**SUMMARY REPORT**

**Launching and Sharing of Findings of the AICHR Study on Migration and Human Rights: “Migration Management for the Most Vulnerable Groups within ASEAN”**

Nusantara Room, ASEAN Secretariat, Jakarta, Indonesia
25 August 2023, 14:00 PM – 16:30 PM, Hybrid

**INTRODUCTION**

1. This activity was organised by ASEAN Intergovernmental Commission on Human Rights (AICHR) Indonesia which intended to (a) introduce and raise awareness of the AICHR study on Migration and Human Rights: “*Migration Management for the Most Vulnerable Groups within ASEAN*”; and (b) discuss the findings and recommendations of such AICHR study from different perspectives of relevant bodies in ASEAN for further actions in upholding the rights of migrant workers. The **Programme** appears as **ANNEX 1**.
2. The concept note for the AICHR Study on Migration and Human Rights was adopted on 10 May 2012 and its revised version was accepted by AICHR on 23 July 2019. After rigorous reading by AICHR Representatives, relevant line ministries of the ASEAN Member States, Experts, and Civil Society Organisations working on the rights of migrant workers, the Study was finalised and adopted in June 2022 by AICHR. As part of the research project, AICHR organised the launching and sharing of findings. Representatives from the ASEAN Sectoral Bodies and ASEAN entities, civil society organisations, and the academe attended the event. The complete **List of Participants** appears as **ANNEX 2**.

**OPENING SESSION**

1. **H.E. Wahyuningrum**, the Chair and Representative of Indonesia to the AICHR, presented the event's aims and objectives. She then talked about the rationale and context of the study. The study implements AICHR’s mandate to produce research on thematic issues on human rights in the region. She noted that the ASEAN Human Rights Declaration (AHRD) recognises the rights of migrant workers as human rights and are therefore inalienable, integral, and indivisible. She also highlighted the methodology employed by the researchers in conducting the study and the rigorous engagement of various stakeholders in order to understand the context and needs of migrant workers and draw practical recommendations for improving how their rights and welfare are promoted and protected. The study offers a gender and human rights analysis of the migration protection mechanisms and systems in the region. H.E. Wahyuningrum acknowledged the research team's work and expressed relief that the study has been finalised after a long and tedious process. She ended her opening remarks by stating that the study's findings can be integrated to improve the work of AICHR and other ASEAN Sectoral Bodies.

**SESSION #1: LAUNCHING AND SHARING OF THE FINDINGS OF THE AICHR STUDY ON MIGRATION AND HUMAN RIGHTS: “MIGRATION MANAGEMENT FOR THE MOST VULNERABLE GROUPS WITHIN ASEAN”**

1. **H.E. Prof. Dr. Amara Pongsapich**, the Representative of Thailand to AICHR, chaired this session. She presented the history and context of the project which began in 2012 and was further revised in 2019. She recognised the researchers who completed the study, to wit: Dr. Sylvia Yazid (Indonesia), Dr. Shanti Thambiah (Malaysia), and Mr. Jorge Tigno (Philippines).
2. **Dr. Sylvia Yazid (Indonesia)**, one of the researchers, presented the background of the study, including its timeline, rationale, and objectives. The research was introduced in 2012 but was only realised in 2020. It took one year to go through the research process. The workshop for the validation of results was conducted in November 2021 and the final draft was prepared in June 2022. Dr. Yazid discussed the structure of the book which consists of five sections. The first part lays down the ASEAN context and how migration is understood in the region. The study found that it is dominated by labour migration and that there is limited discussion on refugees and other forms of people’s mobility. The second and third parts discuss the general migration management in the ASEAN, the conceptual framework, and cooperation mechanisms in the context of migration management. These include the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, the ASEAN Political-Security Community Blueprint (2016-2025), and the mandates of ASEAN Intergovernmental Commission on Human Rights (AICHR). The study utilised the work of Xiang and Linquist on Migration Infrastructure as its conceptual framework. It refers to systematic and interconnected technologies, institutions, and actors which facilitate and enable mobilisation of people. Migration has regulatory, humanitarian, technological, commercial, and social dimensions. The bulk of the study is focused on country analysis which elaborates on the labour migration management of each ASEAN Member State (AMS). Their country profile or history, policies, governmental institutions, non-state actors, remittance, and best practices were discussed. In terms of commitment, the book notes that all AMS have signed the consensus on migrant workers.
3. Finally, the book sheds light on the challenges experienced by AMS as well as the recommendations to improve the region’s migration infrastructure. In terms of challenges, varied policies on labour migration can be observed which prevent the establishment of synchronised policies and coordinated action among AMS. The study also notes that labour laws in some receiving states do not cover ‘dirty, dangerous, and demeaning’ or 3D jobs. Interagency cooperation is also insufficient which can be attributed to the state’s perception of the phenomenon as being partial and a concern of national security and economy rather than a human rights issue. Some recruitment entities have also misused their authority by deceiving migrant workers to pay additional costs. The unknown effectiveness of national legislation in addressing illicit practices like human trafficking and slavery also affects migrant workers. Dr. Yazid also warned about the dual nature of non-state actors—especially when civil society is hijacked by certain interests that are contrary to their goal of promoting the common good.
4. The study poses several recommendations. For ASEAN, it must (a) continuously remind all Member States about the multidimensional characteristics of labour migration. ASEAN must also (b) consider several conditions (e.g., pandemic) that may disrupt the current pattern of labour migration activities. For AICHR, subject to consensus, must (c) conduct regular observation and evaluation on the implementation of national policies and their reports discussed under the ASEAN cooperation mechanism. It must also (d) recognise the existing ASEAN Action Plan (2016-2025) to implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. Finally, AICHR must (e) consider a further regional study to address the cause of and solution for systemic issues in migration management systems. For ACMW, (f) give room for CSOs and other elements of the society to be significantly involved in the labour migration management process; (g) for AMS to reconsider their current labour laws which insufficiently regulate 3D jobs; (h) craft an integrated and efficient information system regarding migrant workers by the ASEAN Member States; (i) expand the ongoing project in building a repository of legislations and policies on migrant workers of AMS to foster further cooperation; and (j) re-evaluate the function of non-state actors. For AMS, (k) expand migration management to include measures that should be taken by the countries of origin; (l) both countries of origin and destination countries to ensure permits for the migrant workers; (m) form a special regional mediation mechanism for labour migration activities; (n) put more focus on the rights of their citizens who become migrant workers; and (o) mainstream the role of employers as a part of non-state actors.
5. **Dr. Shanti Thambiah (Malaysia)** added that the conceptual framework guided the structure of the country discussions. She also noted the methodological limitations of the study. They were unable to conduct key informant interviews due to restrictions brought about by the COVID-19 pandemic. The data used in the study are mostly based on existing country reports and publicly available databases.
6. **Mr. Jorge Tigno (Philippines)** added that the study might be the first publication that talks about all AMS and ASEAN as a whole. Most studies only focus on destination or transit countries and distinguish between developed and developing economies. The study centralises information on migrants and how migration has improved the lives of people in sending and receiving countries. Mr. Tigno further noted the impact of the COVID-19 pandemic, thereby revealing the fragility of the migration ecosystem in ASEAN. While there are many accomplishments, there are also gaps that need to be addressed. There are issues that continue to impact the rights of migrant workers. Institutions must be mindful of what they have set to be effective and fruitful outcomes.
7. A question was raised on the positive changes from the COVID-19 pandemic on migration policies and practices (e.g., businesses realising the need to take care of workers more). Dr. Thambiah cited Malaysia’s experiences of institutionalising policies in its manufacturing sector in order to mitigate the impact of COVID-19 on factory productivity and workers’ welfare. A special regulation was crafted to better ensure migrant workers’ right to space and required improving their housing conditions and accommodation. This was especially necessary since international bodies were already monitoring the working conditions in this sector and countries like Singapore have found how dormitory-type accommodations facilitate the spread of the virus. Other measures such as social distancing within workplaces and housing were then required. Overall, Dr. Thambiah admitted that the pandemic exacerbated challenges such as access to healthcare. Subsidies need to be provided to assist migrant workers. A rights-based approach can help respond to these challenges.
8. The researchers were asked to expound on the recommendation regarding re-evaluating the involvement of civil society and business sectors in the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). Mr. Tigno (Philippines), in response, stated that mechanisms to include perspectives of civil society and external stakeholders in discussions and decision-making processes must be considered. ASEAN has the ability to organise such activities. The study can serve as a take-off or trigger point for countries to check their own migration systems. Policies are not adequate to respond to the complexities of migration. He cited the experience of the Philippines during the pandemic where thousands of Overseas Filipino Workers (OFWs) were forced to return home or repatriated to the country. This posed significant challenges in terms of resources. Governments need to prepare for such similar circumstances hence, it is crucial to constantly review and improve their migration systems.
9. Dr. Yazid (Indonesia) posed some possible research questions that can be considered in future research on migration in Southeast Asia. The impact of COVID-19 on migration patterns can be explored. It may also be interesting to see whether localisation can be observed in newer migration patterns and whether migrant workers prefer areas closer to home so they can easily go back in case of crisis situations or it would mainly depend on how they are treated in the host country.
10. **H.E. Prof. Dr. Pongsapich**, the Representative of Thailand to AICHR, manifested an important note on considering the impact of directives from the European Union (EU) in the area of Business and Human Rights, particularly on labour policies such as the principle of due diligence and the provision of better social services for workers.
11. A rejoinder was posed. New studies may be pursued considering that the landscape has changed. The post-pandemic situation has certainly changed migration. H.E. Prof. Dr. Pongsapich agreed and also cited global conflicts such as the Ukraine-Russia War as another critical juncture that affects migration.
12. Despite some issues with civil society organisations (CSOs) acting in their own vested interests, a participant underscored the vital nature of civil society participation. Civil society organisations often have unique knowledge and expertise because of their exposure to the ground and data from the field. She noted, however, that the present mechanism of coordination provides them with very limited access. This necessitates improvement in the structure.
13. The researchers were asked to clarify what was meant by civil society organisations acting on their own interests. Dr. Yazid (Indonesia) responded that the study cautions on the risks of opening up the process to everyone–particularly giving room to “naughty” entities. Dr. Yazid further clarified that this is not to stain the contributions of civil society organisations nor must it be interpreted that CSOs should not be included in AICHR and/or ASEAN mechanisms.
14. Dr. Thambiah (Malaysia) elaborated that while we have to be careful about the CSOs we engage with, it is essential to remember that they are extremely important. Aside from the services and assistance that they are able to provide to migrant workers in need, their strength also lies in their ability to highlight issues and conduct monitoring and evaluation activities, especially on the implementation of migration instruments that are non-binding.
15. Mr. Jorge Tigno (Philippines) stated that it is urgent to establish a regional mechanism for engaging external stakeholders so CSOs can be formally brought to or included in ASEAN and/or AICHR dialogues and discussions. This can be a model organisation since no other region or intergovernmental bodies have done this—not even the Global Compact for Migration.
16. A question was raised on whether or not other types of migration such as environment or climate change-induced migration were mentioned by the research participants. Dr. Yazid (Indonesia) reiterated that no key informant interviews were conducted due to limitations in the implementation of their supposed methodology. The focus of the study was labour migration. She expressed, however, that future studies can tackle other types and factors of migration in the region, including the environment.

**SESSION #2: RESPONSES OF ASEAN BODIES AND STAKEHOLDERS**

1. **H.E. Wahyuningrum**, the Chair and Representative of Indonesia to the AICHR, chaired this session.
2. **Mr. Nugroho**, a representative of the Chair of ACMW, expressed appreciation to the AICHR and researchers for the conduct and completion of the study. He hopes that the recommendations indicated can be implemented to increase protection for migrant workers, especially vulnerable groups. Mr. Nugroho also cited the ASEAN Consensus and how the study can complement the project plan of ACMW. Finally, Mr. Nugroho highlights that the ACMW is open to fresh and new ideas to support their work.
3. **H.E. Yanti Kusumawardhani**, the Chair of the ASEAN Commission on Promotion and Protection of the Rights of Women and Children (ACWC), commended the data on all ASEAN Member States to be impressive. While policies on migrant workers are in place in most Member States, H.E. Kusumawardhani noted that there needs to be more data and perspectives on women, children, and vulnerable groups (e.g., children with disabilities). The study also needs some updates in relation to climate change and the COVID-19 pandemic which are phenomena that can spur migration. It is also worth knowing about the safe return infrastructure in countries, especially those mechanisms that engage the community. Pre-departure orientation programs should also include family strengthening, parenting, and women and children protection.
4. H.E. Kusumawardhani also talked about the need to have more accurate data for national identification systems, particularly the age of children. It is also crucial to have legal or certified recruitment entities so they can be supervised, monitored, or regulated by the government and avoid the burden and threats that illegal organisations pose. Knowing how remittance benefits the family, particularly the children, is valuable. Finally, H.E. Kusumawardhani underscored the need to highlight those in irregular migration processes and further understand and tackle the issues that women and children in the context of migration face such as family stress, violence, lack of data, discrimination in the access to inclusive information, services, and protection, unaccompanied and separated children, intergenerational migration, and exploitation. To help address these, ACWC’s work refers to international and regional conventions, Sustainable Development Goals (SDGs), and other pertinent ASEAN commitments. H.E. Kusumawardhani enumerated the different instruments that ACWC has developed that may be relevant to the topic of migration, including the protection of women and children from human trafficking.
5. **Mr. Daniel Awigra**, the Executive Director of the Human Rights Working Group (HRWG), provided some perspectives from civil society. He pointed out that the majority of migrant workers in the ASEAN region migrate in order to address structural and extreme poverty which brings the phenomenon of ‘forced migration’. Mr. Awigra also talked about the major structural issues surrounding migration, such as exploitative recruitment and placement agencies and a low-wage migration regime, that need to be addressed. While the study lays down the migration infrastructure of each ASEAN Member State, it is important to reflect on which of these structures, programs, and policies can truly be felt by or benefit migrant workers. Mr. Awigra invited the AICHR, ASEAN, and relevant bodies and organisations to use the study as a tool of engagement with the migrant community.
6. **Mr. Satria Rizaldi Alchatib**, a lecturer from the Universitas Slamet Riyadi Surakarta, gave some reflections from the view of the academe. He stated that the results can be used not only by government actors and institutions but also by academia and civil society. Most analyses happen at the conceptual level, but the study also explores the operational dimension and considers bureaucratic limits. Mr. Alchatib also pointed out the need for extensive discussions and debates on how to cover encompassing and cross-cutting human rights issues. He believes that the study is clear about its priority focus and touches on key issues in the phenomenon of migration including the repatriation process, pertinent regional conventions, and international mechanisms. Mr. Alchatib proposed that the AICHR also examines (1) how to deal with illegal migrants, especially in the context of mixed nationalities and mixed national regimes, (2) migration links with poverty and development, (3) guidelines on how governments and civil society can address migration issues, and (4) forced migration as the major human rights issue of our time.
7. **Ms. Among Resi** of the International Organization for Migration (IOM) Thailand lauded the study as a good reference for practitioners since it documents the policies and best practices in the ASEAN region. While the research is comprehensive, it still needs to look into irregular migration or forced migration. It is also vital to look further into women and children in the context of migration and the protection of vulnerable groups. She also noted that the portion on SEA policies can be improved by strengthening the discussion on protection. It will also be better for the analysis to come or take off from this topic. The reintegration cycle also can be elaborated. Ms. Resi also highlighted that migration management is a cross-cutting issue and must be analysed vis-a-vis immigration and human trafficking. It is therefore crucial to look into immigration laws. Not all countries in the ASEAN have updated immigration laws nor are these laws in line with the commitments at the ASEAN level.
8. **Mr. Rafendi Djamin**, former AICHR Indonesia, posed questions. Considering that the research has been adjusted to fit the context or needs of the time, he asked about the value-added of the study to the work of ACMW or ACWC and how this initiative can be continued. He also inquired about whether or not the ASEAN recognises ‘forced migration’ and the corresponding definition for it. He further asked how this can be made a priority issue by the AICHR.
9. In response, **H.E. Wahyuningrum**, the Chair and Representative of Indonesia to the AICHR, stated that there is a cross-using of declarations in the existing practices of the AICHR and other ASEAN Sectoral Bodies. She also mentioned the use of the term ‘mixed migration’ instead. AICHR also has activities in relation to migration such as a discussion on ‘mixed migration’ and decent work in fishing vessels.

**CLOSING SESSION**

1. To end the event, **H.E. Wahyuningrum**, the Chair and Representative of Indonesia to the AICHR, officially launched the study on migration and human rights. She recognised the researchers for their hard work, diligence, and patience in completing the study. She also acknowledged the AICHR representatives and the relevant line ministries from the different ASEAN Member States for their comments and suggestions to improve the output.