



*With the Standing Committee on Foreign Affairs of the National Assembly of Thailand*

**Regional Informal Workshop on  
Parliaments, Migration and Labor Markets in ASEAN  
1-2 August 2009, Bangkok**

**SUMMARY**

The Friedrich-Ebert-Stiftung (FES) Philippine Office and the Migrant Forum in Asia (MFA), with support from the Standing Committee on Foreign Affairs of the National Assembly of Thailand, organized a regional informal workshop entitled “Parliaments, Migration and Labor Markets in ASEAN” on 1-2 August 2009 held at the Siam City Hotel in Bangkok, Thailand. The informal workshop was the third in a series of informal dialogues which began in 2007 when engagement with parliamentarians by various migration stakeholders began. The workshops have always been designed as a non-partisan, informal activity to encourage learning and reflection, and had previously addressed not only the role of parliamentarians but also the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, the types of bilateral agreements in the region and responses of national governments on emerging policy challenges.

This year’s workshop aimed to continue and deepen the dialogue among parliamentarians, and parliamentarians with other migration stakeholders, as well as to reflect upon ways on how parliamentarians can address recent labor market developments and labor migration issues particular to the ASEAN sub-region, at both national and regional levels. Participants were members of parliament from the ASEAN region (including parliamentary/legislative staffs), representatives from relevant government agencies and the ASEAN Secretariat, and representatives from migrant NGOs and associations, trade unions, and the academe.

As in the previous workshops, the recently concluded Parliamentarians’ Workshop was scheduled prior to the ASEAN Inter-Parliamentary Assembly (AIPA) which had its 30<sup>th</sup> Assembly 3-8 August in Pattaya, Thailand.

**ASEAN Integration, Labor Markets and Migration**

The rationale for continuing engagement with parliamentarians is the ASEAN’s vision of an integrated economic community by 2015. This ambitious vision requires, among others, the harmonization of standards, laws and regulations across borders to allow a regional market to develop and to function properly. The expected removal of further barriers to trade and mobility in ASEAN, however, is regarded with mixed reactions. Though removal of border restrictions is welcomed to stimulate travel and trade, negative effects on labor markets such as wage pressures, increased flexibilization and

employment losses can also be expected as well as the increased mobility of workers. While the benefits of migration for both sending and receiving countries including productivity improvements, increased income, employment generation and higher overall rates of economic growth are being widely discussed, the parallel development of steady increase in intra-regional labor migration of both skilled and unskilled workers poses complex challenges to governments. Porous borders, a limited social dimension in integration processes and large informal economies demand the development of an ASEAN migration regime that successfully combines mobility and flexibility with social and human rights protection, particularly in times of economic crises.

How is this ASEAN labor migration regime shaping up? With the ASEAN Committee on Migrant Workers now working on a draft Instrument for the Protection and Promotion of the Rights of Migrant Workers, as provided in the ASEAN Declaration, and the institutionalization of the ASEAN Forum on Migrant Labor as a platform for broad-based discussions on migrant labor issues under the auspices of the Committee, what scenarios do we see for migrant workers in the region as ASEAN continues its drive for integration? How can parliamentarians leverage their role to ensure that the process for protection of migrant workers in the region continues?

### Overview of ASEAN Labor Market and Migration

#### Highlights

1. The region's economic performance in 2007 had a positive impact on ASEAN's labor market, posting a robust growth of 6.4%. Despite these however, the number of vulnerable workers remained massive, estimated at 161 million workers, or 60% of the ASEAN workforce in the same year.
2. The ASEAN Charter and blueprints form the framework for addressing labor migration in the region.
3. ASEAN's main initiatives are *to facilitate labor movement* through mutual recognition arrangements (MRAs), exchange of information on policies and legislation relevant to immigration toward harmonization, study and policy review of skills recognition systems for ASEAN, development of common competencies for selected occupation; and the development of a collaborative curriculum based on regional occupational competency standards; and the *protection and promotion of the rights of migrant workers* through a Framework Instrument currently being drafted by the ASEAN Committee on Migrant Workers.
4. The ASEAN Secretariat recognizes the following as challenges to addressing labor migration:
  - o The absence of a regional framework for skills recognition arrangements.
  - o Lack of communication and shared information on the labor market. The quality of data on labor migration in ASEAN countries is uneven.
  - o Coordination issue: Work addressing labor migration is undertaken by different ASEAN bodies. There is little interaction between these bodies. Each ASEAN body undertakes its respective tasks in accordance with its mandates under the three different pillars of the ASEAN Community.
  - o Regional commitments are not necessarily in sync with national interests.

## The Global Financial Crisis and ASEAN Labor Migration

### Highlights

1. Philippines as a sending country have a legal and policy framework in place which helped it to maintain a positive projection of deployment and to provide services for its overseas workers and their families during the worst of the global financial crisis.  
It identified the following areas for policy development:
  - Prosecution of illegal recruitment cases – proposal to have government operatives pursue and sustain the cases
  - Criminal Liability for loan institutions which refuse to condone or readjust when problems arise for worker and payments are prematurely cut
  - Strengthening bilateral and multilateral arrangements especially in the Middle East; also vis-à-vis Philippine ratification to the Migrant Workers’ Convention and ILO Conventions
  - Mutual recognition arrangements vis-à-vis high quality employment.
  
3. Receiving countries, on the other hand, and as exemplified by Malaysia, are reportedly continuing its abuses of migrant workers for lack of a separate or distinct legislation particular to migrant workers. Some of the abuses cited:
  - Conditions of exploitation including working non-stop, lack of personal protection equipments, inhuman sanitation conditions.
  - The shift to outsourcing to recruit workers, usually for the short-term, masking the bigger problem of unemployment and sidestepping responsibility for workers’ benefits like health insurance and the like.
  - Corrupt enforcement of laws by immigration, police or voluntary force, including trafficking of detained migrant workers by policemen themselves.
  - Corruption also in the management of migrant workers at the level of the government committee, Human Resources Ministry (manages labor-related issues) and the Ministry of Home Affairs (licenses and permits have to go through” middlemen”).
  
4. The global financial crisis showed up the gaps and needs in the labor migration regime being developed and **what role parliamentarians** can play:
  - Urgent need to raise awareness among members of parliaments (MPs) of the issues confronting migrant workers vis-à-vis labor migration in the region.
  - More systematic information for evidence-based advocacy
  - Cultivate more the role of media
  - More collaboration of MPs with other members of civil society, including migrant NGOs and trade unions
  - Bring the rights of migrant workers as a major focus of the ASEAN Inter-governmental Commission on Human Rights
  - Intra-ASEAN parliamentary collaboration for collective action at the regional level.

## Scenarios for ASEAN Integration

### Highlights

1. Mutual recognition arrangements (MRAs) as a first instrument to facilitate a labor mobility regime has yet to take off as there is little information available on it and regulatory bodies engaged in these arrangements are from the private sector. Hence the need for greater transparency from governments, the need to focus on social protection beyond labor standards, and the need to organize the bloc of labor sending countries so that countries of origin do not compete or race to the bottom.
2. The process of drafting the Framework Instrument should be fast tracked and it should include undocumented migrant workers in its scope. Like the Declaration under the ASEAN's consensus principle, however, the Instrument is not binding, but MPs can push it to become legally binding for member-states to comply with. For this to happen, Parliamentarians should study the draft, get an overview of existing migration issues and policies within the region and make the shift from looking at the issue from the perspective of national security to looking at it from a development perspective.
3. The paradigm shift from political to socio-economic that was mentioned is the need to move away from the law and order (security) approach to a development approach and ASEAN must push for this paradigm to respond to the challenges posed by labor migration on migrant workers in the region.
4. The Instrument must have review and redress, as well as monitoring, mechanisms, i.e., annual report on the implementation of the instrument involving all stakeholders and not only government, and periodic review of the Instrument itself.
5. In the context of intra-ASEAN and increased migration flows, ratification of the Migrant Workers' Convention, relevant ILO conventions and the CEDAW were strongly suggested. Gender sensitivity demands that women's rights are protected, with trainings and migration procedures simplified and made women-friendly.
6. Discussion on the social dimension of labor market integration noted the need to remember that migrant workers are human beings whose rights and welfare must be at the center of policies and legislation. Hence the need for awareness-raising also on human rights which should be reflected in the qualitative terms and conditions of MoUs and other agreements and/or arrangements that governments enter into. .
7. It was agreed that the private sector is a vital sector to engage for ensuring protection for migrant workers, especially those multinational corporations that see ASEAN as a production center. However, there is also a role for recruitment agencies in ensuring ethical recruitment practices. Steps undertaken to provide a insurance system should be further studied and developed into a systematic regional social security scheme.
8. It was also shared that a deeper understanding of the culture, especially the language, of the migrant workers may mitigate abuses; suggestion for countries of destination and employers to make the effort to learn more about the migrant workers.

## The Way Forward

At one point, the parliamentarians present decided to drop the word “informal” from the title of the workshop, signaling a shift in the process of dialoguing and interaction. It was not a concern that they were a handful; or that the resolution for 2009 workshop may end up like the resolutions in 2007 and 2008. The parliamentarians took note of the following action points raised during the “conversations”..

- Establish an ASEAN Inter-Parliamentary Caucus on Migrant Workers that would make possible inter-parliamentary country visits, collaborative work with relevant executive agencies and regional legislation through ASEAN, AIPA and other mechanisms.
- Establish standard ASEAN curriculum on the tertiary level to raise workers’ credentials
- Take active interest in the Instrument being drafted by the ACMW. Push for inclusion of undocumented migrant workers in the Instrument being drafted; the ASEAN Declaration does not say that it applies only to documented workers.
- Lobby for individuals who are knowledgeable and have experience on migrants’ rights advocacy to be appointed as country Commissioner for the AICHR. Selection is August through October.
- Lobby to the AICHR which will start operating in January to have migrant workers as priority focus of the Commission
- During the 15<sup>th</sup> ASEAN Summit, to raise the issue and redefine what it means to be a people-centered ASEAN.

..and later resolved:

- to make recommendations to the ASEAN Inter-Parliamentary Assembly (AIPA) meeting in Pattaya on 3-8 August 2009 and to ASEAN Member States regarding the drafting of the ASEAN Instrument for the protection and promotion of the rights of migrants and their families
- to create an ASEAN Inter-Parliamentary Caucus on Labor Migration which will
  - raise awareness,
  - conduct inter-parliamentarian visits,
  - commission research/studies on areas that directly impact on the lives of migrant workers and their families,
  - look into how national regulatory frameworks on labor migration can be harmonized, and
- to continue dialogue and collaboration with civil society stakeholders including migrant workers and their families and mass media towards sharing of information, evidence-based advocacy, and policy changes in the regional level.

**Regional Informal Workshop on  
PARLIAMENTS, MIGRATION AND LABOR MARKETS IN ASEAN**

***1-2 August 2009  
Siam City Hotel, Bangkok***

**RESOLUTION**

Recognizing that migrant labour mobility is evident in globalization and economic integration, and Southeast Asia is one of the world's fastest growing regions with substantial flows of migrant workers both within and outside its regional borders;

WHEREAS mobility of migrant workers in the region have social, economic and development ramifications for the region;

WHEREAS, labor migration has been perceived as a measure to alleviate poverty while it also continues to provide a continuous flow of cheaper and flexible labour to fuel expansion of economic activities;

WHEREAS, labour laws and regulations in ASEAN countries may be inadequate or implemented inadequately to promote and protect the rights of all migrant workers and their families;

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; as well as substandard wages, forced over-time, inhuman working conditions, and living in fear of employers and local enforcement authorities;

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, the lack of political will and the ambiguity in addressing migrant workers issues in both countries of origin and destination have undermined the interests and welfare of migrant workers and their families and communities;

WHEREAS, we welcome the drafting of an ASEAN Framework Instrument that will greatly strengthen the existing migration infrastructure to ensure the protection and promotion of the rights of migrant workers and their families and, we recognize the urgency to put the right to development at be the heart of the migration and development discourse;

WHEREAS, the ASEAN vision of an integrated, vibrant economic community by 2015 requires the removal of barriers to trade and mobility which can negatively affect national labor markets in terms of wage pressures, increased flexibilization, employment losses and other such challenges to Governments;

WHEREAS, there is a need for ASEAN to adopt a development approach in creating a migration regime that successfully combines mobility and flexibility with social and human rights protection;

WHEREAS, further, we recall and build on the resolutions and principles adopted during the previous regional informal workshops

THEREFORE, WE, THE MEMBERS OF PARLIAMENT PARTICIPATING IN THE “REGIONAL WORKSHOP ON PARLIAMENTS, MIGRATION AND LABOR MARKETS IN ASEAN,” HELD IN BANGKOK ON 02 AUGUST 2009, DO HEREBY RESOLVE:

1. To recommend to the ASEAN Inter-Parliamentary Assembly (AIPA) meeting in Pattaya on 3-5 August 2009 as well as the ASEAN member states the following:
  - a. To urge the fast-tracking of the process of drafting the ASEAN Instrument for the protection and promotion of the rights of migrants and their families such that a draft is submitted to the 15<sup>th</sup> ASEAN Summit in October 2009;
  - b. To ask the Drafting Committee to include the right to development and take into consideration the conclusions of the World Commission on the Social Dimension of Globalization;
  - c. To put forward to the ASEAN Committee on Migrant Workers the following resolutions:
    - That the same Instrument, as well as MOUs, should embody international standards that will create an enabling environment for the protection and promotion of migrants’ rights;
    - That the Instrument should have review and redress mechanisms, such as an annual report on the implementation of the Instrument, with a format and structure to include key issues and areas, mechanics of reporting and multiple sources of information;
    - That the Instrument be submitted to Parliaments for consideration.
  - d. To resolve that the ASEAN Intergovernmental Commission on Human Rights shall actively promote the Instrument;
  - e. To urge AIPA to request ASEAN to submit a status report on the progress made in the drafting of the ASEAN Instrument.
2. To create an ASEAN Inter-Parliamentary Caucus on Labor Migration which will:
  - a. Raise awareness among ourselves and our respective Parliaments on the potentials and possibilities of our roles at the regional level;
  - b. Conduct inter-parliamentarian visits as part of oversight function and in coordination with relevant line agencies of both countries of origin and destination in the implementation of the Instrument to monitor and call attention to the situation of migrant workers;
  - c. Conduct and/or commission exploratory research or studies on areas that directly impact the lives of migrant workers and their families in the region, such as but not limited to:
    - (Portable) social security
    - Bilateral agreements, more specifically the Memorandum of Understandings (MoUs) that our governments enter into
    - Outsourcing, labor brokers and other arrangements
    - Harmonization of national regulatory frameworks on labor migration
3. To continue dialogue and collaboration with civil society stakeholders including migrant workers and their families and media towards sharing of information and evidence-based advocacy, e.g., an overview of existing migration issues and policies within the region.