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Comparative Analysis Of Migrant Worker Policy In Asian Countries

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ABSTRACT

This research paper highlights present issues of immigrant workers in 4 Asian countries. The paper begins with a solid introduction of the current situation. Thereafter, it illustrates the nationalistic policies for migrant workers. Subsequently, the paper describes a host and sender countries of issues relevant to migrant workers as well as the trade unions. In addition, the paper provides suggestions and proposals within the discussion section and lastly gives a conclusion with a futuristic viewpoint.

Keywords: ASEAN countries, migrant worker, migrant policy

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INTRODUCTION

Foreign immigrants are working all across the South Asian landscape. During the period spanning from the later parts of the nineteenth century to the early twentieth century, Southeast Asian nations experienced a mass influx of migrant of Chinese and Indian working class. Being an important hallmark of Asian globalization, the labour movements not only provide the much needed linkage between the Empire and the colonies, but also availed the countries the opportunity to tap the various benefits associated with trade and commodity exchanges beyond the frontiers. Shortly after the first quarter of the twentieth century however, the transnational movements became largely restricted due to stiffer border control measures imposed by the colonial administrations coupled with their introduction of policies geared towards controlling the density of Chinese and Indian migrants in the colonies. Consequently, mass movement of migrant workers in search of blue-collar jobs became largely controlled by the 60s as the colonies regained their independence and thus implementing even stiffer immigration laws (Kaur, 2006,p.43).

By the 1970s and 1980s, Singapore, Malaysia and Thailand, which were the main newly industrializing Southeast Asian nations, embraced the export-oriented industrialization approach, focusing on the worldwide redistribution and relocation of manufacturing sites as well as the setting up of subsidiary production sites for the region. With the sprouting of these production plants, these countries eventually ran out of the quantity of workforce required to sustain the rate of production; and thus, had to resort to the more populated nations of the region for the extra labor required to be at par with the rate of industrialization. In this way, labour migration eventually became an integral component in the economic progress of these countries, embedded in their economies regardless of the turbulence in the labor market (Athukorala & Manning, 1999).Also, the population dwells in the rural areas and subsequently moves into the city area to find better opportunities. The rural communities are reservoirs of

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menial labour. In case of a particular country, the migration rate is measured by demand of labour in city areas. Thus, mostly the labor movement is from rural areas to city areas. Urbanization and industrialization are new phenomena in the case of South East Asia; vast quantities of urban labor workers were immigrant laborers. Another facet shown here is that population growth in the city areas of South East Asian states is least due to birth rate. Thus, the rate of migration was the sole cause of population saturation.

In response to the labor migration patterns, these countries also established monitoring and control mechanisms to the flow of migrant workers, resulting in the sprouting of a new dimension in the geopolitical history of temporary labor migration in Southeast Asia. In particular, this new dimension of migration can be best explained with reference to the rising level of regional blocks and the corresponding sprouting of regional migration patterns and migration gateways. In a comparative study on three migration factors, namely, immigration policies, institutional structures and governance of migration, among Singapore, Malaysia, Philippines and Indonesia, indicated striking similarities among these Southeast Asian nations. Moreover, the labor laws of these nations also exhibit underlying issues of gender, ethnicity and race; all of which play significant roles in their scale of preference in the recruitment of migrant workers. Given the lack of adequate legislative protection for migrant workers in these countries, their rights are often advocated by the civil society organizations and associated NGOs.

DISCUSSION. THE NATIONAL POLICIES FOR IMMIGRANT LABOURERS

In the migration systems framework, the whole of Southeast Asia is perceived as a single labour migration system. Using this framework, a state is regarded as either mainly emigration or mainly immigration. For example, the Philippines, Cambodia,

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Burma, Lao PDR, Viet Nam, and Indonesia are all regarded as belonging to the former, whereas Singapore, Brunei, Malaysia and Thailand belong to the latter. Similarly, in the ASEAN region, two major migration corridors were identified, namely, the archipelagic ASEAN corridor and the Mekong sub-regional corridor. The main destinations in the former are Malaysia, Singapore and Brunei; with the workers emigrating mainly from Indonesia and the Philippines. In the latter, the main destination is Thailand; with the workers emigrating mainly from the states sharing the Mekong River such as Burma, Cambodia, Lao PDR and Viet Nam. Eventually, the formation of growth triangles geared towards the facilitating trade, mobility of capital and the movement of labour, led to the formation of three sub-systems. These are the Sijori Growth Triangle (comprising of Singapore, Johor in Malaysia and Riau in Indonesia); the Brunei–Indonesia–Malaysia–Philippines East ASEAN growth area (BIMP- EAGA); and the Northern ASEAN sub-region (consisting of Malaysia, Indonesia and Thailand) (Battistella & Asis, 2003, pp. 4–9).

On the other hand, Apart from the political benefits, the economic cooperation among the ASEAN member states, which is mainly based on the concept of economic complementarity, also reshaped the migration pattern of job seekers across the region. This partnership not only enhanced the free movement of people and goods but also constitutes an integral feature of globalization in the region. As nicely worded by the Secretary General of the United Nations, Kofi Annan:

"Today, ASEAN is not only a well-functioning, indispensable reality in the region. It is a real force to be reckoned with far beyond the region. It is also a trusted partner of the United Nations in the field of development." (Ibid)

Another important treaty of importance in the region is the Framework Agreement on Enhancing ASEAN Economic Cooperation, which was signed in Singapore in 1992, was meant to improve the competitiveness of the ASEAN region as a viable investment zone (ASEAN Investment Area (AlA)) by the year 2010.

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Among the objectives of the agreement are:

(a) To develop a more liberal and transparent business environment among the ASEAN member states so as to:

I. Enhance the level of both local and foreign direct investment in the region.

II. Employ concerted effort in promoting ASEAN as a green investment zone.

III. Enhance the competitiveness of the economic sectors of the ASEAN.

IV. Eventually eradicate or minimize all forms of investment regulations that may serve as deterrents to conducive investment climate in the ASEAN

(b) The mentioned objectives are all geared towards ensuring an obstacle-free investment zone by the year 2010 (ASEAN Website).

According to Article 4e, the AlA seeks to ensure "freer flow of capital, skilled labour and professionals, and technology amongst Member States." Specifically, labour-related issues are normally addressed during the region's labour ministerial meetings (the ASEAN Secretariat).

Table 1 shows a comparison of the economic indicators for Singapore, Malaysia and Thailand, and their less economically stable labour-emigration countries.

Map 1 illustrates the general flow of ILM across Southeast Asia. It can be seen that the majority of the migration is towards the major NICs namely, Malaysia, Thailand and Singapore.

By a closer look at the ILM flows, one can clearly see the presence of interesting phenomena. In Singapore, for example, immigration not only constitutes a pivotal component of the national economic policy required to maintain the right concoction of the labour force but also plays an important role in the national demographic policy. For example, in the year 1990, Singaporeans constituted about 86% of the overall population of 3 million, which dropped to 60 % two decades later (i.e. 2012) with the overall population rising to 5 million (Economist, 14 November 2012). In contrast,

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the foreign nationals constituted about 25 % of the overall work force in 2004, however, by the year 2012, this number grew up to about one third of the 3 million work force of the country (Migration News, Vol. 17, no. 1, January 2012). On the other hand, Malaysia comprises of about 12 million workforce, including an estimated 3 million foreign workers. However, out of this number, only about 2.2 million foreign workers are authorized. In Thailand, foreign workers constitute about 1.8 million in 2008, including about 1.3 million unregistered migrant workforce (Bangkok Post, 11 January 2009;Martin,2007).

Table 1. *Southeast Asian migration corridor: main economic indicators*

Country	Per Capita GDP (b) (current international) (US$)	Human development index (a)	Per Capita foreign direct investment (b) (% of GDP)	Unemployment (b) (% of total labour force)	% of population below poverty
Cambodia	944	0.526	11.10	2	35.9
Indonesia	3,557	0.629	2.2	6.6	18.2
Malaysia	10,432	0.769	3.2	3	7.5
Philippines	2,587	0.654	1.1	7	34.0
Singapore	51,709	0.895	20.6	2.8	-
Thailand	5,480	0.690	2.9	0.7	9.8
Viet Nam	1,755	0.617	5.4	1.8	28.9

Sources: (a) United Nations Development Programme, Human Development Index 2012; (b) World Bank, World Development Indicators 2012; (c) Asian Development Bank, Key Indicators 2011, cited in Asian Development Bank, Workers' Remittance Flows in Southeast Asia, 2013, p.50.

Notes: FDI = foreign direct investment, GDP = gross domestic product, HDI = human development index

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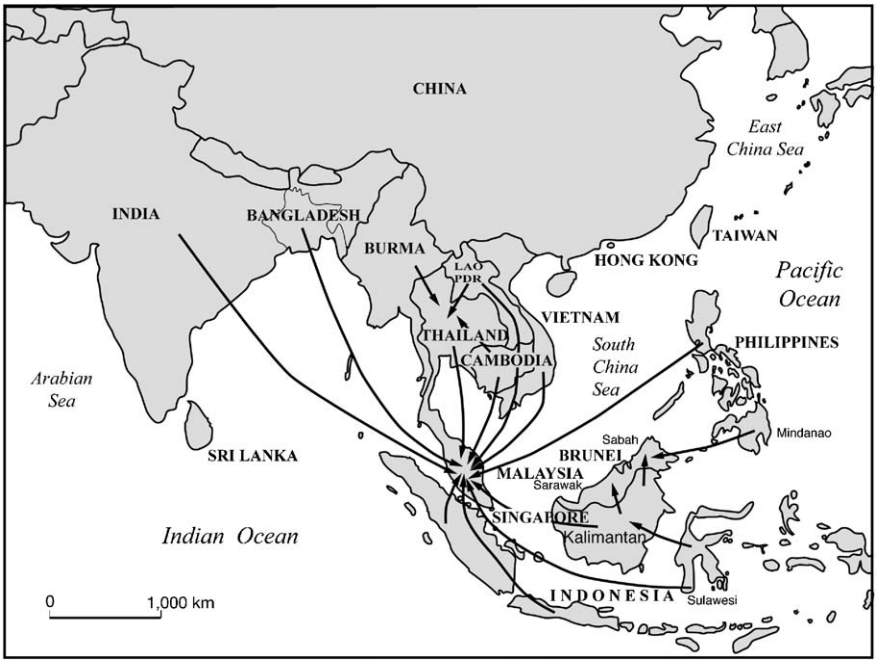


Figure 1. Direction of labour migration flows in Southeast Asia since the 1990s.

Source: Adapted from Amarjit Kaur, Wage labour in Southeast Asia since 1840: Globalisation, the international division of labour and labour transformations (Basingstoke: Palgrave Macmillan, 2004), p. 212

The labour laws in the case of South East Asia were outlined, when there wasn't cross country migration. It was written keeping local population in view. So for states, where the migrant labourers are less observed in case of Vietnam, Indonesia and Philippines; there weren't legal laws for the migrant community at all. In case of countries, where the rate of immigration is sky rocketing, there are well placed laws for labours with airtight regulations. In law enforcement duality exists and so is the case with immigrant and local labourers. There are a variety of reasons for special rules and regulations in place for migrant labourers. But, that discussion is extremely lengthy to elaborate here. Hence, dualism is created in the labour market, which creates a window of opportunity for migrant labourers and local labours to get subjugated.

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The immigration laws should decide the fate of migrant workers. A comparison has been done for some countries, which show a similar trend in dealing with migrant labours. Commencing from intake and hiring process, the migrant workers have a designated quota and terms defined by the immigration agencies. In most of the countries, the companies send an application for hiring menial labor in case of the host countries. The recruitment procedures are particularly hefty and that's why recruitment agencies come into play (having links with government agencies). All the countries agree on the fact that immigrant labours are brought into a country when there is a shortage observed. But, then again, this provision can alter or diversify.

The local labourers are preferred mostly paves way for rising restrictions on work visa and extension of residential visa. Apart from Singapore, because of As enshrined in the national Manpower 21 Report of Singapore, tapping the foreign workforce as a supplement to the national labour supply is an important component of the national economic strategy which is likely to continue to the near future. Among the six core strategies outlined are: Integrated Manpower Planning; Lifelong Learning for Lifelong Employability; Augmenting the Talent Pool; Transforming the Work Environment; Developing a Vibrant Manpower Industry; and Harnessing Collective Energies.

In Singapore, the legal issues relating to foreign workers are clearly stipulated in a trio of acts. These are the Immigration Act, the Employment of Foreign Workers' Act and the Penal Code. The Immigration Act stipulates the immigration regulation regarding the entry of migrant workers into Singapore. It also provides the grounds for law enforcement on illegal migrant workers and their employers. The Employment of Foreign Workers' Act stipulates the requirements for employment of migrant workers such as the issuance of visas and work permits as well as the levy of tokens on foreign workers. The Employment Agencies Act, on the other hand, sets out to ensure that employment agents do not over charge job seekers beyond the stipulated levels

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prescribed by the government. Finally, the Penal Code outlines the punishments and penalties inflicted due to nonpayment or physical abuse of employees (Kaur, 2006 ,p.43).

The Singapore government initiated programs geared towards luring foreign expatriates into the country. These includes, for example, permanent residency offers, healthcare subsidies, educational facilities for dependents as well as provisions for affordable housing units; with the majority of these foreign workers from Malaysia, UK, USA, Japan, South Korea, China as well as India (Yeoh, 2007). With the passing of time, the quantity of migrant workers occupying professional, technical and management level positions increased significantly; rising from 11% in 1970 to 40% in 1999 (Gaur, 2006 ,p.195). On the other hand, the national policy on the hiring of low-skilled work force is based on the notion that the need for such skills is momentarily, in that the quantity required increases during eras of economic boom and the reverse is the case during eras of depression (Stalker, 1997, p. 255). Furthermore, the country also makes strives towards minimizing their reliance on low-skilled manpower. Unlike their neighbours such as Malaysia and Thailand both of which enjoy a wide expanse of land and thus, exhibit a celebrated agricultural sector, Singapore lacks the competitive advantage in agriculture and thus specializes more on manufacturing; with the majority of low-skilled workers being absorbed in product manufacturing industry, construction companies, shipping and other blue-collar jobs such as household jobs, care taking, etc. However, the country's immigration policies are regularly amended in favour of highly skilled foreign personnel, businesses and entrepreneurs.

In general, Malaysia absorbs the largest number of foreign workers across Southeast Asia. In fact, the country is regarded as both an importer and exporter of human capital. However, after a brief period of rapid transformation spanning for about a decade, Malaysia eventually became a net importer of labour by the year 1993.

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In fact, this transformation began well before the nation realized full employment, with the national GNP standing at only $1800, unlike Japan, Korea and Taiwan (Lim, 1996, p. 319, 327). The country's reliance on foreign labour also transpired amidst rising pro-nationalist tendencies with a growth rate of 2 to 3% work force; a rate which is largely greater than that of the majority of Southeast Asian states.

According to most commentators, the scarcity in the supply of labour in Malaysia is associated to the country's implementation of the New Economic Policy (NEP) in 1970, after the racial riot of May 1969 (Kaur, 2001, p. 165, 220-1).The NEP, which was primarily adopted for eradicating poverty, regardless of race, and for removing racial identity on one's economic function, resulted in the de concentration of Malays in subsistence agriculture and reenergizing their presence in other economic sectors. In this way, the Malaysian government began an explicit programmer of nation building with specific focus on construction, agriculture, enlarging the government machinery, and creating more white-collar jobs for members of the Malay race. Interestingly, this period also coincided with the nation's adoption of export-oriented industrialization policies, which resulted in more employment, especially with the sprouting of manufacturing companies as well as the implementation of control mechanisms in the labor market (Kaur, 2004,p.32).

Despite the rising employment opportunities brought about by the NEP, the racially inclined policies had major negative impacts on the Chinese and Indian Malaysians. Specifically, the policies not only resulted in the adoption of smaller family units among these races, in response to the shrinking of their share of the economic boom, but also resulted in the migration of a large number of these races to neighboring countries such as Singapore and Taiwan in search of greener pastures. A good point in time is 1991, when over 100,000 Malaysians secured various employments in Singapore, with about a quarter of this number commuting to work on a daily basis from Malaysia (Kaur, 2006, p.43); while a substantial number also

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permanently migrated to such countries as Canada and Australia. In a study by the World Bank (1995), it was estimated that Malaysia created over 14 million employment opportunities during the six years preceding 1993, during which the domestic workforce was only growing by 3.9%. In their bid to fill the employment gap, the Indonesian immigrants were often the most preferred choice due to the striking similarities in the social, cultural, religious and linguistic dimensions between the two neighboring states. In this way, there is a continuous influx of Indonesians into the country, especially for low-skilled jobs in such sectors as plantation agriculture, construction and household jobs. While the influx of Indonesian workers was largely informal, the Malaysian government, in 1984, signed a bilateral agreement with the government of Indonesia (called the Medan Agreement) for the controlled supply of labour into the former from the latter for jobs related to plantation agriculture and household sectors. The following year, Malaysia signed a similar agreement with the Philippines for accessibility of Malaysia's domestic sector to Filipino job seekers; and by 1986, job seekers from such countries as Bangladesh and Thailand were also allowed to be recruited for the mentioned sectors (Kaur, 2006). In contrast to the Singapore scenario, the agreement between Malaysia and her labour-exporting neighbours enabled the country to amicably respond to the changing demands for labour by enhancing the immigration policies at par with the prevailing market conditions. In summary, Malaysia employs a fine blend of stiffening and lightening of border controls in a bid to curb the mass influx of legal and even illegal migrant workforce.

Like Singapore, the legal framework concerning foreign workers consists of the Immigration Act, the Employment of Foreign Workers' Act and the Penal Code. The country also adopted policies geared towards scouting for highly skilled foreign workforce through the implementation of programmers similar to those of Singapore. Nevertheless, the country's racially-inclined tendencies often result in conflict of interest with the desire for foreign skilled labour. Yet, the bilateral agreements signed

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with her main labour exporters effectively avoided Malaysia from excessively depending on a single country (Kaur, 2005, p. 3–30). While the agreements are government to government, the private sector, which essentially employees these immigrants, is allowed to set up agencies for recruiting purposes.

In general, Malaysia enacts strict policies with respect to migrant workers. For example, the country's immigration policy barred migrant workers from bringing their families into Malaysia; and pregnancy could also result in the revocation of documents and the deportation of a female migrant worker (Lim, 1996, p. 319, 327).; both of which could be regarded as infringements on the basic rights of workers. Similarly, it is prohibited for a foreign worker to marry a domestic woman, violation of which could result in the revocation of the worker's documents and eventual deportation (Gurowitz, 2000).

In case of Malaysia and Singapore, the laws for immigrant indicate that work permits are given, if employers approves. The worker's work visa is terminated when the contract ends. This airtight control on immigrant is kept for keeping the surge of immigrants in control. It develops skill and capacity of the market. Singapore has achieved this to a greater extent. The migrant workers are kept limited to low skill and hardworking jobs. Then, the training programmers are tough and cut throat. In case of Malaysia, the high degree usage of immigrant workers has paved way for a different scenario. In case of agriculture and construction, the reliance on immigrant force has permitted the employers to exploit them and pay a minimum wage while providing substandard conditions for work.The de factor local labourers protection is also taken from the employers as tax in hiring foreign immigrants. In case of Singapore, a monthly tax is to be paid by the employers. Same is the case in Thailand and Malaysia. The employers hand over this load to the immigrant labourers.

In case of Vietnam, Indonesia and Philippines, the immigrants give tax for working in a foreign environment. This translates into a large foreign cash flow in turn.

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For Singapore, most of the migrant workers among the unskilled and semi-skilled enter the country with the assistance of recruiting agencies who normally hire them on contractual terms not exceeding two years, with the possibility of renewing only once. In general, these migrant workers are paid lower wages and salaries compared to their Singaporean and Malaysian counterparts. By the year 2000 for example, the monthly wages of Thais and Bangladeshis stood at $450-600 while their monthly expenses stood at $ (Kaur, 2001, p. 165, 220). Domestic workers, on the other hand, enjoy no standardized payment categories or contract terms. Their monthly wages are mainly dependent on the country of origin, where people from the Philippines are the most well-paid, followed by those from Indonesia and then Sri Lanka. The country also maintains three different categories of visas for the migrant workforce. These are semi-permanent residence, foreign professionals and seasonal workers. The semi-permanent residence status is accompanied by a semi-permanent work permit, and enables the migrant to work anywhere across the country with a five year validity period. Foreign professionals, on the other hand, are entitled to work permits which are renewed after a specific period of time and are only allowed to be employed in specific types of jobs. Finally, seasonal workers are usually those migrants who are usually given work permits with short validity periods (usually not exceeding two years with the possibility of renewal). Migrant workers who fall into the first category may also be considered for citizenship upon filing an application. These people are also free from restrictions on the type of job they can apply, and are allowed to reside with their families as well; even though these family members are not automatically given the green light to employment. Despite the fact that migrants holding work permit are often tied to a single firm, they are generally accorded unlimited opportunities to extend permit validity. Unskilled labourers are also entitled to work permits but do not enjoy the same level of privilege as the working professionals (Frost and Chiu,2003). It could be recalled that for Malaysia, Indonesia forms the largest share of

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foreign workers, employed mainly in the construction and household jobs, as shown in Table 2; which can be explained in terms of the former's preference for the latter. In general, the weak governance mechanism of Malaysia results in making the low and the unskilled workers vulnerable and marginalized; and can further jeopardize their legal protection and right to free movement within the country. The involvement of numerous government ministries in the recruitment of these migrants also poses a significant loophole in the whole process; and makes it somewhat impossible for disgruntled migrants to seek redress. Thus, such people often end up as undocumented migrant workers once their employment contracts are unlawfully terminated, thus, further exposing them to further persecution and vulnerability. Moreover, since their workers' passports are usually under the custody of their employers, they can easily be arrested by the local policing corps locally referred to as the Rela. In cases of capture, these undocumented workers risk being detained and subsequently tried and charged in immigration tribunals. Thus, despite the fact that only 3% of the crimes are committed by migrants, an overwhelming 33% of prisoners are migrants Ramachelvam (2008); majority of whom are imprisoned on immigration related charges, and given the fact that such offences are treated as civil cases, they may face long periods of detention without trial or with trials at very slow pace.

Earlier, the Malaysian government gave the employers the right to directly hire migrant workers, for those employers in need of not less than 50 employees. However, by the year 2006, the government began to encourage the setting up of hiring agencies, and for small and medium sized enterprises which are in need of below 50 migrant workers, to be dealing with these agencies. This period also coincided with a boom in the presence of multinational corporations such as Nike for the production of clothing and foot ware carrying their brand name. Furthermore, the relocation of a number of manufacturing firms in China and Bangladesh, in search of cheaper labour, resulted in the closure of some medium and large-scale production units.

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Table 2. *Malaysia: migrant workers by nationality and sector, November 2007*

Nationalit	Domesti	Constructio	Manufacturin	Service	Plantatio	Agricultur	Total
Indonesia	296,984	210,838	206,898	40,116	267,615	102,629	1,155,08
Bangladesh	17	49,289	151,376	26,069	24,552	15,016	266,319
Nepal	30	4624	178,714	28,764	2810	8171	223,113
Burma	30	15,111	79,425	20,617	1483	6556	123,222
India	99	7577	30,803	60,750	23,298	21,631	144,158
Vietnam	10	5220	106,686	2826	90	623	115,464
Philippines	10,397	1686	2856	2765	5038	2581	25,323
Thailand	417	1105	790	15,216	63	555	18,056
Pakistan	1	4387	3296	1829	816	5080	15,409
Cambodia	6825	176	2404	231	201	86	9923
Others	893	2508	2857	3174	369	248	10,049
Total	315,703	302,440	766,105	202,357	356,335	163,176	2,106,11

Source: Malaysia, Department of Immigration, cited in Suaram, Malaysia Human Rights Report 2007, p. 155.

In Malaysia, the government's involvement in the hiring of low-skilled workers can be likened to bonded labour; and is in fact regarded as one with the worst attached conditions across Southeast Asia– for it eventually gives birth to maltreatment, exploitation and lack of adequate legal protection for foreign employees. In fact, according to a report by the human trafficking watchdog, the Malaysian government was put in tier 3 because the country is "not fully complying with the Trafficking Victims Protection Act's minimum standards for the elimination of trafficking and not making significant efforts to do so" (US Department of State Trafficking in Persons Report 2007); which was enough for the country to attract US sanctions on aid in specific areas. In response to the report, the US Senate Committee on Foreign Relations conducted an inquiry into the matter and further confirmed that Malaysia not only partakes in the trafficking and extortion of Burmese migrants along their border with Thailand, but also pointed blaming fingers at members of the nation's law enforcement agents such as the police, immigration and officers of the

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Rela (US Committee on Foreign Relations, 111th Congress Report, 3 April 2009; Tenaganita, 2008). Despite the Malaysian government's announcement that it is taking action against officials in the police and immigration department found guilty of such crimes, the country was again placed in Tier 3 of the US State Department's Report in 2009.

A similar study by the Amnesty International under their Demand Dignity campaign in Peninsular Malaysia also reported that recruitment agencies are culpable of human trafficking, which is further aggravated by the laissez-faire attitude of the government towards the plight of these foreigners. As rightly worded by the Amnesty International, the Malaysian government cannot be vindicated in that it enacted very "loose regulation of agents, abusive labour laws and policies and the practice of allowing employers to confiscate their workers' passports" (Amnesty International, 2010).

Being the fourth largest nation of the world, Indonesia has a population of 226 million people with a growth rate of 1.24% per annum. Out of this number, the country comprises of 115 million labour force (as shown in table one).

In the 70s, when the demand for foreign labour began to hike in the Middle East, migrant workers from Indonesia began to flow out in their numbers in a bid to capitalize on the new job opportunities in such areas as construction and the household. From the 90s, the Government of Indonesia adopted a policy of labour exportation geared towards sending its citizens overseas for the purpose of picking paid jobs. Through the successful implementation of the policy, Indonesian migrant workers grew up to 712,160 by the year 2006, out of which about 75% were women (IOM, 2008); and by 20007, it was reported that when the undocumented migrant workers are included, the total number could hit over 4 million (IOM, 2008). Among the major destinations of these migrants are Hong Kong, Kuwait, Malaysia, Saudi Arabia, Singapore, South Korea, and Taiwan; where the majority of the migrants are

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employed as low-skilled or semi-skilled labourers in such economic sectors as agriculture, construction as well as the manufacturing sectors.

Economically, these migrant workers exert a significant impact on the Indonesian economy through the transfer of remittances. In 2008, for example, these remittances hit $6.6 billion, with the projection that the number is likely to rise steadily (IOM, 2010).

Table 3. *Indonesian Migrants and Top Destination Countries (2009)*

Destination Countries	Total
Saudi Arabia	257,217
Malaysia	222,198
Taiwan province of China	50,810
Singapore	37,496
Hong Kong SAR	29,973
UEA	28,184
Kuwait	25,756

Source: BNP2TKI (The National Authority for the Placement and Protection of Indonesian Overseas Workers) cited in (IOM 2010:9)

In the year 2004, the country introduced a National Social Security policy (No. 40 of 2004) obliging employers to pay social security schemes for their employees;

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and for the government to assist poverty-stricken citizens. The main areas of focus of this social security policy are: health insurance, employment-related injury, old age, invalidity, and death benefits. For the achievement of these goals, four social security schemes were set. These are Jamsostek, Taspen, Askes, and Asabri (ILO, 2008). The Jamsostek scheme mainly focuses on employers and employees in the private sector, while the remaining three schemes are all focused on employees of the public sector as well as the men and women in the various security services. For most employees, the Jamsostek significantly enhances their healthcare and provides them with a substantial financial security.

With employees making routine contributions to the fund, the Jamsostek scheme focuses on a quartet of areas, namely health, employment injury, old age and death benefits (ILO, 2008). In a report by the ILO (2010), it is argued that the Indonesian social security system exhibits a narrowed mandate in terms of its coverage. As enshrined in the Jamsostek, for example, the scheme is applicable for staff of firms employing above 10 employees or those companies whose total monthly salaries hit Rp1 million (US $117); even though voluntary membership is acceptable for smaller firms. In fact, up to the year 2007, only about 16.8 million of the 36 million employees in Indonesia are actually registered with the Jamsostek, Taspen, and Asabri schemes, depicting a 47% absorption rate (ILO, 2008), and this number is mainly dominated by the employees in the government sector and the larger private sector players, with minimal participation by the smaller informal establishments. Despite the fact that the majority of employees covered by insurance are those in the formal sector, much less than half of the employees in this sector are actually covered by the Jamsostek.

By the year 2007, the Philippines maintained an overall population of 88.57 million (National Statistics Office, 2011), including a 39.691 million labour force, out of which 36.821 million are employed (Bureau of Labour and Employment Statistics, 2011). While the formal sector consists of only 5,322,320, the informal sector consists

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of well over 24,666,680 people by the year 2005. Among the sectors classified as informal include household jobs, vendors, small-scale farmers and fish mongers, non-corporate construction workers, minor transport operators, barangay health personnel, waste collection personnel, etc. (Ofreneo, 2009). Like Indonesia, the Philippines is also considered as a labour-exporting country, ranking third in this respect (UN, 2008). In a bid to provide a lasting solution to the unemployment problem, the president at the time, Ferdinand Marcos, implemented the idea of labour exportation to countries in need of extra labour. In a study by the Commission on Filipinos Overseas, it is reported that over 8.5 million migrants from the Filippines are working in foreign lands, including 92%, 47% and 45% regular, permanent and temporary migrants respectively (Commission on Filipinos Overseas, 2011). Out of this number, about half a million are reported to be undocumented. Among the major destinations of these migrants are the United States, Saudi Arabia, Canada, UAE, Australia, Malaysia, Japan, UK, Hong Kong, and Singapore; remitting over $17.35 billion per annum into the Philipino national economy by the year 2009.

For the Philipino migrant workers, there are two main methods of hiring. They can either be hired through the Philippine Overseas Employment Administration (POEA) or via the recruitment agencies similar to those of Malaysia and Singapore. Apart from their recruitment role, the POEA is also responsible of monitoring the activities of the other recruiting agencies.

While the Philipino workers in the home front enjoy the benefits of social security, migrant workers in foreign countries are not by default entitled to social security. This is mainly due to such problems as non-availability of bilateral social security agreements with the host countries as well as the difficulty associated with cross-border transfer of social security benefits. In a bid to solve these problems, the Philipino Government introduced the idea of Social Security System Programme to Overseas Migrant Workers. This scheme was specifically developed for targeting the

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Philipino workers beyond the borders; and for which, membership is purely voluntary. In addition, the government also negotiates for bilateral agreements with the labour-importing countries for social security cover for these migrant workers. In this way, the government signed up to 49 bilateral labour agreements with the major players by the year 2010 (CMA– Phils, 2010).In a further attempt to ensure enough protection for its citizens working overseas, the government also established the Office of the Undersecretary for Migrant Workers Affairs (OUMWA) at the Department of Foreign Affairs; and for countries with a high density of migrant Philipino workers, the establishment of a Filipino Workers Resource Center is mandatory. These government regulations coupled with the assistance from the 67 Philipino embassies, 23 consulates, 4 permanent missions, 1 extension office, as well as 38 Philippine Labour Overseas Offices provide extensive support to the working Filipinos overseas. (Department of Foreign Affairs, 2011).

IMMIGRANT LABOURERS AND TRADE UNIONS

Another body that sets out to protect the rights of migrant workers is the trade unions. In Malaysia, the trade unions regard themselves as entities that work closely with employers and the government. In general, union members are entitled to equal rights and benefits regardless of nationality. For example, the construction union BATU (Building, Construction and Timber Industries Employees Union) endeavours to resolve emerging disputes concerning its members including migrant workers who are members. Some employers also assist their foreign employees to gain entry into the trade unions by subsidizing their union dues.The trade unions don't reject the hiring of immigrant labourers as they claim to implement equal rights for local/ immigrants. But, these trade unions still work in the interest of national employees/ labourers for that matter. That's their top priority.

The trade unions in essence favour the local workforce more than the

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immigrant workforce. The interests of the local labourers are greatly protected. In countries, where there is a surge of immigrant workers, the trade unions become uncomfortable and sometimes hostile. The immigrant workers were hired to decline the wages and working conditions of the local workers. Thus, these local workers deem the foreign workers as a threat. They are prepared to work for even lower wages.

On the other hand, foreign workers in Singapore are provided with the opportunity to enhance their skills and to further attain recognized certification courses in their areas of expertise. Also, as an encouragement for employers to enable their foreign employees to improve their skill through certification courses, foreign employees with these certificates attract lower levies on their employers. Thus, about 9000 foreign employees benefited from the Basic Education for Skills Training (BEST) and Work Improvement through Secondary Education (WISE) programmers organized by the unions (SNTUC Background Paper, 2005). A study on Bangladeshi migrant workers also indicated that "a significant number of migrants had upgraded their skills over time" Rahman and Fee (2005) . Nevertheless, such opportunities are limited to employees in specified sectors.

In case of both Thailand and Malaysia, the surge foreign immigrants are seen as a threat to local work force. The trade unions don't defend the immigrants for that matter. The countries where immigrants are surging in, welfare and benefits are kept far away from immigrants.The South East Asian countries don't actually discriminate the collaboration of immigrants on a national level. Moreover, the migrants can form labour unions and join associations if they please. Now, Malaysian government has added a new clause thereby restricting the workers from joining labour unions and political activities for that matter. Moreover, the Minister of Human Resource has many times expressed his uneasiness at labours joining the trade unions and political parties.

The Malaysian labour rules don't prevent the labours from associating with a

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trade union. The only clause in this case in Trade Union Act is not to spearhead the union themselves and form a trade union themselves. These nice clauses are often neglected by the immigrants. But, the immigrants have not been able to form a trade union, as there are certain hindrances blocking their path. Below outlined are certain obstacles:

- The language barrier
- Bullying by the employers
- Migrants are hired on contractual basis and joining political parties/ labour unions is not healthy for the work contract
- The majority of the immigrants are illegal and in the absence of proper identification/ papers, they can't take part in unions
- The laborers don't actually comprehend the functions and roles of a trade union in essence

There are tons of socio-cultural barriers apart from legal hindrances; these trade unions are still finding their own feet. The charity organizations and NGO's have taken up the job of working for these immigrants. There has been a growing awareness of joining trade unions by the immigrants.In case of Malaysia, many industries have commenced hiring immigrants for services for instance electronics, transport, forestry and construction. Trade unions are behind this. Vietnam is the latest entrant in the labor market and has created an organization for supporting the foreign migrant workforce (Ramachelvam, 2008). Vietnamese trade unions are keeping themselves busy with service providing initiatives.

The services are as defined by the unions:

- Introducing short term foreign courses
- Furnishing information on customs, legislation and working conditions of foreign countries

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- The migrant laborers must have equal rights in terms of training, employment, wages, social security and integration in a foreign country
- Links must be formed between sending/ receiving countries for safeguarding the interests and legitimate rights of immigrants (Pollock, 2007 , p. 183).

There have been cases where migrant workers have been successful in shaping labor unions as in the case of Taiwan, South Korea and Hong Kong. They were organized keeping the immigrant forces closely. The local activist trade unions were also kept in the loop. But, that isn't the swansong; Malaysia, Thailand and Singapore are singing. They don't recognize and acknowledge trade unions shaped for immigrants. These three countries have a long way to go in order to attain ground on social protection for immigrants.

ASEAN and immigrant workers

However, there exists ASEAN standards for regional and international serving the rights of immigrants moving from one country to another. Social protection is a top priority here for labours across ASEAN landscape.

There are challenges for the local workers to gain access to basic social protection systems, which are in place in the ASEAN states. On paper, the policies and integrated strategies are observing more and more number of workers having access to social/ security protection in these countries. But recent statistics show that only 60% of the labours have access to social protection. Most importantly, in January 2007 ASEAN agreed to the Declaration on the Protection and Promotion of the Rights of Migrant Workers (DPPMW) which labour migration was specifically outlined as one priority area for developing programmers and working together with cooperation ILO. According to, there are proper laws on rights and protection of immigrants. There is an increasing interest in promoting these rights during the time of migration. Another important milestone in the protection of the rights of migrant workers in the ASEAN region was the introduction of the ASEAN Socio-Cultural Community

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(ASCC) Blueprint in 2009, which contained clauses on human rights and justice as significant component of the community. Here, the ASCC specifically underscored its important role of promoting and safeguarding the rights and liberties of migrant workers. As mentioned in the community's blueprint, migrant workers' right protection was necessary "to ensure fair and comprehensive migration policies and adequate protection for all migrant workers in accordance with the laws, regulations and policies of respective ASEAN Member States as well as implement the DPPMW.

Then, there are clear rules and regulations allowing immigrants to social protection within the circle of ASEAN and also took up the following activities:

To provide civic education programmers on the rights of migrant workers

- To assist in the design of national migrant workers' pre-departure counseling
- To closely collaborate with the IOM and ILO in awareness campaigns for "safe migration"
- To participate in the campaign against smuggling and trafficking of persons across the ASEAN
- To cooperate with the ASEAN Inter-Governmental Commission on Human Rights (AICHR) and -other interested regional groupings for the promotion and protection of labour rights.

Unlike the Philippines, Indonesian workers overseas lack adequate protection from the Indonesian Government. By law, government support is mainly limited to the pre-departure stage. This includes, for example, skills improvement training as well as the provision of some information about the destination country.

In general, Malaysia classifies foreigners into three categories, namely: documented migrants, who mainly include low-skilled workers; expatriates, who mainly occupy management level jobs; and irregular migrants, which entails the illegal

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migrants (IOM, 2010). The government also enshrined legal clauses establishing benefits for migrant workers. These include the accrual of wages and salaries, shift work, overtime payments, rest days, paid holidays, annual leave, as well as sick leave. Monetary compensation of migrant workers in the event of work-related accidents is also clearly stipulated in the Workmen's Compensation Act 1992.

The access to basic immigration rights to labours moving to and fro ASEAN states is pretty scanty. Philippines is the sole exception here, which has actually attempted to raise the immigrant status of the Philippines labours on foreign shores. The challenges facing this daunting task were sky high. Then, Thailand, Singapore and Indonesia lack the implementation of these practices for enabling better social protection for immigrants moving to and from their respective homelands. Indonesian migrant workers are provided limited social protection from their home government. Legally, support is provided at the pre-departure stage. Indonesian migrants should access training courses to aid them in improving their work skills, and to provide them with information about their destination countries.

Malaysian Immigration law categorizes migrants into three groups: (1) documented migrants who are mostly low-skilled employees; (2) expatriate workers who are employed in managerial and executive positions; and (3) irregular migrants who violate immigration laws by entering without authorization (IOM, 2010). Malaysia's Employment Act 1955 establishes the statutory benefits for labour migrants, including payment of wages, working hours, shift work, overtime, rest days, holiday pay, annual leave, and sick leave. The Workmen's Compensation Act 1992 provides some coverage related to work-related accidents for labour migrants.

Malaysia and Indonesia have signed labour migration MOUs covering short-term contract labourers and Indonesian domestic workers. However, Indonesian migrants, especially irregular migrants and domestic workers, continue to experience overcrowded accommodations, inadequate diets, improper health care, and physical

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and psychological abuse (IOM, 2010). The Indonesian Embassy in Malaysia assists in providing protection for migrants, including shelters with a capacity of 70 people. The embassy also provides orientation programmers for new migrants arriving in Malaysia.

The immigrants are provided certain rights for instance medical rights and few scanty rights differing to various degrees, none of these three countries have actually thought of developing an action plan. Their movements to and from bordering countries gives them none of the fundamental rights they rightfully deserve. Indonesia has reinstated MOU's, which could give a plausible explanation for attempting to create breathing space for immigrants. Then again, no action plan has been created as of yet. Power is abused according to activists. Singapore has long been negating the immigrant social protection as a dismissive issue.

Thailand is a unique instance in this case, since it possesses a nondiscriminatory standard in permitting the immigrants, who crossed the nationality barrier and are legally imported, to have full access to their social immigration system. This has been achieved after twenty years of failed attempts at tackling the immigrant social issues which goes beyond medical care and failing again and again to safeguard the immigrant's fundamental rights. The past governments haven't been able to put their theories into practice as the massive number of immigrants isn't exactly aware of such rights. Thailand government has slapped the same rules and regulations as that of labors to immigrants for contribution rates and safety (not violating their rights). But, then there is no credible explanation of these rights and their implementation. Luckily enough, the system works appropriately for the immigrants.

In contrast to Malaysia, the Singapore Government explicitly made is a national policy to curtail the presence of irregular migrants in Singapore (IOM, 2010). Also, the rights and liberties of migrant workers are clearly guaranteed in a score of acts, namely the Employment Act, Employment of Foreign Manpower Act, Work

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Injury Compensation Act as well as Workplace Safety and Health Act. Among the key areas of specific concern these score of acts seek to protect migrant workers from their employers include medical cover, personal safety, decent accommodation, timely salary payments as well as acceptable food and period of rest. While these policies help a great deal in preventing the abuse of migrant employees in the hands of their employers, scores of these migrants continue to face unfair treatments in such forms as callous work conditions, excessive workloads and unsuitable compensation packages. For example, within the six years preceding the year 2005, over 147 migrant workers, including 122 Indonesians, perished when they fell or jumped from their employers' apartments (Human Rights Watch, 2005; as cited in IOM, 2010). In response to these problems, the Singapore Government, in collaboration with the Indonesian Embassy in Singapore, designed various policies and programmers at the advantage of migrant workers. Specifically, the Government developed mandatory courses for these migrant workers, carries out routine spot checks at work places with migrant workers, and provides guidance and counseling to their employers. In addition, collaboration between the government and the civil society organizations help to further protect migrant workers. In collaboration with Indonesia, Singapore also maintains a 24 hour service telephone line for support to migrants and also arranges regular meetings with the Indonesian community (IOM, 2010).

The employers tend to decline signing documents which ensure the cooperation for working with immigrants. Then there is no implementation either. In case of Philippines, the case study shows that implementing the social protection rights for immigrants can take decades to enforce, apart from collaborating with the bordering states to permit the same rights across neighbouring countries as the immigrant migrates to a neighbouring country. Thailand actually needs to put its money where its mouth is. The clear scenario emerging from this research project is the problem of social protection for the immigrant labourers demands total

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commitment from ASEAN community. The ASEAN community and member states need to act as a whole in this case. Assigning social protection for the immigrants is a tough challenge which needs stiff implementation from all countries in question, access to information/ data and enforcing common practices.

The nature of the immigrant workers is very volatile and one fact should be noted that these immigrants won't be given nationality in all of the ASEAN states as a resident or in working status deeply means that more collaboration is needed from member ASEAN states. It is the duty of the ASEAN community to allot rights to immigrants on a foreign soil and assign them their due rights, which should remain with them as move from one ASEAN state to another. There has been an absence of such issues and discussions. Bilateral collaboration is a distant dream as of yet. The international standards are pretty clear on immigration stance which should be implemented by ASEAN community.

It is quite a task to even propose the issues concerned with immigrant social protection, as the majority of the immigrants linked within the ASEAN community are unknown and allotting human and social security protection in this sector, in conjunction with international standards is a tough ask. The nature of the immigration with ASEAN community is pretty irrational. Addressing it is pretty important though while developing the framework of social protection for immigrants. Irrespective of regular and irregular, the rights of the immigrants remain a top priority.

CONCLUSION

Contemporary labour migration within Southeast Asian countries, mainly consists of regional labour movements. It is additionally contract-driven, which is particularly characterized by a expanding, require for a spectrum of abilities with numerous career niche categories.. Within Thailand, Singapore as well as Malaysia

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mainly men are employed are employment shunned by locals and are generally compensated cheaper wages compared to nation's staff and so they frequently function within dreadful functioning conditions. Their labour enables these places to help keep the competitiveness inside the global financial system. A good evaluation connected with regulation practices implies that the particular labour-importing places seem to confront comparable complications with governance connected with migration connected with low- knowledgeable migrant staff, especially home-based staff. Almost no protections as well as absence of legal rights are generally main contributory factors leading to the particular workers' exploitation.

The following suggestions were drafted in a proposal with the sole aim of assigning rights to social protection of immigrants:

1: The members of the ASEAN states must be able to derive and propose models of regional multi-lateral agreements/ frameworks as well as principles/ standards pertaining to immigrant social protection, which is drafted after considerable research, policy development, ethical practices, international human rights, rights of labours and rights of immigrants must be standardized with respect to United Nations and International Labour Organization.

The immigrant social protection must be a pivotal part of ASEAN's action in case of drafting a regional immigrant framework, which stipulates that the immigrants work force must be treated equally and should be given social protection same as that given to national labours. Their immigration history and residency must not be taken in account. There are three countries which should spearhead the commitment in this regard given their strategic importance in ASEAN community with huge number of immigrants travelling to and from their borders; Philippines, Malaysia, Thailand and Indonesia should spearhead the ASEAN immigrant situation.

2: ILO, IOM, migrant worker networks, academics, civil society groups, trade unions and employer associations must be able to allot resources and develop practical

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policy platforms for keeping the interests of ASEAN member countries for developing the fundamental regional social protection system for immigrants. Ethical practices and sharing of expertise is critical in this case, but so is learning from the practical experiences of European Union and regional groups which have shaped and improved social security platforms for immigrants. It will change the climate for immigrants, bring them benefits and modify the model furthermore. Moreover, assistance from regional social security groups and international groups should also be incorporated.

3: It will take time to design and implement this regional framework, all countries and states who are the member of ASEAN should look for employing the present MOU agreements for the ASEAN migrants who aspire to reside and work. In case, there are no disagreements should then look to commence contracts and bilateral frameworks (part of the general labour agreement/ social security agreements). This is a method of outlining the practices, policies and system to guarantee well defined and concrete migrant rights for social protection. These practices, policies and systems should be designed after collecting data from research, policy development, ethical practices, worldwide human rights, labour rights and protecting migrant rights according to United Nations and International Labour Organization. There are only three countries which are keeping this promise intact by giving migrants social protection, developing new ways of accessing social protection, and keeping in view the fact that large amount of population is involved here in case of Thailand, Indonesia and Philippines should be the torchbearers of implementing this policy. They should also develop a model for best practices for the security/ safety of migrant workers and shared with member ASEAN countries. These three countries must be the centre of attention of civil societies too.

4: Furthermore research and campaign strategies must be developed for broadening and shaping migrant social protection systems for regional, domestic and bilateral capacities. Thus, more stress should be given to social protection/ welfare of

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all the members of the ASEAN countries in case of the national work force and forming a final shape of ASEAN standardized protection and welfare. Moreover, broadened access to social protection in case of migrant workers must be given along with assigning social protection for all members of sector workers/ migrants. Equal treatment must be the aim to attain here. The migrant networks should assist the regional and domestic work force as well as social security networks. The migrant workers are employed in informal segments too. Until and unless social protection to informal access is given, the migrants will face tough hurdles in attaining such rights.

5: The concerned government personnel/ officials (apart from social security personnel/ officials (included)), parliamentarians/ politicians/ senators, regional migrant networks, trade unions, employer alliances, academics and human rights groups should seek help from International Labour Organization, IOM and OHCHR to gain exposure by attending seminars and workshops. Moreover, experience should be shared for developing models of migrant's social security for them to comprehend the fundamentals of social protection frameworks. Another prime focus should be on negotiating key social security contracts.

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