

Regional Approaches to Labour Migration: Mercosur and Asean in Comparative Perspective

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ABSTRACT

In the last two or three decades, intra-regional migration has become a predominant feature of ASEAN and MERCOSUR. In both continents, low and semi-skilled labour dominates intra-regional migration and the majority of them are employed in informal sectors in an irregular status. Facing with rather similar challenge regarding intra-regional labour migration, the two regional blocs have nevertheless adopted quite different approaches on labour migration. This paper compares the MERCOSUR and ASEAN legal frameworks on labour migration with the focus on the rights to reside and to employment as well as the protection of migrant labour's rights. Examining the shortcomings, the innovation, and the good practices of each regional approach to labour migration, the paper aims to draw useful lessons for the purpose of strengthening regional frameworks on labour migration.

Keywords: ASEAN, MERCOSUR, Migration, Regional Cooperation

INTRODUCTION

MERCOSUR (or MERCOSUL) is a sub-regional intergovernmental cooperation set up in 1991 by Argentina, Brazil, Paraguay and Uruguay under the Treaty of Asunción. After Venezuela's accession in 2012 and Bolivia in 2016, MERCOSUR is now comprised of six member countries. Chile, Colombia, Ecuador, Peru, Guyana and Suriname are associate members, a status allowing them to participate in different meetings and become party to certain agreements. Under the context of democratic transition after decades of military regimes and severe economic problems in South America, MERCOSUR's project to create the "Common market of the Southern cone" was expected to strengthen the democratic process and stimulate economic development (Schelhase, 2011). The common market includes, among others, free movement of goods, services and factors of production. Mobility of labour was not explicitly mentioned in the founding Treaty, but it was progressively developed not only as part of the factors of production but also with a social and human rights dimension from 2000 onward.

At the time of its establishment in 1976 by Indonesia, Malaysia, Philippines, Singapore and Thailand, the Association of Southeast Asian Nations or ASEAN's primary objective was the promotion of regional peace and stability. In the near timeline of MERCOSUR's creation, ASEAN started to engage in cooperation in the economic field with the establishment of an ASEAN Free Trade Area in 1992. The Association was later joined by Brunei (1985) and, after the end of cold war, by Vietnam, Lao PDR, Myanmar and Cambodia. Since 2003, ASEAN leaders have agreed to deepen regional integration, by establishing the ASEAN Community comprising three pillars. Different aspects of labour migration were thus brought into the regional sphere under the ASEAN Economic Community, the ASEAN Socio-Cultural Community as well as the ASEAN Political and Security Community.

MERCOSUR and ASEAN are based on a relatively loose structure of intergovernmental cooperation, without transfer of national sovereignty to supranational institutions. They are both comprised of countries with economic asymmetries including high income, upper middle income and low middle income countries¹. Low and semi-skilled labour dominates intra-regional migration in both regions and they face similar challenges on irregular and informal migration.

1 According to World Bank classification for 2018 fiscal year, ASEAN features two high-income (Singapore and Brunei), two upper middle-income (Malaysia and Thailand) and six lower middle-income (Cambodia, Myanmar, the Philippines, Indonesia, Vietnam and Lao PDR), while Mercosur is comprised of one high income economy (Uruguay), four upper-middle income economies (Argentina, Brazil, Paraguay, Venezuela) and one lower middle-income (Bolivia) (<http://data.worldbank.org/about/country-and-lending-groups>)

The paper compares the MERCOSUR and ASEAN legal frameworks on labour migration with the focus on the rights to reside and to employment as well as the protection of migrant labour's rights. Examining the shortcomings and innovative initiatives in these regional legal frameworks, the paper aims to draw useful lessons from the experience of both organizations.

The paper presents the labour migration situation in MERCOSUR and ASEAN in Part One. Part Two examines MERCOSUR's legal framework on labour mobility. Part Three then explores the ASEAN approach to labour mobility and protection of the rights of migrant labour. Based on comparative study, Part Four proposes some developments for the purpose of achieving a people-centred regional labour mobility framework.

Migration Patterns in MERCOSUR and ASEAN

In the last two or three decades, intra-regional migration has become a predominant feature of both ASEAN and MERCOSUR. According to the OECD and the Organization of American States, in 2015, migrants from countries in the region represent 63% of foreign born residents in South America (around 3.2 million of a total 5.1 million migrants) (Acosta, 2016). All countries are both sending and receiving countries. However, Argentina has the largest share of regional migrants, hosting 63% of all migrants from MERCOSUR member countries and 38% of all migrants from Latin America. Paraguay and Brazil follow as the main destination of intra-MERCOSUR migration. Venezuela receives 31% of Latin American migrants but only 2.5% of the total intra-MERCOSUR migrants (UN, 2017).

In Southeast Asia, statistics indicates that the number of intra-regional migration has increased by more than 50% since 1990 (UNDESA, 2016). Even if there remains unaccounted flows of migration due to a large proportion of irregular migrants as well as to heterogeneous data collecting systems in both sending and receiving countries, it is estimated that currently 6.9 million ASEAN nationals have migrated to other countries within the region (Harkins, Lindgren, & Suravoranon, 2017). Singapore, Brunei, Thailand and Malaysia are net receivers of intra-regional migration, while the rest are net senders. Malaysia, Singapore and Thailand are the main destinations, hosting 95% of the total amount of intra-regional migrant labour (Testaverde, Moroz, C.H., & Schmillen, 2017). Thailand has the largest share of ASEAN migrant labour, originating mainly from Myanmar (80-90%), Cambodia and Laos PDR. Malaysia receives 30% of ASEAN migrants, most of which come from Indonesia while Singapore hosts about 22% of them, primarily from Malaysia (UN, 2017). These migration patterns can be explained by the disparities in economic development between receiving and sending member states as well as ethnic and linguistic affinities and geographical proximity.

In both regions, high-skilled labour represents a small portion of intraregional migration, since they migrate in general to the more developed countries outside the region. In ASEAN high-skilled labour constituted approximately 5% among temporary workers in ASEAN in 2000-2001 (Manning & Bhatnagar, 2014). Their migration is linked to foreign direct investment (FDI) and intra-company transfers, and Singapore and Malaysia, as international business hubs, are the main destinations (Iredale, Turpin, Stahl, & Getuadisorn, 2010).

Low and semi-skilled labour dominates intra-regional migration. They are mainly employed in informal sectors, especially domestic work, agriculture, fishing industries and construction. A large number of workers who migrate among the member states are in an irregular status. National migration legislation is in general restrictive. Despite the establishment of regular channels of entry and employment, labour migrants still take a high risk to opt for irregular channels for many reasons. One is the high cost of legal recruitment of low-skilled labour for both migrant workers and employers. Unlike high-skilled labour recruitment, that of low skilled is generally subject to various fees and requires several intermediate agencies in both receiving and sending countries. Moreover, the work permit generally ties migrant labour to a specific job sector, employer and workplace. In consequence, those who change job, employer or workplace or those who do multiple jobs became irregular migrants (Kanapathy, 2008).

In both MERCOSUR and ASEAN, there are also important outflows of migrants beyond the regional framework. Labour from Latin American migrates to USA and European countries, especially Spain. From ASEAN, the Philippines export its labour to Arab countries and China, while East Asia is the destination for labour from Thailand and Vietnam (Ramji-Nogales, 2017) (ILO & ADB, 2014).

The migration patterns of MERCOSUR and ASEAN member countries, both intra and extra-regional, influence significantly the regional approaches to labour migration in the two continents.

MERCOSUR's Framework on Labour Migration

In the post colonialization period, South American countries adopted a very open immigration policy which aimed to attract European immigration. The objective was to increase the population in South America's vast territories as well as to contribute to the development of the receiving countries. This openness was reflected in South American's Constitutions and immigration laws which granted immigrants favourable rights to residence and to naturalization as well as equal treatment with nationals regarding, for instance, labour and property rights (Giupponi, 2011). However during the 1920's, changes in economic, political, and social circumstances resulted in a more restrictive and discriminatory migration policy in South American countries. This restrictive trend was accentuated during the 1970-1980's when most countries in the region fell under military dictatorship (Giupponi, 2011).

Reflecting restrictive national approaches to labour migration at the time of its establishment, labour mobility was not (expressly) included as one of the MERCOSUR's objectives. The aims of MERCOSUR, as stated in the Treaty of Asunción, are, among others, to bring about "the free movement of goods, services and factors of production among its member states through, inter alia, the elimination of customs duties and non-tariff restrictions on the movement of goods, and any other equivalent measures" (article 1). If mobility of labour, as a productive factor, can be considered part of the common market project, in practice, MERCOSUR's liberalization nevertheless had primarily focused on trades in goods and establishment of a customs union (Schmidt, 2008).

In the beginning of 2000's, the shift in migration trends in South America entailed a shift in MERCOSUR's approach towards labour migration. Starting from the 1970's, the political instabilities and economic crises motivated the emigration of South Americans outside the region, especially to the US and Spain. A large number of South Americans also migrated to other countries in the region, with almost two million migrating inside the region in 2000 (Arcarazo & Geddes, 2014). The problem was that the majority of South American migrants, both intra-regional and outside the region, were in an irregular migratory status. The previous approach, based on criminalisation of irregular migration as well as unilateral regularisation initiatives, did not succeed in addressing the issue.

MERCOSUR member states agreed that solutions to the problem should be found at the regional level. This renewed approach is characterized by a more open migration policy which refuses to criminalize irregular migration. It also emphasises the positive aspects of migration and greater respect of migrants' human rights. (Arcarazo & Geddes, 2014). MERCOSUR's approach is reflected in the 2004 Santiago Declaration on migratory principles, adopted by MERCOSUR member states as well as Bolivia, Chile and Peru. This Declaration also serves as the basis of MERCOSUR's negotiation with the European Union for a future migratory agreement between the two regional organizations. It states that: "MERCOSUR must reaffirm before the rest of the world their belief of working towards a new migratory policy, based on the ethical dimension of the respect to human rights"; "the migratory regularity of the migrant is the only way for him to achieve his full integration into the reception society"; and "the treatment given to nationals of the Member and Associated States in third countries should be reciprocal to that given to the nationals of these countries in our territory" (MERCOSUR, 2007).

The Specialized Forum on Migration was set up within the framework of the Meeting of Interior Ministers in 2003. The Forum was given the missions, among others, to present proposals and recommendations on migratory legislation and policy; to develop an agreement or recommendation drafts for the consideration and approval of the Meeting of Interior Ministers; and to follow and evaluate the results of the migratory agreement adopted in the framework of MERCOSUR (MERCOSUR, 2007).

Regarding the right to entry and residence of high-skilled labour, the Council of the Common Market (CCM) Decision No 16/03 simplifies the issuance of a visa for a total of up to four years for business executives, management employees, authorized representatives, scientists, researchers, artists, athletes, professors, journalists and highly specialized workers (Fuders, 2010).

The adoption of the Residence Agreement in 2002 represented a significant step which has transformed the migration regime in MERCOSUR. Its main purpose was to resolve the situation of irregular migrants within the region while deepen the integration process. The Agreement provides that nationals of MERCOSUR member states and associate states may reside for a period of two years in another state if, besides proof of identity, they can prove a clean criminal record. This procedure applies for both migrants who intend to move and those who already have resided irregularly in another party state. After two years of effective residence, the permit may be transformed into a permanent one if applicants can prove they have sufficient resources to sustain themselves in the territory of the host country (Maas, 2015). As a result of the Agreement, nearly two million South Americans were granted a temporary residence permit in one of the nine signatory countries between 2004 and 2013 (Acosta, 2016).

The beneficiaries of the Residence Agreement, whether temporary or permanent, as well as their family members have the right to perform any labour activity, either employed or self-employed in the host member state, under the same conditions as the nationals of that state. They shall enjoy equal treatment regarding civil, social, cultural and economic rights and freedoms with nationals of the host country. These rights include, for instance, equal working conditions, equal social security, the right to transfer remittances and the right of the migrants' children to equal education with nationals.

Other important instruments concerning the protection of labour migrants' social rights include the 1997 Multilateral Agreement on Social Security and the 1998 Social and Labour Declaration. The Multilateral Agreement on Social Security concerns a coordination mechanism of national social security systems. It provides that migrant workers, and their family members, should be entitled to the same rights and subject to the same obligations as national workers. It also allows a totalization of the period of insurance and contribution in a signatory state for the purpose of benefit entitlement (Pucheta, 2014). To process retiree benefits, a Single Data Base for Social Security Institutions (SDSI) was set up to develop and implement a Data Transfer and Validation System (DTVS). Under this Agreement, MERCOSUR has moved from a multitude of bilateral agreements on social security towards a regional framework, which provides the same treatment to all MERCOSUR nationals independent of their country of origin. As for the 1998 MERCOSUR Social and Labour Declaration, it lays down minimum standards of labour, individual and collective rights that member states must respect. These include, for instance, the right to non-discrimination and equal treatment in employment and occupation, a prohibition on forced labour, child labour protection, freedom of association, collective bargaining and the right to strike (Pucheta, 2014).

Surpassing the original common market project, MERCOSUR member states have agreed on the gradual establishment of MERCOSUR citizenship (Decision 64/10 of MERCOSUR Council of the Common Market). MERCOSUR citizenship will be comprised of a set of fundamental rights and benefits which shall serve the objectives, among others, to implement a policy of free circulation of people and equal rights. The MERCOSUR's approach reflects consideration of migrants, not just as labour but also as citizens who belong to the same regional community.

There remain however challenges regarding the implementation of Mercosur's agreements in practice. The change at the regional level requires legal adaptation at the national level, which happened relatively slowly. In the absence of supranational authorities, the agreements are not applied uniformly by the signatory states. Regarding the 2002 Residence Agreement, for instance, Argentina applies the Agreement to all 11 countries in South America without requiring reciprocity, while Chile excludes migrants from Ecuador, Peru, and Colombia who represent a large number of migrants in the country. More importantly, in the absence of a clear definition and scope of the right to equal treatment, discrimination regarding access to welfare benefits remains in practice (Arcarazo & Geddes, 2014).

ASEAN's Framework on Labour Migration

From an organization focusing mainly on security issues during the Cold war, ASEAN in 2003 redirected its goal towards deepening regional cooperation. The Declaration of ASEAN Concord II (Bali Concord) states ASEAN's aim to establish the ASEAN Community which will comprise of three pillars: ASEAN Economic Community, ASEAN Political-Security Community and ASEAN Socio-Cultural Community. The issue of intra-regional mobility has been formally brought into the regional sphere, mainly under the economic pillar. ASEAN envisages free flows of skilled labour as one of the core elements of the forthcoming single market and production base. Workers' mobility is treated as part of a liberalization of trade in services, specifically under Mode 4 of the GATS framework of cross border services supply (the presence of natural persons), where professionals, either employed or self-employed, from one member state move temporarily to another member state to provide services. A migrant's access to the labour market (as an employed person) is not included in the ASEAN Economic Community (AEC).

Mutual Recognition Arrangements (MRA) have been made the principal tool to facilitate the flow of skilled labour in ASEAN, by allowing the recognition of qualifications of professional services suppliers acquired in one member state by other member states. At present, eight MRAs – engineering, nursing, architectural, accountancy services, medical practitioners, dental practitioners, surveying and tourism professionals – have been concluded (Aimsiranun, 2017). Nevertheless, according to the AEC Blueprint, which provides a roadmap outlining the necessary economic measures to achieve the ASEAN single market and production base, the flow of skilled labour will happen solely “according to the prevailing regulations of the receiving country”.

This implies that despite the existence of MRAs, access to national labour market remains dependent on national law and regulations. The flow of skilled labour is not as such liberalized. National regulatory measures can continue to hinder or

even prohibit access of migrants of other member states to a national labour market. For instance, Thailand's 2008 Foreign Employment Act and 1979 Royal Decree continue to prohibit foreigners from being employed in 39 professions which are reserved for Thais, including those covered by the MRAs such as civil engineering, architectural work and legal or litigation services (Aimsiranun, 2017).

The mobility of low-skilled labour which represents the majority of intra-regional migration is simply absent from the economic integration plan. Their right to move, to reside and to work is left to national discretion. In general, ASEAN member states use a work permit and a quota system to regulate the inflows of foreign labour. Foreign labour and employers are also subject to various administration fees. Migration policy is designed mainly to protect national labour and to answer the market's need. The restrictive national frameworks have resulted in a continuing/increasing number of irregular migrants. In order to address the problem, the main receiving countries, such as Thailand and Malaysia, have concluded non-binding bilateral agreements with the sending countries. These MOUs have provided for temporary regularisation of migrants as well as arranging for legal migration channel for migrants. However, many migrant workers still opt for the irregular channels since the MOUs' procedures for recruitment of workers are quite complicated, lengthy, expensive and requiring contact with many authorities or agencies.

The issue of migrant labour' rights is under the agenda of the ASEAN Socio-Cultural Community. According to the ASCC Blueprint 2025, the aim of ASCC is to "improve the quality of life of its people", by working towards "an inclusive community that promotes high quality of life, equitable access to opportunities for all and promotes and protects human rights". The important milestone in terms of migrants' protection includes the adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Labour (Cebu Declaration) in 2007. The Declaration lays out as the general principle the promotion of "the full potential and dignity of migrant workers in a climate of freedom, equity, and stability" (article 1) as well as the respect for the fundamental rights of migrant workers and family members. It also provides for member states' obligations, for example, to facilitate migrant workers' access to social welfare services (article 7), to promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions (article 8) and to provide adequate access to the legal and judicial system for migrant workers, especially in the case of discrimination, abuse, exploitation or violence (article 9). The declaration calls for cooperation between the receiving states and sending states to resolve the cases of undocumented migrant workers but does not go as far as imposing their regularisation. The Declaration even insists that "nothing in the present Declaration shall be interpreted as implying the regularisation of the situation of migrant workers who are undocumented".

The ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Labour" or the ACMW was established in 2008. Its mission is to develop effective mechanisms to safeguard the rights of migrant workers. As for the ASEAN Forum on Migrant Labour (AFML), it is a regional tripartite platform which brings together the governments, workers' and employers' organizations and civil society stake-holders for discussion on key issues of migrant labour. The annual AFML develops recommendations to implement the 2007 Declaration on the Protection and Promotion of the Rights of Migrant Workers.

After almost 8 years of negotiation, ASEAN Member states adopted, under the Philippines' chair, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers in 2017. The objective is to give effects to the 2007 Declaration. The inclusion of the civil society and stakeholders group in the negotiation process as well as the drafting of both documents have led to progressive ideas in the draft proposal. However, the sensibility regarding the issue has resulted in explicit confirmation that the realization of principles recognized in the Declaration will happen only "in accordance with the laws, regulations, and policies of respective ASEAN Member Countries". After an unsuccessful push, the major sending countries, Indonesia and the Philippines, ceded that the documents would not be legally binding. As demonstrated, the difficulties during the negotiation process on the issue of access to shelter, and medical and legal services for undocumented workers and families of migrant workers, and the effective protection of irregular migrants as well as migrant labour' families, remain the challenge in ASEAN (Thuzar, 2017).

MERCOSUR and ASEAN Approaches: Progress and Challenges

Both MERCOSUR and ASEAN function on the basis of intergovernmental cooperation and the decisions of their principal organs are adopted by consensus. In order to push successfully for a deeper cooperation, it is essential for the member countries to find a uniting cause. The existence of leading countries who can advance the cause and can influence the rest of the group is also important. In MERCOSUR, the will to address the problem of irregular migration, not only intra-regional but also outside the region, has positively supported a move from the national to the regional approach. By ensuring respect of migrant labours'

rights, whether they are nationals of MERCOSUR's members, and, irrespective of the regularity of their migratory status, it is suggested that MERCOSUR wants to set an example and expects reciprocal treatment from the destination countries for their migrants outside the region (Arcarazo & Geddes, 2014). To fulfil this objective, a consistent regional framework allows more visibility on the world stage. Additionally, in MERCOSUR the development of a common framework is facilitated by the existence of leading countries who can influence the changes at regional level. The adoption of MERCOSUR's innovative measures, such as the 2002 Residence Agreement, is the result of a combined effort, as well as the balance of power between Argentina and Brazil.

MERCOSUR's approach towards labour migration is more inclusive since it concerns all migrant labour without distinction between their skills. The approach can also be considered more universal than ASEAN's since it is extended beyond nationals of a member or an associate state also to include third countries' nationals. MERCOSUR's measures grant to migrant labour expansive rights, including the right to reside and to work, as well as equal treatment and social protection. The MERCOSUR Residence Agreement is even more generous than the European Union (EU) provisions since the temporary residence permit is not subjected to the requirement of sufficient resources as in the case of the EU² and the permit can be transformed into a permanent one after two years. MERCOSUR's general initiatives through the Residence Agreement have the merit of regularizing migrants who currently have an irregular status as well as providing an effective lasting solution to the problem.

While each MERCOSUR member and associate member both sends and receives intra-regional labour, the labour flows in ASEAN are very asymmetrical; the three main destination countries, which are Thailand, Malaysia and Singapore, host almost the totality of ASEAN migrants. In ASEAN, the opposition of interests between the sending and receiving states has resulted in a very restrictive regional framework on labour migration, with weak legal protection for the most vulnerable migrants. Low-skilled labour is simply excluded from the project of the ASEAN single market, and the mobility of high-skilled labour is closer to facilitation rather than liberalisation. Further, the protection of migrant labour's rights under the framework of the ASEAN Socio-Cultural pillar appears rather timid. It is important to note that the issue of irregular migrants is absent from both the ASCC Blueprint and the 2007 Declaration on the Protection and Promotion of the Rights of Migrant Labour. Nevertheless, progressive ideas and principles on protection of migrant labours' rights have been advanced through established dialogues and fora on labour migration, especially the ACMW and the AFML. However, the efforts of the civil organizations and stakeholders to set up a more protective regional standard have had a rather limited impact on the final ASEAN legal framework and policy (Nonnenmacher, 2017). The opposition of interests between sending and receiving states in ASEAN has resulted in both the moderation of the rights proposed and the refusal to make the agreements binding. The constant affirmation that the declared progressive principles are applied in accordance with national laws and policies, if not neutralizes, attenuates largely the force of such principles. This leads to confusion whether principles agreed at the regional level would be overridden by contrary national measures. ASEAN governments want national control on the regulation of the inflow of migrant labour and also, to a certain extent, of the rights and protections they can benefit from. If cooperation is considered necessary, the member states prefer a bilateral approach to a regional one. The problem is that the national and bilateral frameworks do not sufficiently take into account the rights of migrant labour, especially the most vulnerable workers who are in an irregular status.

For both organisations, the most significant challenge concerns implementation of the agreed regional goals and frameworks. MERCOSUR member states have succeeded in establishing an exemplary framework on labour migration. Nevertheless, the legal adaptation at the member state's level has happened relatively slowly and not necessarily uniformly. MERCOSUR member states sometimes fail to incorporate the measures into their national system. Only an estimated 70% of secondary MERCOSUR law has been incorporated by all member states (Schmidt, 2008). In ASEAN, the challenge in pushing for implementation of soft laws/morally binding declarations is greater. In absence of clear direct applicability of binding instruments, such as the ASEAN Charter, it seems difficult for ASEAN migrants to invoke any rights or protection from the regional instruments. Contrary to the AEC, there is no system of scorecards to track the progress of implementation of ASEAN measures under the ASCC. The ASEAN Secretary General can only report to the meeting of heads of governments/states united in the form of the ASEAN Summit. The sanction for not implementing a decision adopted in the framework of ASEAN is unlikely to happen since the Summit decides on the basis of consensus. An effective mechanism for enforcement, especially the establishment of the regional court, would be more than welcome.

2 Directive 2004/38/EC (of 29 April 2004 concerning the right of citizens of the Union and their family members to move and reside freely within the territory of the EU and EEA member states) subjects the right of EU citizen to reside in another member state for the period superior than 3 months to the condition that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence.

CONCLUSION

Faced with the challenge to improve the situation and the protection of their nationals, who migrate for work both inside and outside the region, MERCOSUR member and associate states have chosen a regional framework. The open approach to labour migration, the development of the social dimension of a mobility regime and the project of MERCOSUR citizenship, all go in the direction of a closer and people-centred integration. This has earned MERCOSUR recognition as an example of good practice on the world stage.

On the contrary, ASEAN has not yet found an acceptable regional common ground on the issue of labour migration. It is not to be denied that the sharp and remaining contrast between sending and receiving states in ASEAN renders extremely difficult a consensus on the issue of labour migration. It is nevertheless equally important to underline the insufficiency of the current protection offered at national and bilateral levels, especially towards the most vulnerable categories of migrants. Migrant workers' significant contribution to the economy of the host member states, especially in the context of aging societies, should justify adequate protection of their human rights.

What is really problematic is the reluctance of the ASEAN member states to move beyond national perspectives for a greater common regional cause. If the majority of the people in ASEAN might not consider ASEAN matters, it is largely due to the limited impacts ASEAN has had on their daily life. The realization of the vision of an ASEAN Community that is "people-centred" and "a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the peoples are enhanced", as stated in the ASEAN Socio-Cultural Community Blueprint (ASEAN Secretariat, 2009), requires a renewed approach which surpasses national interests. The concept of "community" requires sharing not only welfare but also, and more importantly, difficulties.

REFERENCES

- Acosta, D. (2016). Free Movement in South America: The Emergence of an Alternative Model? Retrieved from <http://www.migrationpolicy.org/article/free-movement-south-america-emergence-alternative-model>
- Aimsiranun, U. (2017). Labor mobility in the European Union: what can ASEAN learn? *International Journal of Monetary Economics and Finance*, 10(3/4), 366-378.
- Arcarazo, D. A., & Geddes, A. (2014). Transnational diffusion or different models? Regional approaches to migration governance in the European Union and Mercosur. *European Journal of Migration and Law*, 16, 19-44.
- Fuders, F. (2010). Economic Freedoms in MERCOSUR. In M. T. F. Filho, L. Lixinski, & M. B. O. Giupponi (Eds.), *The Law of MERCOSUR* (pp. 87-130). Oxford and Portland, Oregon: Hart publishing.
- Giupponi, B. O. (2011). Citizenship, Migration and Regional Integration: Re-shaping Citizenship Conceptions in the Southern Cone. *European Journal of Legal Studies*, 4(2), 104-136.
- ILO, & ADB. (2014). *ASEAN community 2015: Managing integration for better jobs and shared prosperity*. Bangkok: ILO and ADB.
- Iredale, R., Turpin, T., Stahl, C., & Getuadisorn, T. (2010). Free Flow of Skilled Labour Study. Retrieved from http://aadcp2.org/file/FreeFlowLabour_final.pdf
- Kanapathy, V. (2008). *Controlling irregular migration: the Malaysian experience*. Bangkok: ILO.
- Maas, W. (2015). Trade, Regional Integration, and Free Movement of People. In J. Roy (Ed.), *A New Atlantic Community: The European Union, the US and Latin America* (pp. 111-121). Miami: University of Miami.
- Manning, C., & Bhatnagar, P. (2014). The movement of natural persons in Southeast Asia: How natural? Retrieved from <https://digitalcollections.anu.edu.au/bitstream/1885/39963/3/wp-econ-2004-02.pdf>
- MERCOSUR. (2007). *Treatment of migratory matters at the Meeting of Interior Ministers of the and associated states* Retrieved from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjFzsHO-eDaAhVKY08KHcJ6BqEQFggnMAA&url=http%3A%2F%2Fwww.mercosur.int%2Fmsweb%2FSM%2FNoticias%2FActas%2520Estructura%2FDEPENDIENTES%2520DEL%2520CMC%2FReuni%25C3%25B3n%2520Ministros%2FRMI%2FPlenario%2F2007_ACTA01%2FRMI_2007_ACTA01_ANE05_IN_TematicaMigratoria.pdf&usq=AOvVaw2iCtmocJcADve_f2B8S-Wf
- Nonnenmacher, S. (2017). Free movement within the ASEAN. In S. Nita, A. Pécoud, P. D. Lombaerde, K. Neyts, & J. Gartland (Eds.), *Migration, free movement and regional integration* (pp. 347-393): UNESCO – UNU-CRIS.
- Pucheta, M. (2014). The Social Dimension of MERCOSUR. *Centre for European Law and Legal Studies, University of Leeds online paper series*.
- Ramji-Nogales, J. (2017). Under the canopy: migration governance in Southeast Asia. *UCLA Journal of International Law and Foreign Affairs*, 10-44.
- Schelhase, M. (2011). The changing context of regionalism and regionalisation in the Americas: Mercosur and beyond. In T. M. Shaw, J. A. Grant, & S. Cornelissen (Eds.), *The Ashgate research companion to regionalisms* (pp. 175-191). Farnham: Ashgate publishing.
- Schmidt, J. P. (2008). MERCOSUR. *Max Planck Encyclopedia of Public International Law*. Retrieved from <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e655>

- ASEAN Secretariat (2009). *ASEAN Socio-Cultural Community Blueprint*. Jakarta: ASEAN Secretariat.
- Testaverde, M., Moroz, H., C.H., H., & Schmillen, A. (2017). *Migrating to Opportunity Overcoming Barriers to Labor Mobility in Southeast Asia*: World Bank.
- Thuzar, M. (2017). The ASEAN “Consensus” on Migrant Workers: not Ideal but a Basis to Continue Working. *ISEAS*. Retrieved from <https://iseas.edu.sg/medias/commentaries/item/6589-the-asean-consensus-on-migrant-workers-not-ideal-but-a-basis-to-continue-working-by-moe-thuzar>
- UN. (2017). International Migrant Stock 2017: By destination and origin. Retrieved from <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates17.shtml>