

A Critical Review of the ASEAN Convention on the Protection of Women Migrant Workers: Gaps, Challenges, and Recommendations

Tinjauan Kritis terhadap Konvensi ASEAN tentang Perlindungan Pekerja Migran Perempuan: Kesenjangan, Tantangan, dan Rekomendasi

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ABSTRACT

This paper offers a critical examination of the ASEAN Convention on the Protection and Promotion of the Rights of Migrant Workers, with particular focus on the rights of women migrant workers. Employing constructivist international relations theory alongside feminist legal analysis, it identifies substantial shortcomings in implementation, normative ambiguity, and the limited enforceability of protections. Drawing on empirical data from 2020 to 2024, and informed by reports from international human rights and labor organizations, the paper provides a comprehensive assessment of ASEAN's inadequacies in safeguarding women migrant workers. Women migrant workers continue to be disproportionately represented in domestic work and the informal economy, where they are subject to systemic discrimination, exploitation, and legal invisibility. Despite rhetorical commitments to gender equality and migrant rights, ASEAN's legal frameworks and mechanisms frequently omit gender-specific provisions and lack the capacity to address intersectional vulnerabilities. The region's reliance on soft law approaches and the absence of binding commitments undermine its ability to ensure effective protection. The paper concludes with strategic recommendations for ASEAN member states, including the adoption of legally binding commitments, the formulation of gender-sensitive regional instruments, the strengthening of accountability mechanisms, and more meaningful engagement with civil society organizations. Only through structural reform can ASEAN genuinely uphold the rights and dignity of women migrant workers.

Keyword: ASEAN, women migrant workers, human rights, gender-based violence, constructivism

ABSTRAK

Tulisan ini menyajikan tinjauan kritis terhadap Konvensi ASEAN tentang Perlindungan dan Pemajuan Hak-Hak Pekerja Migran, dengan fokus pada hak-hak pekerja migran perempuan. Dengan menggunakan teori hubungan internasional konstruktivis dan analisis hukum feminis, tulisan ini mengidentifikasi sejumlah kekurangan signifikan dalam implementasi, ambiguitas normatif, serta terbatasnya daya ikat perlindungan yang ditawarkan. Berdasarkan data empiris tahun 2020 hingga 2024 dan laporan dari organisasi internasional di bidang hak asasi manusia dan ketenagakerjaan, kajian ini memberikan penilaian menyeluruh atas kelemahan ASEAN dalam melindungi pekerja migran perempuan. Pekerja migran perempuan terus mengalami representasi yang tidak proporsional dalam sektor pekerjaan domestik dan ekonomi informal, di mana mereka menghadapi diskriminasi sistemik, eksploitasi, dan ketidaknampakan secara hukum. Meskipun

terdapat komitmen retorik terhadap kesetaraan gender dan hak-hak migran, kerangka hukum dan mekanisme ASEAN kerap mengabaikan ketentuan yang berperspektif gender serta tidak mampu menjawab kerentanan yang bersifat interseksional. Ketergantungan kawasan ini pada pendekatan soft-law dan ketiadaan komitmen yang mengikat melemahkan kapasitasnya dalam memberikan perlindungan yang efektif. Tulisan ini ditutup dengan sejumlah rekomendasi strategis bagi negara-negara anggota ASEAN, termasuk adopsi komitmen hukum yang mengikat, perumusan instrumen regional yang sensitif gender, penguatan mekanisme akuntabilitas, serta pelibatan yang lebih bermakna terhadap organisasi masyarakat sipil. Hanya melalui reformasi struktural ASEAN dapat benar-benar menegakkan hak dan martabat pekerja migran perempuan.

Kata Kunci: ASEAN, Pekerja Migran Perempuan, Hak Asasi Manusia, Kekerasan Berbasis Gender, Konstruktivisme

INTRODUCTION

The ASEAN region has long been characterized by high levels of intra-regional labor migration, driven by economic disparities and the demand for low-cost labor. Among these migrants, women constitute a significant proportion, particularly in domestic work, caregiving, and the service sector (International Labor Organization [ILO], 2022). Despite their economic contributions, women migrant workers are often subjected to institutional marginalization, precarious working conditions, and violations of fundamental rights. ASEAN's approach to migrant worker protection has been institutionalized through the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007) and the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (2017). However, in the absence of binding enforcement mechanisms, these instruments fail to provide adequate safeguards against the gender-specific risks faced by women migrant workers (Kaur, 2020).

The ASEAN Convention purports to protect the rights of all migrant workers regardless of legal status. Yet empirical evidence and scholarly analyses highlight inconsistent implementation and the persistent inadequacy of protection for women (UN Women, 2021). Between 2020 and 2024, numerous documented cases of abuse, exploitation, and trafficking of women migrant workers have exposed ASEAN's structural weaknesses in enforcing its stated principles. Reports underscore ongoing impunity for perpetrators and the systemic denial of legal recourse to victims (Human Rights Watch, 2023).

ASEAN's state-centric orientation and entrenched norm of non-interference have impeded regional efforts to monitor and enforce human rights protections. This structural limitation has created an enabling environment for the violation of women migrant workers' rights (Chong, 2022). Moreover, ASEAN instruments remain largely gender blind. Despite rhetorical commitments to gender equality, there has been limited practical implementation of gender-sensitive approaches in migration governance (Piper & Rother, 2019). The adoption of soft law instruments, such as the ASEAN Consensus, permits member states to opt out of obligations, thereby undermining regional solidarity and shared responsibility. This legal ambiguity disproportionately affects women migrant workers, whose specific needs and vulnerabilities require explicit protections (Lee, 2020).

The Convention also neglects to address the intersectional vulnerabilities of women migrant workers, particularly those from minority, rural, or low-income backgrounds. An intersectional lens is crucial for understanding how overlapping forms of discrimination intensify their marginalization (Crenshaw, 1991; ILO, 2022).

The post-COVID-19 period has further exposed protection gaps. Lockdowns, border closures, and reduced remittances disproportionately impacted women, many of whom lost employment or were driven into more precarious forms of labor (UN Women, 2022). In several ASEAN member states, domestic work remains excluded from formal labor recognition, leaving women migrant workers without access to labor protections and social security (ILO, 2021). This invisibility perpetuates cycles of abuse. ASEAN's normative frameworks have yet to be meaningfully translated into domestic legal instruments. Although most member states have ratified

international conventions such as CEDAW, implementation often lags or contradicts ASEAN's own commitments (UN Committee on the Elimination of Discrimination against Women, 2023).

The ASEAN Intergovernmental Commission on Human Rights (AICHR) lacks both a protection mandate and enforcement powers, further limiting institutional capacity to uphold the rights of women migrant workers (Davies, 2021). Despite mounting evidence of abuse, ASEAN's consensus-driven model continues to prioritize political accommodation over human rights enforcement. This real-politic orientation severely impedes the development of gender-sensitive protection mechanisms (Severino, 2020). The rise of digital recruitment and virtual labor platforms has further exacerbated vulnerabilities, with many women being trafficked or deceived by fraudulent online job advertisements. ASEAN has yet to adopt a coordinated regional digital protection framework (UNODC, 2023).

Women migrant workers also face systemic barriers to accessing justice. Language obstacles, fear of retaliation, and lack of legal assistance hinder their ability to seek redress. ASEAN mechanisms do not provide sufficient support to overcome these challenges (Human Rights Watch, 2022). Bilateral labor agreements (BLAs) between ASEAN states vary in effectiveness and frequently lack gender-specific provisions. The absence of a harmonized, rights-based regional framework exacerbates existing protection gaps (ILO, 2022).

The marginalization of the care sector within ASEAN migration policy is partly attributable to pervasive patriarchal attitudes that undervalue women's labor. Addressing this normative discrimination is essential for realizing meaningful protection (Piper, 2020). Scholarly critiques increasingly underscore the need to reconceptualize migration governance in Southeast Asia through a gender lens. A feminist political economy perspective reveals how gendered labor markets shape both migration outcomes and state responses (Elias, 2018).

Scholarship on migration governance in Southeast Asia frequently critiques the limited scope of ASEAN's regional mechanisms in addressing the specific vulnerabilities of women migrant workers. ASEAN's regional migration policy, as argued by Piper (2008), is shaped more by economic imperatives than by human rights considerations. This emphasis on labor export and remittance-driven economies results in institutional neglect of gender-based abuse and discrimination. The 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers exemplifies this trend—symbolic in form but lacking enforceability. Scholars contend that without legal mechanisms to uphold migrant rights, the Declaration cannot and will not affect structural change (Ford, 2020).

A consistent theme in the literature is ASEAN's structural gender blindness in migration policymaking. True (2012) and Jones and True (2013) illustrate how women migrant workers—particularly those engaged in domestic labor—are systematically denied legal protection on the basis of both gender and employment sector. In countries such as Malaysia and Singapore, domestic work remains informal and unregulated, leaving women highly vulnerable to abuse, violence, and trafficking. Kofman and Raghuram (2015) stress that, despite growing documentation of such abuses, regional policy continues to portray women as passive labor agents rather than rights-bearing individuals. Feminist scholarship thus critiques ASEAN's failure to institutionalize a gender-sensitive approach to labor migration.

Legal scholars have also criticized the limitations of the ASEAN Declaration from both normative and institutional perspectives. Jetschke and Rüland (2009) argue that ASEAN's entrenched weak institutionalism—rooted in principles of non-interference and consensus—impedes progress in regional human rights protection. This is exacerbated by the Declaration's non-binding nature and its exclusion of undocumented or irregular migrant workers, among whom women are disproportionately represented. The absence of a formal dispute resolution or enforcement mechanism renders the Declaration largely symbolic. Kneebone (2022) observes that ASEAN's migration governance lacks the legal accountability mechanisms present in regional human rights regimes such as those of Europe or Africa.

Constructivist international relations theory provides insight into why ASEAN's human rights initiatives remain normatively thin. Risse, Ropp, and Sikkink (2013) argue that regional norms become embedded only when internalized through domestic political and legal institutions. In the ASEAN context, despite rhetorical commitments to migrant protection, such norms have not been substantively integrated into national legislation or bureaucratic practice. Ba (2009) further notes

that ASEAN's preference for "quiet diplomacy" over public accountability obstructs norm diffusion and consolidation. This has resulted in a pattern of "talk without action", where declarations abound but implementation is lacking.

Feminist scholars of international relations argue that ASEAN's migration policies perpetuate gendered inequalities and hierarchies. Davies and True (2015) maintain that the exclusion of women from decision-making processes sustains a governance model that devalues care work and ignores reproductive labor. The failure to consult migrant women or civil society organizations fosters top-down, elite-driven policymaking that remains detached from lived realities. UN Women (2021) underscores that gender-responsive migration policies must incorporate intersectional data, inclusive stakeholder engagement, and robust accountability mechanisms to effectively address abuse and discrimination.

Empirical research has also highlighted the shortcomings of bilateral labor agreements (BLAs) in protecting women migrant workers. Ford and Piper (2023) demonstrate that although BLAs between sending and receiving countries may address recruitment and contract terms, they typically exclude domestic workers and omit gender-specific protections. These agreements rely on the host state's political will, and in most cases, considerations of national security and labor market demand override migrant rights. This narrow, state-centric approach hampers the development of unified regional standards and limits the practical impact of the ASEAN Declaration on the rights of women.

Numerous reports and studies have documented the persistent abuse of women workers within the largely unregulated and exclusionary frameworks of national labor law. Human Rights Watch (2021), for example, reports widespread mistreatment of domestic workers in Malaysia, including wage theft, confinement, and physical abuse. Such violations are rarely prosecuted due to legal loopholes and the absence of labor inspections in private homes. The literature emphasizes that without functional regulatory mechanisms, regional and national commitments to migrant protection remain aspirational rather than operational (ILO, 2022).

Scholars also highlight the significant role of transnational advocacy networks and civil society in pushing for stronger protections for migrant workers. Piper and Rosewarne (2014) argue that feminist alliances, migrant worker unions, and grassroots movements exert crucial pressure on ASEAN and national governments to elevate labor standards. However, the regional policymaking space remains largely inaccessible to these actors. ASEAN's preference for inter-state dialogue limits external influence, making it difficult for alternative voices—particularly migrant women themselves—to shape the policy agenda.

Comparative analyses further reveal ASEAN's lag in institutionalizing migrant protections relative to other regional blocs. For instance, the African Union's Protocol on the Free Movement of Persons mandates legal obligations for member states, including access to social services and justice (Adepoju, 2019). Similarly, the European Union's Charter of Fundamental Rights guarantees enforceable labor rights for migrants. Scholars attribute ASEAN's reluctance to adopt such models to its deeply rooted norms of sovereignty and non-interference, as well as divergent political priorities among member states (Acharya, 2001; Nesadurai, 2008).

This research argues that the ASEAN Convention fails to adequately protect women migrant workers due to its non-binding nature, gender-blind provisions, and lack of enforcement mechanisms. Without structural reforms and gender-sensitive approaches, ASEAN's framework remains insufficient to safeguard the rights and dignity of women in migration.

RESEARCH METHODS

This research employs a critical-constructivist qualitative approach to examine the ASEAN Convention on the Protection and Promotion of the Rights of Migrant Workers, with a particular focus on women migrant workers. Qualitative research facilitates a nuanced understanding of how norms, language, and institutional actions shape the regional governance of labor migration. Constructivism underscores the ways in which ASEAN's promises of protection are socially constructed, frequently subject to political negotiation, cultural sensibilities, and the sovereignty concerns of member states. This approach proves especially valuable in mapping the disjunction

between rhetorical commitments and practical implementation, particularly in relation to gender and human rights.

The study primarily relies on document analysis as its main source of data. Key documents include the Convention itself, ASEAN declarations, meeting communiqués, and national labor migration policies of member states from 2020 to 2024. Legal instruments such as bilateral labor agreements, regional action plans, and memoranda of understanding between countries of origin and destination were also examined. In addition, secondary sources from reputable international bodies—including the International Labor Organization (ILO), UN Women, and Human Rights Watch (HRW)—were employed to grasp the broader implications of policy gaps. Document selection was purposive, guided by relevance, credibility, and alignment with the study's focus on women migrant workers.

A comparative analysis is conducted to explore how various ASEAN member states interpret and implement regional commitments. By examining national policies in both sending and receiving countries—namely Indonesia, Myanmar, the Philippines, Malaysia, Singapore, and Thailand—the research reveals disparities in legal protections, policy structures, and enforcement mechanisms. This method highlights how domestic political interests, legal frameworks, and administrative capacities influence the extent to which regional norms are internalized and translated into national practices. The cross-country analysis provides valuable insights into ASEAN's institutional limitations in ensuring consistent protection for migrant workers.

Throughout the analysis, a critical feminist perspective is adopted to interrogate power relations within migration governance and foreground the lived realities of women migrant workers. While the study does not employ interviews or ethnographic methods, it draws upon gender-sensitive policy reports and academic literature to identify systemic exclusions within the ASEAN framework. This feminist lens illuminates the continued marginalization of care work, domestic labor, and gender-based violence within policy discourses, thereby perpetuating the invisibility of women migrants in legal and institutional narratives. Such a perspective is crucial in assessing the Convention's failure to substantively address gender-based vulnerabilities in a rights-oriented manner.

The study also critically engages with ASEAN's institutional norms and customary practices—particularly the principles of non-interference, consensus, and flexible cooperation—which shape its approach to human rights and labor regulation. These foundational principles are examined not merely as political strategies, but as normative structures that constrain the region's capacity for collective action. The research analyses the role these norms play in rendering the Convention largely symbolic and in obstructing the development of binding and enforceable commitments to protect women migrant workers. This approach enables a multi-level interrogation of institutional behavior and normative resistance within ASEAN's migration governance framework.

RESULT AND DISCUSSION

Constructivist Approaches to ASEAN Multilateralism

Constructivism, as a theory of international relations, highlights ideational factors—such as shared beliefs, norms, and identity—that shape the behavior of states and the international system more broadly (Wendt, 1999). In the context of ASEAN, constructivism offers a valuable lens through which to understand the roles of regional identity, norms of non-interference, and deliberative decision-making in shaping multilateral cooperation, particularly on sensitive issues such as the protection of migrant workers. ASEAN has historically developed a distinct regional identity grounded in the “ASEAN Way”, characterized by informality, consensus-building, and respect for sovereignty (Acharya, 2001). This normative framework influences institutional

responses and constrains the development of binding legal mechanisms. ASEAN's cautious multilateralism is rooted in a shared identity that prioritizes political stability and non-confrontational diplomacy over rights-based enforcement (Narine, 2002).

From a constructivist perspective, ASEAN's limited engagement in human rights protection is not solely a result of material or institutional constraints but also of ideational commitments to sovereignty and political non-interference (Acharya, 2011). These principles are deeply embedded in ASEAN's collective identity and shape the design and implementation of regional frameworks, including those related to the protection of migrant workers. Constructivism also underscores the importance of norm diffusion and localization within regional human rights regimes (Risse, Ropp, & Sikkink, 2013). While global norms on gender equality and migrant rights have increasingly permeated ASEAN discourse, their localization often leads to diluted commitments, as states adapt these norms to fit domestic contexts. This process of adaptation weakens the transformative potential of global human rights standards.

ASEAN's approach to the vulnerabilities faced by women migrant workers highlights a tension between emerging human rights norms and entrenched regional practices. Constructivist analysis sheds light on how ASEAN's emphasis on regional stability and consensus frequently outweighs the imperative to protect marginalized groups through robust legal mechanisms (Jetschke, 2009). Constructivist thought also centers on social learning and identity transformation as key drivers of regional cooperation. ASEAN's gradual recognition of gender concerns in labor migration may be viewed as a form of norm internalization. However, the slow pace of institutional reform suggests that normative shifts have yet to reach a critical threshold necessary to trigger substantive legal change (Ba, 2009).

ASEAN's institutions, such as the ASEAN Intergovernmental Commission on Human Rights (AICHR), exemplify this dynamic. Although AICHR was established to promote and protect human rights, its lack of a protection mandate reflects the region's reluctance to institutionalize stronger rights-based mechanisms. This hesitation stems from a prevailing regional identity that privileges state sovereignty over supranational authority (Davies, 2014). Constructivist analysis also exposes the discursive practices through which ASEAN renders human rights commitments compatible with regional norms. Terms such as "balance", "flexibility", and "mutual respect" are frequently invoked to justify soft law approaches and the avoidance of binding obligations (Kraft, 2012). These discourses reflect the cognitive frameworks through which ASEAN member states interpret human rights responsibilities.

ASEAN's protection of women migrant workers also reveals the influence of gendered regional identities. Constructivist feminist scholars argue that global governance structures often reproduce patriarchal norms to the detriment of women's experiences (True, 2013). ASEAN's neglect of gender-based violence and care work within migration policy illustrates the persistence of such gendered exclusions across the region.

The Non-Binding Nature of ASEAN

The ASEAN Convention on the Protection and Promotion of the Rights of Migrant Workers may appear to signify a positive step towards regional cooperation; however, upon closer examination, it falls markedly short—particularly in relation to women. Owing to its non-binding nature and its exclusion of undocumented workers, the Convention is ill-equipped to address the widespread abuses occurring in informal and domestic employment—sectors in which women predominate and where legal protections are often weak or entirely absent (ILO, 2022; Piper, 2008). Despite ASEAN's repeated affirmations of its commitment to migrant rights, the Convention lax enforcement mechanisms, fails to incorporate gender-sensitive frameworks, and does not establish a robust regional monitoring system. Instead, it defers excessive authority to national governments, without ensuring mechanisms for accountability (Jetschke & Rüland, 2009; Hernandez, 2020).

In addressing gender-based vulnerabilities, ASEAN's efforts remain conspicuously silent. The Convention omits critical issues such as sexual harassment, exploitation linked to reproductive roles, and the economic dependency that entraps many women migrant workers. Feminist scholars have criticized ASEAN's migration governance for being grounded in a neoliberal, market-oriented model that conceptualizes migrants merely as units of labor, rather than as

rights-bearing individuals (True, 2012; Kofman, 2013). Meanwhile, receiving countries such as Malaysia and Singapore continue to exclude domestic workers—most of whom are women—from standard labor protections, thus perpetuating structural inequalities and reinforcing cycles of abuse (Human Rights Watch, 2021; Jones & True, 2013). These discrepancies between national policies and international human rights standards have resulted in deep and persistent protection gaps across the region.

The challenges facing migrant worker protection in ASEAN are rooted not only in policy deficiencies but also in the structural foundations of ASEAN itself. Its core principles of non-interference and consensus-based decision-making significantly constrain the establishment of binding regional agreements and effective accountability mechanisms (Acharya, 2001; Ba, 2009). Even the ASEAN Intergovernmental Commission on Human Rights (AICHR) has made minimal progress on migrant rights, frequently citing its limited mandate as a rationale for inaction. From a constructivist standpoint, such gaps are unsurprising. ASEAN member states often articulate rhetorical commitments to migrant protection, yet these are rarely reflected in domestic legislation or administrative practices (Risse et al., 2013). This disjuncture between formal declarations and practical implementation reinforces a performative culture in which symbolic compliance is prioritized over substantive action.

Recent data gathered by NGOs and fieldwork between 2020 and 2024 presents a sobering reality. Over 60 per cent of women in informal employment reported experiences of abuse, yet fewer than 10 per cent were able to access formal complaint mechanisms (Piper et al., 2021). Undocumented workers—who are typically excluded from labor protections and consular assistance—face heightened risks including trafficking, arbitrary detention, and deportation without due process (UNODC, 2023). Concurrently, women's voices are largely absent from policymaking forums, and ASEAN lacks a region-wide support infrastructure to assist victims or ensure access to justice. While sending states such as Indonesia and the Philippines have consistently advocated for stronger protections, their efforts are frequently undermined by the lack of reciprocal commitment from receiving states (Ford & Piper, 2023).

At its core, the ASEAN Convention reflects a deep institutional reluctance—both structurally and ideationally—to address the intersecting issues of gender and migration in a meaningful manner. It does not compel member states to criminalize gender-based violence, nor does it ensure harmonization of labor standards across borders. Despite increased attention to the rights of women migrant workers at both regional and global levels, rights violations persist, underlining ASEAN's significant structural limitations in offering meaningful protection. Without far-reaching reforms—including the adoption of binding agreements, the integration of gender-specific safeguards, and the establishment of independent monitoring mechanisms—the Convention risks perpetuating the marginalization of women migrant workers in Southeast Asia.

One of the Convention's most significant flaws lies in its failure to establish accountability mechanisms. There are no binding enforcement provisions or independent review processes. ASEAN's institutional design continues to prioritize national sovereignty over collective oversight, thereby impeding any possibility of systematic monitoring or sanction in cases of abuse. As a result, serious violations against women migrant workers frequently go unaddressed. There is no regional court or grievance mechanism available to migrants (Kneebone, 2022). Compared to global human rights instruments that incorporate mechanisms for oversight and redress, ASEAN's approach appears notably weak. Its reluctance to move from aspirational rhetoric to enforceable legal commitments is particularly detrimental for women migrants confronting violence or exploitation, as it erodes confidence in the very regional framework intended to protect them.

The absence of gender mainstreaming in ASEAN's key policy instruments reflects a broader institutional failure to adequately recognize and respond to women's specific vulnerabilities in the context of migration. Terms such as "gender equality", "sexual violence", and "reproductive health" are frequently omitted or subsumed within vague human rights language, thereby diluting their significance and disconnecting them from the lived realities of migrant women (True, 2012; UN Women, 2021). This form of rhetorical evasion points to a deeper political reluctance among ASEAN states to engage with issues of gender justice, often due to concerns about cultural sensitivities or the potential destabilization of traditional norms. Without an explicit and consistent gender lens, women migrant workers remain excluded from decision-making

processes, and their particular experiences—ranging from unregulated domestic employment to inadequate access to reproductive healthcare—remain largely invisible and unaddressed.

Moreover, the bilateral labor agreements on which ASEAN states rely for migrant protection are highly inconsistent and frequently lack gender-specific provisions. Their effectiveness depends almost entirely on the political will of host countries to implement and enforce them (Ford & Piper, 2023). For instance, Indonesia's agreements with Malaysia aimed to enhance protections for domestic workers, but their enforcement has been sporadic, with limited oversight and few consequences for abusive employers. By continuing to favor decentralized, state-led arrangements over comprehensive regional frameworks, ASEAN demonstrates a clear preference for fragmented governance, which in turn undermines the development of stronger protective mechanisms for migrant workers.

The COVID-19 pandemic further exposed these vulnerabilities. As borders closed, employment opportunities vanished, and movement restrictions were imposed, women in informal sectors such as care work, hospitality, and domestic service were disproportionately affected. Many were dismissed without severance, evicted from their accommodation, or repatriated without any form of support (ILO, 2022; Piper et al., 2021). Migrants were often excluded from public health measures, including vaccine distribution and access to healthcare. ASEAN's response to the crisis remained fragmented and gender-blind, underscoring a persistent institutional inability to consider the differentiated impacts of crises on various populations.

This ongoing marginalization of women migrant workers in ASEAN policymaking reveals deeper structural inequalities within regional governance. Migrant workers—particularly women—are rarely included in the formulation or implementation of regional agreements. Advocacy groups for migrant rights are given limited space in formal policy discussions, and their recommendations are seldom incorporated into final texts (Davies & True, 2015). This top-down governance model undermines both the legitimacy and efficacy of ASEAN's migration frameworks. For ASEAN to produce future conventions that genuinely protect the individuals they concern, a paradigm shift is required—one in which women migrants and grassroots organizations are positioned as central actors in shaping the policies that affect their lives.

Human Rights Violations Against Women Migrant Workers in ASEAN (2020–2024)

Between 2020 and 2024, women migrant workers across ASEAN continued to experience pervasive and systemic human rights violations, exacerbated by the COVID-19 pandemic and the weak enforcement of regional protective frameworks. These women faced a broad spectrum of abuses, including labor exploitation, gender-based violence, trafficking, and systemic denial of access to justice (ILO, 2021). The pandemic exposed and deepened these structural fissures, particularly for women employed in domestic and caregiving roles. Many lost their employment without notice or compensation, and with limited alternatives, were pushed into informal and unregulated work that offered little to no legal protection (UN Women, 2021).

In countries such as Malaysia, Singapore, and Thailand, migrant domestic workers reported being confined within employers' homes, denied wages, and subjected to verbal and physical abuse. These testimonies starkly reveal the inadequacies of bilateral labor agreements and national legal provisions in offering substantive protection (Amnesty International, 2020). In contrast, in sending countries such as Indonesia and the Philippines, thousands of women were repatriated without adequate support, often returning traumatized, socially stigmatized, and unemployed. These conditions exposed significant shortcomings in reintegration mechanisms and social safety nets (Piper et al., 2021). Labor migration frameworks in the region continue to perpetuate structural discrimination, whereby women migrants are frequently excluded from protections afforded to other categories of workers and are disproportionately funneled into informal sectors that fall outside the scope of ASEAN's existing labor agreements (ILO, 2022).

Human trafficking remains a significant concern, particularly for undocumented women migrants. In countries such as Cambodia, Laos, and Myanmar, porous borders and widespread corruption facilitate the trafficking of women for sexual exploitation and forced labor (UNODC, 2023). ASEAN's ongoing reluctance to adopt a binding regional instrument focused on the rights of women migrant workers enables member states to delay domestic reforms and deflect international scrutiny (Kneebone, 2022). Although ASEAN has issued numerous declaratory

commitments regarding migrant protection, these have yet to translate into robust monitoring mechanisms or enforcement structures. In the absence of accountability, abuses by employers and recruitment agencies persist with impunity (Davies & True, 2015).

Sexual harassment and gender-based violence are pervasive, both in countries of origin and destination. In Thailand, for instance, women migrants employed in the agricultural and seafood sectors frequently report harassment and abuse by supervisors, yet have limited avenues for redress (Human Rights Watch, 2021). In many ASEAN countries, domestic work is not formally recognized under labor law, resulting in the exclusion of women domestic workers from fundamental protections such as regulated working hours, guaranteed rest days, and access to social security (ILO, 2020). Language barriers, limited access to information, and the fear of deportation discourage many from reporting abuse or seeking assistance. In some cases, employers confiscate workers' passports, effectively trapping women in exploitative environments (Human Rights Watch, 2022).

During the pandemic, women migrant workers were often scapegoated as vectors of disease or sources of social unrest, further marginalizing them from healthcare services and public support systems (UN Women, 2021). Those lacking legal documentation faced heightened vulnerabilities. Without legal status, they were particularly susceptible to police raids, frequently resulting in detention and deportation rather than protection (OHCHR, 2022). While civil society organizations and international networks have made critical interventions—providing shelter, legal aid, and emergency support—their efforts remain constrained in the absence of meaningful support from national governments or ASEAN as a regional body (Ford & Piper, 2023).

CONCLUSION

The ASEAN Convention on the Protection and Promotion of the Rights of Migrant Workers functions more as a symbolic gesture than as a substantive guarantee for the millions of migrant workers across Southeast Asia. Upon closer examination, it becomes evident that the Convention falls short of offering genuine protection—particularly for women migrant workers, who face specific and enduring vulnerabilities. The language of the Convention remains deliberately vague, it lacks enforceable mechanisms, and it fails to address the gendered dimensions of migration. From a constructivist perspective, the Convention exemplifies how norm diffusion is likely to falter in the absence of robust institutional frameworks, political will, and meaningful local engagement.

Compounding these shortcomings are ASEAN's internal structural constraints—including overlapping mandates, the absence of an effective monitoring body, and the exclusion of civil society organizations from policy deliberations—which further undermine the Convention's credibility. ASEAN's entrenched principles of non-interference and consensus-based decision-making continue to impede decisive regional action on transboundary human rights concerns. Feminist critiques go further by highlighting how ASEAN's elite-dominated governance structures systematically marginalize women migrant workers, rendering their experiences invisible and perpetuating cycles of exploitation and abuse.

If the Convention is to evolve beyond a rhetorical commitment, ASEAN must implement fundamental reforms. These include mainstreaming gender into all stages of policy development, establishing effective accountability mechanisms, and ensuring inclusive participation in regional governance processes. Without such transformative measures, the Convention risks remaining a purely declarative document, disconnected from the lived realities it purports to address.

REFERENCES

- Acharya, A. (2001). *Constructing a security community in Southeast Asia: ASEAN and the problem of regional order*. Routledge.
- , (2011). *Whose ideas matter? Agency and power in Asian regionalism*. Cornell University Press.
- Adepoju, A. (2019). *Migration and development in Africa: Trends, issues, and challenges*. Springer.
- Amnesty International. (2020). *Trapped: The exploitation of migrant domestic workers in Malaysia*. Amnesty International Publications.

- Ba, A. D. (2009). (Re)Negotiating East and Southeast Asia: Region, regionalism, and the Association of Southeast Asian Nations. Stanford University Press.
- Chong, T. (2022). Human rights promotion through diplomacy: ASEAN's soft regionalism. *Journal of Current Southeast Asian Affairs*, 41(1), 78–95.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299.
- Davies, M. (2014). Realising human rights in ASEAN: The role of the ASEAN human rights bodies. *Asian Journal of International Law*, 4(1), 137–158.
- Davies, S. E., & True, J. (2015). Reframing conflict-related sexual and gender-based violence: Bringing gender analysis back in. *Security Dialogue*, 46(6), 495–512.
- Ford, M. (2020). Protecting migrant workers in the Asia-Pacific: The role of bilateral labor agreements. *Asian and Pacific Migration Journal*, 29(2), 153–172.
- Ford, M., & Piper, N. (2023). Migrant worker rights and regionalism in Southeast Asia. Palgrave Macmillan.
- Human Rights Watch. (2021). "I already bought you": Abuse and exploitation of female migrant domestic workers in the United Arab Emirates. Human Rights Watch.
- (2022). "Work faster or get out": Labour rights abuses in Malaysia's garment industry during the COVID-19 pandemic. Human Rights Watch.
- (2023). "Trapped at Home": The exploitation of migrant domestic workers in Southeast Asia. Human Rights Watch.
- International Labour Organization. (2020). Protecting migrant workers during the COVID-19 pandemic: Recommendations for policy-makers and constituents. ILO.
- (2021). Labour migration in ASEAN: Trends and policy challenges. ILO Regional Office for Asia and the Pacific.
- (2022). ASEAN labour migration statistics: Gender dimensions. ILO Publications.
- Jetschke, A. (2009). Human rights and state security: Indonesia and the Philippines. University of Pennsylvania Press.
- Jetschke, A., & Rüländ, J. (2009). Decoupling rhetoric and practice: The cultural limits of ASEAN cooperation. *The Pacific Review*, 22(2), 179–203.
- Jones, P., & True, J. (2013). Women and post-conflict economic recovery: The failure to address informal economies. *International Feminist Journal of Politics*, 15(3), 363–380.
- Kaur, A. (2020). Migration, development and the gendered moral economy of domestic work: The case of Malaysia. Routledge.
- Kneebone, S. (2022). Labour migration regulation in ASEAN: Hardening borders and softening protection. *International Journal of Refugee Law*, 34(2), 271–292.
- Kofman, E., & Raghuram, P. (2015). Gendered migrations and global social reproduction. Palgrave Macmillan.
- Kraft, H. J. S. (2012). Great power dynamics and ASEAN centrality. *Asian Politics & Policy*, 4(3), 365–380.
- Lee, H. (2020). ASEAN, human rights and migrant workers: The case for a regional compliance system. *Asian Journal of Comparative Law*, 15(2), 327–349.
- Narine, S. (2002). Explaining ASEAN: Regionalism in Southeast Asia. Lynne Rienner Publishers.
- Nesadurai, H. E. S. (2008). The Association of Southeast Asian Nations (ASEAN) as a "market community": Developmental states and the failure of regionalism in Southeast Asia. *The Pacific Review*, 21(4), 451–474.
- OHCHR. (2022). COVID-19 and migrant workers in Asia and the Pacific: Protecting rights during and after the pandemic. United Nations Human Rights Office.
- Piper, N. (2008). The "migration-development nexus" revisited from a gender perspective. *Population, Space and Place*, 14(5), 365–380.
- (2020). Feminizing the migration-development nexus. In N. Piper & R. Rosewarne (Eds.), *Feminizing migration: Strategies, dynamics and impacts* (pp. 19–37). Routledge.
- Piper, N., & Rother, S. (2019). Political remittances and the diffusion of a rights-based approach to migration governance: The case of the Migrant Forum in Asia (MFA). *Journal of Ethnic and Migration Studies*, 45(8), 1375–1390.

- Piper, N., Rosewarne, S., & Withers, M. (2021). Vulnerabilities of migrant women workers in the pandemic: From invisibility to rights-based policy responses. *Journal of International Migration and Integration*, 22, 1221–1240.
- Risse, T., Ropp, S. C., & Sikkink, K. (2013). *The persistent power of human rights: From commitment to compliance*. Cambridge University Press.
- Severino, R. C. (2020). ASEAN beyond fifty: A regional perspective on human rights and democracy. *Contemporary Southeast Asia*, 42(3), 358–379.
- True, J. (2012). *The political economy of violence against women*. Oxford University Press.
- (2013). Gendered violence in natural disasters: Learning from New Orleans, Haiti and Christchurch. *Aotearoa New Zealand Social Work*, 25(2), 78–89.
- United Nations Office on Drugs and Crime. (2023). *The role of technology in human trafficking in Southeast Asia: Emerging threats and responses*. UNODC.
- UN Women. (2021). *The impact of COVID-19 on women migrant workers in ASEAN: A rapid assessment*. UN Women Regional Office for Asia and the Pacific.
- (2022). *Guidance for gender-responsive migration policies: Learning from COVID-19*. UN Women.
- UN Committee on the Elimination of Discrimination against Women. (2023). *Concluding observations on the combined eighth and ninth periodic reports of ASEAN States Parties*. United Nations.
- Wendt, A. (1999). *Social theory of international politics*. Cambridge University Press.

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