

# Chapter 1

## Regional Labour Migration in the Association of Southeast Asian Nations: Background and Context

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# Chapter 1

## Regional Labour Migration in the Association of Southeast Asian Nations: Background and Context

### 1. The Association of Southeast Asian Nation's Migrant Workers: Political and Economic Context

The ASEAN regional grouping consists of 10 countries comprising a population of more than 650 million.<sup>5</sup> The regional grouping also encompasses several diverse economic, political, and social systems. In 2019, the Council for Foreign Relations reported that, in terms of economic development, Singapore has the highest GDP per capita amongst the group's members, at nearly \$65,000; while Myanmar's is the lowest at less than \$1,400.<sup>6</sup> As of 2019, ASEAN had a combined GDP of \$2.8 trillion, and was also the third fastest-growing regional economy from 2010 to 2020, after China and India (United States [US]-ASEAN Business Council, 2019). More than \$3.6 trillion in global trade transits through the region each year.

The ASEAN regional grouping promotes economic, political, and security cooperation amongst its 10 members; and over the years has contributed to regional stability by developing common norms and principles to address shared challenges. In 1992, the ASEAN Free Trade Area was launched with the goal of creating a single market, increasing intra-ASEAN trade and investments, and attracting foreign investment. Intra-ASEAN trade as a share of the bloc's overall trade grew from about 19% in 1993 to 23% in 2017 (ASEAN, 2014; Maizland and Albert, 2020). According to the July 2020 ASEAN Policy Brief (Chandra, Muhajid, and Mahyassari, 2020), more than 90% of goods are currently traded with no tariffs across ASEAN.

The 1997 Asian financial crisis, which started in Thailand and spread across the region, highlighted the lack of social safety nets and welfare systems to protect poorer groups in times of crisis. In response, the AMS decided to push further integration of their economies through a series of agreements both amongst themselves and outside the region to protect their economies from speculative capital flight and other associated socioeconomic risks. In 2007, the AMS adopted the ASEAN Charter, a constitutional document that provided the grouping with legal status and an institutional framework, and that strives to facilitate regional integration while maintaining national autonomy and preserving regional diversity. With respect to labour, a social charter was formulated as part of the broader 2007 ASEAN Charter

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<sup>5</sup> ASEAN was established in August 1967 with five member states: Indonesia, Malaysia, the Philippines, Singapore, and Thailand. Brunei Darussalam joined on 8 January 1984, Viet Nam on 28 July 1995, the Lao People's Democratic Republic (Lao PDR) and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. At present, ASEAN has 10 member states, and counts several other nations such as Australia, China, the European Union, India, Japan, Korea, and the United States (US) as dialogue partners.

<sup>6</sup> All monetary denominations are in US dollars, unless otherwise stated.

(Economic Research Institute for ASEAN and East Asia, 2015; ASEAN, 2016a).

As per ASEAN (2008), the 2007 charter enshrines core principles, delineates requirements for membership, and lays out a blueprint for a community made up of three branches: the AEC, the ASEAN Political-Security Community, and the ASEAN Socio-Cultural Community. The AEC seeks to reduce or remove trade barriers to facilitate the free movement of goods, services, capital, and skilled labour within the region. By the end of 2019, all ASEAN nations had joined the ASEAN Single Window Live Operations, which facilitates the granting of preferential tariff treatment to goods originating within the regional grouping (ASEAN Single Window, 2020).

ASEAN currently has regional free trade agreements with Australia and New Zealand, China, India, Japan, and Korea; and since 2012 has also been negotiating the Regional Comprehensive Economic Partnership (RCEP), a proposed free trade agreement that would include all AMS, as well as Australia, China, India, Japan, Korea, and New Zealand. The RCEP aims to create an integrated market with 16 countries, making the products and services of each of these countries more accessible across the region (ASEAN, 2016b; US-ASEAN Business Council, 2019). The negotiations focus on trade in goods and services, investment, intellectual property, dispute settlement, e-commerce, small and medium-sized enterprises (MSMEs), and economic cooperation. Final adoption of the RCEP was scheduled for March 2020 but has been postponed due to COVID-19.

**Table 1.1: Socio-economic Indicators, by the Association of Southeast Asian Nations Member States**

	GDP per capita, 2018 (USD)	Population, 2018 (million)	Gini coefficient, 2017	Unemployment (%) (various years)	Average monthly earnings of employees (USD equivalent, various years)	Health Protection			Social protection for unemployment
						UHC service coverage index (out of 100) (%)	Insurance coverage (%) (a)	Catastrophic health spending (%), 10% (b)	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<i>Brunei Darussalam</i>	30,645	0.4	-	8.7	1,147.8	≥80.0	100.0	NA	None
<i>Cambodia</i>	1,541	16.0	0.31*	0.7	182.7	55.0	37.5	10.7	Limited provisions
<i>Indonesia</i>	3,930	265.0	0.39	4.4	173.6	49.0	84.0	3.6	Limited provisions
<i>Lao PDR</i>	2,627	6.9	0.36	9.4	285.5	94.0	94.0	3.0	Yet to be implemented
<i>Malaysia</i>	11,067	32.4	0.46	3.3	765.1	100.0	100.0	0.7	Limited provisions
<i>Myanmar</i>	1,441	53.6	0.38	0.9	141.6	2.0	2.0	3.4	Yet to be implemented
<i>Philippines</i>	3,215	106.6	0.40	2.3	256.1	78.0	78.0	6.3	Limited provisions
<i>Singapore</i>	64,567	5.6	0.46	4.1	3,557.8	93.0	93.0	9.0	None
<i>Thailand</i>	7,446	67.8	0.38	0.7	489.5	100	100	3.4	Yes
<i>Viet Nam</i>	2,546	94.7	0.35	2.0	286.8	89.9	89.9	9.7	Yes

GDP = gross domestic product, Lao PDR = Lao People’s Democratic Republic, UHC = universal health coverage. Note: Data presented in the table are from the sources identified, and may not be the most updated nor from the same years. For more, detailed information on the indicators, please check the data sources, all of which are available online. (a) Population coverage; (b) Proportion of population spending more than 10% of household consumption or income on out-of-pocket healthcare expenditure. \*2016 data.

Source: Zulkhibri, M. and J.B. Sinay (2020), ‘Assessing ASEAN Economy Policy Responses in a Pandemic’, *ASEAN Policy Brief*, No. 2. 28 May. [https://asean.org/storage/2020/06/ASEAN-Policy-Brief-02\\_31-May-2020.pdf](https://asean.org/storage/2020/06/ASEAN-Policy-Brief-02_31-May-2020.pdf) (accessed on 28 October 2020).

## 2. Economic Integration and Migrant Workers

The main labour destination countries in the ASEAN region (accounting for around 91% of intra-ASEAN migrant workers) are Brunei Darussalam, Malaysia, Singapore, and Thailand (ILO, 2015a and ILO, 2020b). Cambodia, Indonesia, Lao PDR, the Philippines, and Viet Nam are the most prolific origin, or labour-sending, countries; and the largest flows occur amongst countries that share borders such as Cambodia, the Lao PDR, Myanmar, and Thailand; and Indonesia, Malaysia, and the Philippines. A substantial number of Malaysians also work in Singapore as ‘guest workers’ (Paitoonpong, 2011).<sup>7</sup>

<sup>7</sup> For example, foreign workers have assumed low-wage, ‘3D’ (dirty, dangerous, and demeaning) jobs in Singapore and Malaysia that the local populations no longer prefers to take. They also provide domestic workers so that middle-class women in Singapore can participate in the labour force. In addition, foreign workers have kept wages down and maintain the receiving countries’ competitiveness in labour-intensive industries.

A study by Harkins and Lindgren (2018) indicates that the seven AMS – Cambodia, Indonesia, the Lao PDR, Myanmar, the Philippines, Thailand, and Viet Nam – deployed more than 2.1 million migrant workers within ASEAN. Intra-regional labour migration is especially significant for Myanmar and Cambodia, which deploy 93.4% (Myanmar) and 66.8% (Cambodia) of their migrant workers to other AMS.

Many of these migrant workers engage in low- and medium-skilled occupations (such as construction workers, garment workers, fishers, and plantation labourers) under seasonal, temporary, or short-term contracts, with women constituting a disproportionate share (ILO and the Asian Development Bank [ADB], 2014). Six of the seven sending countries listed above accounted for more than 350,000 women migrant workers, representing 52% of deployed workers. In 2015, 88.3% of migrant workers from Indonesia were women, the highest share of all the AMS (ASEAN Trade Union Council [ATUC], 2020).

Regional labour migration across the AMS is triggered by several factors. Harkins and Lindgren (2018) identified the following critical factors: (i) disparities between countries in terms of socioeconomic development, (ii) political and civil strife displacing certain sections of the society (e.g. refugees from Myanmar living in Thailand) seeking local employment for survival, and (iii) demographic differences amongst AMS populations and shortages of cheap and skilled workers in higher income countries (see also Harkins, Lindgren, and Suravoranon, 2017). The political process of regional integration also plays an important role in encouraging migration within the regional grouping. Thus, the potential for intra-regional migration to contribute to the growth and development of the bloc has been frequently recognised as a key issue in the grouping's various declarations and policy statements. Facilitating the cross-border movement of skilled labour within ASEAN features prominently in the newly established AEC.

One of the AEC's central purposes is to create a single market and production base that is stable, prosperous, highly competitive, and economically integrated. It also aims to facilitate effective trade and investment involving the free flow of goods, services, and investment; the smooth movement of business persons, professionals, talent, and labour; and freer flow of capital.

The AEC Blueprint (2009–2015) calls for 'managed mobility or facilitated entry for the movement of natural persons engaged in trade in goods, services, and investments, according to the prevailing regulations of the receiving country' (ASEAN Secretariat, 2008). Recognising the challenges of increasing labour mobility, ASEAN leaders mandated the organisation to strengthen national systems of social protection through the 2004 Vientiane Action Programme and to work towards adopting appropriate measures at the regional level to provide minimum uniform social protection coverage for skilled workers in the region (ASEAN, 2004). These efforts yielded the 2007 ASEAN Social Charter and 2016 ASEAN Consensus on Migrant Workers. The ASEAN Vientiane Action Programme 2004–2010 also included measures to protect high-skilled labour following the liberalisation of services within ASEAN and mutual recognition arrangements (MRAs) to facilitate the movement of skilled workers by the end of 2008 (ASEAN Secretariat, 2005; ATUC, 2005).

The ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers was launched in 2017 at the 31st ASEAN Summit in Manila, where several social and labour protections measures were proposed (ASEAN, 2018a and ASEAN, 2018b). This was followed by a high-level, multi-stakeholder dialogue in September 2018 amongst ASEAN representatives in Manila for implementing the consensus on responsible business conduct for safe labour migration in ASEAN.

ASEAN has begun expanding labour mobility under the AEC for eight high-skill occupations, including accountancy, architecture, dentistry, engineering, medicine, nursing, and tourism. However, progress in operationalising the MRAs ‘remains painfully slow and uneven across countries and for all occupations’ (Mendoza and Sugiyarto, 2017). Consequently, greater mobility for highly skilled professionals as envisioned by ASEAN and the AEC remains far from being realised.

According to a Migration Policy Institute and ADB report, for the MRAs to be fully implemented, the laws must be translated into a clear working process of mutual recognition and registration (Mendoza and Sugiyarto, 2017). The report reveals that many governments lack the institutional capacity to implement the MRAs, while wage disparities and poor working conditions in some areas have generally discouraged professional movement.

A 2019 ASEAN Secretariat report (ASEAN, 2019) on regional integration stated that jobs requiring high skills collectively represent only 0.3%–1.4% of total employment in AMS. Most workers involved in intra-ASEAN labour migration are employed in low-skilled, labour-intensive jobs in agriculture, fisheries, domestic work, manufacturing, and construction. Harkins and Lindgren (2018) suggested that, although workers in low-skilled jobs are estimated to constitute as much as 87% of intraregional labour migration flows, ASEAN has yet to establish policies regarding them.

### **2.1. Intra-Association of Southeast Asian Nations Agreements on Migrant Workers**

Following the Vientiane Action Programme of 2005, the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers led to the establishment of an ASEAN committee on the implementation of the declaration, as well as the creation of the ASEAN Forum on Migrant Labour as a venue for regular consultations. By 2013, six AMS (Indonesia, Malaysia, Myanmar, the Philippines, Thailand, and Singapore) had ratified the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) that provides occupational injury protection for non-national workers (Orbeta et al., 2013). However, there has been less progress with respect to other migrant worker-related conventions or bilateral social security agreements between AMS.

Despite several different efforts since 2004, many ASEAN countries still rely on bilateral memoranda of understanding (MOUs) focussing on regulating the flow of migrant labour, while clauses on welfare and social protection are mostly absent or treated as a byproduct. A recent ILO study found that, while MOUs may serve as a starting point, a formal bilateral agreement is necessary to address welfare and social security issues to ensure that provident funds and social insurance schemes are well coordinated and weighted appropriately for different jobs and worker contributions, in both receiving and

sending countries.<sup>8</sup>

With respect to Thailand's MOUs with Cambodia, the Lao PDR, and Myanmar, the study found widespread differences and determined that the MOUs were outdated (ILO, 2015b). Nevertheless, some regional trade union groupings see these MOUs as prototypes that can potentially evolve into a social protection scheme in the longer term. Under the MOUs, authorised agencies in the countries of employment are required to set up a savings fund to which migrant workers contribute 15% of their monthly wages or salary, and the accumulated contributions are refunded to them upon termination of their employment and their return to their home country (ATUC, 2020).

Pursuing specific bilateral social security agreements is not an easy task, as receiving states typically have more developed social protection and social security legislations than do sending states. Sending states are in a particularly weak position, having no leverage to negotiate unless they first improve social protection and security provisions for their own nationals at home. Since reciprocity is part of any bilateral agreement, receiving and sending states may both face political and practical constraints.

### **3. Timeline of Association of Southeast Asian Nations Efforts to Protect Migrant Worker Rights**

**2003** Association of Southeast Asian Nations (ASEAN) heads of states and governments adopt the Declaration of ASEAN Concord II (Bali Concord II), which envisages the establishment of an ASEAN Community by 2020. The ASEAN Community comprises three pillars: the ASEAN Political-Security Community, the ASEAN Economic Community, and the ASEAN Socio-Cultural Community.

**2004** The Vientiane Action Programme, 2004–2010, on protecting migrant labour, is adopted in Vientiane, Lao People's Democratic Republic on 29 November 2004. The plan calls for an 'Elaboration of an ASEAN instrument on the protection and promotion of the rights of migrant workers'.

**2007** The ASEAN Economic Community is established, envisaging full economic integration of the ASEAN Member States (AMS) and calling for the freer flow of skilled labour.

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers is adopted at the 12th ASEAN Summit in Cebu, Philippines. This declaration takes important steps to move ASEAN towards compliance with existing United Nations conventions and treaties that many AMS have already ratified. It recognises the need to share responsibilities regionally for the protection of migrant workers while also acknowledging both the differences and similarities of AMS concerns. The International Labor Organization established the Triangle Project (ASEAN Migrant Labour Forum) to support the elaboration and implementation of this declaration.

**2008** The ASEAN Committee on the Implementation of the Declaration on the

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<sup>8</sup> Some AMS have experience negotiating formal bilateral agreements with countries outside the region. For example, the Philippines already has nine such agreements in place, and Viet Nam is upgrading its national laws to enable it to commence business service agreement negotiations with Germany and Korea.

- Protection and Promotion of the Rights of Migrant Workers (ACMW) is established to support the implementation of the Cebu Declaration.
- AMS adopts the ASEAN Charter, setting forth a vision of movement of labour within the region. Amongst other things, the charter sets out ‘to create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital...’
- 2009** The ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers is formally proposed to the ASEAN Senior Labour Officials by the Task Force on ASEAN Migrant Workers, a civil society body comprising trade unions, human rights and migrant rights nongovernment organisations, and migrant worker associations. The group supports the development of a rights-based framework for the protection and promotion of the rights of migrant workers, in line with ASEAN’s Vientiane Action Plan.
- 2012** The adoption of the ASEAN Political-Security Community Blueprint promotes closer cooperation of various ASEAN sectoral bodies to expedite the ASEAN Committee on the ACMW’s work in developing an instrument to ensure that the rights of migrant workers are well protected within the region, in accordance with the laws, regulations, and policies of the AMS.
- The ASEAN Socio-Cultural Community Blueprint is adopted, providing for the protection and promotion of the rights of migrant workers and other vulnerable groups.
- 2013** The ASEAN Declaration on Strengthening Social Protection recognises migrants as a vulnerable category of workers.
- 2015** **AMS endorse the United Nations Sustainable Development Goals.**
- 2016** The ACMW Work Plan 2016–2020 is adopted. This covers four areas: (i) mechanisms governing labour mobility, such as recruitment, job placement, and reintegration programmes; (ii) social protections for migrant workers in ASEAN; (iii) the protection and promotion of the rights of migrant workers; and (iv) the labour dimension of human trafficking.
- 2017** AMS take a significant step forward in their efforts to protect and promote the rights of migrant workers by signing the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, which elaborates the rights of migrant workers and their family members, and expands the obligations of AMS, subject to national laws.
- 2018** The ASEAN Action Plan 2018–2025 is adopted to guide the implementation of the ASEAN consensus.



**Figure 1.1: An Overview of the Association of Southeast Asian Nations Consensus**

**Who is covered by the ASEAN consensus?**

**Migrant Workers**

Documented migrant workers  
Migrant workers undocumented through no fault of their own

**Families of Migrant Workers**

Family members already residing with them  
Visitation by family members not residing with them



**Which issues are covered by the ASEAN consensus?**



Education and Information



Recourse



Protection



Reintegration



Enforcement

ASEAN = Association of Southeast Asian Nations.

Source: United Nations Entity for Gender Equality and the Empowerment of Women (2017), *Women Migrant Workers in the ASEAN Economic Community*. New York, NY: United Nations Entity for Gender Equality and the Empowerment of Women. <https://asiapacific.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2017/06/aec-women-migration-study.pdf?la=en&vs=4122> (accessed 11 May 2020).

**4. Portability of Rights of Migrant Workers**

The portability of migrant workers' social security rights remains a major problem within ASEAN (Ong and Peyron Bista, 2015). Trade union organisations and civil society groups in the region have been calling for migration policies and institutions built on the recognition and portability of social protection (ATUC, 2020), and have argued that migrant workers should be able to preserve, maintain, and transfer benefits from one country's social security programme to another, as well as between localities within a country (spatial portability), between jobs, and between members of a household (social portability). Since the right to social protection and security is attached to the migrant worker, this should include the ability to maintain and access the benefits of the social protection system of the country where he or she currently works.

**Table 1.2: Social Security Coverage of Migrant Workers by Country and Branch, 2017**

Country	Medical care		Sickness		Unemployment		Old age		Work injury		Family		Maternity		Invalidity		Survivors		National workers abroad?
	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	Nationals	Non-nationals	
<b>Brunei Darussalam</b>	✓	✓* <sup>a</sup>	✓**	✓**	-	-	✓	✓*	✓**	✓**	-	-	-/✓	✓*	✓	✓*	✓	✓*	No
<b>Cambodia</b>	✓	✓	✓**	✓**	-	-	✓	✓	✓	✓	-	-	✓	✓	✓	✓	✓	✓	No
<b>Indonesia</b>	✓	✓	✓**	✓**	-	-	✓	✓	✓	✓	-	-	✓**	✓**	✓	✓	✓	✓	Yes
<b>Lao PDR</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	✓	✓	Yes <sup>b</sup>
<b>Malaysia</b>	✓	✓***	✓**	✓**	-	-	✓	✓***	✓	✓***	-	-	✓**	✓**	✓	✓***	✓	✓***	No
<b>Myanmar<sup>c</sup></b>	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Yes <sup>d</sup>
<b>Philippines</b>	✓	✓	✓	✓	-	-	✓	✓	✓	✓	-	-	✓	✓	✓	✓	✓	✓	Yes
<b>Singapore</b>	✓	✓* <sup>e</sup>	✓**	✓**	-	-	✓	✓*	✓**	✓**	-	-	✓**	✓**	✓	✓** <sup>6</sup>	✓	✓** <sup>f</sup>	Yes <sup>g</sup>
<b>Thailand</b>	✓	✓ <sup>h</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Yes
<b>Viet Nam<sup>i</sup></b>	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	-	-	✓	✓	-	-	✓	✓	Yes

Lao PDR = Lao People's Democratic Republic.

Note: \* permanent residents only, \*\* employer liability, \*\*\* separate scheme.

<sup>a</sup> Universal coverage – permanent residents; employer liability – other migrant workers (insurance-based).

<sup>b</sup> Via a labour fund.

<sup>c</sup> Not applicable to establishments with fewer than five employees. Such employees can register voluntarily.

<sup>d</sup> Voluntary contribution possible.

<sup>e</sup> For those who are not permanent residents, employer-based or employer-insured provision is available.

<sup>f</sup> This includes foreign domestic workers as well as work injury-related cases, through mandatory insurance coverage (feedback from the Senior Labour Officials Meeting Singapore, July 2017).

<sup>g</sup> The Government of Singapore provides for continued contributions to Medishield Life, even while overseas.

<sup>h</sup> Undocumented non-nationals (except those who have completed the national verification process) are covered under a separate scheme.

<sup>i</sup> 2018 position indicated here: from 1 January 2018, regular migrant workers are covered by compulsory social insurance.

Source: Olivier, M. (2018), *Social Protection for Migrant Workers in ASEAN: Developments, Challenges, and Prospects*. Geneva: International Labor Organization.

However, in the absence of bilateral agreements between sending and destination countries, these portability rights remain unrecognised (Tamagno, 2008). A large majority of migrant workers are unable to enrol in either their own national social security systems or that of the host country, or to transfer the accrued contributions or entitlements between social security systems. Migrant workers are often doubly disadvantaged because they receive less social protection both at home and in their host country.<sup>9</sup> They are also often excluded from tax-financed schemes such as social assistance programmes or social pension schemes despite contributing to the host country economy through work, consumption, and taxation. Documented workers are only entitled to a few benefits from their host country, depending upon their immigration status category (Olivier, 2018). For example, in Singapore and Brunei Darussalam, participation in the national provident funds is possible only for workers with permanent residence status (i.e. documented or registered persons) (UN Women, 2019; Pasadilla and Abella, 2012).

To compensate for this lack of protection for its large labour population working abroad, the Philippine Overseas Workers Welfare Administration operates schemes that cover overseas workers for invalidity and death risks, in which they can optionally enrol under the Philippine Social Security System.

Indonesia has one of the world's largest migrant worker communities.<sup>10</sup> In 2016, an estimated 9 million Indonesians were working abroad, the majority of whom were undocumented, and of whom half were women, mostly employed in the informal sector as domestic workers (Arisman and Jaya, 2020).<sup>11</sup> Acknowledging the plight of Indonesian migrant workers, in 2017, Indonesia enacted a new law on the protection of Indonesian migrant workers (Law No. 18/2017). In line with the 2019 Recommendations of the High-Level Political Forum, the new law reinforced policies to provide end-to-end protection to overseas workers; however, this new provision has not yet been implemented (Global Forum on Migration and Development, 2019).

With respect to health coverage, health insurance for migrant workers is mandatory in Malaysia, Singapore, and Thailand, the main migrant-recipient AMS. However, Thailand's tax-financed Universal Coverage Scheme excludes migrant workers, ethnic minorities, and displaced or stateless persons who lack a national identity document. Arisman and Jaya (2018) suggest that around half of migrant workers from Cambodia, the Lao PDR, and Myanmar working in Thailand who do not qualify for government welfare systems were obliged to take up the Compulsory Migrant Health Insurance to access public healthcare facilities because of their lack of formal immigration status. Several media sources cited

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<sup>9</sup> See also the ILO Maintenance of Social Security Rights Convention, 1982 (No. 157).

<sup>10</sup> Since 2003, the Indonesian civil society organization (CSO) Migrant Care has been helping villages hold safe migration workshops for locals about to move abroad for work, providing assistance with contracts and information about their legal rights in their destination countries and where to get help if they find themselves in trouble. Migrant Care was one of several CSOs who lobbied the government for the enactment of this new law in 2017. Although not perfect, this law provides an umbrella for further elaboration and enforcement. During the COVID-19 pandemic, this law proved useful for migrant workers returning home to seek relief support from the Government of Indonesia.

<sup>11</sup> See the authors' interview with Dr. Elcid Li on 18 August 2020. Discussions with Dr. Dominggus Elcid Li is the Executive Director of IRGSC (Institute of Resource Governance and Social Change) (2013-to current), an Indonesian think tank based in Kupang, East Nusa Tenggara, Indonesia.

in this report report that such workers have faced challenges in quickly accessing welfare services, particularly in the early stages of the COVID-19 crisis.

In Malaysia where public healthcare providers are tax-financed, the Foreign Workers Health Insurance Protection Scheme involving private medical insurers was implemented between 2011 and 2013 to reduce the government's subsidisation of migrant workers' healthcare. Similarly, Singapore obliges employers to purchase private insurance for non-permanent resident migrant workers and to bear any excess medical expenses. Migrant workers who are permanent residents in Singapore are covered under the compulsory medical savings and opt-out insurance schemes, but receive fewer healthcare subsidies than Singapore citizens. In 2015, Brunei Darussalam introduced mandatory take-up of private insurance for non-permanent resident migrant workers.

Given the imminent AEC integration, decent work conditions for migrant workers and a multilateral social security agreement as proposed in the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (or the Cebu Declaration on Migrant Workers) would be indispensable to manage intraregional migration responsibly.

#### **Box 1: Social Protection Floors**

At the 23rd ASEAN Summit in Brunei Darussalam in October 2013, the 10 Association of Southeast Asian Nations (ASEAN) leaders adopted a Declaration on Strengthening Social Protection, reaffirming their commitment to build a 'socially responsible and people-oriented' ASEAN community by establishing nationally defined social protection floors (SPFs) for all (Ong and Peyron Bista, 2015). The declaration reflects a growing regional consensus that the establishment of SPFs is fundamental to reduce poverty and inequality and promote inclusive and sustainable growth.

In support of this, a more focused 3-year programmatic project was launched in 2016, with support from the Government of Japan, in Indonesia and Viet Nam. Its objectives were increased social security coverage for workers in ASEAN Member States, and greater coverage of social security schemes, particularly amongst informal workers and migrants, through improved policies, legal frameworks, and enforcement and delivery mechanisms in Indonesia and Viet Nam (International Labor Organization, 2016).

Following the adoption of the 2016 ASEAN Consensus on Migrant Workers, despite differing levels of coverage and speeds of change, most countries are now moving towards establishing sound policy and institutional frameworks to deliver social protection effectively and efficiently. Based on the principle of universal protection, SPFs are an investment with both immediate and long-term effects on millions of lives, including enhanced political stability and social cohesion. Social protection and SPFs also contribute to economic growth by supporting household incomes and thus domestic consumption. They also enhance human capital and productivity, and empower people to find decent jobs. Consequently, they are a critical policy tool for supporting transformational national and regional development and the formalisation of economies.

Sources: Olivier, M. (2018), *Social Protection for Migrant Workers in ASEAN: Developments, Challenges, and Prospects*. Geneva: International Labor Organization (ILO); and ILO (2016), *Building an Inclusive Future with Decent Work: Towards Sustainable Development in Asia and the Pacific. Report of the Director General to the 16th Regional Meeting of Asia and Pacific, Held in Indonesia*. Geneva: ILO.

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_531409.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_531409.pdf) (accessed 8 June 2020).

## **5. Association of Southeast Asian Nations Commitment to International Treaties**

Over the years, AMS have failed to ratify or acknowledge several important international labour and human rights instruments, with some notable exceptions, such as the 1966 UN International Covenant on Economic, Social and Cultural Rights. To date, no AMS has ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102), which is the main ILO social security instrument.

As of early 2020, only two countries, Indonesia and the Philippines, had ratified the global Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which states that migrant workers' rights are to be respected without undermining state laws.<sup>12</sup> The convention recognises several different groups of migrant workers (frontier, seasonal, self-employed, seafarer, and itinerant), and comprises nine parts: scope and definitions; non-discrimination with respect to rights; human rights of all migrants; other rights of documented or regular migrants; provisions applicable to particular categories of migrants; the promotion of sound, equitable, humane, and lawful conditions in connection with international migration; the application of the convention; general provisions; and final provisions.

Even when ratified, the norms and standards embedded in these instruments have been poorly implemented. In fact, no bilateral social security agreements exist between AMS, and the level of ratification of international standards is not uniform, resulting in a persistent lack of adequate instruments or appropriate enforcement mechanisms that jeopardises the 'greater integration of the ASEAN region'.

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<sup>12</sup> On 18 December 1990, the UN General Assembly adopted a resolution guaranteeing dignity and equality to migrant workers in an era of globalisation. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families is a mechanism to monitor and measure the national agencies and actors responsible for implementing the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families articles. For an update and commentary on the status of the enforcement of this convention in ASEAN, please see Olivier (2018). The fact that only two AMS have ratified the convention is unsurprising since AMS have also failed to endorse many other similar international conventions and treaties. They likely see these conventions as a needless burden to carry and prefer to handle domestic and regional migrant workers issues in a more informal, self-regulated, and at times arbitrary manner subject to national priorities or even prejudices. In general, AMS do not appear eager to sign conventions that they do not wish to implement.

**Table 1.3: Ratification of Conventions Related to Migrant Workers by Association of Southeast Asian Nations Member States**

Country	Migrant workers' rights			Equal treatment in social protection		
	Migration for Employment Convention (Revised), 1949 (No. 97)	Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	Equality of Treatment (Social Security) Convention, 1982 (No. 118)	Maintenance of Social Security Rights Convention 1982 (No. 157)
Brunei Darussalam	...	...	...	...	...	...
Cambodia	...	...	2004 <sup>(c)</sup>	...	...	...
Indonesia	...	...	2012	1950	...	...
Lao PDR	...	...	...	...	...	...
Malaysia	1964 <sup>(a)</sup>	...	...	1964	...	...
Myanmar	...	...	...	1927	...	...
Philippines	2009 <sup>(b)</sup>	2006	1995	1994	1994 <sup>(d)</sup>	1994
Singapore	...	...	...	1965	...	...
Thailand	...	...	...	1968	...	...
Viet Nam	...	...	...	...	...	...

...: Convention not ratified, Lao PDR = Lao People's Democratic Republic.

<sup>a</sup> Only Malaysia-Sabah (also excludes the provisions of Convention No. 97, Annexes I–III).

<sup>b</sup> Excludes the provisions of Convention No. 97, Annexes II and III.

<sup>c</sup> Year of signature (yet to be ratified).

<sup>d</sup> Includes branches a–g only.

Source: Ong, C.B. and C.P. Bista (2015), *The State of Social Protection in ASEAN at the Dawn of Integration*. Bangkok: International Labour Organization Regional Office for Asia and the Pacific. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms\\_428982.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_428982.pdf) (accessed 11 August 2020); reproduced from *International Labour Organization and Asian Development Bank (2014), ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity*, pp.83–100. Bangkok; Manila: International Labour Organization and Asian Development Bank. p. 95.

ASEAN has made impressive progress over the decades, both as a cohesive regional grouping and in the way it has managed to improve the living conditions of its populations steadily through policies of peaceful development. However, the treatment of migrant workers in the region still leaves much to be desired. This is partly for economic reasons as businesses in receiving countries want to spend as little on labour as possible. Another reason is political, as governments worry about how domestic populations would respond to large influxes of migrant workers from neighbouring nations. Nevertheless, in a globalised economy in which the region has taken advantage of low-cost labour to boost its own growth, it is necessary to follow global standards of humane treatment by providing social protection and investing in the welfare of the most vulnerable sections of the population.