

# How to Make AFML Work?

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# ASEAN Instrument on MW

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AFML

- 10 times (more than a hundred recommendations)

ASEAN  
Consensus

- Adoption for action plans

# Taskforce on ASEAN Migrant Workers (TFAMW)- 8 Key Principles

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- 1) ASEAN Framework Instrument on Migrant Workers shall be a binding agreement among all ASEAN states
- 2) All migrants and their families shall be covered by the Framework Instrument regardless of legal status
- 3) The protection of the rights of migrant workers is a joint responsibility of both sending and receiving states
- 4) Non-discrimination and “national treatment” for migrant workers
- 5) Gender-sensitive policies, processes and practices on migration
- 6) Implement Core ILO Conventions, Migrant Workers Rights, Social Security, and Governance; ensure national labour laws governing migrant workers are harmonized with the ILO Standards  
Ratify ILO Conventions 97 and 143, and the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. [\(plus C.189 Decent work for Domestic Workers\)](#)
- 8) Cooperation with civil society in ASEAN

# ASEAN Consensus: Projects led by Indonesia

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1. Public campaign on safe migration (co-led with the Philippines) (2018-2019)
2. Capacity building and sharing best practices on labour market (2018-2019)
3. Research on migrant worker rights-based standard **employment contract (2018)**
4. Workshop on labour protection of migrant workers through an ASEAN networking forum on **labour inspection (2020)**
5. Reintegration programme for returning migrant workers (2018)
6. [New] Workshop to improve quality of pre-departure trainings (2021)
7. [New] Develop policies to accommodate the access of migrant workers' children to education (2021)

# Regional CSOs Recommendation on the Implementation of 2017 ASEAN Consensus

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A legally binding ASEAN instrument on migrant workers is a key to ensure full enjoyment of the rights of migrant workers

Aware of the existing national and regional conflict of interests and politics of migration in addition to the varying challenges, national interests, and development gaps among the ASEAN Member States (AMS)

Accept the consensus as a political commitment of the AMS with **critical notes**

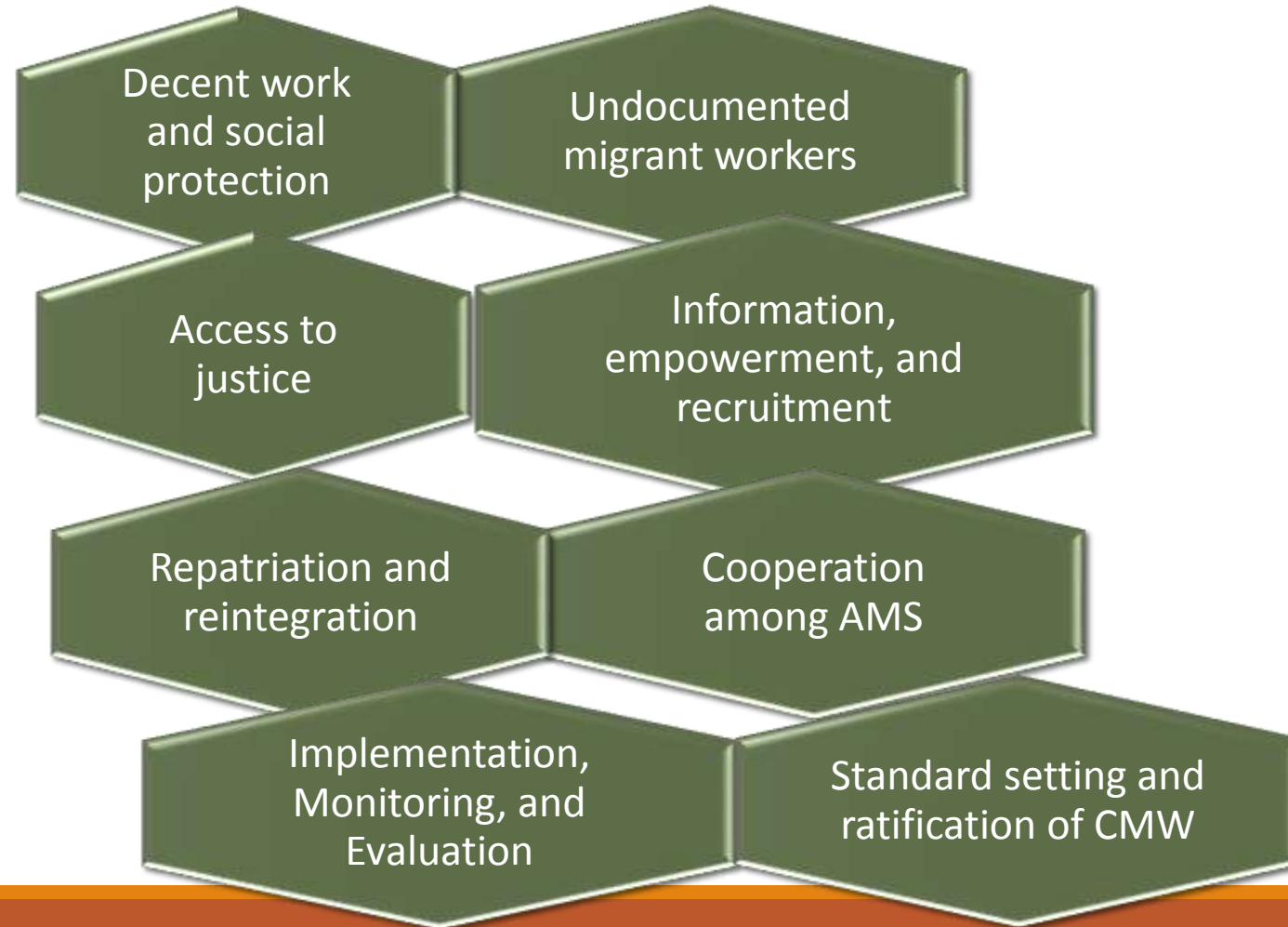
ASEAN Consensus has to be guided by international human rights norms and standards

Propose to have synergy with other cross-cutting ASEAN human rights commitments

Have to be supported by dedicated national structures to ensure sustainable and effective protection and promotion and engage with CSOs

# Regional CSOs Recommendation on the Implementation of 2017 ASEAN Consensus

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# Decent work in ASEAN Document

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## **ASEAN HUMAN RIGHTS DECLARATION**

**GENERAL PRINCIPLE No. 4:** *“The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.”*

## **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

*27. (1) Every person has the right to work, to the free choice of employment, to enjoy just, decent and favourable conditions of work and to have access to assistance schemes for the unemployed.*

## **ASEAN CONSENSUS, Chapter 7, Commitments of ASEAN Member States:**

*45. Consult and cooperate with a view to promoting decent, humane, productive, dignified and remunerative employment for migrant workers.*

**Obligations of Receiving States:** *8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers.*

**Commitments by ASEAN:** *15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers.*

# Decent work in AFML

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## AFML Recommendations on Decent Work for MDW

1. Ratification ILO Convention (No. 189) and the harmonization with national law
  - Rec 5, 5<sup>th</sup> AFML
2. Standardized employment contract and providing complaint mechanism mekanisme for MDW
  - Rec 2, 7<sup>th</sup> AFML
3. Labor Inspection including the work of MDW
  - Rec 5, 7<sup>th</sup> AFML  
(+ Rec 8, 8<sup>th</sup> AFML)
  - Rec 8, 8<sup>th</sup> AFML
4. Government cooperation with all stakeholders of MDW
  - Rec 6, 9<sup>th</sup> AFML
5. Accessibility for social protection



# Article 7 of ILO No. 189

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:

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- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

# Challenges

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Complaint mechanism -→ undemocratic state and its HRs commitment

Data collection on cases → ethic and privacy of migrant workers

Job info → direct hiring and the vulnerability on exploitation

E-one stop service → bureaucratization on MW governance

OSH and inspection → how to reach DMW and law enforcement

# Recommendation

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- Regular and official forum to monitor the implementation of AFML recommendation at least in Indonesia
- Decent work: Advocacy for the enactment of laws to protect domestic workers (UU PRT and ratify ILO Convention 189).
- Support the program of Safe Travel and Migration
- Not just to promote but implement the substance of decent work!
- Standardized Employment Contract
- Provide social protection (ASEAN Declaration on Social Protection)
- E - One stop service

# Terima kasih – Thank you

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