

Regional Agreements: A Comparative Perspective on Labor Mobility¹

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No issue linked to migration can be dealt with if we do not recognize that the world of the twenty-first century is framed by three interacting characteristics: uncertainty, complexity, and inter-dependence.

Just the size of migration, which, according to the International Organization for Migration (IOM) comes to 232 million international migrants, leads one to speculate that, if William Shakespeare were born again today, he would most certainly write a play called *Migration: A Tale of Good and Evil*. And it would very probably be more successful than the experts in creating awareness among humanity as a whole about the drama that many experience when forced to leave their homes. And his would also be a better call to the rest of us to take responsibility for resolving the problems that this phenomenon brings with it.

This article will review three alternatives, incorporated in regional integration agreements, whose aim is to link up the actions of different states to order and manage worker mobility, taking note of some of the obstacles they face, and culminating with the issue of responsibilities.

THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

The ASEAN was born in 1967 in Bangkok, Thailand, bringing together 10 member states² with a population of 608 million people.³ Its main objective was to accelerate economic growth, explicitly to achieve social progress and cultural development,

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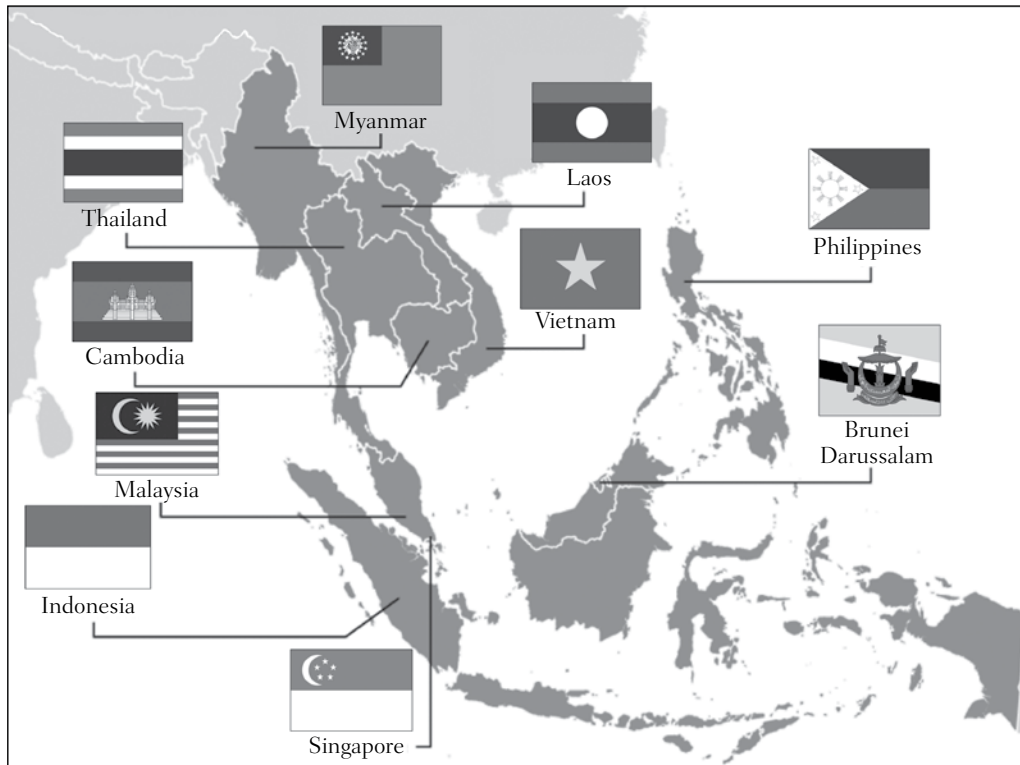
recognizing that they represent important goals, since they transcend economic interests, seeking to promote peace and stability in the region.

The ASEAN has a labor force of 285 million.⁴ Labor migration in these countries is dominated by lower skilled workers, who make up 87%,⁵ and involves millions of people working in the different member states both legally and irregularly. The vast majority of workers who migrate inside the ASEAN countries are employed in manufacturing and low skilled occupations like agriculture, fishing, domestic service, food processing, and construction.

We should remember that Southeast Asia is one of the world's most socially and culturally diverse regions. To deal with this, the ASEAN made English its only official language, seeking to close the language gap, as a requirement for moving ahead in negotiations for integration.⁶ The mobility of skilled workers and professionals within ASEAN is based on mutual recognition agreements and seeks to achieve complete freedom of movement by the end of 2015.

Member countries set a precedent on January 13, 2007 when their leaders signed the ASEAN Declaration on Protection and Promotion of the Rights of Migrant Workers and

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agreed to assume responsibilities. This declaration mandates member states to offer appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers. Both destination and sending countries take responsibility for promoting migrant workers' dignity in an atmosphere of freedom, equality, and stability in accordance with the laws of each of the member nations. In particular, destination countries commit themselves to step up efforts to protect migrant workers' fundamental human rights, promote their well-being, and safeguard their human dignity.

The ASEAN also seeks harmony and tolerance between receiving countries and migrant workers, leading to their co-responsibility. It particularly emphasizes sending countries' responsibility to provide access to jobs and opportunities for a decent life for all citizens, in order to avoid their dependency on remittances from their migrant population. It establishes the need for promoting and generating legal practices that regulate the recruitment of migrant workers as well as the adoption of mechanisms to eliminate bad practices through valid, legal contracts.

Many issues involved in labor mobility, like the prevention of trafficking in persons, are the primary responsibility of other government agencies, such as ministries of the interior, although the ASEAN recognizes its responsibility in eradicating this evil in its 2007 declaration.⁷

In short, it is praiseworthy that from its inception, the ASEAN has set itself big goals, even if in reality it is still far from reaching them, and it remains to be seen if they had been able to achieve free movement of highly qualified workers by the end of 2015.⁸ In addition, many member states have not yet ratified the declaration on migrant workers, and some experts have criticized ASEAN for being sluggish and its procedures being long and drawn out.⁹

THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

NAFTA went into effect in 1994 as a trade agreement to increase the competitiveness and well-being of the region's population, which today comes to 450 million people, with a

labor force of approximately 228 million. It was not conceived as a project to integrate the region. However, it has been very successful as an instrument for promoting trade among the three signatories, and, today, North America generates approximately 30% of the world's output.¹⁰

In 1993, the side-bar North American Agreement on Labor Cooperation was signed to ensure effective application of labor standards and local labor laws. However, it does not deal with the issue of labor mobility.¹¹

A non-immigrant visa for NAFTA professionals was created to allow the movement of trained professionals, but it has not been used extensively: only 9 500 persons received one in 2013.¹² We should remember that while NAFTA was being negotiated, it was impossible to launch a more ambitious labor mobility agreement due to restrictive policies, particularly in the United States, policies that are still in effect. So, for workers who move among NAFTA countries, the lack of agreements for the accreditation of professionals affects the emergence of a regional labor force.

In 2014, the U.S. Council on Foreign Relations recommended that Canada, the United States, and Mexico establish a regional mobility agreement to facilitate the flow of workers and to ensure their rights in the three countries, particularly for the case of temporary, low-skilled workers and professionals. By extension, the signatories should take responsibility for clearly defining and guaranteeing workers' rights in terms of wages, working conditions, medical insurance, retirement benefits, and employers' responsibilities.

While regional economic liberalization has not been accompanied by policies for education or developing the labor force, the United States-Mexico Bilateral Forum on Higher Education, Innovation, and Research was created in 2013 by an agreement signed by Presidents Obama and Peña Nieto. This has fostered a new era of greater educational cooperation between the two countries, setting a fundamental precedent that in the long run could bolster labor mobility agreements.

Any analysis of NAFTA must take into account its context of asymmetry between Mexico and its partners in the region, which set an international precedent. This includes the fact that the Human Development Index for 2014 put the United States in eighth place, with 12.9 years of schooling, contrasting with Mexico, which was situated in seventy-fourth place with an average 8.5 years of schooling;¹³ in 2012, almost 35 million persons of Mexican origin lived in the United States, six million of whom were undocumented immigrants;¹⁴ and, undocumented workers in the United States continue to be concentrated

in low-skilled jobs in a much greater proportion than the U.S.-born population; in 2012, 62 percent of these workers were employed in agriculture, construction, and services.¹⁵

THE ANDEAN COMMUNITY OF NATIONS (CAN)¹⁶

In 1969, Bolivia, Colombia, Chile, Ecuador, and Peru signed the Cartagena Agreement, creating the Andean Community of Nations. After Chile withdrew in 1976, the four remaining founding countries continued to work in the framework of the accord.

The agreement currently covers a population of 108 million people,¹⁷ with a work force of approximately 47 million.¹⁸ Figures for intra-regional migrants estimate that "76 percent are Colombians (174 000), 16 percent are Peruvians (38 000), 6 percent are Ecuadorean (13 000), and 2 percent are Bolivian (5 000)."¹⁹

Among the community's most important objectives are promoting balanced, harmonious development in member countries in conditions of equality through integration and economic and social cooperation, and accelerating growth and creating jobs for the inhabitants of member countries.

In June 2003, the CAN adopted the Andean Instrument for Labor Migration, stipulating that workers from member countries will receive the same treatment in all other member countries. A year later, the scope of this agreement was broadened by the Andean Security Instrument, which seeks to guarantee appropriate social protection for labor migrants and their dependents in all four member countries.²⁰

The CAN countries guarantee the mobility of employees of service companies as well of the crews of transportation service providers. Another important step was the creation of the Andean Passport.

The problem of the Andean Community is its regional mechanisms' inefficacy; in some cases, they have not been fully implemented due to the lack of political will on the part of the member countries.²¹

FINAL COMMENTS

From these three examples, we can conclude that national states and organized civil society must take responsibility for developing a new capacity for communication, a dialogue that will allow them to understand in depth that migration is

not a mere matter of adding and subtracting, but of millions of human beings' imperious need for a decent life.

Beyond economic policy strategies, we must recognize the indissoluble link between migration and social policies. In contrast with NAFTA, which is a trade agreement, the ASEAN and the Andean Community incorporate the human factor as key.

The most difficult thing to achieve is that signatory states of these kinds of accords ratify their declarations, since that is precisely where the responsibilities lie. The defense and transnational protection of migrant workers must be taken on proactively by bringing together global NGO networks. In the words of Dr. Sergio Alcocer, UNAM's researcher, "The governance of migration in general depends on the co-responsibility of governments as well as of private and social actors."

I would venture to say that trust is the determining factor in the construction of that co-responsibility and that the key to building this kind of an atmosphere is in the construction of axiological consensuses, since only common values can lead to rules that produce visible results. The fundamental question to be answered is how to do that in heterogeneous, dissimilar societies. Individualism is an obstacle that impedes the promotion of the benefits obtainable in contact with "the

others," with "those who are different." So, it is fundamental that centers of higher learning take responsibility for designing new educational approaches transcending individualism and fostering civic, collective values.

The vicissitudes migrants' experiences show us that, unfortunately, we have transited into the dehumanization of work and that changing laws to the benefit of social causes is extremely complicated when the consequences of economic crises and big interests get in the way. As Robert Hutchins said in his book *The University of Utopia*, pressure makes people forget their humanity, and what we need is to understand the world, not handle it.

I would invite all those who have had the good fortune—or the privilege—of participating in conferences, institutions, or activities concerning migration to assume the day-to-day responsibility of building bridges more than underlining barriers. Let us take on the obligation, for ourselves and for the benefit of all, of exercising optimism as an effort of will.

Let us assume the responsibility of transcending the idea that that in which we believe limits us. To paraphrase Saramago's essay *Seeing*, how often has fear embittered our lives and, in the end, turned out to be baseless, with no reason for being? ■■■

NOTES

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² Thailand, Vietnam, Malaysia, Philippines, Indonesia, Brunei, Singapore, Myanmar, Laos and Cambodia.

³ ASEAN, <http://aseanup.com/asean-infographics-population-market-economy/>.

⁴ ASEAN, <http://www.asean.org/asean-socio-cultural/asean-labour-ministers-meeting-alm/overview/>

⁵ Aniceto C. Orbeta, Jr., *Enhancing Labor Mobility in ASEAN: Focus on Lower Skilled Workers*, Philippine Institute for Development Studies, February 2013, <http://dirp4.pids.gov.ph/ris/dps/pidsdps1317.pdf>, p. 4.

⁶ Oliver S. Crocco and Nattiya Bunwirat, "English in ASEAN: Key Effects," *International Journal of the Computer, the Internet and Management* vol. 22, no.2 (May-August, 2014) p. 22.

⁷ Flavia Jurje and Sandra Lavenex, "ASEAN Economic Community: what model for labour mobility?" www.wti.org/fileadmin/user_upload/nccr-trade.ch/wp4/NCCR_working_Paper_ASEAN_Jurje_Lavenex_.pdf, p. 7.

⁸ Sarah Huelser and Adam Heal, "Moving Freely? Labour Mobility in ASEAN," <http://artnet.unescap.org/pub/polbrief40.pdf>, p. 1.

⁹ Logan Masilamani and Jimmy Peterson, "The 'ASEAN Way': The Structural Underpinnings of Constructive Engagement," *Foreign Policy Journal*, October 15, 2014, <http://www.foreignpolicyjournal.com/2014/10/15/the-asean-way-the-structural-underpinnings-of-constructive-engagement/>.

¹⁰ Information from *Statistics Canada Portrait of Canada's Labour Force*; INEGI, *Fuerza Laboral en México*; and RI Department of Labor and Training, *United States Labor Statistics*.

¹¹ Sergio Alcocer, <http://www.metropolis2014.eu/upload/files/M2014-P3-Alcocer-Presentation.pdf>.

¹² David H. Petraeus and Robert B. Zoellick (Chairs), Shannon K. O'Neil (Project Director), *North America. Time for a New Focus, Independent Task Force Report no. 71*, Council on Foreign Relations, U.S.A., 2014, p. 57.

¹³ United Nations Development Programme (UNDP), www.hdr.undp.org/en/composite/HDI

¹⁴ Ana Gonzalez-Barrera and Mark Hugo Lopez, "A Demographic Portrait of Mexican-Origin Hispanics in the United States," <http://www.pewhispanic.org/2013/05/01/a-demographic-portrait-of-mexican-origin-hispanics-in-the-united-states/>.

¹⁵ Jeffrey S. Passel and D'Vera Cohn, "Share of Unauthorized Immigrant Workers in Production, Construction Jobs Falls since 2007," Pew Hispanic Center, March 26, 2015, <http://www.pewhispanic.org/2015/03/26/share-of-unauthorized-immigrant-workers-in-production-construction-jobs-falls-since-2007/>.

¹⁶ Comunidad Andina, <http://www.comunidadandina.org/Seccion.aspx?id=84&tipo=TE&title=migracion>.

¹⁷ Knoema, *Total Population, Annual, 1950-2050*, <http://knoema.com/UNC/TADPOP2014Apr/total-population-annual-1950-2050-april-2014?location=1002390-ancom-andean-community>.

¹⁸ Developed by the author using information from *Síntesis de indicadores laborales, Ministerio de Trabajo y Promoción del Empleo de Perú*; *Cartelera electrónica de divulgación de datos de Colombia*; and the CIA's *World Factbook*.

¹⁹ Alexandra Castro, Carolina Hernández, and William Herrera, *Migración y Estado en la región andina* (Bogota: Fundación Esperanza, 2013), p. 14.

²⁰ Comunidad Andina, op. cit.

²¹ Alexandra Castro, "Migración y Estado en la región andina: análisis y reflexiones," in *Diálogos migrantes* no. 9, April 2013, Colombia, p. 23.