

Social protection for migrant workers in ASEAN: Developments, challenges and prospects

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PART I

ASEAN Community perspectives:

**Overview of ASEAN Frameworks
and commitments to social
protection and extension to
migrant workers**

ASEAN Community perspectives: Establishment of the ASEAN Community

- ▶ To create a single market and production base ... 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 (ASEAN Charter)
- ▶ Restrictive scope of beneficiaries of the free/facilitated movement framework: ASEAN AEC Blueprint foresees free movement of **professionals and skilled labour**, and emphasises certain **priority sectors**
- ▶ Enhanced social protection as a means to protect ASEAN peoples against negative effects of regional integration

Enhancement of social protection

- ▶ ASEAN Socio-Cultural Community (ASCC) Blueprint (2009):
social welfare and protection a key characteristic
- ▶ 2013 ASEAN Declaration on Strengthening Social Protection:
Equitable access, gradual extension, progressive realisation
 - Everyone [...] at risk, [including] migrant workers, and other vulnerable groups, are entitled to have equitable access to social protection that is a basic human right
- ▶ ASEAN Community Vision by 2025, and the Regional Framework and Plan of Action for implementing the Declaration
 - The Plan of Action has maintained migrant workers as part of the list of vulnerable groups

Protection of migrant workers: social protection and related perspectives

- ▶ ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers (AIMW) mandated – slow progress
- ▶ Bilateral agreements and national legislation make insufficient/no provision
- ▶ Up to 60% of workers in ASEAN fall within the informal sector with little or no social protection

Steps towards the development of an ASEAN instrument

- ▶ **ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (the Cebu Declaration; DPPMW)**
 - Important contribution by MW to countries of origin and destination
 - Legitimate concerns of countries of origin and countries of destination; co-operation important
 - Fundamental rights of migrant workers and their families already residing – Emphasis on protection and promotion of rights
 - Not implying the regularization of the situation of migrant workers who are undocumented

Subsequent institutional framework and operational activities

- ▶ ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), which reports to the Senior Labour Officials Meeting (SLOM)
- ▶ ASEAN Forum on Migrant Labour (AFML) – Recommendations:
 - Speedy development of AIMW, to be compliant with international human rights and labour standards and be legally binding
 - Bilateral and multilateral agreements providing for portability of social security benefits and better implementation of existing schemes
 - Cooperation between the countries of origin and destination in providing assistance to migrant workers with health concerns

Subsequent institutional framework and operational activities

- ▶ ASEAN Labour Ministers' Work Programme 2016–2020 and SLOM (Senior Labour Officials Meeting) Work Plan 2016–2020
- ▶ ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Work Plan 2016–2020: finalisation of instrument (2016–2017) and social security portability study (2018)
- ▶ **Three major outstanding issues remain:**
 - The legal status of the document – i.e. whether it should be binding or not;
 - Inclusion of family members of migrant workers; and
 - Treatment of irregular migrant workers

Further conclusions

- ▶ Priority is given to the Cebu Declaration and the AIMW
- ▶ Both social protection itself and the social protection of intra-ASEAN migrant workers are essentially a human rights issue
- ▶ There is a need to develop a regional standard-setting instrument, taking on board the SP Regional Framework and Plan of Action, as well as the respective workplans
- ▶ Correlation between free/facilitated movement and social protection of migrant workers
- ▶ Social protection in the case of migrant workers who are not subject to a free movement regime – distinguish between regular and undocumented MWs

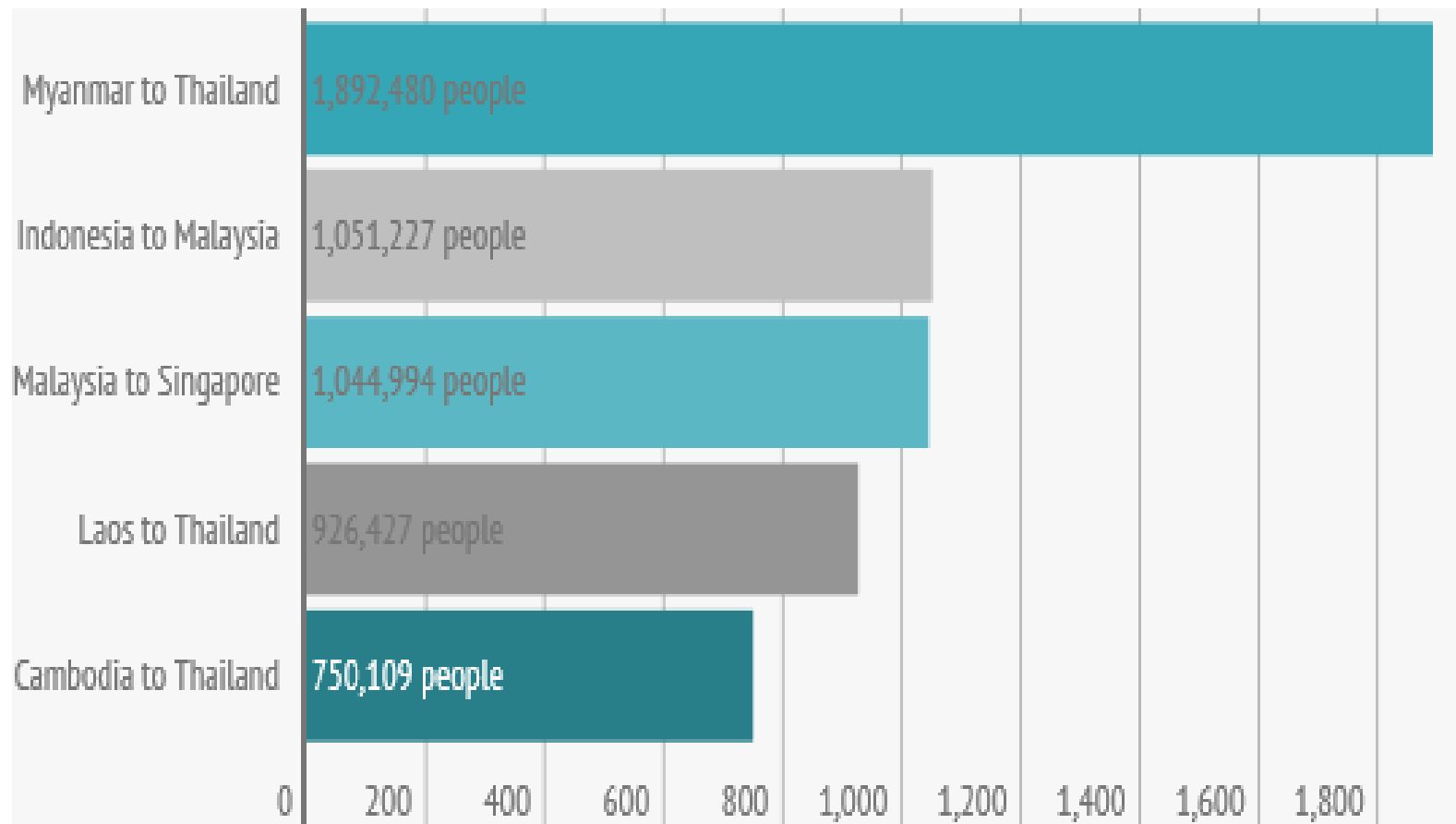
PART II

Intra-ASEAN labour migration: characteristics and trends

INTRA-ASEAN LABOUR MIGRATION: CHARACTERISTICS AND TRENDS

- Between 1990 and 2013, intra-ASEAN migration increased from 1.5 million to 6.5 million. About 87 per cent of migrant workers in ASEAN are either unskilled or low-skilled. (Migration Policy Institute, 2013)
- Malaysia, Thailand and Singapore are the destinations of 91 per cent of intra-ASEAN migrant workers – Malaysia and Thailand get 35 per cent each and Singapore 21 per cent. (Migration Policy Institute, 2013)
- Indonesia: 500,000 migrant workers deployed each year; 6.5 million TKIs officially working overseas in 142 countries
- Primarily of an inter-regional nature: several drivers
- Extensive impact of remittances

Source: A 'Freer' Flow of Skilled Labour within ASEAN: Aspirations, Opportunities, and Challenges in 2015 and Beyond, by Guntur Sugiyarto and Dovelyn Rannveig Mendoza, December 2014, International Organisation for Migration and Migration Policy Institute



PART III

Challenges faced by ASEAN migrant workers

Some challenges/shortcomings

- ▶ "In the majority of the world's countries, including many ASEAN members, the legislative barriers limiting migrant workers' access to social security benefits are compounded by the fact that social security systems cover only part of the labour force. Moreover, in some countries, migrant workers are often employed in sectors of the labour market that either are not covered by social security or in which compliance with social security laws is poorly enforced. Even when migrant workers are employed in covered sectors and social security laws are enforced, irregular migrant workers are usually disqualified from social security benefits due to the fact that they are undocumented." (Tamagno)

Legal barriers

- ▶ A worker's specific immigration status may make them ineligible for accessing benefits (compare: permanent residents versus contract workers versus undocumented workers)
- ▶ A social security law may exclude MW generally or specific categories of non-nationals (e.g., family members); social assistance largely restricted to citizens and, at times, permanent residents
- ▶ Absence of bilateral social security agreements, providing for equality of treatment; bilateral labour agreements make insufficient provision

Challenges related to labour market status

- ▶ MW's access to social security benefits compounded by fact that social security systems cover only part of labour force
- ▶ MW often employed in sectors of labour market that are not covered by social security (e.g., domestic workers), or in which compliance is poorly enforced
- ▶ Informal workers and irregular workers are invariably excluded, but some new developments are discernible (e.g., Thailand)

Administrative practice, immigration policy, language and related obstacles

- ▶ Impact of (a) certain documentation required for access – e.g., passports; and (b) registration and contribution payment by, e.g., the employers
- ▶ Restrictions on changing employers
- ▶ MW whose employment has terminated are forced to leave within a short period of time
- ▶ MW who return home may only be able to draw lump sum, not regular, payments

Administrative practice, immigration policy, language and related obstacles

- ▶ Some ASEAN countries have adopted alternative measures for MWs social security coverage
 - Voluntary coverage – e.g., Malaysia
 - Even regular (or regularised) MWs may be exposed to less beneficial treatment in social security terms, in comparison with nationals
 - Exclusion of MW from national health insurance
 - Reduction of public subsidisation in health care
 - Establishment of separate but less beneficial schemes
- ▶ MW may lack equality of treatment as regards accident compensation

Other shortcomings

- ▶ Maltreatment in host country: non-recognition of or lack of enforcement of labour rights
- ▶ Until recently, little focus on social security for migrants in ASEAN
- ▶ Not covered by social security system of host or home country:
 - Lack of extra-territorial application of domestic laws
 - Nationality and/or residence requirements
 - Contribution period required for long-term (e.g., retirement) benefits
 - Work in the informal economy
 - Documentation and other administrative barriers

Other shortcomings

- ▶ Discrimination in laws and practice: both countries of origin and destination countries
- ▶ Social security portability arrangements seem to be either completely lacking or inadequately developed
- ▶ Despite important exceptions, the extension of social security protection by countries of origin to their own migrant workers may yet have to develop

Other shortcomings

- ▶ National labour, migration and related policies, as well as associated legal frameworks, do not capture the social protection plight of migrant workers and their families sufficiently
- ▶ Inadequate regulation of:
 - Exit arrangements (including regulation of private recruitment agencies)
 - Protection while abroad
 - Arrangements for returning migrants
- ▶ Bilateral labour agreements and memoranda of understanding make limited provision for employment protection while largely ignoring social security protection of migrant workers

Other shortcomings

- ▶ One or more multilateral arrangements at the regional level are, despite the world-wide eminence of such arrangements, sorely lacking in Southeast Asia, despite the emphasis in core regional instruments on regional integration and promoting the welfare of peoples of the Region
- ▶ International labour and human rights instruments have rarely been ratified, while norms and standards embedded in these instruments are poorly implemented

Some conclusions

- ▶ MW are doubly disadvantaged because they receive less social security at home and in the host country
- ▶ To compensate for this, for example, Overseas Filipino Workers (OFW) are covered for invalidity and death risks by the Philippine Overseas Workers Welfare Administration (OWWA) schemes and can optionally enrol under the Philippine Social Security System (SSS)

Some conclusions

- ▶ Institutional arrangements and supporting mechanisms to assist Southeast Asian migrant workers when leaving, during sojourn in the destination countries and upon return, have been established in many ASEAN countries of origin
 - However, with some exception they may be regarded as fragmented and inordinately composed; the efficacy of their operations and impact still has to be evaluated
 - The large majority of MW still are not allowed to enrol in their own national social security systems or that of the host country, or they cannot transfer the accrued contributions or entitlements between social security systems (i.e.: lack of portability)

PART IV

ASEAN Member States: Legal and policy overview

Legal and policy overview

- ▶ Social security coverage of MW over a wider range of social security benefits has expanded considerably
- ▶ Yet several ASEAN Member States have developed separate but inferior regimes for the coverage of migrant workers, in particular unskilled and lower-skilled migrant workers
 - These separate schemes provide protection which is less beneficial in comparison with that available to nationals, and at times also higher skilled non-nationals

Legal and policy overview

- ▶ ASEAN countries have been slow to adopt UN and in particular ILO instruments, which provide for social security protection as regards migrant workers; compliance with the standards embedded in these instruments has often been weak
- ▶ Following concerns expressed by international supervisory and investigative bodies, some ASEAN Member States have responded by allowing certain migrant worker categories increased access to certain social security benefits
- ▶ Overall ASEAN objectives, including regional integration on the basis of equal treatment, are not being adequately and actively pursued

Legal and policy overview

- ▶ Six out of the 10 ASEAN Member States have introduced measures to provide some social security protection to their own workers abroad, invariably strengthened by an extensive raft of supporting measures, including a supportive, dedicated institutional and operational framework
 - Coverage extension has been achieved via the establishment of welfare funds and/or compulsory or voluntary contributions to existing and/or special social security schemes of the country of origin
 - However, despite their importance, these schemes invariably extend protection, which is inferior to those provided to national workers in the countries of origin

Legal and policy overview

- ▶ Several ASEAN MS are increasingly using bilateral agreements and MOUs to ensure increased social security protection of their workers abroad; some countries (e.g., Philippines) have been effective in achieving this via dedicated bilateral social security agreements
- ▶ Social security entitlement and access via a multilateral arrangement can even have greater effect
- ▶ Both bilateral and multilateral arrangements can be developed incrementally, to allow for the flexibility needed by the concrete context of countries and their social security systems

Legal and policy overview

- ▶ Several factors impede the extension of social security coverage to MW – e.g.:
 - Treatment received in destination countries (see the moratorium imposed by certain countries of origin)
 - Legal restrictions of application scope of protective legislation
 - Factors impacting directly and indirectly on MW –
 - Exclusion or exemption of categories of workers from protection (in particular domestic workers), or of smaller establishments;
 - Inability of MW to meet the eligibility criteria for accessing certain social security benefits, in particular long-term benefits (e.g., old-age pension);
 - Inadequate time to finalise social security benefit payments upon termination of employment;
 - Large-scale absence currently of portability arrangements in ASEAN, with some notable exception, both under the prevailing legal systems of the country of destination and the country of origin, and in terms of bilateral arrangements between the countries concerned

Legal and policy overview

- ▶ Large variety of measures impact on access to social security benefits for various MW categories
 - Migrant status (immigration category) of MW
 - Access to the national framework of protection in host country or to more restricted regime of a dedicated MW scheme in that country
 - Falling within an excluded or exempted class of employees, or establishments
 - Voluntarily contribution if membership of (national) scheme is not compulsory
- ▶ Needed and important are therefore: overhauling, streamlining and simplifying the overly migrant category approach to social security benefit entitlement; and consolidating the various avenues of possible access to social security benefits for migrant workers

PART V

Pointers for the development of a more streamlined approach

International instruments

- ▶ Important international standards and guidelines
 - ILO Conventions and Recommendations & UN Conventions
 - ILO Multilateral Framework on Labour Migration
 - UN ECOSOC General Comment No 19 on the right to social security (2008)
 - ILO Recommendation 202: social protection floor to be extended to “all residents” (“soft law”)

International instruments

- ▶ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (UN Migrant Workers Convention)
- ▶ ILO Migration for Employment Convention (Revised), 1949 (No. 97) (see also accompanying Recommendation 86 of 1949)
 - See also accompanying Recommendation 86 of 1949
- ▶ ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
 - See also accompanying Recommendation 151 of 1975

International standards

- ▶ Equal treatment (with nationals)
- ▶ Reciprocity an important consideration
- ▶ Urgent medical treatment – also irregular migrants
- ▶ Human rights approach – vulnerable status of MW; prioritisation of their plight
- ▶ Nuanced comparative experiences world-wide – trend towards affording enhanced protection to regular and longer-term migrant workers, on the basis of distance principles–
 - Lawful residence
 - Lawful employment
 - Means of subsistence criteria

International standards

- ▶ Impact of Free Trade and Free Trade in Services instruments – e.g. AFAS (ASEAN Framework Agreement on Services) – in relation to national social security systems
 - Most Favoured Nation (MFN) principle – MS have to give equal treatment to service suppliers of different MS, including services aimed at the supply of social security
 - National Treatment principle – may be of assistance to a temporary MW who contributes to the social security system of a host MS

International standards

- ▶ Six ASEAN MS have ratified the ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No 19) – this emphasises their being bound by the (equal treatment) provisions of this Convention –
 - This provides an opportunity to start with ensuring occupational working injury protection for migrant workers at least in six ASEAN countries, and
 - Constitutes the basis for inclusion of this risk category in bilateral agreements involving any of the States and in principle also a multilateral agreement

Unilateral (social security) arrangements: receiving country

- ▶ Remove nationality discrimination, in view of regional integration and free movement agendas obtaining in ASEAN
- ▶ Revisit overly strict immigration law and policy frameworks
- ▶ Use the significant scope that exists for the cross-border payment of benefits and the provision of social security services

Unilateral (social security) arrangements: country of origin

- ▶ Unilateral arrangements have developed largely in response to absence of adequate social security coverage in host countries and the absence of tailored bilateral agreements
- ▶ Various measures:
 - Constitutional guarantees and statutory frameworks facilitating the protection of migrant workers abroad – such as the 1987 Constitution of the Philippines and the Migrant Workers and Overseas Filipinos Act of 1995
 - Provisions in bilateral treaties providing for continued coverage of certain categories of migrant workers in the social security system of the labour-exporting country – e.g., the India-Belgium agreement of 2006

Unilateral (social security) arrangements: country of origin

► Various measures (cont)

- Establishment of Special Overseas Workers Welfare Funds by national and even (in the case of India) state governments, extending protection to workers and at times also their families – e.g., India, Philippines and Sri Lanka
- In principle compulsory affiliation (e.g. Philippines; Sri Lanka); or voluntary affiliation in national social insurance schemes
- Measures/schemes supporting the flow of remittances and social insurance contributions to the sending country
- Exportability of social security benefits and provision of related services (e.g., medical care) abroad

Unilateral (social security) arrangements: country of origin

- ▶ These extension mechanisms are often supported by a range of complementary measures (Van Ginneken; Vonk & Van Walsum)
 - Dedicated emigrant Ministry and/or specialised statutory bodies to protect the interests of their citizens/residents in the diaspora (e.g., India, Philippines, Bangladesh, Sri Lanka, Nepal)
 - Information on recruitment contracts and consular support
 - Support services to migrant workers at three stages: pre-departure, at destination (i.e., in the host country) and upon return (e.g., via return settlement programmes)
 - Lobbying for the protection of migrant workers

Range of arrangements: Philippines

- ▶ Regulates overseas recruitment
- ▶ Information sharing
- ▶ Provides some protection and representation (through a migrant welfare fund)
- ▶ Seeks to understand migrants' needs
- ▶ Charges fees to migrants, their employers and recruitment agencies as fund raising, and developing partnerships with the private sector and NGOs
- ▶ September 2014: bilateral agreement with Germany – to benefit 50 000 workers
 - Totalisation of benefits etc.

Unilateral (social security) arrangements: country of origin

- ▶ Thus: effectively used, in particular by Philippines, Indonesia and Thailand
- ▶ Limitations of unilateral measures – these remain measures of last resort
- ▶ See various examples of unilateral arrangements, but also their shortcomings – e.g., limited contributions and benefits

Bilateral treaties and MOUs

- ▶ Principled aims: to regulate labour migration flows, extend employment rights, remove or minimise restrictions on access to social security (personal entitlement which follows the worker, irrespective of geographical location)
- ▶ Labour agreements and MOUs:
 - Increasingly extensive use (e.g. Philippines)
 - Shortcomings
 - Focus mainly on regulating flow of migrant labour
 - Welfare/social (security) protection absent or merely a by-product

Bilateral treaties and MOUs

► Social security agreements (SSAs)

- Together with multilateral agreements, this is world-wide the core intervention for extending social security protection to migrant workers
- First such agreement in 2004; today 2000+ in total
- Southeast Asia: limited use made of such agreements
 - Mostly restricted to agreements with countries outside Asia (e.g. agreements concluded by Philippines; India)
 - To date, no bilateral social security agreements with countries within ASEAN

Bilateral treaties and MOUs

- ▶ Particular challenges within the Asian context (Tamagno)
 - Asymmetrical nature of, for example, provident funds and social insurance schemes (retirement)
 - Administrative and technical capacity may be lacking in less developed countries
- ▶ General challenges
 - Principle of reciprocity – i.e. home and host countries should extend same protection on basis of reciprocity and equality
 - Multitude of bilateral agreements create different entitlements for different categories of migrant workers – common standards may be needed
 - There may be a need to incrementally develop the scope and content of these agreements

Bilateral social security agreements

- **Core elements of bilateral SSAs and value of important internationally recognised cross-border coordination principles**
 - Equality of treatment
 - Determination of applicable legislation
 - Maintenance of acquired rights
 - Totalisation/aggregations of insurance periods
 - Portability of benefits
 - Pro-rata sharing of benefit liability
 - Administrative cooperation

Multilateral arrangements and agreements

- ▶ Central aim: standards and principles at regional level informing bilateral and unilateral arrangements (Baruah & Cholewinski)
- ▶ Also: these agreements serve/are expression of regional integration and a recognition of intra-regional migration
 - Important: World-wide evidence that more preferable arrangements for MW from a region (e.g., ASEAN) than for MW from elsewhere are possible
- ▶ These agreements reflect internationally recognised social security cross-border coordination principles

Multilateral arrangements and agreements

- ▶ World-wide examples:
 - European Union (since 1958): Regulation 883/2004
 - Caribbean countries: Caricom Agreement on Social Security
 - Mercosur
 - Ibero-American Agreement on Social Security (Latine American and 2 European countries)
 - West Africa (ECOWAS), East Africa (EAC) and Southern Africa (SADC)

Multilateral arrangements and agreements

► Other examples

- Gulf Cooperation Council (GCC): Unified Law of Insurance Protection Extension for GCC state citizens working in other GCC countries (2006): has resulted in better pension protection and greater labour mobility

► Asian examples?

- See ASEAN above; 2005 Baku Declaration

Multilateral arrangements and agreements

► Challenges

- Time-consuming to develop
- Political determination
- Freedom of movement principle
- Prohibition of nationality discrimination principle
- Institutional capacity

► Phased/incremental approach possible

- Types of schemes covered
- Types of benefits provided
- Categories of persons covered
- Countries included
- Social security principles involved

Multilateral arrangements and agreements

- ▶ "The development of a comprehensive network of ASEAN social security agreements – ideally in the form of a multilateral agreement – may take time. For most ASEAN countries, even the conclusion of the first social security agreement may take time. However, unless the process is begun, it will never be completed, and most ASEAN migrant workers will remain without social security protection...the greater integration of the ASEAN region...will be severely impeded." (Tamagno, 2008)

PART VI

Conclusions

Conclusions: the need for synergy

- ▶ Recognising but regulating the superimposition of, and interaction between, immigration law on labour law and social security entitlements of migrant workers
 - Operation of important guiding principles, including lawful residence, means of subsistence text; lawful employment; recognition of overarching human rights framework
 - Qualify strict framework of immigration provisions – e.g., to allow sufficient time to finalise social security claims
- ▶ Complementarity of unilateral, bilateral and multilateral arrangements
 - Incorporation of unilateral arrangements in bilateral agreements
 - Adopting multilateral agreements to set regional standards for bilateral treaties

Conclusions: the need for synergy

- ▶ The need for an integrated labour law/social security approach
 - At the national level: see, for example, the 2011 EU Single Permit Directive
 - At the regional level: deal with silo approach of labour agreements, either by expanding same to fully incorporate social security protection, or by developing streamlined and aligned social security agreements

Conclusions: the need for synergy

- ▶ Adopting overarching regulatory mechanisms
 - Adoption and implementation of international and regional instruments and standards
 - Appropriate legal framework which mandates and regulates unilateral measures, and the adoption and domestic application of bilateral and multilateral arrangements; and, importantly, for these agreements to take precedence over provisions in the laws
- ▶ Suitable institutional mechanisms to facilitate implementation, monitoring and evaluation
- ▶ Consider extension of social assistance support to at least certain MW categories

Conclusions: the need for a varied approach

- ▶ Focus on the following (Van Ginneken):
 - Providing access to social security coverage for migrants in the country where they work, following review of existing national legislation;
 - Provision of social protection for family members who remain in the country of origin, and to protect the existing (social security) rights of migrant workers in that country
 - Improving the portability of workers' occupational social security and retirement benefits
 - Developing different forms of social protection for migrant workers who are uncovered by formal social security schemes in host countries

Conclusions: international instruments

- ▶ Consider carefully the adoption and implementation of core international instruments relevant to portability (even if not adopted), and consider in this regard in particular the following, relying also on technical advice of the ILO, etc.:
 - The complexities created by the implications flowing from principles and criteria flowing from trade in services agreements, impacting on professionals/business persons, but also temporary migrant workers, and social security schemes themselves (e.g., Most Favoured Nation (MFN) and national treatment principles, embedded in e.g. AFAS)
 - With reference to comparative practice, reliance on key principles such as lawful residence, lawful employment and means of subsistence criteria
 - Coordination principles (including portability principles) embedded in international instruments and applied in several multilateral agreements
 - Ensure **compliance with standards embedded in ratified international instruments** – e.g., compliance with ILO Equality of Treatment (Accident Compensation) Convention – see the Thai and Malaysian experience

Conclusions: ASEAN considerations

- ▶ Appreciate the rationale for cross-border access to and portability of social security benefits, and coordination of social security schemes
- ▶ Consider carefully the implications of ASEAN objectives, undertakings and standards:
 - Implications flowing from regional integration & free movement
 - The need for and possibilities of and ASEAN ring-fenced regime of social security portability and coordination arrangements – i.e. a special and preferential regime for ASEAN migrant workers
 - Implications flowing from provisions contained in ASEAN instruments and agreed work-plans
 - Extended social protection
 - A finalised instrument ensuring appropriate access to social security benefits (and portability) for migrant workers

Conclusions: Gradual approaches

- ▶ **The importance of allowing for gradual approaches (1) –**
 - (1) Consider commencing with a non-binding instrument, moving towards a binding one, or alternatively, a binding instrument that allows for flexible approaches regarding implementation (see below)
 - (a) Comparative experience: Some of the comparative instruments are binding, others non-binding in nature; in some cases – non-binding instruments developed into binding ones
 - (b) Consider also whether merely a framework document is regionally developed (see the recent SADC Framework), or one that contains and prescribes the application of specified coordination criteria
 - (c) In any event, ensure that the multilateral instrument provides sufficient guidance for and promotes the conclusion of bilateral social security agreements between ASEAN Member States

Conclusions: Gradual approaches

- ▶ The importance of allowing for gradual approaches (2) –
 - (2) Contingencies/Benefit Types: Consider including (initially) only some contingencies/benefit types to be covered – (a) E.g. those prevalent in most of the Member States (e.g. employment injury – 6 Member States have ratified ILO Convention 19 of 1925) or those that can more easily be implemented
 - (b) It may also be possible to focus on **long-term benefits**, at least initially, and to allow **short-term benefits** to be later covered
 - (c) Note the significant extent to which coordination and portability principles apply to **retirement, invalidity, survivors and occupational injury benefits**
 - (d) Note the **special arrangements** put in place to coordinate –
 - Asymmetrical retirement schemes (see above)
 - Asymmetrical criteria – e.g. contribution-based versus residence-based
 - (e) Note also the **complexities** involved in making **unemployment and health benefits portable**

Conclusions: Gradual approaches

- ▶ **The importance of allowing for gradual approaches (3) –**
 - **(3) (Legal) nature of scheme types**: Important questions include:
 - Should only public schemes be covered? And only statutory schemes?
- ▶ **The importance of allowing for gradual approaches (4) –**
 - (4) Consider that also the **categories of persons** covered can be gradually expanded – e.g., initially certain categories of migrant workers, which can be expanded –
 - Could commence with including skilled workers, to be expanded to include other migrant workers (see the ASEAN Charter provisions)
 - Later, even self-employed persons and other categories can be included (e.g. students); consider family members as well
 - Note the gradual scope extension of persons covered under other (multilateral and even bilateral) schemes
 - Ensure the coverage of temporary migrant workers in a way that does not create anomalies for them – and others

Conclusions: Gradual approaches

- ▶ The importance of allowing for gradual approaches (5) –
 - (5) Also the countries covered and/or participating can be gradually expanding – could commence with countries:
 - That share geographical borders and/or experience large cross-border flows
 - That already have an underlying labour agreement or similar arrangement in place – see, for example, Thailand and Cambodia, Myanmar, Laos and Viet Nam; or Malaysia and Indonesia
 - That are able/equipped to coordinate their systems regarding particular benefit categories (this can be done bilaterally as well)
- ▶ The importance of allowing for gradual approaches (6) –
 - (6) Incremental unfolding of various coordination principles:
 - Consider applying only certain coordination principles first (in particular, exportability of benefits and equal treatment);
 - Others can follow later as experience is gained

Conclusions: Irregular migrants

- ▶ The question of how to deal with irregular migrants
 - In a regional context, where freedom of movement regime prevails, the relevance of this issue is less pronounced
 - In those cases, where irregular migration is indicated, there are certain international minimum standards/good practices applicable
 - Irregular migrant workers are entitled to at least emergency health care
 - Merely losing employment should not imply irregular status and loss of work permit in the case of legally residing migrants (ILO Convention 143)
 - Past contributions made by the irregular migrant workers concerned should be repaid to him/her (UN Migrant Workers Convention)
 - All migrant workers, also and in particular irregular migrant workers, are vulnerable and subject to abuse
 - There is need for a not too strict definition/description of when a migrant worker would be regular/irregular, to balance immigration control and social protection objectives
 - Expand National Verification Processes or similar arrangements aimed at regularising the position of (certain) irregular MW

Conclusions: capacity

- ▶ Focus also, and in particular initially, on the conclusion of bilateral social security agreements
 - most of the above issues arise here as well
- ▶ Capacity-building is crucial –
 - E.g., institutional, human and technical capacity (e.g., in relation to supporting data environment)
 - Of particular importance is the need to establish cross-border cooperation as well as interfaced systems, with reference to among others documentation, data exchange (e.g. the need to verify records), etc.

Conclusions: supporting arrangements

- ▶ Consider whether there is a need to establish a **centralised cross-border agency** to facilitate/support Member States and to render a streamlined service
- ▶ **Joint monitoring and evaluation** is crucial
- ▶ Arrange for an **implementing (i.e. an administrative) instrument** to be adopted – particularly important in the event of a multilateral arrangement

Conclusions: supporting arrangements

- ▶ A range of **supporting studies** may be required, to inform evidence-based arrangements
- ▶ Pay particular attention (especially at Member States level) to **synchronising social security, immigration, labour law and trade legal and policy frameworks**