

Analysis of Civil Society Organisations' thematical representation at the ASEAN Forum on Migrant Labour (AMFL): A Disability Lens

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Abstract

The development and migration nexus has expanded and been built from the foundations of a human rights framework. This fusion has significant implications within ASEAN, which is positioned to increase economic integration, triggering a transformation into a labour migration hub. Meaningful participation of all stakeholders becomes a necessity to fulfil the notion of inclusive development under a human rights paradigm. However, persons with disabilities and their representation are often only mentioned as an afterthought. This secondary research accompanied by a qualitative interview investigates how persons with disabilities are represented at Civil Society level and how recommendations in the AMFL interpret disability. Unfortunately, the findings suggest persons with disabilities do not have meaningful representation and when disability was mentioned it followed a medical or charity model narrative. This narrative normally took the form of an occupational safety or health services issue offering protection from disease or injury to prevent 'suffering' which should be covered by disability and medical insurance.

Keywords: Disability; Inclusive Migration; Labour Migration; AMFL; Civil Society; Representation

Introduction

The 'Declaration on the Right to Development' (United Nations, 1986) provides individuals a base for "*active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom*" (United Nations, 1986). Consequently, to obtain one's dignity one must be "*entitled to participate in, contribute to, and enjoy economic, social, cultural and political development*" (United Nations, 1986). This inclusive mandate puts people at the centre of the discourse and offers space in development to facilitate the right to self-determination through partnerships, structures and processes (policy formulation, content and implementation) from the national to international levels (Subedi, 2021; United Nations, 2013). This declaration produces certain freedoms, which are universal in nature and are for everyone without discrimination because of '*race, sex, language or religion*' (United Nations, 1986).

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Even though this human rights paradigm does not explicitly mention migration, contemporary migration discourse has been influenced and anchored to this notion of development (ADB, OECD & ILO, 2018). Likewise, development has recognised that migration is an essential component to achieve sustainable development (IOM, 2021) and is a useful mechanism to boost local development (Eversole & Johnson, 2014). The catalyst for this migration-development integration has been the broadening of development goals to include aspects of human flourishing which were assimilated into migration mechanisms. Thus, there has been a growing overlap between migration and development over the recent decades and this is demonstrated by the establishment of mandates within the new governing processes to generate transnational relationships. These governing processes include the Global Migration Group (GMG) which acknowledged that *“development is more than an economic parameter and encompasses human rights. Development goes beyond economic growth to embrace notions linked to human development, which focuses on the individual, his/her family and community, and seeks to expand individual capabilities and choices through health, education, a decent standard of living, and political freedom”* (ADB, OECD & ILO, 2018, p. 48). Included in this definition are migrants/diasporas who are now elevated above just ‘sources of cash’ to become mutual partners and stakeholders in the development of their country of origin (ADB, OECD & ILO, 2018) expanding the notion of community development across geographical space. The GMG has recently been superseded by the United Nations (UN) Migration Network which aims to provide a systematic UN-wide approach to migration (GFMD, 2021) and to support the implementation, follow-up and review of the first intergovernmental negotiated agreement coined the ‘Global Compact for Safe, Orderly and Regular Migration’ (GCM) (UN Network on Migration, 2018). The conception of the GCM (genesis outlined by Pécoud (2021, p. 20)), an intergovernmental negotiated (not legally binding) agreement covers all dimensions of international migration in a holistic and comprehensive manner (United Nations, 2022), having been designed with the purpose of maximising the overall gains of migration through a cooperative approach that is based on values such as non-discrimination and human rights amongst others (United Nations, 2022). The GCM consists of 23 objectives to manage migration from local to global levels. Additionally, the Global Forum on Migration and Development (GFMD) - a voluntary, informal, non-binding and government-led process - was formed in 2005 and is open to all States Members and Observers of the UNs and 62 selected observer organisations (GFMD, 2021). The GFMD offers space for policymakers from around the world to enhance dialogue and cooperation to encourage action-oriented outcomes at all levels of policy (GFMD, 2021). These mechanisms have acted to formalise the interrelated nature of migration and development by ‘mainstreaming’ migration into local and national policy planning (IOM, 2022) and modernising a migrant’s ability to transfer knowledge and skills to countries of origin and destination to support the development process.

This overlap is particularly valuable within the ASEAN (Association of Southeast Asian Nations) community as the region is positioned to increase economic integration, triggering a transformation into a labour migration hub (Laws, Lautenschlager, & Baruah, 2017) as the future of work expands in terms of internationalisation and mobility (ILO, 2019b, p. 26). Laws, Lautenschlager, & Baruah (2017) claims it has become increasingly necessary to ensure that stakeholders in the ASEAN community enable an environment that maximises the benefits of labour mobility to enlarge future personal and socio-economic development by enhancing governance and service mechanisms to protect the rights of migrant workers. This



principle has been captured in legal frameworks with the formalisation of the ‘ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers’ (aka. the Cebu Declaration) which was approved by all the ASEAN heads of state in 2007 in cooperation with the International Labour Organization (ILO) (Auethavornpipat, 2017). The Cebu Declaration sets out responsibilities (labour-sending/-recipient states) for ASEAN members to promote “*decent, humane, productive, dignified and remunerative employment for migrant workers*” (Auethavornpipat, 2017, p. 134). The foundations of the Cebu Declaration had elements of the ‘Declaration on the Right to Development’ as it recognises the region’s shared responsibilities for a people centred approach that promotes the “*full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member States*” (Larga, Tunon, & Baruah, 2013, p. 2). The formulation of the Cebu Declaration entailed the creation of a new intra-governance mechanism called the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). ACMW adopted terms of reference and worked on programs promoting different themes that enhance labour migration governance (Larga, Tunon, & Baruah, 2013) in relation to the implementation of the Cebu Convention. Then the ASEAN Forum on Migrant Labour (AFML) emerged from the ACMW and this consists of an annual open forum, whereby stakeholders (member states, migrant workers, employers, Civil Society Organisations (CSO), the ILO, the International Organization for Migration (IOM), the UN Women etc.) in the region review and exchange ideas and practices (Larga, Tunon, & Baruah, 2013; ILO, 2019a). Furthermore, these AMFL collaborators examine Articles of the Cebu Declaration and draft and agree on new recommendations arising from discussions of the thematic sessions (ILO, 2018) and have just concluded the 14th conference which was COVID-19 orientated. COVID-19 has taken up CSOs’ bandwidth since the outbreak with forums such as ‘Authoritarianism, Militarism and COVID-19: Challenges for Collective Actions to Address Rising Inequality and Shrinking Civic Space in Southeast Asia’ in October 2021 with the aim to sustain ‘intersectional and cross-boundary’ solidarity by community building among CSO. This human-centred initiative had topics covering the challenges to solidarity with migrant workers in Southeast Asia focusing on their rights and how they were affected by both the pandemic and by the growing authoritarianism in the region (Pereira, 2021; ACSC & APF, 2021).

The Cebu Declaration sets the foundations and has influenced several parts of different ASEAN policies, with elements being designed with the intention to institutionalise the Cebu Declaration. For instance, labour migration is included in all three of the ASEAN Blueprints, the ASEAN Economic Community (AEC) Blueprint, the ASEAN Socio-Cultural Community (ASCC) Blueprint and the ASEAN Political-Security Community (APSC) Blueprint (ILO, 2018). AEC calls for the free flow of skilled labour (as well as goods, services, capital), the ASCC covers the protection and promotion of rights of migrant workers, women, children, the elderly and persons with disabilities (Larga, Tunon, & Baruah, 2013), whilst the APSC calls for close cooperation of the relevant bodies to develop mechanisms to protect and promote the rights of migrant workers (ILO, 2018). These Blueprints have profound aspirations that guide the region’s establishment into the future with the aim to “*live in a region of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress, as well as promote ASEAN interests, ideals and aspirations*” (The ASEAN Secretariat, 2015, p. 9). Likewise, implementation of the Cebu Declaration has come from programme’s led by the ILO and the IOM who have deployed the TRIANGLE in ASEAN programme (2015–25)

and the PROMISE project (2015–21) respectively (ILO, 2019b). These programmes target stakeholders (migrant and potential migrant workers, tripartite constituents, recruitment agencies, civil society and the private sector (IOM, 2015)) and aim to equip migrant workers with the relevant skills and knowledge to maximise labour participation, improve protection of their rights and strengthen the linkages between labour migration and poverty reduction (Harkins, Lindgren, & Suravoranon, 2017). These programmes have tailored their activities to obtain information by different sub-groups, including by nationality, gender, legal status, sector of work, and other demographic criteria (Harkins, Lindgren, & Suravoranon, 2017). Thus, it is becoming clear that migration is clearly linked to both human rights and development with the establishment of formal institutions to promote a combination of ASEAN values and goals.

Disability

Conceptualising and defining disability are challenging because it is a low-resolution and ambiguous category. There are multiple models (Menon, 2019) that act as theoretical and practicable guides. Similar to migration and development, the human rights framework is ingrained within the disability discourse. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (United Nations, 2008) is grounded in the biopsychological model, which is the most widely used approach. Since the UNCRPD ratification, there has been an expansion of disability research within the development sphere, and this often demonstrates disproportionate disadvantage that inhibits the dignity and meaningful participation of persons with disabilities. For instance, research conducted by the UN Department of Economic and Social Affairs (UNDESA) (2018) spanning eight geographical regions estimated that around 36 percent of persons with disabilities are in employment compared to 60 percent of persons without disabilities. It will come as no surprise that adults with disabilities are the most underemployed group of people in the global workforce (Vikström, Shah, & Janss, 2020). This figure for economic inclusion becomes disconcerting considering that worldwide there are approximately 785 million persons with disabilities of working age (WHO & World Bank, 2011). Persons with disabilities are not only disadvantaged in opportunity but also face high levels of discrimination in accessing their human rights. Vaughan, et al. (2015), a case study in the Philippines, demonstrates this as they state that women with disabilities with low to middle socio-economic status have a greater probability of experiencing human rights violations than any other demographic group. Hence, it becomes vital to challenge the very nature of ableism within a discourse as it fundamentally begins with the experience of the majority body and disregards the rights of persons that do not conform to this category. Failure to do so will entail inappropriate adaptations of policies, programmes and research for persons with disabilities. Since the Global Disability Summit (GDS) the disability movement has positioned itself to explore intersectionality with other human rights movements (GDS, 2018) but to date has not focused on labour migration.

Challenging ableism and its contingent assumptions mean investigating through a disability lens. Formally, the Incheon Strategy is a useful tool for this in the ASEAN context as it aims to *“Make the Right Real”* for persons with disabilities in Asia and the Pacific. It is the guiding framework in the region which consists of 10 goals that employ a rights-based approach to social, economic and political inclusion to deconstruct the barriers persons with disabilities



face to full societal participation (UNESCAP, 2018). Two relevant targets for this investigation are:

- Target 2.A. to ensure that persons with disabilities are represented in government decision-making bodies.
- Target 10.B. development cooperation agencies in the Asia-Pacific region strengthen the disability-inclusiveness of their policies and programmes.

For these two targets to be met, persons with disabilities or their representatives will need to attend and have meaningful involvement in bilateral and multilateral mechanisms otherwise the future of work in ASEAN which consists of increased internationalisation and mobility, will happen without them. This will most likely be achieved by incorporating organisations of persons with disabilities (OPDs) in these forums. The UNCRPD places emphasis on the participation of persons with disabilities in the development and implementation of legislation and policies with Article 29 giving persons with disabilities the right to form and join OPDs and to be represented at international, national, regional and local levels. The Convention's preamble stresses the *"importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development"* (United Nations, 2008).

Research Gap

This ongoing convergence within the migration and development nexus has human rights as a fundamental part of its mandate. Thus, to respond equitably to the needs of all stakeholders and to be people-centred it is important to understand which groups and voices have access and representation into modalities like the AMFL, a key CSO Forum to influence the future of migration in the ASEAN community. Diverse groups will have unique needs that need to be considered to achieve real 'meaningful participation' in the ongoing migration-developmental processes. CSOs in the ASEAN community have an opportunity to contribute to the right to self-determination through AMFL and its partnerships, structures and processes. Therefore, these discussions must be accessible for a wide range of representation - especially to any historically disadvantaged groups such as persons with disabilities. A human rights framework and the relevant organisations and networks which accompany it are central to this forum as it is recognised that human rights CSOs represent labour migrants' well-being. Since the ASEAN network is predicted to transform into a labour migration hub (Laws, Lautenschlager, & Baruah, 2017) with the future of work consisting of increased internationalisation and mobility (ILO, 2019b) persons with disabilities need to participate in the discourse to gain from the fair distribution of benefits that result from subsequent interventions that will amplify opportunity now and into the future. Thus, to understand AFML representation and the discourse surrounding disability, the following objectives will be met:

- Identify the actors at different AFML,
- Identify which CSOs participate at AFML,
- Analyse CSO representatives' thematic mandates (e.g., gender specific, disability specific...),
- Analyse how CSOs use the concept of disability,
- Understand how the concept of disability has been used within AFML.

Methodology

Secondary online research was conducted to investigate the representation of CSOs (organisations and networks) that attend the AMFL (ASEAN, 2022) to understand the make-up of Civil Society at these forums. Then the mandates (mission statements and/ or their strategic agenda) of these CSOs was extracted to find out what were the common thematic areas that CSOs represent. The CSOs from the population were searched and those which had mentioned disability in their mandate were selected to sample for content analysis. The CSOs which had mentioned disability were systematically examined and their relationship with the concept of disability was extracted regarding the way in which it was understood, displayed and conceptualised. Grounded theory framework was used to produce a theoretical understanding (extract themes, generalisation, develop taxonomies, and generate theory). This process was used to understand if persons with disabilities and disability as a concept had meaningful participation at forums and was used in a UNCRPD-compliant way. For data validation, participants to the AMFL were contacted for interviews on the findings, to validate interpretations (one interview conducted with a person who attended AMFL representing CSOs).

Findings

Representation

The AFML is a key forum in the region to develop recommendations to advance the implementation of the Cebu Declaration and provides an opportunity for enacting the Incheon Strategy Targets 2.A and 10.B. Stakeholder engagement is a vital component of each event and provides pathways for Civil Society to influence policies. Each forum includes a wide range of stakeholders with the predominant players identified in Table 1, which include migrant workers themselves and non-governmental organizations (NGOs) with grassroots stakeholders represented within the Task Force for ASEAN Migrant Workers (TF-AMW)². TF-AMW allows one CSO from each national representative and nominates three relevant regional CSOs (ILO, 2018). Recent CSOs representation included the Mekong Migration Network (MMN), the North-South Initiative (NSI) and the Migrant Forum in Asia (MFA).

MMN, NSI and MFA are some of the primary representational groups of networks and the TF-AMW itself is also comprised of multiple affiliations. These four groups lobby around the following mandates and have used the concept of disability in the following ways:

The TF-AMW includes trade unions, human rights and migrant rights NGOs and migrant worker associations who aim to support the development of a rights-based framework for the protection and promotion of the rights of migrant workers (TF-AMV, 2009). This coordination mechanism has the objective to foster participation from the peoples of ASEAN in the process of implementing the Cebu Declaration (TF-AMV, 2009). The TF-AMV (2009) undertook a ‘civil society bottom-up’ consultation process to gather input from relevant CSOs to contribute to the origins of the Cebu Declaration and submitted the publication to the ASEAN Secretariat. This publication was seen by ASEAN Civil Society to promote the ASEAN community building process (TF-AMV, 2009). The publication acts as a Civil Society’s Framework Instrument that attempted to guide the ACMW genesis. It consists of

² More information about the CSO process can be read in ‘The ASEAN Forum on Migrant Labour Background information booklet (4th edition)’ (ILO, 2019c, p. 12).



two core elements namely the Obligations for both Receiving and Sending States and the Commitments by ASEAN. These elements are recognised in principles of human, gender,

Table 1. AFML Representation at each annual event according to ASEAN forum on migrant labour recommendations.

Representation	AFML event participation												
	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th	13 th
ASEAN government representatives													
ASEAN Secretariat													
Employers' organisations													
Workers' organisations													
ILO													
IOM													
UNIFEM & then UN Women													
ASEAN Confederation of Employers													
Trade unions & then the ASEAN Trade Union Council													
ASEAN Services Employees Trade Union Council													
Government of Canada (observer)													
Government of Australia (observer)													
Government of Switzerland (observer)													
Task Force for ASEAN Migrant Workers (TF-AMW)													
CSOs													
NGOs													
Mekong Migration Network (MMN)													
North South Initiative (NSI)													
Migrant Forum in Asia (MFA)													

E-mail request for information: List of CSO Participants of the 13th AFML in 2020		
National CSOs	Al Majaz Training Service (Brunei Darussalam)	
	Legal Support for Children and Women (LSCW) (Cambodia)	
	Program Manager Human Rights Working Group (HRWG) (Indonesia)	
	Association for Development of Women and Legal Education (ADWLE) (Lao PDR)	
	North South Initiative (Malaysia)	
	Agency for Basic Community Development (ABC Myanmar) (Myanmar)	
	Philippine Migrants Right Watch (The Philippines)	
	Singapore Working Group on Migrant Workers (Singapore)	
	Foundation for Labour and Employment Promotion (Thailand)	
	Institute for Population, Family & Children (IPFCS) (Viet Nam)	
Regional CSOs	MAP Foundation	
	Mekong Migration Network	
	CARAM Asia	
	Task Force on ASEAN Migrant Workers	

and migrant workers' Rights which in turn are embedded with the compliance of wider ILO and United Nations standards (TF-AMV, 2009). The principles, like the spirit of the 'Declaration on the Right to Development' (United Nations, 1986) aim to *"enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice"* (TF-AMV, 2009, p. 16). Thus, the essence is to foster solidarity and inclusion of Civil Society into the ever-integrating ASEAN community. This publication and framework instrument contains 192 recommendations and called for greater participation of Civil Society in ASEAN's considerations (TF-AMV, 2009). Using a disability lens, specific recommendations were to ensure all migrants have access to a variety of occupational safety and that health services and referral systems set up *"to address any long-term effects (diseases, disabilities) resulting from injuries at work or occupational disease suffered by migrant workers"* (TF-AMV, 2009, p. 24). Governments were also encouraged to develop a coherent policy framework on socio-economic reintegration that *"take into account disabilities and/or medical conditions of returning migrant workers in developing this framework"*. This consultation also recommended that receiving and sending states should be obligated to regulate the private recruitment industry that prohibits *"any discrimination in the recruitment of workers based on race, color, gender, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability"* (TF-AMV, 2009, p. 34). The report proceeded to offer an individual National Statement of recommendation from CSOs in each of the ASEAN Governments (TF-AMV, 2009, pp. 43-95) that included multiple themes and issues, though disability was not mentioned. Furthermore, a search of their website³ produced zero results regarding the term disability.

The MMN is a sub-regional network consisting of migrant related support NGOs, migrant grassroots groups, and research institutes, whose mission it is to advocate *"for the full recognition, respect, protection, and promotion of the dignity, wellbeing, and rights of migrants and their families. MMN is committed to working toward realising human, fair, and just working conditions as outlined in the ILO standards on "decent work" for all migrants, free from all forms of discrimination"* (MMN, 2021). Furthermore, a search of its website⁴ produced 21 results regarding the term 'disability':

- Listed as a protected characteristic, a reason for discrimination or as a vulnerable population
- Mentioned in relation to benefits or insurance schemes that cover migrant workers against death, total and permanent disability as well as critical illnesses.
- Legal advice blog demonstrating it is unlawful for employers to terminate contracts with employees on the grounds of any disability.
- Adaptions suggested to the ASEAN Human Rights Declaration (AHRD) as Rights of specific marginalised Groups were missing from the document.
- Article on a Social Protection (social assistance and social security) report on Protecting Migrants' Rights outlining migrant workers ability to get coverage in destination country (Cambodia, Myanmar and Vietnam).
 - An example given from Cambodia, *"In terms of disability services, the Disability Action Council is tasked with setting up the national strategy for people with disabilities regardless of*

³ <http://www.workersconnection.org/>

⁴ <https://www.asianmigrantcentre.org/>



the source or type, and the People with Disability Fund (PWDF) delivers rehabilitation, vocational training, and employment services to about 28,000 people annually. PWDF's website mentions that its services are open to any disabled Cambodian citizen regardless of occupation status, which may benefit migrant returnees who suffer from disabilities sustained from work abroad" (MMN, 2019).

- So Soy - a person with a disability - was represented in a short COVID blog about Cambodian migrant workers returning from Thailand.
- Yu Kyi, a person with a disability from Myanmar working in Thailand, was represented in a visual storytelling project due to Yu Kyi's loss of income during COVID.
- Articles about persons becoming disabled and the process for claiming social security.
 - For instance, Nang Noom Mae Seng - a person from Myanmar working in Thailand - was represented in an article as a person challenging the Social Security Office Discrimination in the Administrative Court of Thailand as Nang Noom sustained injuries whilst at work. Though, she was in hospital receiving treatment and rehabilitation for 11 months through the migrant health insurance scheme Nang Noom's accident compensation claim was submitted to Chiangmai Social Security Office but was rejected originally on the basis that Nang Noom entered Thailand illegally. However, they went on to accept Nang Noom's legal status but tried to make Nang Noom's employer pay the fee instead of the scheme. As a result, *"Nang Noom's case has become a test case in the Administrative Court of Thailand that highlights the Ministry of Labour's systematic discrimination against migrant workers"* (MMN, 2007).

The NSI, a Youth-Adult Partnership, has the mission of the *"empowerment of marginalized groups, i.e. the Indigenous Peoples, Minority Students, Youths Living in Conflict Zones, Migrant Workers, Refugees, Small Farmers, Interfaith/ Intra faith Actors, and other disenfranchised minorities who need solidarity"* (NSI, 2021). There was no direct search engine on its website⁵, so I could not find any relevant information regarding the term disability.

MFA is a regional network of NGOs, associations and trade unions of migrant workers and individual advocates in Asia. MFA holds the belief that *"migrants' rights are human rights. Documented or undocumented, irrespective of race, gender, class, age and religious belief, migrant workers' rights are guaranteed by the UN Declaration of Human Rights, the UN Convention on the Protection of Rights of All Migrant Workers and Members of their Families and other international conventions"* (MFA, 2021). Searching its website⁶ produced one result regarding the term disability where at the 30th ASEAN Summit the MFA with associates requested ASEAN to *"repeal policies of contract termination and deportation on the grounds of pregnancy and communicable diseases, such as HIV/AIDS. States must provide social protection that includes provisions for healthcare, disability insurance and medical insurance and wage security/ assurance, and that promote safe working environments for all migrant workers and members of their families"* (MFA, 2021).

The categorisation of CSOs' mandates from these four networks/ groups (MMN, NSI, MFA and TF-AMW) and the CSOs that attended the 13th AFML and their corresponding members

⁵ <https://nsinitiative.net/>

⁶ <https://mfasia.org/>

are outlined in Table 2 and the pie chart in Figure 1. The representation in these groups is disaggregated into 13 themes (and the category ‘Unknown’ when information could not be found) which are a mix of services (tasks) an organisation concentrates on or the groups they specifically mention working with (identity issues). The 13 themes that arose were ‘Advocacy and Awareness’, ‘Education/ Training’, ‘Labour/ Trade Union’, ‘Legal Aid’, ‘Rights’ (human or migrants), ‘Psychosocial care’, ‘Research’, ‘Children/ Youth issues’, ‘Disability issues’, ‘HIV issues’, ‘Minorities/ Indigenous issues’, ‘Race and ethnicity issues’, and ‘Gender issues’. This examination provided a similar outcome for each individual member as it did for the network as there was a lack of representation for disability with 2 mentions among the 121 individual members (CSO, NGOs, trade unions) investigated. Human rights organisations explicitly mentioned protecting community members regardless of their race, religion, sexuality, economic background and political tendencies throughout with many organisation’s targets focusing explicitly on child and gender issues.

Table 2. Breakdown of representation (click here to view, tab 17) as of 2021

	Advocacy/ Awareness	Education/ Training	Labour/ Trade Union	Legal Aid	Rights	Psychosocial care	Research	Children/ Youth issues	Disability issues	HIV issues	Minorities/ Indigenous issues	Race and ethnicity issues	Gender issues	Unknown
CSO at 13th AFML (14 organisations)	5	2	0	1	9	0	2	2	0	1	1	0	4	3
TF-AMW (16 organisations)	9	2	2	2	10	0	4	1	0	0	1	0	4	1
MMN (41 organisations)	19	17	3	5	23	2	7	12	1	6	0	0	17	7
NSI (1 organisation)	1	0	0	0	1	0	0	0	0	0	0	0	0	0
MFA (57 organisations)	43	18	3	10	40	5	11	7	1	2	5	2	18	2
Total (out of 119)	71	37	8	14	76	7	22	19	2	8	6	2	39	13

*10 organisations were excluded from total as they appeared in more than one of the networks.

Disability was mentioned as an organisational thematic area of interest in two cases, one appeared under the regional representative MFA from the ‘Management and sustainable development institute’⁸ (MSD) and the other from the MMN from the ‘Diplomacy Training Program’⁹ (DTP). The MSD (2021) mission was “*as a Vietnamese non-governmental organization, MSD is taking efforts to enable environment for the development of civil society sector and to promote the rights of marginalized groups, especially children, youth, women and people with disabilities*”. However, the organisation not only covers aspects of migrant issues, but they also undertake multiple other

⁷ https://docs.google.com/spreadsheets/d/1zx6POiRp9mC09vdBnKqws12Q3_zlRzOX8mikgDxlCN0/edit#gid=0

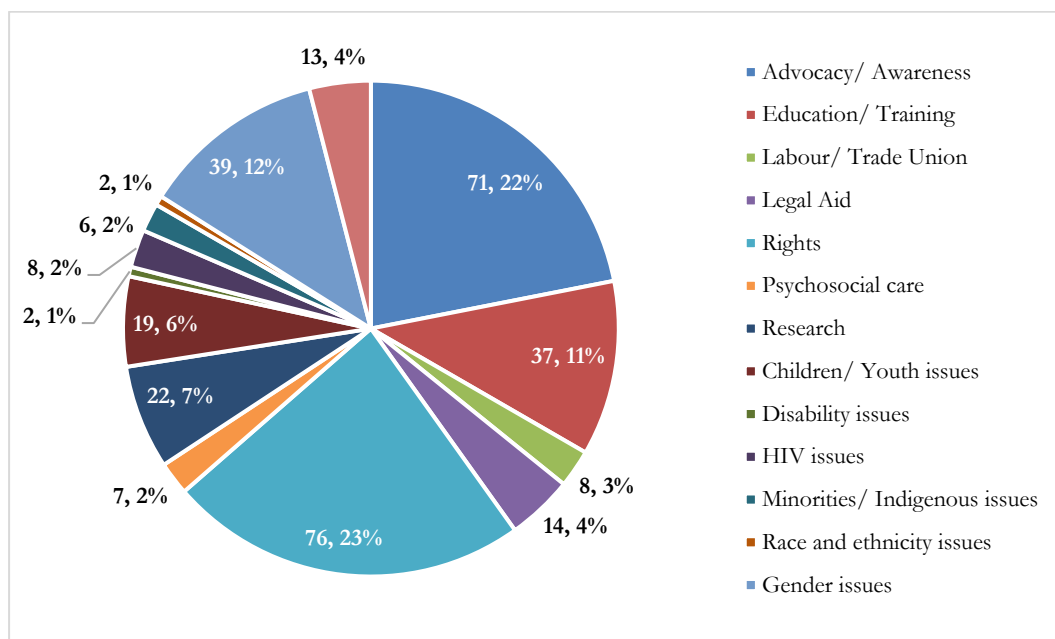
⁸ <https://msdvietnam.org/en/about-msd/>

⁹ <https://www.dtp.unsw.edu.au/who-we-are>



activities, and this is where the concept of disability was associated showing cases in Vietnam of domestic violence against persons with disabilities and children in the family (MSD, 2021) and not about migrants with disabilities. Whilst in the second case, DTP (2016), state “*Our VISION is a world in which all people have the freedom to advocate for the promotion and protection of human rights and are able to realise their human rights and achieve dignity. Our MISSION is to build the knowledge, skills, networks and capacities of those working to advance human rights. DTP acknowledges that Human Rights are for everyone regardless of race, religion, ethnicity, indigeneity, disability, age, displacement, caste, gender, gender identity, sexuality, sexual orientation, poverty, class, or socio-economic*”. Similarly, to the input above, disability was mentioned in human rights terms and DTP developed a capacity building program for advocates focusing on promoting and implementing the UNCRPD. They focused on migration and persons with disabilities as separate entities and not as migrants with disabilities.

Figure 1. Breakdown of the representation count (mode) as of 2021



CSO Comments

A CSO representative (who identified as having a disability) outlined some of the broader challenges of progress to migrants in general due to the power dynamics they had witnessed at the AMFL and within the wider discourse. They saw a level of tension generally between workers and country representatives from countries of destination and countries of origin about where certain responsibilities lie, particularly regarding security and undocumented migration. This has made it more difficult to make progress as there has been a dilution of certain recommendations. There is also a perceived imbalance of the application of regulation between low and higher skilled workers. Furthermore, though there has been slow progress in actualising recommendations, the makeup of CSOs at the AMFL are transitioning to a more localised process, with a focus on accountability of duty bearers and targeting the private sector in ASEAN.

Regarding disability, it was confirmed that the concept of disability and migration have been points of discussion however they have only really been discussed as separate entities, with disability most likely to be mentioned when discussing occupational hazards and safety. However, there have been psycho-social programmes that assist with mental health issues and with people who are in severe distress. These programmes are tailored for migrants that have already migrated. It was also noted and worth bearing in mind that there may be different challenges for potential disability issues from sector to sector. An interesting element was that recently, migration-oriented organisations had started discussions with the LGBTQIA+ community with the ASEAN SOGIE Caucus and this was aimed at creating productive collaboration in overlapping aims. This type of collaboration could be used as a template in the future with disability representatives.

AMFL Recommendations

Though representation was scarce, disability as a topic was not entirely absent from all AFML events as it was mentioned twice in the recommendation papers produced as an outcome of the Forum. Firstly, at the 8th AFML¹⁰ where the Recommendations produced used a medical model narrative and *“encourage non-discrimination on access to healthcare and provision of workers’ compensation for occupational injuries, diseases, disabilities and casualties irrespective of occupational areas, nationality and status of migrant workers”* (AFML, 2015). Secondly, at the 7th AFML¹¹ where a regional study was proposed for reintegrating migrant workers with disabilities upon their return to their countries of origin. This was not too clear, but this was for persons with disabilities who got injured abroad and not for persons who had prior disabilities before migrating to the destination country. Furthermore, the 6th AFML¹² focused on the theme of ‘Data Sharing, and Adequate Access to the Legal and Judicial System During Employment Including Effective Complaints Mechanisms’ and would go on to mandate the need for the collection, analysis, and sharing of data points as described below (Laws, Lautenschlager, & Baruah, 2017).

- Inflows, outflows and stocks of migrant workers, disaggregated, where possible, by sex, country of origin, age, level of qualification, industry, occupation,
- Data on remittances,
- Information on recruitment channels, licensed agencies, fees and costs,
- Labour market information, including available and in-demand jobs and skills,
- Data on occupational safety and health,
- Data on salaries and benefits of migrant workers,
- Data on returning migrants,
- Bilateral labour migration flows in ASEAN,
- Data on the families of migrant workers in the countries of origin and destination,
- Nature and incidence of complaints filed,
- Data on irregular migrants and trafficking of persons, where possible.

¹⁰ https://www.ilo.org/asia/events/WCMS_439655/lang--en/index.htm

¹¹ https://www.ilo.org/asia/events/WCMS_322619/lang--en/index.htm

¹² https://www.ilo.org/asia/events/WCMS_209146/lang--en/index.htm



This extensive list does not include disaggregating data by disability, which correlates with the lack of representation at the forum. However, it is recognised that common data points are mandated from a global, not regional, standpoint.

Discussion

If we accept that migration and development are becoming ever more integrated, which seems to be the case for ASEAN because of its attempted transformation into a labour hub, then it becomes vital that all persons and/or groups can meaningfully participate in the discourse to create fair opportunities and shared benefits for all. Currently, there is an overall absence of disability voices which has had subtle impacts on the disability related narrative within the discourse. Though the current interventions are commendable they are largely underpinned by a medical model narrative. For instance, recommendations have focused on; benefits and insurance schemes; access to occupational safety and health to protect migrant workers resulting from injuries at work or occupational disease; socio-economic reintegration for returning migrant workers with disabilities; and listed as a category for non-discrimination or as a vulnerable population. These examples show persons with disabilities being objects of entitlements, as support is tailored around the medical issues of migrants when they become disabled and then their integration back into society (normally country of origin). There was no clear indication of a narrative of inclusion and empowerment, displaying where persons with disabilities have positive liberty that allows for increased agency to potentially become labour migrants. Further, there is no clear evidence that persons with disabilities have had any meaningful participation in the migration and development nexus. This suggest that the default position does begin with the experience of the majority body and disregards the rights of persons that do not conform to this category which has likely entailed inappropriate adaptations of policies, programmes and research for persons with disabilities. It was rare to see the mention of disability in any overall mission statement and where there was, it indicated that disability issues were not about migration but more aligned with national issues. This means it is unlikely that there is any disability focused representation which may have led to disability data not being assigned for collection by the AFML. ASEAN countries haven't taken any identifiable steps but conversely bringing migrants with disabilities into both the conversation and migration mechanism will contribute to the overall development of ASEAN countries. Besides from clearly being a human rights imperative, disability inclusion makes economic sense. For instance, disability inclusion simultaneously addresses general poverty and exclusion issues by broadening accessibility of developing society and environments to be responsive to the needs of everyone (Cobley, 2015).

It is hard to draw conclusions because of the lack of representation of disability issues within the migration discourse (however, from my experience the same can be said in vice-versa). The likely possibilities are: that there are not enough working migrants with disabilities to form a functional CSO for representation; there are enough working migrants with disabilities, but they have not formed groups for direct representation; or there are disability rights organisation relating to international labour migration, but they have just not been included into the conversation. Considering that migrating for work from an ASEAN and a global South perspective can immediately provide gains that far exceed any other development policy intervention (Beam, McKenzie, & Yang, 2013) it is vital to take action to remedy the current situation where there is a lack of disability representation. If persons with disabilities or their representatives were present there might be openings to introduce empowerment

opportunities into the discourse where reviewing and exchanging ideas and practices took place, allowing for migrants with disabilities to have more agency and viability. This could help tackle the domination of ableism and offer the minority body the opportunity to deconstruct barriers that will be necessary if international goals like the Incheon Strategy Target 2.A. and Target 10.B. are to be achieved and for there to be truly a people centred approach.

Recommendations

- Provide OPDs opportunities to participate in different migrant forums and networks, so they can add to the discourse and deconstruct barriers that can hinder their fair and meaningful participation.
- Human rights and migration rights-oriented networks and organisations could attend disability focussed spaces, for instance, the Civil Society Forum at the GDS.
- Disability discourse and agents themselves need to reflect on how to integrate and collaborate within the migration space, to challenge barriers and to find pathways for the minority body experience to contribute.
- Share stories of persons with disabilities who do migrate with the challenges and the successes achieved. This may act as a catalyst for persons with disabilities to become migrants.
- More research into the area, including a wider understanding from disability voices and other key informants.

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