Migrant Workers and Social Protection in ASEAN

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Background

• Desk review on low/medium skilled migration and social protection in ASEAN
• Limited input
• Comprehensive info unavailable
• More research required
Migrants and ASEAN

- 2005: ILO – 13.5 million migrants originating from ASEAN member states
  - 39% (5.3 million) in ASEAN member states
  - 26% US, 9% EU, 26% other regions
- Indonesia, Myanmar, Philippines main sending countries
- Brunei, Malaysia, Singapore, Thailand main receiving countries

Migrants in ASEAN (Tamagno, 2008)

Table 6. Estimated number of migrants in ASEAN countries from other ASEAN countries (numbers in thousands)

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<th>Country of origin</th>
<th>Country of destination</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>LA</th>
<th>MY</th>
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<th>PH</th>
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Source: DRC Migration 2007, Version 4
**Migrant Protection = Social Protection?**

- Migrants issues: increased global attention
- 2007 ASEAN *Declaration on the Protection and Promotion of the Rights of Migrant Workers*
- Protection of human/labour rights
- Remedying abuses against DWs/fisherman
- Little attention on *social protection* for migrants
- Despite increasing interest in social protection for all globally
- Migrant work accident victims focus of campaigns in S Korea, Hong Kong or Thailand

**Informal Workers and Migrant Workers: priority first**

- Informalisation of work
- Social protection domain of formal work
- ASEAN nascent social protection systems and developing social security organisations
- Families/communities as social support
- Samyodorai (09) **60% ASEAN workers informal with little or no social protection**
- **Migrant social protection not the priority?**
Definitions: Social Protection and Social Security

- ‘Social protection… is often interpreted as having a broader character than social security (including protection provided between members of the family or members of a local community) but is also used in some contexts with a narrower meaning (understood as comprising only measures addressed to the poorest, most vulnerable or excluded members of society)…

- ‘Social security … has two main dimensions, namely “income security” and “availability of medical care…”’

- Social Security (Minimum Standards) Convention 1952 (ILO C-102) medical care; sickness benefit; unemployment benefit; old-age benefit; employment injury benefit; family benefit; maternity benefit; invalidity benefit; and survivors benefit.

- Now ‘disability’ protection, ‘child’ support, ‘general protection against poverty/social exclusion,’ housing benefits, labour market programmes

International Standards on Social Protection

- Article 3 of the Declaration of Philadelphia in 1944, prior to ILO Constitution

- Articles 22, 23 and 25 of the Universal Declaration of Human Rights (UDHR), 1948

- ILO’s Social Security (Minimum Standards) Convention 1952 (ILO C-102) - followed by 31 Conventions and 23 Recommendations

- 2001 ILO Global Campaign on Social Security and Coverage and ILO Declaration on Social Justice for a Fair Globalisation

- 2008 UN Social Protection Floor Initiative in 2009
ASEAN Standards on Social Protection

- ILO and ASEAN Cooperation Agreement
- ASEAN Charter 2008
- AEC Blueprint 2007
- ASEAN Socio-Cultural Community (ASCC) Blueprint 2009
- The Roadmap for ASEAN Community 2009
- ASEAN Labour Ministers’ Work Programme 2010-2015

International Standards on Migrant Social Protection

- Resolution 40/144 UN’s General Assembly in 1985 (the Declaration on the human rights of individuals who are not nationals of the country in which they live) - not undocumented/irregular migrants
- Article 27 and 28 of the 1990 UN Migrant Convention
- ILO’s Resolution concerning a fair deal for migrant workers in a global economy stresses
- ILO’s Multilateral Framework on Labour Migration
- ILO Conventions
ASEAN Standards on Migrant Social Protection

- ASEAN Declaration on Protection and Promotion of the Rights of Migrant Workers:
  - ‘Intensify efforts to promote welfare of migrants’
  - ‘Facilitate access to … social welfare.’
  - ‘Set up policies and procedures to facilitate protection of migrant workers when abroad as well as repatriation/reintegration to the countries of origin.’
- ASEAN Instrument on Migrant Workers stalled since 2008
- Task Force on ASEAN Migrant Workers Recommendation
- No social security agreements or labour agreements within ASEAN countries that make clear reference to social protection.
- MoU’s on labour do exist between some of the member states of ASEAN which provide for non-discrimination and equality

General Themes: Migrants and Social Protection

- Migrant workers (and particularly irregular workers) face significant challenges politically, legally and administratively accessing social protection before, during and after periods of migration
- Migrants denied social protection or employed in informal sectors of the economy
- Large gap: migrant rights to social protection and gaining benefits (enforcement reactive and informal)
- Limit access when countries do not implement specific and targeted measures to ensure rights access
Barriers to Migrant Social Protection

- **Legal Barriers**
  - Non-nationality
  - Residency
  - Documentation
  - Immigration requirements on length of permission to stay following unemployment or sickness
  - Eligibility periods
  - Applicability of work sectors (migrants overrepresented)
- **Administrative Barriers**
  - Certifying documents
  - Money transfer formalities
  - Documentary requirements for relatives/spouses
  - Language and communication

Overcoming Barrier to Migrant Social Protection Access

- Bilateral Social Security Agreements
- Multilateral Social Security Agreements
- ILO R-167 Model Provisions on Maintenance of Social Security

**Key principles on migrant social protection**

- Equality of treatment
- Provision of benefits abroad
- Determination of the applicable legislation
- Totalising
- Administrative Assistance
Overcoming Barrier to Migrant Social Protection Access

- **Progressive methods**
  - Recruitment agencies pay social security contributions
  - Voluntary contribution
  - Group insurance
  - Payment of retroactive contributions
  - New technologies in remittances
  - Benefits for families of migrant workers left behind

Case Study: Indonesia System

- 108 million workforce (98 million employed)
- Social protection limited
- Health, income security, old age, unemployment, sickness, invalidity, work injury, maternity or loss of a main income earner
  - National Social Security System Law (No. 40 of 2004)
  - 4 schemes - Jamsostek, Taspen, Askes, and Asabri
  - Jamsostek insurance fund for private sector.. health insurance, employment injury, old age (provident fund) and death benefits
    - Compulsory in 10+ workplaces/monthly payroll about US$117
    - Voluntary for Informal Sector
  - 2007: 36 million formal sector/16.8 million (47%) contribute
- Health care programme under Jamsostek/Askes (public) for families too
  - Only around 18.7 million people in Indonesia covered by formal health insurance schemes
Case Study: Indonesia and Migrant Social Protection

- Existing Indonesian social security systems exclude migrants
- Key legislation Act No. 39/2004 concerning the Placement and Protection of Indonesian Workers Overseas

PRE-DEPARTURE
- Pre-departure support (training courses)
- Inspect employment agreements

AT DESTINATION
- Social insurance prior to departure (US$47 - two insurance companies) for loss, damage and violence
- Indonesian embassies and consular offices

ON RETURN
- Transportation, medical assistance, legal aid, financial and psychological support at Airport
- Business Empowerment for Former Indonesian Labour Migrants

Act No. 39/2004 - IOM centralised system, lack of effective coordination (placement costs local)
- Government representatives ineffective in providing social protection to migrants slow and bureaucratic, corruption and rights abuse

Case Study: Indonesia and Migrant Social Protection

- Indonesia cooperating with countries in placement of Indonesian migrants abroad - Memoranda of Understanding (MoUs)
- Social protection for migrants different across destinations
  - **Malaysia**
    - Employer - Foreign Compensation Scheme/Health Insurance
    - Some Embassy assistance but much abuse
  - **Singapore**
    - Employment Act, Employment of Foreign Manpower Act, Work Injury Compensation Act, Workplace Safety and Health Act
    - Safety courses, mandatory orientation, hotlines
  - **Saudi Arabia**
    - Informal sector abysmal and exploitative working conditions, despite Labour and Workmen’s Regulation 1969
Case Study: Indonesia and Migrant Social Protection in Practice

- Indonesian migrants inadequate social protection from either origin or host countries
- Specific concern on social protection domestic workers, the majority women (denied protection, discrimination/limit freedom)
- Indonesian social protection very limited to irregular migrants and domestic workers and does not provide adequate assistance to migrants once they return to Indonesia and/or to family members
- National migration laws/policies primarily concerned reducing unemployment and focus more on facilitating outflow of migrants rather than creating protection mechanisms for these migrants

Case Study: Philippines System

- 2007: 88.57 million population
- 2011: workforce 39.691 million people, employed 36.821 million
- Informal workers 24.7 million
- Social protection defined formal sector (manufacturing, services, public)
  - Private sector employees/civil servants covered by social insurance schemes of industrial accident, health, old age, and death.
  - Informal sector no coverage except self-employed voluntarily
- Social Security System/Government Service Insurance System (GSIS)
- SSS founded in 1957 - Republic Act No. 1161
- SSS protection to members/beneficiaries as SS and EC
  - Old age, disability, death, sickness, maternity, loss of income
  - Compulsory for employers in private sector, including domestic helpers earning at least Ph1, 000 (US$23.6) a month
  - Self-employed persons mandatory coverage Ph1, 000 (US$ 23.6)
  - Farmers and fishermen earning at least PhP1, 500 (US$12) fall under the self-employed category
Case Study: Philippines and Migrant Social Protection

- Major labour-sending country
- 2011 - Estimated 8 million Filipinos overseas
- CMA - 2009, 1.4 million in 214 countries, 3,800 deployed daily, $17.35 billion remittances in 2009
- Migrants not enjoy benefits of social security while employed overseas (portability/lack of arrangements)
- But Philippines Government has:
  - Social Security System Programme to Overseas Migrants on voluntary basis (self-employed)
  - Negotiated labour (49) and social security agreements (9)
  - Flexi-Fund Programme
    - On top of the voluntary SSS/provident scheme, flexible payment
    - Any amount in excess of the maximum contribution of P1,410 (US$ 33.2) to SSS goes to the worker’s individual account

Philippines Social Security Agreements

- Mutual assistance (claims with the designated liaison agencies in the Philippines or the other country)
- Equality of treatment
- Export of social security benefits
- Totalisation
- Prorated payment (both the host country and the Philippines shall pay a fraction of the benefit due)
- Office for the Undersecretary for Migrant Workers Affairs (OUMWA) at the Department of Foreign Affairs
  - Filipino Workers Resource Center if many workers
  - 15 office of SSS in 12 countries
Case Study: Philippines and Migrant Social Protection

- Filipino’s continue to encounter challenges in migration - CMA
- Pre-departure: exorbitant placement fees and medical examination costs; poor knowledge of destination countries; inadequate socio-cultural adjustments
- In destination country: abusive employers; long working hours; no day off/rest days; gender-based violence; abusive living and working conditions
- Return and reintegration: no savings, so social security, no pension, sickness, no job, no family, stranded
- Bilateral agreements but poorly implemented
- Sometimes SS to migrants superior to that provided by the SSS
- Lump sum payments to Filipinos when leaving country
- Domestic workers issue of particular concern

Case Study: Singapore and Migrant Workers

- 2010: 66.2% of 3.7 million Singaporeans participating in labour force (unemployment 3.2%)
- 1970s: Singapore receiving country of migrants,
- Migrants part of economic development policy, quotas and fines
- 2011: 1.3 million non-residents with 856,000 persons in low/semi-skilled jobs
Case Study: Singapore Social Protection System

- 1950s: social security in Central Provident Fund (CPF)
- Joint contributions - 3 million members, 50% active
- CPF three accounts
  - Ordinary account - purchase of a home, approved investments, insurance and education
  - Special account - old age savings for investment in retirement products
  - Medisave account - medical treatment and care
- CPF mandatory: all S$6,000 annually (US$4,970)
- CPF Singaporean residents (citizens/permanent residents)
- Special social assistance medical costs for unemployed, disabled and the poor (means tested)

Case Study: Singapore and Migrant Social Protection

- CPF not for migrant workers unless permanent residency
- Some social protection for migrants in law and regulations
  - *Employment Act* 1968 - domestic workers excluded
  - *Employment of Foreign Manpower Act* 1990 covers all
  - *Work Injury Compensation Act* 2008 domestic workers and self-employed excluded
  - *Workplace Safety and Health Act* 2006
  - *Employment Agencies Act* 1958
- Ministry of Manpower Medical Insurance Requirement
  - 2 key companies (employer pays)
- Levy system to improve skills (PR employer make contribution to CPF instead of levy)
- Employers responsibility for adequate accommodation, bedding and sanitation facilities (investigation systems)
Case Study: Singapore and Migrant Social Protection

- Some social protection but large variation in protection for migrants and local workers
- Restriction to social security through nationality/residency requirements
- Domestic worker/seafarers excluded
- No minimum wage
- Many difficulties claiming back wages if irregular, can stay in shelter, no work

Case Study: Thailand System

- 2010: Population 63.88 million, labour force of 38.64 million
- Informal labour majority (60% or 24 million)
- Workmen’s Compensation Fund 1972 (now 1994)
- Social Security Act of 1990 - accident, sickness, disability or death
- Generous civil service/state enterprise schemes
- Universal Healthcare Coverage Scheme (UCS) for Thais
- Different routes with Social Security Fund (SSF)
  - Section 33 covering illness or injury, maternity, disability, death, child allowance, old age pension and unemployment
  - Section 39 insurance ceased but want to be insured person
  - Section 40 from 2010 - universal social security for all
    - 70 baht (US$ 2.3) per month: sickness benefit, disability benefit and survivor’s benefit
    - 100 baht (US$3.3) per month: sickness benefit, disability benefit, survivors benefit and lump sum retirement pension
- Section 33 (9m), section 39 (770, 000), section 40 (460, 000)
Case Study: Thailand and Migrant Workers

- Thailand sending and receiving country
- 2011: almost 2 million registered migrants
- Frequent semi-regularisations
- 2003: MOUs with Cambodia, Laos PDR and Myanmar and now 502, 484 people passed NV (2011)
  - Institute proper procedures for employment of workers
  - Ensure repatriation of workers
  - Protect rights and welfare
  - Prevent irregular border crossings/trafficking
- Migrants’ legal status is dependent on the employer

Thailand and Migrant Social Protection

- Workmen’s Compensation Act 1994
  - Work permit, Passport or alien identity document
  - Employer must have paid contribution in to WCF
  - Worker has to pay income tax.
- If NV/import, access WCF automatically but administrative challenges
- If not NV/import, employer must compensate
  - Campaigns - migrants fail to gain access to work accident compensation
  - June 2011 - Cabinet approved private work accident insurance scheme
- Universal health care and ‘treatment for all’ policy
- All NV/Import can access SSO scheme under s33 (not informal sectors agriculture, domestic work, fisheries and s40 no coverage)
  - Legal hurdles to full SSO access
  - Administrative hurdles
- In-depth interviews - not yet have a social security card, very unclear about their social security rights and contribution rates/deductions
- 5% (20,000 people) of the 500,000 NV have SSO
Conclusions

- Established international/ASEAN standards for migrant workers (MW) social protection.
- Increasing access for informal sector.
- Social protection for migrants from/moving within ASEAN limited.
  - Philippines – more advanced (SSAs)
  - Thailand – potential (MoUs) but hurdles
  - Indonesia/Singapore – limited (Indonesia has MoUs)
- Healthcare – stronger response.
- Social protection for migrants in ASEAN requires commitment.
- Ensuring social protection for migrants complex.
  - Clear standards.
  - Effective implementation.
  - Access to information/enforcement.
  - Mobile nature of migrant workers and portability.
- Difficult broaching MW social protection - ASEAN irregular migration.
- Addressing irregular nature of migration within ASEAN fundamental.
- Guaranteeing the basic rights of all migrants remains paramount.

Recommendations

1. ASEAN states/destination countries comprehensively devise models of multilateral frameworks/agreements/standards on migrant social protection.
   - ASEAN’s regional migrant framework.
   - Indonesia, Philippines and Thailand take lead.
2. Migrant worker networks, academics, trade unions, the ILO, IOM, civil society groups and employer associations prioritise practical policy platforms for supporting ASEAN member states.
3. Existing MoU agreements/new bilateral frameworks for policies, practices and systems to ensure increased migrant rights to social protection.
   - Indonesia, Philippines and Thailand take lead.
4. Develop campaigning strategies to integrate within wider platform of working towards increased access to social protection for all ASEAN for informal national workers and creation of ASEAN standard.
5. Assistance from ILO, IOM and OHCHR for interactive workshops and experience sharing.
THANK YOU......