



Regional Informal Workshop on
Enhancing Parliamentarians Role in Shaping Labor Migration in Southeast Asia
18 August 2008, Singapore

SUMMARY

The Friedrich-Ebert-Stiftung (FES) Philippine Office and the Migrant Forum in Asia (MFA) in partnership with the Singapore National Trades Union Congress (SNTUC) organized a regional informal workshop entitled “Enhancing Parliamentarians Role in Shaping Labor Migration in Southeast Asia” on 18 August 2008 in Shangri-La Hotel Singapore. This informal workshop, a follow-up to the preliminary dialogue with Parliamentarians in September 2007, intends to allow for open discussion on how parliamentarians and parliaments in ASEAN can increase their role in addressing labor migration at various levels – national, bilateral and regional. Participants were members of parliament from the ASEAN region (including parliamentary/legislative staffs), representatives from migrant NGOs and associations, trade unions, the academe based in the region as well as the European Commission.

The objectives of the workshop were to deepen the dialogue among parliamentarians as well as parliamentarians and other migration stakeholders, to provide a space for informal discussions about issues and concerns of ASEAN members countries on migration, to learn about best practices that promote and protect migrant workers and to reflect upon ways how parliamentarians can permanently address labor migration issues on a regional level. The organizers of the workshop scheduled the meeting a day prior to the ASEAN Inter-Parliamentary Assembly (AIPA) so that a focused input could be presented to this body.

Labor Migration in Southeast Asia: What Role for Parliaments?

This one-day workshop in Singapore was part of FES-MFA-SNTUC’s continuing engagement in providing space for parliamentarians and representatives from government and non-governmental organizations (NGOs) space to broaden the dialogue on migrant worker issues in Southeast Asia and build linkages among and between legislators and interested parties. Last year’s activity entitled regional workshop entitled “Labor Migration in Southeast Asia: What Role for Parliaments?” in September 2007 showed the initial expression of a pro-active stance among parliamentarians at the regional level who have voiced out their willingness to engage with parliamentarians at the regional level and on a regular basis.

Opportunities and Challenges for Parliamentarians Shaping Labor Migration in Southeast Asia

As political and economic changes sweep the region that consists of a number of countries of origin and countries of destination, a dramatic rise of intra-regional movements of workers indicate increasing labor market integration between the ASEAN Member Countries. The number of migrants originating from Southeast Asia as of 2005 was estimated at about 13.5 million, about 40 percent of whom (5.3 million people) were based in other ASEAN Member Countries and 60 percent are women. In an increasingly integrated international labor market and economy, migration has now become an integral part of globalization and regional integration processes.

Labor migration in Southeast Asia has increasingly drawn the attention of governments and policymakers. The ASEAN Leaders signed in 2007 the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers that mandates ASEAN countries to promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers. In the following year, the ASEAN Forum on Migrant Labor was held and paved the way forward in making the Declaration operational, beginning with the activation of the committee for its implementation. Recommendations were specified for the work

of the Committee on the Implementation of the Declaration which included among others, to convene the first meeting of the Committee during the 14th ASEAN Summit wherein the structure and function as well as work plan towards the development of the instrument on the Protection and Promotion of the Rights of Migrant Workers as provided in the ASEAN Declaration will be further determined, and to institutionalize the ASEAN Forum on Migrant Labor as a platform for broad-based discussions on migrant labor issues under the auspices of the Committee.

While managing labor migration has been a domain predominantly reserved for governments, with the increasing involvement of stakeholders from civil society, parliamentarians are following suit. The 28th General Assembly of the ASEAN Inter-Parliamentary Assembly (AIPA) recommended the establishment of an AIPA-Committee that has as its primary task the identification of possibilities for common legislative initiatives. Furthermore, AIPA is calling on member countries to implement measures to enhance the protection and promotion of the rights of migrant workers as well as to apply domestic laws equally to migrant workers and citizens, among others.

Transforming the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers into a practical instrument – What role for Parliamentarians?

Highlights

1. Recognition of the step forward by ASEAN governments in addressing issues pertaining to the promotion and protection of the migrant workers' rights. (Declaration has identified responsibilities of both countries of origin and countries of destination with reference to international standards, and it has provided a mechanism for annual reporting to the Secretary General of the ASEAN)
2. However, the ASEAN Declaration for Migrant Workers is non-binding and does not provide a specific timeframe of implementation. As of date (September 2008), no focal point has been selected; The Committee to Implement the Declaration has not met and therefore has not begun discussions on the agenda and the subsequent implementation of the Declaration.
3. Demands on governments of ASEAN: Identify and select focal points of the Committee with corresponding timeframe and plan of action latest at the ASEAN Summit 2008.
4. Call to action for Members of Parliament/Representatives of Congress

Nationally:

- Go fact-finding/obtain empirical data on the situation of Migrant Workers within ASEAN as well as the realization of international commitments;
- Oversee the Executive in implementing international agreements pertinent to migrant workers, particularly the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which has been ratified by all countries in ASEAN, and the 2007 ASEAN agreement on cooperation with the International Labour Organization (ILO);
- Establish policies and procedures in countries of origin that facilitate safe migration of workers, recruitment and protection of the migrant worker overseas as well as repatriation and reintegration to the countries of origin;
- Pass enabling laws that will codify commitments under the Declaration in national laws;
- Pro-active and continuous collaborations with stakeholders, incl. Placement Agencies and other civil society actors.

Regionally:

- Encourage ASEAN to undertake concrete steps in recognizing migrant workers as key actors of a sharing and caring ASEAN Community of 2015;
- Through the AIPA: call for and follow up the selection and designation of focal points. A workable timeframe and operational method of the Committee must also be determined.
- Establish caucus within AIPA to
 - Monitor situation of migrant workers in ASEAN countries;
 - Monitor progress of ASEAN Committee to Implement Declaration;
 - Present recommendations to governments of both countries of origin and countries of destination;
 - Design regional frameworks, e.g. for skills recognition and standard contracts (terms of employment adherent to the Core Standards of the ILO);

Migrant workers rights and obligations under receiving countries' law - Is National Treatment Possible?

Highlights

1. The issue is relevant because some countries of destination have laws and policies that tend to discriminate migrant workers and exclude them from equal access to legal redress and social services or from protection through labor rights (to form/ join union).
2. Progress was marked in some countries such as Singapore where national treatment has been achieved in a number of policy-fields (union membership, treatment in case of job displacement).
3. There were discussions regarding the coverage of domestic workers in labor laws, the wage differentials between local and migrant workers as well as the issues pertaining to documented and undocumented workers, and the chances for their protection.
4. Differences between the treatment of white- and blue-collar workers was noted, especially in terms of their ability to enjoy freedom of movement and recognition of skills.
5. Experiences from the European Union were shared, especially how the free movement of workers is institutionalized (right to access to work, right for the family to reside, equal treatment) while at the same time providing for social security and social services of intra-EU labor migration.

Interfacing the AIPA – how to continue?

The participants of the workshop adopted a resolution which was presented to the Committee for Social Affairs of the AIPA (please see Annex), calling, among others, for the establishment of an AIPA Caucus on Migration. The official documents of the AIPA General Assembly suggest that this proposal has not been acted upon. It even states that *“The Assembly agreed to remind the AIPA member countries to implement the Resolutions [...] No. 28GA/2007/Soc/06 on Cooperation on Migration and Protection of the Rights of the Migrant Worker, which were adopted last year in Kuala Lumpur and to report to the next General Assembly.”* The cited resolution of the 2007 AIPA stipulated that AIPA *“recommended the establishment of a Committee to conduct research and comparative surveys of national legislations, regulations and measures in the AIPA Member Countries on migration, identify the possibilities for common legislative initiatives, and report to the General Assembly.”*

Given the lack of endorsement by AIPA of an official caucus on migration and noting the lack of progress on the previous official resolution of 2007 suggests the continuation of an **informal** process that can feed into what may later become a migration committee or caucus.

As suggested in the workshop, a continued dialogue with parliamentarians and other stakeholders may want to focus on:

- monitoring progress made in implementing the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers and interact with the respective governments to be pro-active in coming up with a suitable mechanism, as well as to align national laws according to the principles of the Declaration;
- examine the roles that private recruitment agencies play and how to hold them accountable;
- monitor and intervene in steps taken by ASEAN governments to provide a framework that governs high and low-skilled labor migration in ASEAN (such as Mutual Recognition Agreements) and to look into how to include social protection and labor rights in such a framework;
- engage in dialogues through visits and interaction with parliaments by both countries of origin and countries of destination.

We thus suggest to plan at least 2 activities in 2009:

- 1) an informal workshop/ brainstorming of what may be considered as a core group (MP Charles Santiago (MAL), MP Maria Climaco (PHI), William Gois (MFA), Sinapan Samydorai (Task Force ASEAN on Migrant Workers) preparing the ..
- 2) next regional informal workshop, to be held possibly before the next AIPA General Assembly (2-8 August 2009);
- 3) If feasible, we can organize bilateral parliamentary visits (Indo-SIN, Indo-MAL, PHI-MAL, CAM-THAI(?))

Annex:

RESOLUTION

WHEREAS, migrant labour mobility is an integral part of globalisation and economic integration;

WHEREAS, the flow of migrant workers is central to the economic and development policies of sending and receiving countries in Southeast Asia and beyond;

WHEREAS, sending countries encourage migration as a solution to local unemployment and to increase foreign exchange earnings;

WHEREAS, receiving countries require a continuous flow of cheaper and flexible labour to fuel expansion of their economic activities and to ensure the competitiveness of their countries and corporations;

WHEREAS, a number of labour laws and regulations in sending and receiving countries do not provide adequate protection to migrant workers;

WHEREAS, the lack of adequate protection to migrant workers has resulted in their trafficking, exploitation, maltreatment, physical abuse, sexual harassment, rape, torture, or in worst cases, death;

WHEREAS, the lack of adequate protection to migrant workers has resulted in their being cheated of wages, forced over-time, substandard working conditions, and living in fear of employers and local enforcement authorities;

WHEREAS, the lack of political will and the ambiguity in addressing migrant workers issues in both sending and receiving countries have undermine the interests and welfare of migrant workers;

WHEREAS, there is an increasing feminization of migration – where more than half of all unskilled migrant workers are women; where migrant women have become breadwinners of families; where migrant women earn less than men but send a larger share of their earnings to their families; where unskilled migrant women face specific problems as a result of their gender; and where eighty per cent of the victims of human trafficking are women;

WHEREAS, there is a need to rethink the existing migration infrastructure and formulate the necessary laws or policies in order for migrant workers to benefit from migration and development – consistent with the Vientiane Action Programme (VAP) 2004, where the elaboration of VAP 1.1 calls for an ASEAN instrument that would protect and promote the rights of migrant workers;

WHEREAS, there is a strong need for Governments and regional bodies to effectively respond to the challenges of migration;

WHEREFORE, WE, THE PARTICIPANTS OF THE “REGIONAL INFORMAL WORKSHOP ON ENHANCING PARLIAMENTARIANS’ ROLE IN SHAPING LABOR MIGRATION IN SOUTHEAST ASIA” HELD IN SINGAPORE ON 18 AUGUST 2008, HEREBY RESOLVE THE FOLLOWING:

1. Enhance the Role of Parliamentarians at the National Level:

- 1.1 To assert stronger oversight function of the Parliament to ensure effective implementation of national laws and policies on migration, and the accountability of government officials in migration issues;
- 1.2 To legislate national laws aligned with international conventions that promote and protect the rights of workers within the respective countries as well as out-going migrant workers, especially women;
- 1.3 To ensure that domestic work is protected by national labour laws and regulations;
- 1.4 To call on respective governments to ensure ratification of international human rights and core labour standards, especially on the promotion and protection of migrant workers;
- 1.5 To promote non-partisan parliamentarian caucuses that will specifically discuss migration issues;

2. Strengthen the Role of Parliamentarians at the Regional Level:

2.1 To build on AIPA and IPU Resolutions related to labour migration:

- To acknowledge the multidimensional character of migration involving issues such as labour related problems, minority–security problems, health care issues, poverty, socio-economic, and not just political or State security matters;
- To create concrete resolutions to protect migrants from issues relating to healthcare, welfare and labour;

2.2 To call for the ASEAN Governments to identify the national focal points which will constitute the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers;

- For the Committee to formally adopt its functions as stipulated in the Statement of the Establishment of the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers;
- For the Committee to come up with its Terms of Reference, work plan, time frame to be incorporated in the report of the ASEAN Secretary-General to the ASEAN Summit;

2.3 To call on AIPA to observe progress made by the Committee and to review the report of the ASEAN Secretary-General;

2.4 To call on AIPA to establish an Inter-Parliamentary Caucus on labour and migration;

- To deliberate progress made towards achieving the goal of an ASEAN Community by 2015 based on the 3 pillars;
- To identify focal points at the member countries that will coordinate national caucuses on labor and migration;
- To introduce a regulatory framework for employment and recruitment agencies as well as brokers in both sending and receiving countries;
- To explore the feasibility of harmonizing national laws or developing regional legislations setting floor standards for employment contracts, including wages;
- To organize dialogues and visits to enhance the understanding of social phenomena underlying issues related to labour migration;
- To monitor adherence of regional and bilateral agreements between ASEAN members to existing international norms, principles and standards; and

2.5 To call upon ASEAN heads of governments and the ASEAN Secretariat to draw up decent work country programmes that will assist in strengthening national labour markets.

3. Improve cooperation between Parliamentarians and Stakeholders (civil society organizations, trade unions, migrant workers' representatives, and the private sector):

3.1 To provide a space for more regular interface of Parliamentarians and Stakeholders, to exchange, share and build on best practices and approaches to migration; and

3.2 To open debates on migration and development with a focus on the protection of migrant workers' rights and social developments.

PARTICIPANTS

Member of Parliament/Representative of Congress

Cambodia	Her Excellency Ho Naun Chair, Commission on Healthcare, Social and Veteran's Affairs National Assembly of Cambodia
Indonesia	Tuti Indarsih Loekman Soetrisno Member of Parliament, Commission IX, DPR-RI
Indonesia	Eva Kusuma Member of Parliament Indonesian Democratic Party of Struggle (PDI-P)
Laos	Dr. Bang On Sayarath MD Member of the National Assembly Member of Committee Foreign Affairs, National Assembly Standing Member of Constituency I, Vientiane Capital
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Malaysia	Dr. Tan Seng Giaw Member of Parliament and Deputy Chair of Democratic Action Party
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Philippines	Manuel Zamora Representative, House of Representatives, Chair of Committee on Overseas Workers Affairs, House of Representatives
Philippines	Rexlon Gatchalian Representative, House of Representatives, Vice Chair of Committee on Overseas Workers Affairs, House of Representatives
Singapore	Yeo Guat Kwang Member of Parliament, and Chair, SNTUC Migrant Workers Forum (MWF), Singapore National Trades Union Congress (SNTUC)
Singapore	Halimah Yacob Member of Parliament, Chair, Government Parliamentary Committee (GPC) for Health, and Deputy Secretary-General, Singapore National Trades Union Congress (SNTUC)
Thailand	Prasong Nurack Senate

Thailand	Dr. Pusadee Tamthai Member of Parliament, Democrat Party Deputy Chair of the Standing Committee on Women
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