their persons and property and of their rights and interests." The comparison indicates that the Consensus lacks the necessary details to ensure the protection of migrant labor in ASEAN.

Indonesia's Legal Effort as a Net-Sending Country

Indonesia is recognized as the largest market for migrant workers in the ASEAN region. However, most migrant workers sent to other countries by Indonesia are not well educated or unskilled. Most Indonesian migrant workers outside the ASEAN MRA are domestic assistants and mostly work in family homes, infrastructure, and manufacturing companies. The 2016 BPS-Statistics Indonesia and World Bank surveys provide an in-depth explanation of the aggregate conditions of Indonesian migrant workers. They are uneducated or skills-oriented. Most are sent as domestic workers, hard workers who mostly work in infrastructure and manufacturing companies. The vulnerability of these workers' level of education and skills makes them need protection from

the government when working abroad.

Moreover, the occurrence of unlawful migration, particularly across Indonesia's border islands, ultimately leads to the development of security issues, including crimes that span national borders (transnational crimes) and organized crime. Transnational crime refers to offenses conducted across the territorial limits of countries (Umboh, 2022). Auethavornpipat and Palmer (2022) mentioned that Indonesia has made consistent efforts to promote the United Nations Migrant Worker Convention in ASEAN for nearly two decades, despite facing resistance from countries that receive migrants. The persistence of Indonesia can be attributed to its unique understanding of migrant worker rights, which is shaped by past experiences of exploitation by its citizens abroad. Utilizing the critical norms approach in international relations, this article shows how "Indonesia's normative baggage" influences its interpretation of the convention standards and its diplomatic efforts to advocate for the protection of Indonesian migrants in ASEAN.

The flow of free workers, such as those from the ASEAN Economic Community, is also a concern because labor statistics are among the many factors that influence economic development. In ASEAN, the economic development impact of migrant workers in 2015 reached USD 62 billion sent as remittances to their home countries. The amount of these remittances was almost the same as the GDP of Myanmar in the same year. This reality has had a huge impact on Indonesia's goal of urging ASEAN states to protect Indonesian migrant workers. When the ASEAN Free Trade Area emerges, free labor trade will also become a labor issue. Indonesia has a responsibility to protect the rights of its migrant workers in the global labor market, particularly in ASEAN-neighbor countries.

For protection purposes, in 2004, the Indonesian Government issued a regulation on the placement and protection of Indonesian workers who work abroad, Law of the Republic of Indonesia Number 39 of 2004, concerning the placement and protection of Indonesian Workers Abroad. Law of the Republic of Indonesia Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad was issued with the following considerations:

1. That work is a human right that must be upheld, respected and guaranteed to be enforced;
2. that loyal workers have equal rights and opportunities without discrimination to get decent work and income, both at home and abroad, through their skills, talents, interests, and abilities;
3. Indonesian workers abroad are often used as objects of human trafficking, including slavery and forced labor, victims of violence, harassment, crimes against human dignity, and other treatment that violates human rights;
4. that the state must guarantee and protect the human rights of its citizens who work both at home and abroad based on the principles of equality, democracy, social justice, gender equality and justice, and anti-discrimination and trafficking in persons;
5. the placement of Indonesian workers abroad is an effort to realize equal rights and opportunities for workers to obtain decent work and income, the implementation of which is carried out with due regard for dignity, human rights and legal protections and equal distribution of employment opportunities and provision of manpower by national law;
6. the placement of Indonesian workers abroad must be carried out in an integrated manner between central and regional government agencies and community participation in the legal system to protect Indonesian workers who are placed abroad;
7. the existing laws and regulations in the manpower sector have not been sufficiently, firmly, and in detail regulating the placement and protection of Indonesian workers abroad; and
8. Whereas Law No. 11 2020 concerning the workforce states that the placement of Indonesian workers abroad is regulated by law.

Based on the Law of the Republic of Indonesia Number 39 of 2004 concerning the Placement

and Protection of Indonesian Workers Abroad, the placement and protection of prospective migrant workers is based on integration, equality, democracy, social justice, gender equality and justice, anti-discrimination, and anti-trafficking. The placement and protection of prospective migrant workers aim to:

1. Empowering and making optimal and humane use of the workforce;
2. Ensure and protect prospective migrant workers from within the country, in the country of destination, and upon returning to their place of origin in Indonesia;
3. Improve the welfare of migrant workers and their families.

The government is responsible for the implementation of various regulations and policies related to the placement and protection of overseas workers. [Hartono and Samsuria \(2021\)](#) emphasized the responsibility of the government to offer legal safeguarding for Indonesian migrant workers, necessitating guidance and oversight to ensure workers are adequately informed about legal regulations on their protection. [Putra and Erlangga \(2022\)](#) recommended the existence of laws and regulations that the community could implement as a legal basis for implementing social welfare activities, as a form of active participation that would provide strong guarantees.

The ASEAN Way: A Dilemmatic Principle

The gap between the desired protection for migrant workers and the actual mechanisms, particularly regarding the standard of human rights, is caused by the governance system in most ASEAN countries. The understanding of public order, state stability, the domestic rule of law, and the spirit of non-interference between states are guiding most ASEAN countries' governance systems ([Rathgeber, 2014](#)). The "state sovereignty" in the area of migration is being challenged from multiple levels. Piper et al. (2018) explained that it is "ranging from the sub-state to the national, transnational, and regional level." The intertwining interests of countries often overlap within these multilevel challenges. Moreover, [Ishikawa \(2021\)](#) stated that ASEAN's economic integration has advanced despite significant economic disparities and varying industrial development stages among the member countries. Its success can be attributed to a gradual, goal-oriented approach to liberalization, the pivotal role of FDI companies, enhanced external trade, efforts to address intra-regional imbalances, and the development of transportation infrastructure.

"The ASEAN Way," a mantra that promotes ASEAN regionalism, is continually being praised. Ironically, however, it also demonstrates the ineffectiveness of ASEAN in making influential agreements. The framework of ASEAN cooperation is based on nonintervention and consensus. All decisions must be unanimous, and no intervention is allowed in matters of each member's national interest. This framework was also promoted with a compelling emphasis by former ASEAN Secretary-General Rodolfo C. Severino, as follows:

ASEAN has always been regarded as a group of sovereign nations operating based on ad hoc understandings and informal procedures rather than within the framework of binding agreements arrived at through formal processes ([Severino, 2001](#)).

ASEAN's regional political strategy cannot be separated from each ASEAN's founding nations' initial conditions: autocratic countries and fragile democracies. It is challenging for each ASEAN member country to delegate some of its power to the ASEAN. Although "The ASEAN Way" has evolved for more than 50 years of its establishment, the maintained consensus and nonintervention principle remain significant obstacles for ASEAN to develop as a cohesive region.

[Tripathi \(2015\)](#) compared ASEAN and the European Union (EU) for successful regional integration. It has concluded that ASEAN and the EU have different fundamental principles regarding the nation's sovereignty. Tripathi commented on the EU as follows:

The EU, on the other hand, represents 'regionalism' as a government-driven process of successive pooling of sovereignty into common institutions (integration) ... The main aim of a regional organization was to blunt the sword of nationalism. Thus, the adopted approach was supranationalism (Tripathi, 2015).

It must be admitted that the EU has a different goal than ASEAN as a regional cooperation organization. The focus of decreasing nationalism and encouraging supranational governance by the EU contradicts the main principle of ASEAN, which respected each member country's sovereignty and did not give ASEAN any opportunity to force its members' internal governance to its intergovernmental will.

A dilemma arises when ASEAN is faced with urgent conditions and is divided in terms of the national interests of each country. This can be seen clearly in the negotiation process for forming an ASEAN agreement on the protection of migrant workers, which finally ends with a consensus that is not legally binding. The principle of non-interference greatly affects the negotiation process on the issue of migrant workers, which is related to the value base applicable to each country. The factor of national interest is a vague concept that shields migrant workers from reluctance to take serious steps.

The issue of migrant workers is mostly understood as an economic and political means rather than human rights protection. Approaches made by government officials within ASEAN often treat migrant workers' issues with the fulfillment of working means such as standardization, data collection and a tighter immigration system. These approaches are not wrong. However, these approaches do not address more concerned migrant workers, such as illegal migrants and forced labor. By letting the current situation continue, ASEAN's policies will perceive illegal and forced migrant workers as entirely unlawful and unable to be protected by law.

Thailand, an ASEAN member led by a military junta, recognizes these human rights concerns as it implements laws to protect migrant workers from neighboring countries, particularly those in the Indochina area. However, [Auethavornpipat \(2017\)](#) mentioned the junta's concern to the migrant workers in a repressive political atmosphere, without reference to the ASEAN normative framework set up in 2007. Hence, Thailand is confusing that ASEAN's unsuccessful initiative has not affected policymaking on migrant workers' rights in the country. Moreover, Thailand's commitment to protecting migrant workers' rights has been stated by Ambassador Pisan Manawapat as follows:

We do this because it is only and always right. To ensure Thailand's status as a world-class production hub, we must strive for and achieve the highest international standards in relation to labor. Therefore, we are committed to working with employers and employees to combat labor exploitation in all forms (Manawapat, 2016).

The efforts of the Thai military junta conflicted with regional efforts to collectively protect the rights of migrant workers. By taking steps to enforce the national law without inviting ASEAN member countries in the form of regional agreements, it indicates a separate effort to protect the image of Thailand and its regime in the eyes of importers of migrant products. Among the countries and regions that emphasize migrant workers' rights are the EU and the United States ([Carmel & Paul, 2013](#); [Compa, 2017](#)). The Thai government is motivated by extreme pressure from the US and EU due to the publication of investigative news that exposed trafficked and slave labor in the Thai fisheries industry. It is a major component of Thailand's export goods ([Human Rights Watch, 2018](#)). The Thai government should be aware of the cost of migrant worker right violations as import bans against products involving migrant workers may increase.

In addition to economic reasons, the military junta is trying to preserve the government's current stability by using migrant worker issues to stop riots from Yingluck Shinawatra's supporters, the elected administration in 2014. As the military coup continued, members of the National Legislative Assembly were selectively selected to make reforms. Among the 200 members, 13 are businesspeople (Baker, 2016). These entrepreneurs depend heavily on migrant workers to maintain their productivity. This close tie between businesspeople and the military junta shows the significance of conglomerates in domestic policymaking; thus, the military junta continues to protect businesses as it is one of the administration's power bases.

ASEAN Reformation

"To improve is to change; to be perfect is to change often," a Winston Churchill's often-mentioned quote, which the authors think is preferably compatible in the case of ASEAN and migrant worker protection. As mentioned in the previous section, the underlying cause of inadequate protection for migrant workers is the principle of consensus and nonintervention among ASEAN countries. Therefore, the ASEAN should reform its governance to make decisions faster and more effective for each member country. The ultimate key to solving the crisis is to democratize ASEAN, change the decision-making process's mechanism, and give ASEAN a more powerful authority to ensure compliance by each member state on an agreed consensus.

ASEAN should prioritize democratic member countries with broad and coherent policies on human rights to lead regional policymaking. Consider democratization, ASEAN members should amend the ASEAN Charter to emphasize human rights issues and promote democratization within the region. Malik et al. (2018) suggested that organizations implementing inclusive policies for a diverse workforce, encompassing various nationalities, age groups, genders, cultural backgrounds, and skill levels, can achieve a long-term competitive advantage over those that overlook such policies. These inclusive strategies not only positively affect organizational outcomes but also play a vital role in boosting the gross domestic product (GDP) of the economy. However, the democratization of Southeast Asian nations will open opportunities for further integration. Reformation should begin in each member country. Authoritarian states in ASEAN are not ready to limit their own state sovereignty.

The democratization of ASEAN will lead to more rapid and proactive decisions on migrant worker right issues. By using a supermajority voting system for decision-making, ASEAN can increase the speed of urgent issues. For ACMWs, a lengthy and complex decision-making process is usually not feasible with a supermajority system. This example demonstrates how a decision-making process with a large majority can be more integrated and effective.

The ASEAN should be given more power and authority to ensure consensus or any agreement within ASEAN. Considering ASEAN centrality, more power on ASEAN to manage its member countries will increase the effectiveness of the consensus. Currently, ASEAN's dream of an integrated community will be a set of distant aspirations. ASEAN's challenge is to give a new authoritative power above its national sovereignty after more than 50 years of rather silent ASEAN.

CONCLUSIONS

ASEAN has a weak interest in protecting migrant workers, regardless of how influential migrant workers' contributions to the aggregate ASEAN economy. Limited ASEAN's attention to professional migrant workers shows that the mission of protecting workers by ASEAN and ASEAN countries' effort to develop their domestic regulations rather than jointly agreeing in ASEAN fora shows the ineffectiveness of ASEAN's consensuses.

Several steps are needed to overcome the problems above, namely, reforming ASEAN with democratization, a better decision-making mechanism, and a stronger ASEAN. ASEAN reformation

should lead ASEAN's governance to be more influential for each member country with the spirit of regionalism and democracy. For instance, the minimization of documentation can be improved by not requiring additional documents or by creating a one-stop service delivery system so that prospective migrant workers can easily and simultaneously complete all the required documents in one management. Migrant workers can be given various incentives to improve their living conditions. Some of these include lower taxes, free services, and minimizing management costs.

With democratic reforms, ASEAN can force each country to encourage the establishment of a legal protection system for migrant workers, both for legal and forced migrant workers. In addition, ASEAN countries should pay attention to the low-educated and domestic workers who dominate migrant workers. Finally, leadership in the ASEAN must also be strengthened to lead the ASEAN's strategic movement and maintain regional centrality.

Further research is needed to predict the outcomes of the ASEAN reform. The agent-based model simulation with regional cooperation in the international relations approach is suggested to simulate each member country's possible political tendency toward the democratization of ASEAN and liberalization of migrant labor protection. The development of international relations (IR) theory might be relevant to the extent of ASEAN institutional reform, particularly in regional studies and institutionalist approaches.

LIMITATION & FURTHER RESEARCH

There are several limitations that should be acknowledged. This research primarily used second data sources for example official documents, reports, and academic literature. Moreover, due to the focus on specific cases within ASEAN, the report may not be representative of all member states or other regional contexts. Significant differences may be observed in institutional structures and political contexts. Furthermore, the recommendations proposed in this research are based on the current state of the organization and existing legal frameworks. They may need to be reassessed in the future as ASEAN evolves and as new challenges and opportunities emerge.

REFERENCES

- Allison-Reumann, L. (2017). Integrating ASEAN in Labor Migration Policy: From Disjointed to Complementary Actor. *Asian Politics and Policy*, 9(3), 427–441. <https://doi.org/10.1111/aspp.12329>
- Arisman, A., & Jaya, R. K. (2020). Labour migration in ASEAN: Indonesian migrant workers in Johor Bahru, Malaysia. *Asian Education and Development Studies*, ahead-of-print(ahead-of-print). <https://doi.org/10.1108/aeds-02-2019-0034>
- ASEAN Secretariat. (2004). *Vientiane Action Programme 2004-2010*. ASEAN Secretariat.
- Asvapromtada, S. (2021). The ASEAN–EU Relations and the ASEAN Regional Integration. In L. K. Chand, B.; Danner (Ed.), *New Challenges and Opportunities in European-Asian Relations* (pp. 109–131). Springer International Publishing. https://doi.org/10.1007/978-3-030-68632-1_5
- Auethavornpipat, R. (2017). Assessing regional cooperation: ASEAN states, migrant worker rights and norm socialization in Southeast Asia. *Global Change, Peace & Security*, 29(2), 129–143. <https://doi.org/10.1080/14781158.2017.1293021>
- Auethavornpipat, R., & Palmer, W. (2022). Indonesia's Promotion of UN Migrant Protection Norms in ASEAN. *Pacific Affairs* 95, 95(1), 75–97. <https://doi.org/10.5509/202295175>
- Baker, C. (2016). The 2014 Thai Coup and Some Roots of Authoritarianism. *Journal of Contemporary Asia*, 46(3), 388–404. <https://doi.org/10.1080/00472336.2016.1150500>
- Bal, C. S., & Gerard, K. (2017). ASEAN's governance of migrant worker rights. *Third World Quarterly*, 39(4), 799–819. <https://doi.org/10.1080/01436597.2017.1387478>

- Bowles, P. (1997). ASEAN, AFTA and the "New Regionalism". *Pacific Affairs*, 219–233.
- Carmel, E., & Paul, R. (2013). Complex stratification: Understanding European Union governance of migrant rights. *Regions and Cohesion*, 3(3), 56–85. <https://doi.org/10.3167/reco.2013.030304>
- Chao Jr., R. Y. (2017). Mobility, Mutual Recognition and ASEAN Community Building: The Road to Sustainable ASEAN Integration. *Journal of International and Comparative Education*, 6(2), 105–121. <https://doi.org/10.14425/jice.2017.6.2.105>
- Compa, L. (2017). Migrant workers in the United States: connecting domestic law with international labor standards. *Chi.-Kent L. Rev.*, 92, 211.
- Donnelly, J. (2013). *Universal Human Rights in Theory and Practice* (3rd ed.). Cornell University Press.
- Fagerheim, M. G. (2015). *Impact of remittances on economic growth in ASEAN: An empirical analysis, 1980-2012*.
- Fukunaga, Y. (2015). Assessing the progress of ASEAN MRAs on professional services. *ERIA Discussion Paper Series*, 21.
- Grieco, J. M. (1988). Anarchy and the limits of cooperation: a realist critique of the newest liberal institutionalism. *International Organization*, 42(3), 485–507. <https://doi.org/10.1017/S0020818300027715>
- Hall, A. (2012). Migrant workers and social protection in ASEAN: Moving towards a regional standard? *Journal of Population and Social Studies*, 21(1), 12–38.
- Harkins, B., & Lingreen, D. (2018). *Labour Migration in the ASEAN Region: Assessing the Social and Economic Outcomes for Migrant Workers*. <http://www.migratingoutofpoverty.org/files/file.php?name=harkins-labour-migration-in-asean-update.pdf&site=354>
- Hartono, D., & Samsuria, I. K. (2021). Legal Protection of Indonesian Migrant Workers: International Law, National Regulations and Contemporary Problems. *International Journal of Criminology and Sociology*, 10, 859-865. <https://doi.org/10.6000/1929-4409.2021.10.101>
- Hoan, T. Q., Chung, D. Van, & Hoang, N. H. (2019). Taiwan–ASEAN Trade Relations: Trade Structure and Trade in Value Added. *China Report*, 55(2), 102–124. <https://doi.org/10.1177/0009445519834371>
- Human Rights Watch. (2018). *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry*.
- Ignatieff, M. (2001). Human Rights as Politics and Idolatry.
- Ishikawa, K. (2021). The ASEAN Economic Community and ASEAN economic integration. *Journal of Contemporary East Asia Studies*, 10(1), 24–41. <https://doi.org/10.1080/24761028.2021.1891>
- Kaur, A. (2018). Patterns and governance of labour migration in ASEAN: Regional policies and migration corridors. In *Handbook of migration and globalisation*. Edward Elgar Publishing.
- Keohane, R. O., & Martin, L. L. (1995). The promise of institutionalist theory. *International Security*, 20(1), 39-51. <https://doi.org/10.2307/2539214>
- Li, Q., Scollay, R., & Maani, S. (2016). Effects on China and ASEAN of the ASEAN-China FTA: The FDI perspective. *Journal of Asian Economics*, 44, 1–19.
- Mack, V., & Lim, C. (2017). *How emerging global trends may affect labour migration in ASEAN*.
- Malik, P., Lenka, U., & Sahoo, D. K. (2018). Proposing micro-macro HRM strategies to overcome challenges of workforce diversity and deviance in ASEAN. *Journal of Management Development*, 37(1), 6–26. <https://doi.org/10.1108/jmd-11-2016-0264>
- Manawapat, P. (2016). *Commitment on Labor Protection*. Royal Thai Embassy. <http://www.thaianti-humantraffickingaction.org/Home/?p=1794>
-

- Mattheis, F., & Wunderlich, U. (2017). Regional actorness and interregional relations: ASEAN, the EU and Mercosur. *Journal of European Integration*, 39(6), 723–738. <https://doi.org/10.1080/07036337.2017.1333503>
- Merry, S. E. (2006). *Human Rights and Gender Violence: Translating International Law into Local Justice*. University of Chicago Press.
- Muthia, A. A. (2020). Legal Protection for Illegal Migrant Domestic Workers under the ASEAN Regulations and Its Implication for Indonesia. *Indonesian Journal of International Law*, 17(3), 307–326.
- Mutua, M. (2002). *Human Rights: A Political and Cultural Critique*. University of Pennsylvania Press.
- Nickel, J. W. (2007). *Making Sense of Human Rights* (2nd ed.). Blackwell Publishing
- Olivier, M. (2018). *Social protection for migrant workers in ASEAN: Developments, challenges, and prospects*.
- Pasadilla, G., & Abella, M. (2012). *Social Protection for Migrant Workers in ASEAN* (CESifo Working Paper Series, Issue 3914). CESifo. https://econpapers.repec.org/RePEc:ces:ceswps:_3914
- Loan, L. T. P., & Giang, V. T. (2020). ASEAN-US Economic Cooperation and Its Impacts on Regional Security And Development. *International Journal of Social Science and Economic Research*, 5(10), 3103–3125. <https://doi.org/10.46609/IJSSER.2020.v05i10.020>
- Piore, M. J. (1979). *Birds of passage: Migrant labor and industrial societies*. Cambridge University Press.
- Prasetyo, H. (2009). *The power(less) of ratification: holding the state responsible for human rights respect in Indonesia* [McGill University]. <https://escholarship.mcgill.ca/concern/theses/s1784m691>
- Putra, B. M., & Erlangga, R. A. (2022). Analysis of Strategies to Improve People's Social Welfare in The Digital Era in Indonesia. *International Journal of Entrepreneurship and Sustainability Studies*, 2(1), 61-70. <https://doi.org/10.31098/ijeass.v2i1.983>
- Rathgeber, T. (2014). Documentation: International Legal Human Rights Framework: Human Rights and the Institutionalisation of ASEAN: An Ambiguous Relationship. *Journal of Current Southeast Asian Affairs*, 33(3), 131-165. <https://doi.org/10.1177/186810341403300306>
- Reich, M., Gordon, D. M., & Edwards, R. C. (1973). A theory of labor market segmentation. *American Economic Review*, 63(2), 359-365. <http://www.jstor.org/stable/1817097>
- Sassen, S. (1988). *The mobility of labor and capital: A study in international investment and labor flow*. Cambridge University Press.
- Severino, R. C. (2001). *The ASEAN Way and The Rule of Law*. ASEAN. https://asean.org/?static_post=the-asean-way-and-the-rule-of-law
- Tobing, D. H. (2017). *The problem with ASEAN's new migrant workers pact*. The Jakarta Post. <https://www.thejakartapost.com/academia/2017/11/16/the-problem-with-aseans-new-migrant-workers-pact.html>
- Tripathi, M. (2015). European Union and ASEAN: A Comparison. *International Journal of Research*, 2(1), 376–384. <https://journals.pen2print.org/index.php/ijr/article/view/1338>
- Thusi, X., & Chauke, R. (2023). Strategies For Retaining Scarce Skills and Reducing Turnover in The South African Public Sector. *International Journal of Management, Entrepreneurship, Social Science and Humanities*, 6(1), 120-134. <https://doi.org/10.31098/ijmesh.v6i1.1242>
- Umboh, R. D. (2022). The Effect of International Security Dynamics on Asia Pacific Regionalism. *International Journal of Management, Entrepreneurship, Social Science and Humanities*, 5(1), 208-2014. <https://doi.org/10.31098/ijmesh.v5i1.886>
- UNDP. (2015). *The Right to Health*. UNDP.
- United Nations, Department of Economic and Social Affairs, Population Division. (2019). *International Migrant Stock 2019*. (United Nations database, POP/DB/MIG/Stock/Rev.2019).
-

Yap, L. (2018). Stamping Cultural Diplomacy. *A Special Issue to Commemorate Singapore's Chairmanship of ASEAN 2018*, 47.