

**ERIA Discussion Paper Series****Managing Labour Adjustments in an  
Integrating ASEAN**

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December 2015

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**Abstract:** *The integration processes of the Association of Southeast Asian Nations (ASEAN) are ushering changes in the labour market across the region. Unions complain that jobs are increasingly becoming precarious. Human resource managers find it difficult to retain talents which have become mobile under the ASEAN Economic Community (AEC) Blueprint (ASEAN, 2007b) allowing the free flow of skilled labour. And labour administrators are faced with three major policy issues: 1) how to promote human resource development in a labour market that has become regional; 2) how to balance the demand of workers for more protection and the demand of industry for more labour flexibility; and 3) how to maintain industrial peace in an integrating ASEAN? To address the foregoing, the paper argues for increased bipartite and tripartite social dialogue in accordance with the “ASEAN Guidelines on Good Industrial Relations Practices” adopted by the ASEAN Labour Ministers (ALM) in 2010.*

**Keywords:** Industrial Relations, Labour Adjustments, Social Partnership

**JEL Classification:** J, J5, J6, J8, G34, K31, M54

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## **1. Introduction: ASEAN Integration and Labour Market Changes**

With the economic integration measures of AEC 2015 now in place, Southeast Asia's economy is likely to experience rapid structural changes. Most of these changes are going to be spearheaded by industries and corporations as they try, at their level, to adjust to the competition realities in an expanded and liberalised economic environment in the region. The enabling ASEAN agreements (ASEAN Free Trade Area [AFTA], ASEAN Investment Area [AIA], ASEAN Framework Agreement on Services [AFAS, and so on) guaranteeing the free flow of goods, investments, services, and skilled labour across Southeast Asia mean industries and corporations must adjust their investment plans and operations to the context of the changing economic realities not only in the individual ASEAN countries but also ASEAN-wide. Otherwise, they will be left behind by competition and by those who understand that the overall direction of ASEAN is indeed to become one ASEAN market and one ASEAN production base.

Of course, structural changes due to economic liberalisation and deepening integration amongst economies of the world are not new. The World Bank and United Nations (UN) agencies, such as the United Nations Development Programme (UNDP) and the United Nations Conference on Trade and Development (UNCTAD), have produced numerous materials on changing economic structures amongst countries due to the impact of the ICT revolution, transport advances, and economic globalisation policies such as trade and investment liberalisation, privatisation of government corporations and services, and deregulation of different economic sectors (industry, agriculture, and services). The rise of 'Factory Asia' in the 1970s–1980s is one outcome of these developments.

This paper, however, is not about structural changes per se. It is an inquiry into the likely impact of greater regional economic openness on the labour market, human resources management, and industrial relations (IR) in ASEAN. What are the emerging trends in the ASEAN labour market? How are these trends affecting human resources management? And what is happening in the industrial relations system, particularly concerning union-management relations? How should ASEAN, in the

context of the ASEAN Socio-Cultural Blueprint, address issues and concerns raised by the unions in a post-2015 scenario?

In answering the foregoing questions, this paper is guided by the following analytical considerations:

First, investments and business organisations come in different shapes and sizes in each country and across the region. Economists generally categorise firms in terms of sizes (capitalisation and number of employees) – micro, small, medium, and large. The greater the flow of investments, the bigger the number of jobs created.

However, existing industries and new investments are bound to adjust their business plans and programmes in response to the realities of global competition and a more open ASEAN trading regime. Such responses vary – from expansion through mergers, acquisitions, and consolidations to a reduction of production at home through a shift to outsourcing or a shift to the import-and-distribute business model (instead of maintaining an inefficient factory), or worse, to outright closures if firms are unable to compete. There can be as many permutations of the business organisation.

But in general, business organisational adjustments necessarily include adjustments in the employment and deployment of workers in each firm or industry. These adjustments naturally affect the structure of the overall labour market and the stability of labour relations in each country.

Thomas Kochan (1996) argued that labour adjustment policies are determined or influenced by the type of employment strategy favoured by firms – either the human resource investment strategy or the cost-control strategy. The first means ‘a bundle of human resource practices that begin with high recruitment standards, deep investment in training and development, broad task or work organization arrangements that allow for continuous learning and skill acquisition, employee participation in problem-solving and continuous improvement activities, flattening of hierarchies to both ease the flow of communication and to decentralize decision-making, broader sharing of organizational information, and integration of human resource strategies with other strategic decisions and corporate governance arrangements’ (p.12).

The second strategy means focusing ‘on achieving the low-cost market position and/or to respond aggressively to short-run pressures to pare down labour costs and permanent staff to their minimum’ (p.13). This means greater use of temporary or

contract workers and a harder stance against unionism. Understandably, unions have been critical about the cost-control strategy, which they blame for the widespread ‘casualisation or ‘flexibilisation’ of labour. However, one must add that the human resource strategy can also create conflicts with the unions, if there is unwarranted intensification of work realised through the usual multi-skilling-multi-tasking arrangement. Jobs can also be reduced because of leaner and meaner operations.

The overall reality, however, is that companies often combine the two strategies because companies cannot be competitive and sustainable without a minimum pool of skilled and highly trained technical workers who can be relied upon to keep the business operations going and who can help manage business innovations. Without new investments in existing or new industries, both strategies, therefore, contribute to the phenomenon of jobless growth, especially in countries experiencing capital flight and market losses.

As to labour relations, it does not follow that harmonious and productive labour relations cannot be forged with semi-skilled workers, because, historically, the rank-and-file workers, particularly the blue-collar factory workers, constituted the traditional base of unionism. The problem arises only when labour abuses are committed through the unlimited outsourcing of jobs and the unjustified non-regularisation of jobs through serial or repetitive short-term hiring arrangements. The point is that companies can develop sound and stable labour relations with all workers – professionals, skilled and semi-skilled – if they elect to adopt good industrial relations (IR) practices as part of their overall competitive strategy. Building up productivity in a conflict-ridden company is always problematic, to say the least.

## **2. Trends in the ASEAN Labour Market**

The ASEAN labour market continues to evolve in a dynamic and complex way. But it is not a homogenous development, because, like the economy, the labour market is segmented. The following are the major characteristics of the labour market.

## 2.1. Large Informal Economy

The overwhelming majority of workers are in the informal sector (IS) or informal economy (IE), particularly in the formerly socialist-oriented CLMV countries (Cambodia, Lao PDR, Myanmar, and Viet Nam) and in the semi-industrialised original ASEAN countries (Indonesia, Philippines, and Thailand). In measuring the size of the IS/IE, the International Labour Organization (ILO) uses the concept of ‘vulnerable employment’, which is defined by the ILO Employment Indicators (ILO, 2009) as the totality of the ‘own-account’ or self-employed workers who operate farms or micro family businesses in a generally informal business environment, and the ‘contributing family members’ (counted in some countries as ‘unpaid family workers’) who cannot find jobs outside home or family. The total of these two categories of workers is considered by the ILO as the size of the ‘informal sector’ of an economy.<sup>1</sup>

The IS/IE in ASEAN covers more than half of the labour force. ‘Vulnerable’ employment accounted for 58.8 percent of total employment in Southeast Asia as of 2013 (ILO and ADB, 2014). This huge size of the IE/IE is due mainly to the uneven historical and economic development of the ASEAN countries. The more developed ASEAN 5 (Indonesia, Malaysia, Philippines, Singapore, and Thailand) have substantial wage labour force, ranging from 33.1 percent in the case of Indonesia to as high as 90.0 percent in the case of Singapore, based on the ASEAN statistics for 2010 (see Table 1). Malaysia, the second most industrially developed Southeast Asian country, had a wage labour force of 78.9 percent. In the ASEAN 4 (Cambodia, Lao PDR, Myanmar, and Viet Nam or CLMV), the wage labour force had been growing rapidly due to the marketisation policies being pursued by these countries. However, as of 2010, wage workers constituted only 21.4 percent in Viet Nam; in the other CLMV countries, the percentage was less than 20 percent.

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<sup>1</sup>This ILO concept of ‘vulnerable employment’ tends to underestimate the size of the IE/IS, because wage workers in unregistered or unmonitored micro enterprises (home-based, farm-based, and in informal markets and settlements) are excluded.

## 2.2. 'Flexibilising' the Formal Sector

As can be deduced from the foregoing statistics, the formal sector is relatively narrow, except in the more developed economies of Singapore and Malaysia. With a population of less than half a million, Brunei's labour market is largely formal; however, Brunei's labour force is dominated by migrant workers.

**Table 1: Wage and Non-wage Employment in ASEAN, 2010**

Country	Labour Force in thousands (2010)	Sectoral Shares in Employment as percent of Total Employment*			Wage and Salaried Workers as percent of Total Employed*
		<i>Agriculture</i>	<i>Industry</i>	<i>Services</i>	
Brunei Darussalam	202	4.2	46.7	49.1	NA
Cambodia	8,050	72.3	8.5	19.8	<b>14.0</b>
Indonesia	117,578	39.7	17.5	41.5	<b>33.1</b>
Lao PDR	3,179	82.2	9.3	8.6	NA
Malaysia	12,250	13.8	26.9	59.5	<b>78.9</b>
Myanmar	27,337	62.7	12.2	25.1	NA
Philippines	39,639	34.3	14.5	51.1	<b>51.4</b>
Singapore	2,632	NA	21.8	77.1	<b>90.0</b>
Thailand	38,977	41.5	19.5	39.0	<b>42.6</b>
Viet Nam	47,936	52.2	19.2	28.6	<b>21.4</b>

Note: \*Most recent data available for each country.

NA = not available.

Source: Labour and Social Trends in ASEAN 2010 (ILO).

The common union complaint in the organisable formal sector is that its size is not only limited (and very often characterised by the preponderance of small and micro enterprises), but also that the sector is increasingly subjected to various flexibilisation measures by employers. As far back as the 1990s, the former Asia-Pacific organisation of the International Confederation of Free Trade Unions (ICFTU) had warned about this growing flexibilisation phenomenon in Asia. In 1996, the organisation wrote:

...Employers are increasingly resorting to contracting out work to workers who work on contract basis with the employer or with contractors engaged by the employers to do the work concerned. In other cases certain work is farmed out to a worker or workers who then either work at the employers' premises or at some other locations such

as their homes...These workers are the most exploited and employers shirk off their legal obligations and responsibilities as employers once they resort to such work arrangements.

Apart from the above, part-time work, flexi-work and temporary work are also on the increase. Sales practices such as direct selling is also on the increase especially amongst women. The advance of technology is also increasing the number of teleworkers who usually work at home most of the time. These workers are also usually not provided with the legal protection due to workers such as social security including occupational health and safety protection, as well as basic workers' rights of representation through unions. (ICFTU-AP, 1996, p. 9)

Today, virtually all unions across the ASEAN region are unanimous in their denunciation of the flexibilisation trend, which they claim continues to grow in various forms. The use of informal or flexible labour practices in the formal labour market of the three big middle-income ASEAN countries of Indonesia, Philippines, and Thailand is illustrative.

In ASEAN's largest economy, Indonesia, both the informal economy and the informalising wage market have been expanding, especially in the aftermath of the Asian financial crisis in 1997-98. Indonesia's informal sector employment rose strongly - from 62.8 percent in 1997 to 70.8 percent in 2003 (Felipe and Hasan, 2005). But Tjandiningasih (2013) blamed the enactment of Labour Law No. 13/2003 for the upsurge in informalisation of work in the formal labour market. She explained that the law 'legalised' the hiring by employers of short-term casual workers, usually done through third-party service contracting agencies. The downsizing of regular employment in many companies has been accompanied by the increased hiring of more casual/non-regular or temporary workers as well as agency or subcontracted workers.

In the Philippines, casual workers and temporary workers outnumber regular workers in most industries. The Philippines' Bureau of Labor and Employment Statistics (BLES), in its sample surveys on non-regular hiring, concluded that there is a rising trend of flexibilisation and that about one-third of the workforce are non-

regulars. However, these BLES figures are grossly understated because company responses are limited to the direct hires, regular and non-regular. Companies do not consider the employees of third-party service or labour contractors as their own employees even if these employees are placed by contractors on a temporary basis to do varied work in the work premises owned by the principal companies (Ofreneo, 2013).

The pattern of a huge informal economy and an informalising formal labour market also can also be seen in Thailand. The 1997–98 Asian financial crisis, which had started in Thailand, helped expand the informal economy and deepened the formal–informal subcontracting system, with formal economy investors engaging informal economy subcontractors in the sewing of garments, weaving of special textiles, production of mulberry products, and growing of certain crops, or contract farming (Thanachaisethavut and Charoenlert, 2006).

Also, throughout the developing ASEAN countries, there is mobility of labour between or amongst sectors, for example, unskilled workers in small and medium enterprises going into agriculture during cultivation periods and later joining informal construction brigades. Like in other Southeast Asian countries, the statistics are unable to capture various forms of labour flexibility in the formal labour market, such as manpower dispatching and the hiring of casual and temporary workers.

### **2.3. Migrant Workers Circulating Everywhere**

Another reality in the ASEAN labour market is the increasing number of migrant workers ‘circulating’ within the region or crossing borders. In Singapore, Malaysia, and Brunei (including Thailand), the employment of foreign migrants is the solution to labour shortages in these cash-rich countries. For these Asian newly industrialised countries (NICs), the partial or selective relaxation of strict migration rules and issuance of work permits to foreign workers is the easiest and simplest way of getting the semi-skilled workers to accept lower wages and do the ‘3D jobs’ (dirty–dangerous–difficult) their own citizens shun.

No international agency can claim that they know the exact number of migrant workers in Southeast Asia. The 2015 ILO-ADB study of the ASEAN labour market put the number of ASEAN migrants, defined as migrants coming from another



ASEAN Member State but working in another ASEAN Member State, to be 6.5 million as of 2013. These were mostly workers from the less-developed ASEAN countries working in the more developed destination ASEAN countries such as Singapore, Malaysia, Brunei, and Thailand. Given the large number of unregistered migrants (e.g. migrants crossing from Burma to Thailand, or from Indonesia to Malaysia, or criss-crossing within the Mekong area), the 6.5 million figure is obviously conservative. Nonetheless, it is abundantly clear that the cross-border mobility of labour is growing and is likely to intensify as ASEAN pushes more and more towards fuller economic liberalisation.

The city-states of Singapore and Brunei have the most acute need for foreign workers – the first because of its amazing economic transformation and the latter because of its rich oil resources. Migrants made up over 30 percent of Singapore’s labour force in 2009 (Hall, 2011).

However, the two countries with the biggest numbers of foreign migrants in the region are Malaysia and Thailand. The estimate for Malaysia varies – anywhere between two to three million (documented and undocumented). The resource-rich country has a long history of attracting labour migrants, first to work in the plantations and forest sector in the post-independence period, then in the electronics assembly sector in the 1970s–1980s, and today, in the services sector (tourism and so on). As for Thailand, Hewison and Tularak (2013) noted that the country has close to two million migrant workers from Burma, not to mention those coming from neighbouring Mekong countries such as Lao PDR.

#### **2.4. A Complicating Reality in Migration Flows: The War for Talents**

But the flows of intra-ASEAN migration are not linear. Manolo Abella (2008), the former ILO expert on migration, estimated that about 40 percent of Singapore’s 230,000 emigrants are in Malaysia occupying high-skill positions, whereas 73 percent of Malaysia’s 1.5 million overseas workers are employed in Singapore. Thailand, which is a major absorber of workers from Myanmar and the neighbouring Indochina countries, is also a large labour-sending country. Indonesia, the Philippines, and Viet Nam remain the largest labour-sending countries, but they are also hosting growing communities of expatriate managers, professionals, and skilled workers coming from

the various ASEAN and other countries. In short, ASEAN countries are becoming both labour-sending and labour-receiving countries.

Also, migration flows are cutting across all skills and job categories. This is why one major challenge for human resource managers today is how to develop, manage, and retain talents. It is more economical for talent-short companies, such as those in a rush to build up investment projects, to poach skills at home and overseas rather than engage in time-consuming training exercises for middle-level and technical personnel. Poaching is also made easier by online recruitment practices, the ASEAN visa of 21 days for ASEAN citizens, and the inclusion of the 'free flow of skilled labour' in the AEC 2015 blueprint, facilitated by the systems of equivalency such as the Mutual Recognition Agreements (MRAs) for select professions and the proposed ASEAN qualifications referencing framework (AQRf). A growing number of highly mobile professionals and experts are getting deployed within the region and beyond through online recruitment and tourism-hiring arrangements (professionals come in as tourists and then apply directly to companies in tourist destinations).

In the Philippines, industries have been complaining about the loss of skills and talents since the 1970s, when a programme for short-term migration for work was instituted on a supposedly 'temporary basis'. Then the complaint was about the difficulty of getting good electricians, plumbers, and other skilled construction workers, because the best workers in the construction industry were being hired en masse in the Middle East. Today, the complaint is about the loss of 'mission-critical skills'<sup>2</sup>, meaning skills possessed by personnel who are not easy to replace and train such as production engineers and pilots; otherwise, companies and airlines will be forced to stop operations. Schools are also complaining about the loss of English and mathematics teachers. On the other hand, the booming call centre industry has gotten used to talent piracy by competing companies which openly advertise extra pay and bonuses for those ready to work in call centre cubicles without any need for training.

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<sup>2</sup>The term was originally coined in 2005 by the Fair Trade Alliance and its allied industry affiliates, which were alarmed over the rapid loss to the overseas labour market of hard-to-train professionals and skilled workers such as pilots and aircraft mechanics. The term was subsequently adopted by the Philippine Overseas Employment Administration (POEA) in Resolution No. 1 for 2006.

### **3. Unions’ Complaints, Employers’ Laments, and Labour Administrators’ Headaches**

The truth is that outside the large IS/IE, a new world of work is taking shape in the formal sector under globalisation and a more liberalised and integrated ASEAN. The impact on the tripartite social partners – unions, employers, and government – is somewhat confusing, policy-wise.

Unions, which have very limited reach in ASEAN (see Table 2), generally take a negative view of these developments. They see the trend towards flexibilisation and leaner work arrangements as further eroding the base of unionism. Abuses associated with casual and short-term hiring arrangements under informalisation is usually tempered by protective labour laws or labour standards enacted by the State to prevent such abuses such as the arbitrary termination of employment, dismissal without due process, and withdrawal of benefits because employees are categorised as non-regular. However, Caraway (2010) argued that there is a wide gap between ‘de jure’ protection reflected in the labour law system and the ‘de facto’ enforcement of these standards. The widening gap between paper protection and actual enforcement naturally ‘exerts downward pressure on labour standards and increases the actual level of labour market flexibility’.

The ASEAN 5 countries have fairly well developed labour laws, most of which were ‘western transplants’ (Cooney, et al., 2002) from their former colonial masters – from the United States for the Philippines, from United Kingdom for Singapore and Malaysia, and from the Netherlands for Indonesia. Thailand is exceptional because it was never colonised; however, it is a founding member of the ILO, which was established nearly a century ago, in 1919. In the CLMV countries, ‘new’ labour laws and rules are being developed in line with the shift from socialist command economies to liberal or open market economies. Viet Nam’s ‘Labour Code’ was adopted in 1995, Cambodia’s ‘Labour Law’ in 1997, and Lao PDR and Burma adopted theirs in the mid-2000s.

**Table 2: Rates of Unionisation in Southeast Asia (as of 2000)**

<i>Country</i>	<i>Unionisation Rate</i>
Myanmar	0.0
Cambodia	1.0
Indonesia	2.6
Lao PDR	3.0
Thailand	3.1
Malaysia	8.3
Viet Nam	10.0
Philippines	12.3
Singapore	15.7

*Source:* Extracted from Table 1 of Caraway (2010), p. 228.

On the other hand, employers argue that the old ways of doing business in the context of a secure or protected national market are gone. Under globalisation, business has to be nimble and should have the flexibility to increase or reduce jobs, wages, and benefits, depending on the fluctuations in the market for their goods and services. And since they are competing not only within their national boundaries, they cannot afford not to keep abreast with business practices adopted by competitors overseas, such as outsourcing of production, if feasible. Human resources management has also become challenging –some examples: How does one manage a diverse workforce composed of foreign migrants and natives? How does one retain talents whilst keeping middle management and short-term rank-and-file workers happy and productive? How does one deal with the unions or worker representatives in a globalised work setting or environment?

For those in charge of labour administration, the tasks have also become doubly difficult, especially in terms of policy balancing. First, they have to be seen as protectors of workers of all collars and nationalities. IR is no longer a purely national concern. Second, they have to attend to the needs of migrant workers deployed overseas, which means they have to be in the business of labour diplomacy too. Third, traditional tripartism is complicated by the reality that major investors, particularly multinationals with branches on foreign shores, do not necessarily attend tripartite meetings. Hence, they have to find ways of reaching them or holding dialogues with these investors, especially when labour disputes erupt in the multinationals' subsidiaries. Fourth, they have to devise new ways of anticipating supply and demand in the labour market because the old system of manpower forecasting based on

historical national economic data has been weakened by the reality that labour supply and demand are affected by abrupt changes in technology (example: from analogue to digital in telecommunications), changes in market demand for certain products, and state of competition at the regional and global levels. This is why education and skills development planning requires closer coordination with labour administrators as well as the industry ministry. The list could go on and on.

#### **4. The ASEAN IR Response: Positive Reform Measures**

ASEAN has taken a positive and progressive stand on how to address some of the labour policy issues emerging in a globalising and integrating ASEAN. The first is the issue of social protection for all, which is now the subject of wide-ranging discussion within ASEAN under the Socio-Cultural blueprint.

On flexibilisation, there are ongoing debates and dialogues in the individual ASEAN countries that are focused on the most contentious issue – labour contracting or placement of workers with the involvement of third-party service or manpower providers. After a series of protests in Indonesia, the Ministry of Transmigration came up with new rules to rein in unchecked or unregulated outsourcing of work. MOLISA of Viet Nam also came up with new regulatory rules, after recognising the legitimacy of outsourcing. The message: outsourcing is legitimate but it cannot be promoted for outsourcing's sake at the expense of the workers or to avoid basic employers' obligations to the workers.

There are also exemplary tripartite agreements on outsourcing. The first is the case of Singapore, which adopted a Tripartite Agreement on Responsible Outsourcing. There is no legal framework governing outsourcing in Singapore. To counter 'cheap sourcing' practices, particularly for the low-skill services such as cleaning and landscaping, the National Trade Union Congress (NTUC) of Singapore launched a campaign to curb abuses in outsourcing and for the industry to adopt better sourcing practices. The government responded by calling for tripartite consultations. Eventually, the Singapore National Federation of Employers supported the Tripartite Agreement on Responsible Outsourcing, which provides, amongst other things,

guarantees for the basic rights of and a decent work environment for outsourced workers (Ministry of Manpower, 2013).

The second model is at the industry level, based on the agreement forged by the Banking Industry Tripartite Council (BITC) of the Philippines on outsourcing (Ofreneo and Nguyen, 2013). This was given a long title – ‘Banking Industry Voluntary Code of Good Practice on Dispute Settlement and Outsourcing/Subcontracting of Certain Bank Functions’. In this agreement, the BITC, which includes representatives of the Central Bank, agreed on two important things: 1) no outsourcing of ‘inherent bank functions’, and 2) union-management consultation should there be a necessity on the part of any bank to outsource some activities.

Another positive development is the progress of CLMV countries in crafting labour law reforms. Although Viet Nam, Cambodia, and Lao PDR developed their respective labour law systems in the 1990s, they continue to review and improve them. One notable gain, of course, is the progress of Myanmar, once considered a pariah in the international labour movement, in its decision to craft labour laws that are more consistent with the global standards. Myanmar today is riding high atop a wave of labour, social, and economic reforms.

Another positive development at the regional level was the decision of the ASEAN Labour Ministers (ALM), at their meeting in Hanoi in 2010, to adopt an official document entitled ‘Good Industrial Relations Practices’, which states that ASEAN officially recognises basic labour rights such as freedom of association and collective bargaining and is keen on promoting bipartite and tripartite social dialogue to address workers’ grievances (ASEAN Labour Ministers, 2010). On dialogue, the ASEAN Service Employees Trade Union Council (ASETUC), organised on the initiative of the Union Network International – Asia Pacific Regional Organization (UNI Apro), has in fact been holding Regional Social Dialogues on Sound Industrial Relations in the Services Sector with the support of the ASEAN Secretariat. The ILO, on the other hand, has been arranging regional seminars on industrial relations involving the ASEAN Trade Union Council (ATUC), the ASEAN Confederation of Employers (ACE), and the tripartite representatives of the different ASEAN member countries.

Some policy makers in ASEAN are also eager to introduce reforms that will tame what the unions call as the ‘Race to the Bottom’ amongst industries and countries, that

is, industries and countries are luring investments by rolling back or ignoring labour rights. In this regard, the initiative of the Law Reform Commission of Thailand (LRCT) in December 2014 to propose the recognition of labour rights under ‘One ASEAN Standard’ is indeed noteworthy. The idea is to have harmonisation and synchronisation of national labour laws in the different ASEAN countries with the international labour and human rights conventions and the regional or ASEAN policy recognising the basic or fundamental freedoms of the people under the ASEAN Charter (ASEAN, 2007a).

Finally, there are skills development programmes that ASEAN has been pursuing since the 1990s, which this paper will not elaborate on.

## **5. The Way Forward: Deepening the Social Dialogue Process**

As the integration processes in ASEAN intensify, difficult labour issues and concerns are bound to surface. How should ASEAN handle them? There are no clear-cut rules or solutions. However, one clear policy framework where ASEAN cannot go wrong is to sustain and deepen the social dialogue process amongst the social production partners, including the non-traditional tripartite actors such as farmers’ unions and civil society organisations. After all, the ASEAN way has been to forge consensus on all issues before taking a decision. No consensus is possible without being preceded by some form of social dialogue.

Modern and democratic industrial relations means rule making by the parties, the outcomes of which are expressed in collective bargaining agreements, personnel policies, and labour laws. Incidentally, some of the most competitive companies in ASEAN happen to have unions and have sustained productive partnerships forged through positive dialogues on each party’s concerns and interests. In 2007, the Union Network International even recognised some of these companies by giving them a ‘UNI APRO Employer-Partner Award’. These companies are Banco de Oro Universal Bank of the Philippines (which has three decades of productive partnership with the National Union of Bank Employees), Telekom Malaysia (which has a system of continuous consultation and fruitful dialogue with the National Union of Telekom

Employees), Star Publications Berhad of Malaysia (which survived five months of suspended operations with the full support of the National Union of Newspaper Workers), Media Corp of Singapore (which has become Asia's top media company by cementing stronger cooperative relations with the Singapore Union of Broadcast Employees), and OCBC of Singapore (which adopted a pro-people strategic human resource management system and invested in positive relations with the Singapore Bank Officers Association and the Singapore Bank Employees Union). All these five outstanding companies have resolved difficult issues in the past, such as human resource management adjustments during crisis times, organisational restructuring due to the introduction of new technology, outsourcing of some work to outside service providers, and so on.

ASEAN companies and industries, encouraged by the ALM's Guidelines on Good IR Practices, can and should strive to develop sound IR systems. What is a good IR system? The following is a good summation of its characteristics:

'First, the system must satisfy the employers and trade unions, management and workers who are the principal actors in it. Second, it should operate without undue industrial conflict. It must determine wages, working conditions and working practices that are consistent with national economic and social needs. And fourth, closely linked with the third, it should facilitate the organizational and technological change that is essential to a successful economy, whilst at the same time ensuring that the costs of adjustment are equitably shared.' (Clarke and Niland, 1991)

The above description of a sound IR system is the opposite of the conflict-ridden and beggar-thy-neighbour Race to the Bottom policy (usually unwritten and undeclared), which seeks to promote industry competitiveness by rolling back or avoiding compliance with labour rights. A sound IR system promotes a Race to the Top through social dialogue on how the interests of all parties (especially profits and business viability for the employers and decent work standards for the workers) can be secured through joint efforts to promote skills and technology upgrading, productivity, competitiveness, and smooth adjustments to a changing business and labour market. Of course, there will be unavoidable adjustments pains, and they should be, as Clarke and Niland put it, equitably shared.



One painful adjustment issue is the use of short-term contract labour. Due to the realities of global competition and rapid technological and industrial changes, not all jobs can be regularised and made permanent. But it is also a reality that, adopting a Race to the Bottom attitude, some industries resort to unnecessary outsourcing and short-term hiring arrangements just to ride roughshod over workers' rights and promote in a narrow way their equally narrow vision of competitiveness. This paper suggests that ASEAN Member States should strike a balance, through tripartite and bipartite social dialogues, in the formulation of policies and rules – a policy balance that recognises labour market realities without trampling on labour rights. This is what Indonesia, Philippines, Singapore, and Viet Nam have tried to do and continue to do.

Also, at the ASEAN level, dialogues between the ACE/ASEAN Business Advisory Council (ABAC) and the ASETUC/ATUC on good practices on labour and service contracting can be organised, with the participation of compliant service contracting companies and associations. The latter should be committed to the 1997 ILO Convention 181 on 'Private Employment Agencies Convention', which recognises the importance of flexibility in modern business, but also affirms the need to protect workers' rights such as freedom of association. Eventually, some kind of a code of conduct to promote ethical and professional service contracting can be developed by ALM and the ASEAN Secretariat.

As to the proposed labour law harmonisation ASEAN-wide, this is a worthwhile undertaking, but economic, historical, political, and cultural realities in each country should be considered. What can feasibly be done is to focus mainly on the strengthening of laws and supporting rules and institutions for the core labour rights outlined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, i.e. freedom of association, collective bargaining, non-discrimination, prohibition of forced labour, and elimination of extreme forms of child labour. Related to that, there should be collaborative assistance in upgrading the capacity of ASEAN Member States in labour inspection, that is, to have an inspectorate system that minimises in a proactive manner labour abuses and violations, especially in relation to standards on core labour rights and occupational-safety-health (OSH) work conditions.

As to the protection of migrant workers' rights, it is high time that ASEAN suits its actions to its words. There should be definitive timelines for the adoption of the implementation instrument and supporting rules.

To conclude, the ASEAN is poised to be more competitive under ASEAN 2015. This competitiveness can be greatly enhanced if ASEAN continues and deepens the good IR practices outlined by the ALM, the most important element of which is social dialogue. These good IR practices are essential building blocks for a caring and sharing ASEAN community.

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## **Annex – Learning from Singapore’s Tripartism**

**(NOTE:** *As per the decision of the ASEAN Labour Ministers in 2010, the Association of Southeast Asian Nations (ASEAN) and the individual ASEAN Member Countries are committed to the promotion of good industrial relations practices and the development of a sound legal framework in support of tripartism and social dialogue. One way of doing this is by learning from each country’s experiences and emulating the good practices that each country has developed. The reality is that almost all the ASEAN countries have their own positive experiences. The following is a summary of Singapore’s experience in the promotion of tripartite dialogue in support of economic development.*

Singapore is a country that has actively promoted industrial development through tripartite consultation. This was aptly demonstrated in 2009, when the Prime Minister, had an open discussion with the representatives of the National Trades Union Council and the Singapore National Employers Federation, on how Singapore should overcome the global financial crisis which had hit the island state badly because of its high exposure in global finance. Thanks to a tripartite consensus on stimulus spending, skills development, and other positive measures, Singapore quickly rebounded and is once again experiencing strong economic growth.

Tripartism works in Singapore<sup>3</sup>, particularly in the area of wage setting. Wage setting at the national level can be divisive and tumultuous, as was the case in Singapore. But the tripartite approach in support of a ‘flexible wage system’ in an industrialising Singapore is now considered a global success story.

Before independence, Singapore was a low-wage, surplus-labour developing economy with high unemployment. In the 1960s and 1970s, the economy attained rapid growth through export-oriented, labour-intensive industrialisation, relying on a relatively low-skilled, low-wage work force. Economic growth surged but industrial disputes also increased. This necessitated the passage of certain labour laws regulating labour costs and labour movement, i.e. the Industrial Relations Ordinance of 1960, the Industrial Relations Act of 1968, and the Employment Act of 1968.

But the most significant labour measure was the establishment in 1972 of the National Wages Council (NWC), a tripartite advisory body in support of orderly wage regulation. The NWC became an arena for social dialogue and wage determination. It

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<sup>3</sup>See Hing Ai Yun (2003), ‘Social Dialogue and the Flexible Wage System in Singapore’, in *Best Practices in Social Dialogue*, New Delhi: ILO and IIRA.

has 30 members with 10 each representing employers, government and trade unions. However, the chairman is chosen for his integrity and neutrality.

The NWC, through its sub-committees, has been taking up not only issues of wage adjustments, but also other labour market issues such as changing skills requirements of a fast-changing industry and economy, movement of skills and talents within the labour market, and so on. On wage adjustments, the NWC has been making recommendations based on studies and tripartite consensus. It issues guidelines to industry and unions as the basis for wage negotiations. But in the end, most wage settlements tended to converge with the guidelines.

On a larger scale, the NWC has played a significant role in shaping the directions of the economy, particularly in Singapore's transformation from a low-wage country to a competitive NIC economy. In this regard, the NWC has always linked growth in wages to growth in the economy through the realisation of higher productivity. In this regard, the work of the NWC is closely related to the administration of government assistance to industry in upgrading the latter's technical and skills base. This assistance is managed through the Skills Development Fund (SDF), a fund established with contributions from industry. The SDF provides support for productivity-oriented and technology-adjustment training programmes for managers and workers. The Department of Science and Technology is also involved because it undertakes studies and provides assistance on technological upgrading.

In 1984, the capacity of the NWC was severely tested in Singapore's first recession. Again, the creativity of the NWC surfaced: it undertook an in-depth study of how companies can respond quickly to economic downturns by adjusting wages rather than resorting to layoffs. Earlier, the government had nudged industry to increase wages and productivity to help the country get out of the low-wage, low-industrial development stage.

### **From the 'flexible wage system' to 'Project Advantage'**

In 1986, the NWC set up a subcommittee on Wage Reform (NWCWR), which recommended the adoption of a Flexible Wage System (FWS). The idea was to minimise displacement of workers during economic crises and encourage companies to reward workers during economic upturns. This paved the way for the development of the 'variable pay' (also called 'strategic pay') system and the FWS. Under the FWS, a worker's wage is divided into three major components: (i) a basic wage that serves as the minimum that should be given to an employee to meet daily needs; (ii) a variable wage component that can go up or down depending on the productivity and profitability of the company; and (iii) an incremental wage component related to a

worker's service to the company (e.g. longevity and seniority). This formula is a flexible and win-win formula. In 1993, a study found that more than three-fourths of Singapore's firms had shifted to some kind of flexible system, including 85 percent of the unionised companies.

It should also be pointed out that many of the NWC's recommendations are directional, meant to serve as reference points for wage negotiations and settlements. The idea is to provide good reference wage indicators, which can serve as a basis for realistic negotiations and social dialogue amongst the parties. It has also been made clear by the tripartite industrial relations actors that the FWS is '*not about cutting wages*' but about rewarding performance and insuring business and job sustainability.

As can be readily seen from Singapore's progress over the last three decades, the FWS and the system of tripartite/bipartite social dialogue have served the country well in achieving faster economic growth, smooth structural changes in the economy, and industrial peace. Today, Singapore is discussing the extension of the working age through 'Project Advantage',<sup>4</sup> managing the mobility and diversity of the work force and preparing for the job requirements of the 21<sup>st</sup> century. It is also discussing how a new 'Social Contract' can be forged given the new forms of social and economic inequality in an economy that continues to surge ahead. The bottom line is social dialogue for inclusive growth for all.

### **Tripartism in other areas of work force development**

As can be surmised, Singapore is a big user of tripartism in support of smooth wage and economic adjustments. The reality is that Singapore has been applying tripartism in other areas of work force upgrading and economic development. This can be readily seen in the following tripartite committees and task forces, their titles indicating their nature and mission:

- Tripartite Review Committee on Employment Act, 1994–95
- Tripartite Committee on Extension of Retirement Age, 1997
- Tripartite Panel on Retrenched Workers, 1998
- Tripartite Committee on Executives Joining the Rank and File Unions, 1999–2000
- Tripartite Committee on Portable Medical Benefits, 2000–2001

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<sup>4</sup>Under Project Advantage, management and unions are encouraged to discuss a re-design of jobs for ageing workers so they can continue work up to retirement age or even beyond. For example, a camera man who has to carry heavy photo equipment can be given a movable trolley to avoid carrying heavy items.

- Tripartite Review Team on Section 18A of the Employment Act on Company Restructuring, 2004
- National Tripartite Advisory Panel on Family Friendly Practices, 2004
- Tripartite Committee on Flexible Work Schedules, 2004
- Tripartite Committee on the Employability of Older Workers, 2005
- Tripartite Alliance for Fair Employment Practices, 2006
- Tripartite Panel on Community Engagement at Workplaces, 2006
- Tripartite Implementation Workgroup, 2007
- Tripartite Workgroup on Employment Act Review, 2008
- Tripartite Taskforce on Managing Economic Downturn, 2008–2009
- Tripartite Upturn Strategy Teams (TRUST Teams), 2009

In addition to the above, tripartite advisories and guidelines are issued from time to time, such as ‘Tripartite Guidelines on Non-Discriminatory Job Advertisements’ (1998), ‘Tripartite Guidelines on Best Work-Life Practices’ (2003), and ‘Tripartite Advisory on Responsible Outsourcing Practices’ (2007).

For Singapore, there is no substitute for information sharing, consultation, and dialogue when it comes to various industrial relations and labour market issues and concerns.



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