



## THE KUALA LUMPUR DECLARATION ON THE ASEAN AGREEMENT ON THE PROMOTION AND PROTECTION OF THE RIGHTS OF WORKERS

Developing Asia has shown remarkable economic development within two decades with an average economic growth of 7 % per year. Poverty was reduced by 32 %; 700 million people were taken out of poverty. Importantly, the GDP per capita in 2005 PPP terms grew from USD 1 633 to 5 133<sup>1</sup>. The ASEAN, as an important hub of economic growth in the region, has greatly contributed to these remarkable achievements.

However, deficits in such growth are also visible: prevailing inequality. In the same period, the Gini coefficients as well as quintile ratios have largely increased in the region. The rich are getting richer and richer faster than the poor. This is one evidence that economic growth has yet to contribute to the entire population in the region. Growth is not inclusive and accordingly, not sustainable.

Unemployment is a huge problem. In 2013, general unemployment in ASEAN was 4.2 per cent while for young men the rate was 13.1 per cent, almost three times as high as adult unemployment, according to the ADB and ILO. Unemployment for young women was 13.4 per cent.

We have observed a mounting youth movement: Occupy Wall Street (2011), the Sunflower Movement (2014) and the Occupy Central (2014). These youth mobilisation clearly demonstrate the frustration of young people about their future.

Women are about half of the workforce. They are equal, if not main breadwinner in four out of ten families. They have more college and graduate degrees than men. Yet, on average, women continue to earn considerably less than men. In 2013, female full-time workers made only 78 cents for every dollar earned by men, a gender wage gap of 22 per cent. (<http://www.iwpr.org>). Women participation in union leadership, membership in organized labor, and in decision-making processes remains a challenge.

The ASEAN Trade Union Council<sup>2</sup> welcomes ASEAN Economic Integration to take effect by the end of 2015. We firmly believe that the creation of a single ASEAN market will further

<sup>1</sup> The following analyses are quoted from the ADB-ILO Study "ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity", 2014

<sup>2</sup> The ATUC is a body of 18 representative national trade union centres in 9 ASEAN states except Brunei. It was established in 1983 in Manila to collectively represent voices and interests of workers in the ASEAN process. Its member organisations are Cambodia Confederation of Trade Unions (CCTU); Cambodia Confederation of Labour (CLC); Cambodia Union Federation (CUF); Confederation of Indonesian Trade Union (K-SPI/CITU); Confederation of All Indonesian Trade Union (K-SPSI); Confederation of Indonesia Prosperity Trade Union (K-SBSI); Lao Federation of Trade Unions (LFTU); Malaysian Trades Union Congress (MTUC); Trade Union Congress of the Philippines (TUCP); Federation of Free Workers (FFW); Singapore National Trades Union Congress (NTUC); Labour Confederation of Thailand (LCT); Thai Trade Union Congress (TTUC); State Enterprises Workers' Relations Confederation (SERC); National Congress of Private Industrial Employees (NCPE); Vietnam General Confederation of Labor (VGCL); Confederation of Trade Unions Myanmar (CTUM); and Timor Leste Trade Union Council (TLTUC). President is Mr. Mohd. Khalid AJ HJ Atan (MTUC Malaysia), Mr. Ernesto F.

contribute to economic growth in the ASEAN, and the ASEAN TUC, as a regional body of representative trade unions, would like to contribute to the process.

An important aspect of ASEAN economic integration is that the process inevitably will go hand in hand with labour market integration, a process of standardising of various labour standards and labour market policies within ASEAN. In this context, the ASEAN TUC reiterates the importance of inclusion of its Social Charter in ASEAN economic integration for inclusive and sustainable future.

We, the ASEAN TUC,

NOTING how the social dimension lags even as the ASEAN Socio-Cultural Community (ASCC) progresses with the (a) consolidation and implementation of intra-ASEAN integration initiatives, (b) integration that is driven primarily by cross-border trade and investment, (c) emergence and implementation of partnership with non-ASEAN countries, in particular China, becoming ASEAN's biggest trading partner, among others; and (d) recognising the value of increased cooperation among ASEAN States themselves;

APPRECIATING the shared objectives of the ASEAN Economic Community (AEC) and the ASEAN Social Charter, with the ASCC to promote "One ASEAN identity, human development, social welfare and protection, social justice and rights, environmental sustainability, and narrowing the development gap," and the ASEAN Social Charter which aims to advance "one ASEAN identity, decent work and employment stability, just wages and salaries, workers' health and safety, social development, ratification and application of ILO core labour standards, distribution of income and social security, and human resource development;

CONCLUDING that a decade after the promulgation of the ASEAN Social Charter, the social counterpart of the ASEAN economic, trade and investment architecture and representing the real aspirations of development-oriented government, trade unions, and socially responsible employers – immediate robust actions need to be done quickly, particularly in:

- Creating opportunities and access to decent work;
- Recognising the strengthening of rights at work, in law and practice;
- Ensuring the participation of workers and their organisations, as the biggest actors in the ASEAN community, in policy or decision making and implementation;
- Setting up efficient and effective institutions of labour market governance, including both passive and active labour market policies and programmes; and
- Linking social responses with trade arrangements at intra- and extra- ASEAN levels, among others.

The ASEAN TUC welcomes the initiative to adopt a regional standard on workers' rights in ASEAN. The ASEAN TUC proposes the following points to be included, particularly in an ASEAN Agreement on the Promotion and Protection of the Rights of Workers:

---

*Herrera (TUCP Philippines) is the Secretary General, and Vice Presidents Mr. John de Payva (NTUC Singapore), Mr. Said Iqbal (KSPI Indonesia), and Mr. Thawatchai Pholcharoen (NCPE Thailand).*

1. Fundamental principles

ASEAN labour standards should be built on the basis of the ILO Conventions, Recommendation, relevant international instruments, and decent work principles, in harmony with the ILO Declaration on Fundamental Rights at Work. Definitions and standards must be in compliance with ILO standards.

The ASEAN TUC should be recognised by the ASEAN as social dialogue partner in building, monitoring and promoting such ASEAN labour standards.

2. Specific points:

The following points shall be incorporated in the ASEAN labour standards:

a) Fundamental Workers' Rights

- Full compliance with and respect for core labor standards (CLS) and other human rights, particularly ILO Convention No. 87 (Freedom of Association) and 98 (Collective Bargaining); Convention No. 100 (Equal Remuneration) and No.111 (Employment and Occupations); No. 29 (Forced Labor) and No.105 (Abolition of Forced Labor); and No. 138 (Minimum Age of Employment) and No. 182 (Worst Forms of Child Labor)
- On forced labor: contract substitution should be abolished; there should be a standard ASEAN limits on statutory working hours and overtime, and decent premium for overtime;
- On discrimination: (a) equal remuneration for work of equal value; (b) equal employment opportunities; (c) elimination of any form of discrimination at the workplace, with special support to peoples with disabilities, HIV-AIDS status and indigenous people;
- Inclusion of ILO Conventions No. 156 (Workers with Family Responsibilities) and No. 183 (Maternity Protection).

b) Employment and Working Conditions

- Establishment of national employment policy in line with the ILO employment Convention No. 122 (Employment Policy);
- Employment adjustment in compliance with ILO Convention No. 158 (Termination of Employment);
- Outsourcing system must be abolished;
- Conversion clause to avoid endless extension of short term employment contract;
- Appropriate minimum wage setting mechanisms for basic level of living standards and towards higher living family wages;
- Protection for domestic workers and those in vulnerable employment, e.g., construction, agriculture, transportation, fisheries, and those in informal sector, among others

c) Social Protection

- Implementation of ILO Convention No. 183 (Maternity Protection)
- Inclusion of social protection in accordance with ILO Convention No. 102
- Tripartite consultation in setting-up national social protection floors

- d) Gender Equality
  - Gender mainstreaming in development policies and programs, including women participation at all levels of decision-making
  - Full compliance with ILO Convention No. 156 (Workers with Family Responsibilities)
  - Elimination of gender-based violence
  
- e) Child Labor
  - More concrete efforts should be done on progressive elimination of child labor in ASEAN;
  - Protection for working hours for youth
  
- f) Occupational Safety and Health
  - Protection of workers from hazardous workplaces, including chemicals and radiation
  - Compensation mechanism and standards
  
- g) Migrant Workers
  - Labour rights of migrant labour in compliance with the relevant ILO conventions in terms of right to form and join unions and bargain collectively; recruitment, placement and employment in non-abusive conditions; right to social security; dispute settlement;
  - Active promotion of the ratification of International Labour Conventions No. 97 (Migration for Employment) and No. 143 (Migrant Workers Supplementary Provisions) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), as well as ILO Conventions dealing with public and private employment agencies; full support for the ratification and application of ILO Convention No. 189 to promote decent work for domestic workers;
  - Support for sub-regional trade union actions for the protection of migrant workers in countries of origin and in countries of destination to enhance governance of migration, in the fields of establishing legal avenues for labour migration, strengthening of labour inspection, legal cooperation in the case of trafficking, forced labour and other abusive situations, and issues of social security entitlements;
  - Tripartite consultation and decision-making mechanisms on the status of migrant workers, social protection aspects and measures facilitating the regularization of the status of migrant workers in irregular situations; and ensuring the involvement of trade unions in the development of government-government bilateral agreements;
  - Model and unified employment contracts for migrant workers, based on compliance with provisions of international labour standards and enforced through national legislation, regulations and labour inspection;
  - Support for national mechanisms for protection of migrant workers, including information, direct services by unions or associated migrant resource centres (MRCs);
  - ASEAN member states to allocate one percent (1%) of the total national budget to service migrant workers, through appropriate bodies, i.e. trade union centers, etc.

- Support for engagement with tripartite partners so as to secure ethical recruitment and better working and living conditions for migrant and non-migrant workers , as well as special protection for particularly vulnerable workers, such as domestic workers, and those in construction, transportation, agriculture, fishery, and informal sector, including advocacy for priority mutual recognition arrangements (MRA) for these vulnerable sectors, and support for sub-regional actions for the protection of migrant workers;
  - Prohibition of confiscation of travel documents and other properties of migrant workers;
  - Monitor and report country and regional implementation of recommendations from the 7<sup>th</sup> (and previous six) ASEAN Forum on Migrant Labor (AFMLs), in cooperation with support institutions, particularly: standardized employment contracts; clear terms and conditions of employment, rights and responsibilities of men and women workers and employers; elimination of employment substitution and sub-standard employment contracts; migrant resource centers; support for complaining migrant workers in countries of destination; clear and accessible laws and regulations concerning employment and labor migration; mandatory and free pre-employment, pre-departure and post-arrival orientation programs for migrant workers; and information and assistance to families of migrant workers to enable coping with migration challenges.
- h) Supervisory Mechanism and Dispute Settlement Boards
- Establishment of independent supervisory and dispute settlement mechanisms
  - The involvement of the ASEAN TUC and the ILO in such bodies
  - Periodic reports on labour standards and labour market conditions by such boards
- i) On ASEAN Economic Integration and Free Trade Agreements
- Adoption of a strengthened ASEAN Social Charter to ensure that bilateral and regional free trade agreements enshrine labor rights and ILO core standards, and truly result in inclusive growth and a “caring and sharing community”;
  - Regular national and sub-regional assessment of bilateral and multi-lateral free trade agreements (FTAs), including their impacts on worker wages, terms and conditions of work, labour standards, and social protection, and others, with the participation of trade unions;
  - Make decent work, core labor standards, social protection for formal and informal sector workers, environmental sustainability and green jobs, social safety net funds -- as essential part of FTAs.

In conclusion, the ASEAN TUC, with the International Trade Union Confederation Asia Pacific (ITUC AP), urges the ASEAN to have a dialogue forum to discuss issues and challenges in ASEAN labour market integration.

23 April 2015, Kuala Lumpur  
ASEAN Trade Union Council