



## **ASEAN Forum on Migrant Labour**

### Enhancing the Effectiveness of Legal Pathways for Labour Migration in ASEAN

Migrant workers play a crucial role in supporting economies, and contributing to development, both in their home countries through remittances and in host countries through filling gaps in labour markets. However, if the migration process is not governed well, it could pose various challenges that can lead to exploitation, abuse, and vulnerability to human trafficking.

In response to the complexities of global mobility, the Global Compact for Safe, Orderly and Regular Migration outlines several key objectives in promoting regular pathways. These objectives include adapting options for regular migration to facilitate labor mobility and decent work, minimizing factors that drive people to leave their home countries, providing accurate information at all stages of migration with a focus on gender-specific considerations, addressing and reducing vulnerabilities in the migration process, and strengthening international cooperation for safe and organized migration, with a particular emphasis on protecting the rights and well-being of migrant women and children.

The concept of regular pathways for migrant workers centers on establishing structured and lawful avenues for individuals to seek employment opportunities in foreign countries or to enable undocumented migrant workers to be legalized in the country of destination. This approach ensures that migrants' rights, safety, and dignity are upheld throughout their journey. The aim is to replace irregular and perilous migration routes with well-organized and regulated channels, including effective and accessible legalization programs benefiting both sending and receiving nations.

Governments hold the responsibility to regulate labour migration flows intake. Overly restrictive policies can drive migrant workers toward risky, unauthorized routes in search of a better life. Regular pathways not only ensure safe migration but also promote societal inclusion and protection, fostering a more secure and equitable world for all.

The recommendations put forward in this document came out of MFA-organized parallel event during the ASEAN People's Forum attended by civil society organizations from the ASEAN region.

#### **Sub theme 1: Improving labour migration programmes in ASEAN**

1. In order to promote the utilization of regular migration channels, it is vital to streamline the migration process, making it accessible, efficient and seamless.
2. ASEAN Member States must establish policies, qualification requirements and strict standards for the licensing and operation of private, for-profit recruitment agencies, with a view to encouraging ethical practices and eliminating costs to jobseekers as stipulated in the ILO Guidelines on Fair and Ethical Recruitment. Member States should also ensure that licensing standards are enforced.
3. By adhering to the standards set forth by the International Labour Organization (ILO), which encompass decent working conditions, appropriate accommodation, fair wages, and social protection, and by providing migrant workers with the flexibility to switch employers, jobs, and sectors without the fear of retaliation or unpaid debts, we can significantly reduce instances of labor violations, worker abscondment, and undocumented migrant workers. It is imperative to establish regulations that grant

migrant workers and employers in destination countries the freedom to change employers and terminate contracts in cases of contract breaches. Employees should have the ability to seek alternative employment and switch employers without requiring permission from the previous employer and without transitioning into an irregular immigration status.

4. ASEAN Member States should ensure that all migrant workers in all sectors enjoy full respect for their labour rights according to ILO's four pillars of the Decent Work Agenda – employment creation, social protection, rights at work, and social dialogue.
5. Migrant workers right to self-organization and/or to join workers' associations in destination countries must be recognized. This recognition is pivotal in safeguarding workers' rights, promoting fair labor practices, enabling collective bargaining, and empowering workers to actively participate in shaping their employment conditions. Governments and labor authorities should proactively support and protect these fundamental rights to ensure the well-being and dignity of all migrant workers.
6. Countries must crack down on traffickers including enforcement officials colluding with traffickers by bolstering law enforcement efforts and by providing more support to survivors of trafficking, including the choice to return or seek employment. This involves diligent monitoring of all actors involved in recruitment and employment of migrant workers and imposing sanctions on those who are proven guilty of exploiting migrant workers.
7. ASEAN Member States should incorporate digitalization as a key technology for the gathering of data in the migration process. Collection and analysis of migration data, including specific cases are crucial to informing evidence-based migration policies, though the safety and confidentiality of data must be maintained. Member States should establish digital platforms and ensure their easy accessibility to migrants so that the latter can seek information on safe migration practices and report exploitations.
8. In addition, given the prevalence of cyber scams in the ASEAN region, particularly in the context of human trafficking affecting both men and women, it is imperative to implement robust monitoring and vigilance measures in the recruitment process. This underscores the necessity for a coordinated effort among ASEAN countries to combat these challenges, encompassing activities such as information dissemination, prosecution, and protection.

## **Sub theme 2: Ensuring legal migration pathways that are inclusive and responsive to the labour market**

1. To realize ASEAN's aspiration of a Caring and Sharing Society, countries of origin and destination should eliminate migration barriers such as gender, age, family restrictions and unjustifiable occupation restrictions, allowing individuals, including differently abled/special needs migrants whose impairment is unrelated to their ability to perform the job overseas.
2. The issue of migrants in undocumented status has to be addressed through regularization of their status, and the process of regularization should be inclusive, low-cost, and streamlined. The process should neither require reliance on agents or middleman nor mandate their return to their home countries.
3. Destination countries to establish effective firewalls around line agencies responsible for fundamental human rights such as access to healthcare, education, and justice, so that all migrants, irrespective of immigration status are not deprived of these fundamental rights.
4. Origin countries should take decisive actions to promote the availability of decent and well-paying jobs within the country. By doing so, the root causes of migration, as detailed in GCM Objective 2, can be effectively mitigated.
5. ASEAN Member States should enhance the management of data related to labour demand, encompassing collection, processing, and analysis aspects. This improvement will align policies for admitting migrant workers with the actual labour and skill demand in countries of destination.

6. The ASEAN Intergovernmental Commission on Human Rights should call on countries to facilitate humanitarian visas to migrant workers from countries experiencing crises including civil unrest, it is recommended that countries expedite the application process for protection and ensure the provision of essential support to these individuals.
7. Institutions in origin countries should be empowered to provide migrants with pre-departure orientation, awareness campaigns, and language and skill development programs. These initiatives not only deter irregular migration by educating migrants about the perils of unsafe routes but also optimize outcomes for both migrants, their families and their employers. Support can be further extended through institutionalizing post arrival orientation programs through migrant resource centers, consular offices and labor attachés at destination countries.
8. There should be strict regulations to ensure fair labor practices and prevent slavery in the fishing industry. These regulations should encompass recruitment procedures, working conditions, and wage standards. Such measures are essential in addressing the pervasive labor exploitation issues within the fishing sector and protect the rights of both fishers and industry workers. This issue should be viewed in the context of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers adopted 2007.
9. Migration processes need to be regularly reviewed and updates to address evolving migration trends on the countries of destination, such as seasonal worker programs and visit visas.
10. Member States should legitimize, promote, and institutionalize the active involvement and consultation of all stakeholders, including civil society organizations and migrant community organizations in designing and reviewing migration governance policies.