



Philippine Labor Migration and the ASEAN Economic Community Project¹

Center for Migrant Advocacy
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I. Introduction

The ASEAN is comprised of three pillars: ASEAN Political-Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community. These pillars work together to establish the goal of an ASEAN community. The ASEAN Economic Community (AEC) would be established by the year 2015. (DTI, 2014)

Articles 6 and 7 of the Treaty of Amity and Cooperation are the foundations for the establishment of the ASEAN Economic Community:

Article 6:

The High Contracting Parties shall collaborate for the acceleration of the economic growth in the region in order to strengthen the foundation for a prosperous and peaceful community of nations in Southeast Asia. To this end, they shall promote the greater utilization of their agriculture and industries, the expansion of their trade and the improvement of their economic infrastructure for the mutual benefit of their peoples. In this regard, they shall continue to explore all avenues for close and beneficial cooperation with other States as well as international and regional organisations outside the region.

Article 7:

The High Contracting Parties, in order to achieve social justice and to raise the standard of living of the peoples of the region, shall intensify economic cooperation. For this reason, they shall adopt appropriate regional strategies for economic development and mutual assistance.

The ASEAN Economic Community is only one of the three pillars that would complete the ASEAN Vision 2020, the other two pillars which should complement each other are Political-Security Community and Socio-Cultural Community. The AEC is being pushed first because economic stability would then help the security of the member states and would be complemented with the human rights aspect from the Socio-Cultural Community.

The leaders of ASEAN issued the “ASEAN Vision 2020” which states a “...concert of Southeast Asian nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies”. In 2003 the ASEAN Concord II was issued, that affirmed the commitment of the members for ASEAN Vision 2020. The key provision of the Concord was:

“An ASEAN Community shall be established comprising three pillars namely political and security cooperation, economic cooperation and socio-cultural cooperation that are closely intertwined and mutually reinforcing for the purpose of ensuring durable peace, stability and shared prosperity in the region.”

During the ASEAN 12th Summit in Cebu City, Philippines in 2007, the heads of the member States of ASEAN decided to accelerate the ASEAN Community to 2015 allowing for the ASEAN Economic Community (AEC) blueprint to be established, correlated to the ASEAN Vision 2020. Simply put, the four pillars of the AEC are: single market and production base, competitive economic region, equitable economic development, and integration into the global economy. (DTI, 2014)

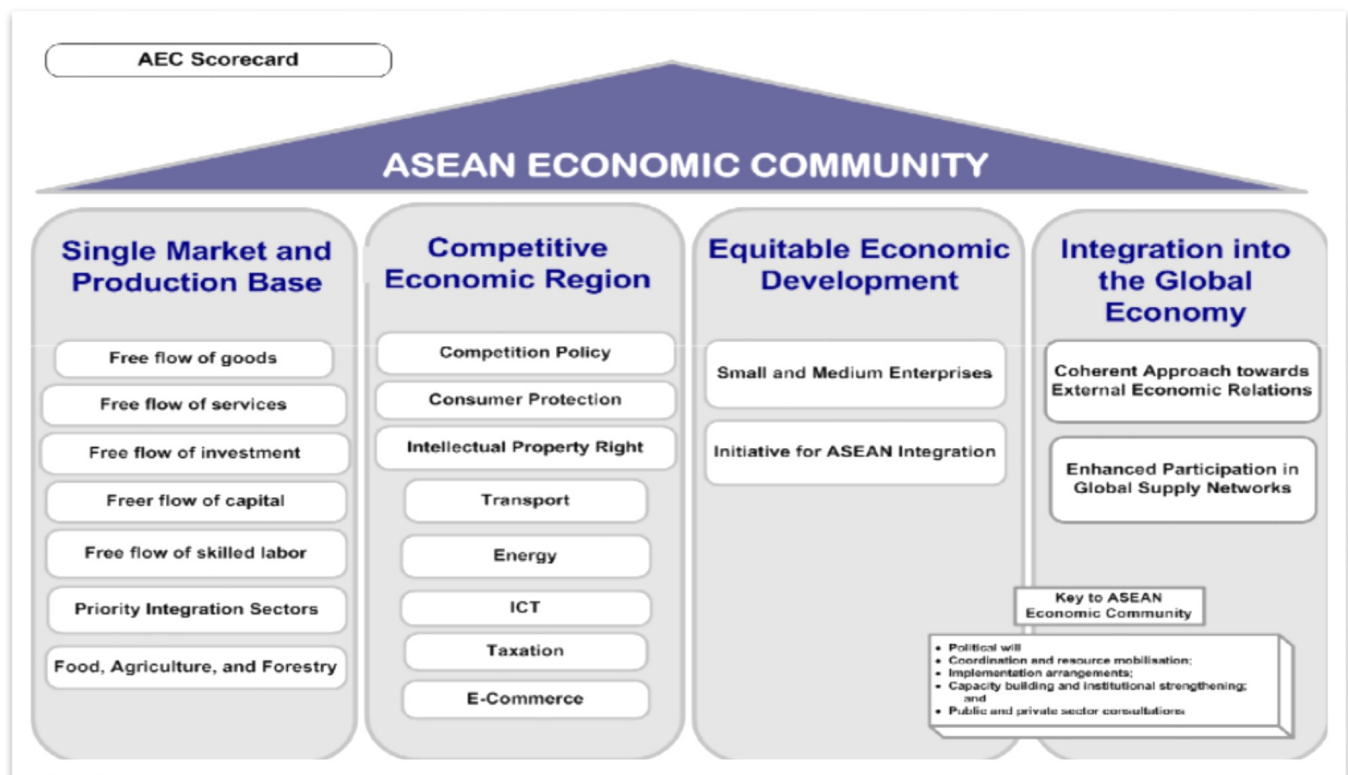


Diagram Source: (Rigueur, Implications of People Mobility and Services 2012)

This paper concentrates on the labor mobility of the AEC particularly the lack of policies towards unskilled, low skilled and irregular migrant workers. The Philippines will be the second largest ASEAN member in terms of population by 2015, with a projected population at 101 million to account for 16 per cent of the ASEAN. The Philippines' migrant workers are also mostly composed of low skilled labor (domestic workers). These domestic workers also experience exploitation and abuse from their employers, which needs to be solved if ASEAN wishes economic integration to benefit all nationals from each country.

II. Labor Mobility

The AEC proposes free labor mobility for skilled labor when in fact low skilled workers dominate the majority of worker movements in ASEAN. These types of workers are also under irregular migration status due to the lack of avenues for legal migration for them. Freer labor mobility for low skilled and semi-skilled workers could prove beneficial. A rough calculation shows that a 5 per cent increase in the number of workers in industrialized countries would yield a global welfare gain of approximately 300 billion US dollars annually. Another calculation shows that 3 per cent increase of the labor force of rich countries supplied by poorer countries on a temporary rolling basis, with each individual staying between 3 to 5 years, would increase the welfare of developing countries by 200 billion US dollars. Developed countries that would increase low skilled labor force by 3% per cent would raise their residents average welfare by 382 US dollars per person most of which would come from liberalizing the movement of low skilled labor. This shows that the liberalizing of low skilled workers has a bigger impact than that of liberalizing skilled workers.

Since the movement of low skilled workers is dominated by irregular migration, better legal migration provision to low skilled workers would improve migration outcomes. (Orbeta, 2013)

The AEC is limited to liberalizing skilled workers due to the fact that countries of destination prefer immigration of highly skilled workers. Asian countries send more skilled migrants to OECD (Organization for Economic Cooperation and Development) countries and less skilled workers to other Asian countries. The Philippines shows to have high percentages in low skilled bilateral ASEAN migration flows: it has 100 per cent in Cambodia, 64.7 per cent in Indonesia, 96 per cent in Malaysia, 51 per cent in Singapore, 54 per cent in Vietnam, 34.1 per cent in Lao PDR, and 41 per cent in Thailand. (Orbeta, 2012)

Proportion of low skilled bilateral ASEAN migration flows:

Source/Destination	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Viet Nam	SE Asia, Others	SE Asia, Total	Rest of World	Total
Cambodia	-	100.0	100.0	84.7	81.8	50.8	89.5	100.0	86.8	89.5	69.4	71.5
Indonesia	81.8	-	51.1	98.7	78.3	73.9	64.5	75.6	95.6	96.2	69.4	83.5
Lao PDR	100.0	100.0	-	84.6	84.4	51.0	91.3	100.0	90.3	91.4	71.6	74.5
Malaysia	18.8	72.9	30.7	-	53.0	76.8	48.0	57.8	82.1	76.8	46.3	69.1
Philippines	100.0	64.7	34.1	96.0	-	51.0	41.4	54.5	83.1	89.5	44.6	47.1
Singapore	55.5	61.6	33.3	79.6	49.4	-	73.5	59.1	97.2	79.2	48.0	57.5
Thailand	85.9	62.2	74.1	96.1	49.7	51.1	-	75.5	87.4	86.3	57.2	66.4
Viet Nam	86.3	77.1	81.0	83.5	69.8	50.9	68.0	-	97.9	82.6	59.7	62.1
SE Asia, Others	56.5	98.7	88.3	90.3	77.9	47.4	81.4	97.4	-	82.3	64.3	73.0
SE Asia, Total	85.9	79.6	80.9	96.9	72.9	75.4	82.7	73.2	86.1	87.1	55.7	65.0
Rest of World	52.0	75.1	52.0	83.3	68.6	68.7	66.8	57.8	79.1	71.1	73.8	73.1
Total	84.2	76.1	70.3	95.4	69.6	73.5	75.6	66.7	83.0	82.7	72.3	72.1

Graph source: (Orbeta, 2013)

With the number of low skilled workers around the ASEAN region especially those from the Philippines, there should be blueprints for these workers if ASEAN wishes to integrate fully. With regards most of these low skilled workers being of irregular migration status, the AEC should also facilitate the issuance of visa and employment passes for low skilled workers. Also, most of these workers are part of the service sector such as the plantation workers and domestic workers. Particularly the latter, they are recruited through agencies or directly by employers. In many instances, they are given work contracts in the country of origin which are replaced by another contract, usually inferior in terms, in the country of destinations. And because they are migrants who work in private households, in which they usually live with their employers, cases of exploitation and abuse appear.

AEC Blueprint of Skilled Labor

AEC Blueprint of skilled labour

A5. Free flow of skilled labour

33. In allowing 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 is working to:

Action

i. Facilitate the issuance of visas and employment passes for ASEAN professionals and skilled labour who are engaged in cross-border trade and investment related activities.

34. In facilitating the free flow of services (by 2015), ASEAN is also working towards harmonization and standardization, with a view to facilitate their movement within the region.

Action

i. Enhance cooperation among ASEAN University Network (AUN) members to increase mobility for both students and staff within the region;

ii. Develop core competencies and qualifications for job/occupational and trainer skills required in the priority services sector (by 2009); and in other service sectors (from 2010 to 2015); and

iii. Strengthen the research capabilities of each ASEAN Member Country in terms of promoting skills, job placements, and developing labour market information networks among ASEAN Member Countries

Intra-ASEAN Migration Stocks. 2010. (Imson. BWI Presentation. May2014)

Country	Emigration	Immigration
Brunei D.	9,313	120,578
Cambodia	53,722	320,573
Indonesia	1,518,687	158,485
Lao PDR	82,788	10,134
Malaysia	1,195,566	1,882,987
Myanmar	321,100	814
Philippines	335,407	9,096
Singapore	122,254	1,162,960
Thailand	262,254	448,218
Vietnam	221,956	21,511
Total	4,123,514	4,135,356

Malaysia and Singapore receive 80% of intra-ASEAN immigration. Indonesia and Malaysia send 2/3 of intra-ASEAN emigration. (Imson. 2014)

Singapore

Singapore has the highest dependence on foreign workers. Migrant workers comprised 34.7% of Singapore's labor force in 2010. The country has a dual track policy on foreign labor and unrestricted inflow for the highly skilled and a managed inflow for the lower skilled workers. This illustrates that labor mobility for low skilled workers is less liberalized than that of skilled workers, although most workers are representative of low skilled labor.

Foreign talents, as Singapore refers to highly skilled workers are recruited with liberalized immigration policies. This consists of eased requirements for permanent residency and citizenship. Scholarships and research fellowships are offered at tertiary institutions, improved living, cultural attractions, and tax regimes. On the other hand, low skilled workers have stricter immigration policies. They are controlled with the use of work permit levies, dependency ceilings and qualifications criteria. Low skilled workers have shorter term duration for their permits. They also require a security bond to ensure repatriation once the work permit expires. (Orbeta, 2012)

Singapore restriction on Pregnancy

Under the labor laws of Singapore, foreign workers are not allowed to be pregnant or give birth in Singapore unless married to a Singapore citizen or permanent resident. The Controller of the Work Permit is to be notified of violations. If a foreign worker violates this she loses her work permit and is deported back to her home country. (Ministry of Manpower, 2010)

There have been reports where female domestic workers were sent home because they were pregnant. Others abort their babies secretly to keep their jobs. These women became pregnant because they have developed relationships with men while in Singapore. Another possible reason is rape by the employers, which is difficult to monitor because domestic workers usually live in the private household of the employer. (Hanqing, 2010)

Thailand

Thailand has recently become more of a net receiving country than a sending country because of the rise of irregular migrants from Cambodia, Lao PDR and Myanmar (CLM countries). This was due to the influx of refugees from conflicts in neighboring countries in which Thailand responded with the policy “turning battlefields into market places” in 1988. Thailand was lacking in specified ways of migrating legally for low skilled and semi-skilled workers. But refugees are no longer the reason for flow of irregular immigrants for the following years. Local workers became uninterested in low paying jobs due to the good economic performance in the late 1980s and early 1990s and the successful high education policy. Thai businessmen had to hire irregular immigrants from neighboring CLM countries. (Orbeta, 2012)

The current governing act on foreign employment for Thailand is The Alien Employment Act or B.E. 2551. The important features of the law are; defined categories of immigrants eligible for engaging in temporary employment, a list of occupations which are allowed for migrant workers, a deportation fund, levy from employers, allow migrants to change employers and workplace, and involvement of trade unions and employers in the Committees to review and appeal employment of migrant workers. The law regulates the hiring of low-skilled and semi-skilled migrant workers from CLM countries. It also allows the authorities to enter and search workplace for irregular migrant workers without a court order. (Orbeta, 2012)

Although there has been high frequency movement of migrant workers, Thailand has developed instruments to handle them. Thailand uses something similar to Singapore’s instruments for low-skilled and semi-skilled migrant workers from CLM countries such as dependency ceiling, sector specific restrictions, and levies. The country uses border and temporary passes for regular commuters from Cambodia and Lao PDR which are payable per crossing or per week. Cart pushers and traders also have temporary passes as they cross the border several times within a day. This was made for the cross-border migrant workers, which are less costly as opposed to the visa/work permit system for the longer-term migrant workers. (Orbeta, 2012)

Thailand is still a sending country although the numbers have been declining. Remittances are still an important source of resources for low-income people. Skilled workers and low-income households dominate the flows. (Orbeta, 2012)

Malaysia

Malaysia is also categorized as both sending and receiving country but because of its dependence on contract migrant workers it has been considered more of a receiving country. An estimated 22 per cent of Malaysia’s workforce is composed of migrant workers. Low skilled workers comprise as much as 98 per cent of the flow and most of them are irregular migrants. (Orbeta, 2012)

Malaysia's international labor migration policy is not closely related to its national development strategy like that of Singapore. It uses work permits and levy to control immigration. It has bilateral agreements with sending countries. Only large FDI firms are allowed to fill a number of key posts permanently by foreigners. In the 1970s Malaysia had no mechanism for legally recruiting and employing low-skilled workers causing a high frequency of irregular migrants. Only in 1992 did Malaysia encourage legal recruitment of migrant workers. Majority of migrant workers come from neighboring ASEAN countries, Indonesia, Philippines and Thailand. Malaysia then shifted from a unilateral approach to a bilateral approach. (Orbeta, 2012)

Malaysia has a laissez faire approach for outmigration. Earlier migrants before 1990s were both for work and long-term settlement. Recently, emigrants are temporary and circular migrants. These migrant workers are in search for better opportunities as highly skilled workers. The common destinations are the US, UK, Australia, Canada, New Zealand, and Singapore. The outflow has been declining due to better economic performance at home and more restrictions in host countries. Skilled workers dominate the outflow of emigrant workers. (Orbeta, 2012)

Malaysia-Philippines Deportation of Irregular Migrants

There are a large number of irregular migrant workers in Malaysia. There have been reports of irregular migrants being caught, arrested, placed in a detention center until finally being deported back to the Philippines. These workers lose their jobs and therefore lose income for their families. There were also reports of legitimate and documented Filipino being arrested. "For instance, some documented Filipino workers were taken to detention centers were being forced to admit that they are illegal workers." The Filipino workers were allegedly abused physically during the authorities' crackdown. The Philippines lack evidence on the alleged maltreatment of Filipinos in Malaysia, but the Philippine government assures the safety of its nationals through the assistance of the Department of Foreign Affairs and will conduct further investigations of the claims. (de Leon, 2014)

The Malaysian Interior Minister Ahmad Zahid Hamidi said that foreign workers without their valid documents will be deported within seven days. Those who leave voluntarily will only receive fines for overstaying in the country. Those who resist will be detained while in the process of being deported, and will have their fingerprints scanned to make sure that they do not return to Malaysia under different names. (de Leon, 2014)

Cambodia

Cambodia is a migrant origin country. It also faces the problem of irregular migration, which is the majority of its migrants. The following cause irregular migration: facilitation of pioneers who are irregular migrants themselves, existence of brokers whose businesses utilize irregular migrations, and expensive legal recruitment using informal methods. (Orbeta, 2012)

Cambodia is a latecomer in migration management. Regulation is sporadic and limited in coverage. Public institutions do not have clear responsibilities and lack in financial and human resources. Irregular migration is also rarely covered in national and international policy frameworks. (Orbeta, 2012)

A mix of national regulation, bilateral agreements and international conventions governs labor migration. The primary national regulation is Sub-decree 57 issued in 1995 that gives the Ministry of Labor and Vocational Training (MLVT) the authority to regulate companies sending workers abroad. Second is the bilateral MOUs which the country has signed with four destination countries: Malaysia, Thailand, Korea and Kuwait. Cambodia is also a signatory on international migration agreements, eight core ILO conventions, the UN convention on the Program of all Migrant Workers and Members of their Families, the ASEAN Declaration on Protection and Promotion of the Rights of Migrant Workers. (Orbeta, 2012)

Indonesia

Indonesia is one of the nine major global worker-sending countries in Asia. Low-skilled workers dominate the flow and irregular migrants compose a substantial proportion of the migrant workers. In 1997 legal migrants to Malaysia was around 300,000 but irregular migrants was around a million. Destination countries for Indonesia are Saudi Arabia, Malaysia, Singapore, Hong Kong, Philippines, Taiwan, and Republic of Korea. (Orbeta, 2012)

The country uses private recruitment agencies for its migration management system in accordance to the primary migration law (Law 39/2004). The problem with the law is that it emphasizes deployment instead of worker protection. This critique comes from worker unions and NGOs. Others argue that worker protection is adequate from these following instruments: training and competency test, pre-departure briefing, signing of placement contract, provision of protection insurance, overseas employment identity card, services at the departure and arrival terminals, and protection institutions at the destination countries. (Orbeta, 2012)

Vietnam

There are two phases to Vietnam's deployment of overseas workers. The first phase is a centrally planned market. Second, it was restructured to a state regulated market around 1990. Overseas employment is viewed as an opportunity for job creation. (Orbeta, 2012)

The Department of Administration of Foreign Employment and Labor (DAFEL) under MOLISA (Ministry of Labour, Invalids and Social Affairs) administers the movement of migrants at the national level and a unit of the Provincial People's Committee does the same at the local level. From the early 1990s to 2000s, total flow of migrant workers reached about 350,000 and remittances about 10 per cent of export revenues. Majority of the workers are low skilled workers while a small proportion of the flow are professional and technical workers. Deployments to Japan and Korea were mostly sent as "trainees" and receiving "trainee allowance" which is only one-third of the salary of a native worker. This causes workers to flee from their employer in search for better payment, turning them into irregular migrant workers. (Orbeta, 2012)

III. Protection and Rights of Migrant Workers

What the AEC blueprint proposes is a free flow of skilled labor under the GATS (General Agreement on Trade in Services) mode 4 framework wherein the workers are mostly seen as a commodity than as human beings. These workers are not just service providers but are persons who deserve to be respected and treated with dignity. Every migrant worker should enjoy human and labor rights, skilled or low skilled. The International Labor Organization (ILO) defines “decent work” as work that entitles migrant workers fundamental human rights, the right to be protected against discrimination on the basis of sex, racial, ethnic and social origin, religion and political opinion. Workers are entitled to productive work as basis of a livelihood. They are entitled to protection against accidents, injuries and diseases at work and social security. Lastly, they are entitled to social inclusion and participation in dialogue. (ILO, 2007)

The majority of migrant workers are low skilled workers, especially domestic workers who work in private households. This makes it difficult to observe and monitor any abuse or exploitation done to domestic workers. Labor laws in many countries do not protect domestic workers; this makes them vulnerable to discrimination, exploitation, and abuse. Domestic workers are usually at risk of the following: very low pay, long working hours, no regular holidays and few day offs, insufficient food and accommodation, confinement and isolation, withholding or delaying salary payment, seizure of identification documents, harassment and violence at work including physical, psychological and sexual abuse. Most domestic workers are female. (ILO, 2007)

A good example of labor law that protects domestic workers is the “Batas Kasambahay” (RA No. 10361) in the Philippines. The law protects all domestic workers working in the Philippines. Under this law domestic workers are protected from any form of abuse from the employer or anyone in the household. Employers are required to provide basic necessities for the domestic worker such as; adequate meals and humane sleeping arrangements. Employers are required to provide appropriate rest and assistance in case the domestic has fallen ill or suffers any injury sustained during service without loss of benefits. Domestic workers have the right of privacy, access to outside communication, and the right to education and training. It also requires an employment contract between the domestic worker and employer before the service begins. (RA No. 10361, 2012) Other ASEAN members should adapt labor laws such as this to protect all domestic workers if it wishes to have an integrated community that benefits all workers not just the skilled workers.

The ASEAN has the Socio-cultural Community blueprint which covers the protection and rights of migrant workers. The blueprint aspires to promote decent work and the protection and rights of migrant workers especially women and children. This however lacks classification on whether this applies to all migrant workers including irregular migrant workers.

IV. Benefits and Challenges of AEC

Benefits

The AEC in terms of a business perspective has the following benefits: opens more regional cooperation, improves the scale efficiencies, dynamism and competitiveness between member-countries, and allows the freer movement of goods, services, investment, capital and skilled labor. Because the region will become a single market with zero tariffs on almost all goods by 2015, it will give incentive to foreign investors. ASEAN aims to remain engaged with the global economy through regional-level free trade agreements. Investments in emerging markets is more desirable than investing in the US or Europe. These investments will bring capital for some ASEAN countries. ASEAN will become a tourism opportunity as more people travel in the region. Governments have been trying to upgrade facilities such as museums and convention centers for MICE (Meetings, Incentives, and exhibitions) tourism. With the regional cooperation, Thailand and Singapore who are experienced in MICE tourism will give assistance to those with weak MICE experience. Lastly, although a difficult process, internationalization of health care will allow better health services across the region. (Runckel)

Challenges

But the AEC comes with problems. It is difficult to integrate the economy of 10 different countries especially when a country's own individual economy is unstable. Member-countries of ASEAN are not on the same level of economic growth. The diversity of economy give different perceptions of the benefits and costs the AEC would bring. Large economies such as Indonesia felt less need to achieve economies of scale through trade openness. Smaller ASEAN economies on the other hand would gain more from a free entry into an integrated regional market. (Chia, 2013)

An article from Rappler written by David Lozada expresses the cultural tensions within the ASEAN region. There are issues of unresolved differences between member-countries and the lack of a single ASEAN identity. The openness of culture within the ASEAN region does not seem to be present. There does not seem to be a singular identity even at the local level. There are tensions between different cultures in Malaysia. The Philippines faces the same problem between the government and the Muslims of Bangsamoro. Lozada criticizes the ability of the AEC to be successful due to the lack of identity as an ASEAN region and the lack of tolerance towards different cultures. How can we expect trade networks and businesses to work together without the two? (Lozada, 2013)

There seems to be a problem of transparency for the AEC. Most people who are aware of the changes it will bring are just big corporations, employers and a select group of organizations. What is lacking is the information given to the other constituents who are not included in their discussion, including migrant workers who are affected in the blueprint of the AEC. If the ASEAN wishes to make an effective and successful blueprint they should be more transparent with information on their projects to all constituents. It is also apparent that the three pillars are compartmentalized rather than unified. Although they complement each other, the community council for the pillars should closely work together to better apply that human rights for migrant workers should be side by side with plans in the AEC.

V. Recommendations

Promote free flow of low skilled workers not just high skilled workers

1. Facilitate the issuance of visas and employment passes for low skilled ASEAN nationals as they compose the majority of migrant workers.

Promote strategies for effective return and reintegration as well as sustainable alternatives for migrant workers (4th ASEAN Forum on Migration Labor October 2011)

2. Availability of programmes for skills trainings, pre-departure and post-arrival orientations and return and/or reintegration support offered by ASEAN member states.
3. Provide incentives for returned migrant workers; absence of penalty for irregular migrant workers, tax exemption of import duties for tools and equipment to be used by migrant workers
4. Ensure that sustainable economic reintegration policies and strategies are evidence-based, market-demand/need based and gender sensitive.
5. Ensure that return and repatriation programmes are effective, sustainable and rights based, and with the involvement of tripartite partners and civil society organizations ASEAN Socio-Cultural Community promotion of the protection and rights of migrant workers should include the families of these workers.
6. Provide access to legal support and essential services, including consular services for migrant workers and members of their families

Promote effective monitoring and complaint mechanisms (5th ASEAN Forum on Migration Labour October 2012)

7. Regulate recruitment agencies and practices by laws, regulations and policies that clearly define the migration cost structures in ASEAN Member-States
8. Effectively monitor recruitment agencies and practices in ASEAN Member States with clear mechanisms, heavy penalties for infringements and positive ratings for ethical recruitment agencies; communities, tripartite partners, civil society, and other stakeholders should be involved towards effective monitoring
9. Develop and implement a licensing system of recruitment agencies and where applicable, an accreditation system of foreign employers of direct recruitment agencies to effectively monitor their practices in ASEAN Member-states.

Adopt and implement a rights-based, gender-sensitive binding protection instrument for all migrant workers and their families in ASEAN.

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