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REGIONAL MIGRATION GOVERNANCE: APPROACHES OF THE EU AND ASEAN DURING THE COVID-19 PANDEMIC

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Abstract. *Migration is a historical issue that exists along with the evolution of humanity. It becomes more pressing when society faces new challenges such as a pandemic. Unless governed by appropriate legislation, policy, and practice under the rule of law consistent with international norms, migration entails numerous social and economic problems including abuse and exploitation of migrants at work, denial of social protection, disruption of social cohesion, family disintegration, reduced productivity, and lost opportunities for development. Due to its urgency and comprehensiveness, impossibility of reducing only to the state level, the contemporary approach to the issue of migration should include policy analysis of the activities of international organizations. This paper theorizes the dynamics of regional migration governance as well as the interaction, the relationship between countries, and multilateral institutions within a region. The purpose of the research is to investigate the current role and practical course of activities of these two typical regional institutions (the EU and ASEAN) and examine whether and to what extent there was an approach to migration issues due to the COVID-19 pandemic.*

Keywords: *migration; regional governance; the COVID-19 pandemic; EU; ASEAN.*

Introduction

International migration has shifted from being solely a domestic issue to being a major area of concern for global governance. Regions have developed as significant stakeholders in these initiatives. The Global Compact for Safe, Regular, and Orderly Migration and the Global Compact on Refugees, both adopted by the United Nations in December 2018, recognize this. The Compacts refer to such areas as laboratories for pursuing agreed-upon goals including establishing legal paths for migration, enhancing human rights, or safeguarding refugees in an effort to strengthen cooperation across the world. Nevertheless, it is unclear and purposefully left undefined in the two compacts what makes a region, what the necessary institutions are, much alone what defines the role of the regional institutions on migration governance [1].

Migration has always been a result of push and pull factors that have affected both individuals and large groups of people, and it is a fundamental aspect of social and economic progress and transformation. The biggest push factors are those that have to do with safety, hunger, poverty, and avoiding war and terrorism. The yearning for a better life, the potential for employment and education, the chance of family reunion, and financial concerns

are the push forces at the same time. Numerous fields of study have been established in migration research up to this point, including migration and human rights, labor and migration, migration and the environment, migration and intercultural relations, and so forth. Additionally, there are many other disciplines of migration research. In this paper, the authors shed light on the interdisciplinary approach to the governance of migration issues at the regional level (the EU and ASEAN).

The COVID-19 pandemic started in China in late 2019 and spread throughout the globe through international travel, having immediate and enormous effects. The pandemic sparked a catastrophe unlike any other in human history because it practically touched the entire planet, which has never happened before. Radical actions have been taken by many organizations and states to stop the infection, save the populace, and the economy. The pandemic has brought to light a variety of issues and deficits globally, “from the number of intensive-care beds to the size of the workforce, the inability to provide enough masks and to deploy testing in some countries, and deficiencies in the research for and supply of drugs and vaccines”¹. These breakthroughs have brought the search for vaccination to a global level (until it is found). However, it has also been demonstrated that vaccinations, once created, have turned into an instrument in geopolitical conflict as a way to make huge sums of money. The pandemic has also altered how migratory issues are approached, which is something the authors intend to discuss in more detail.

Methods

A rise in scholarly interest in the subject correlates with the increased political focus on regionalism, and regional institutions in migratory governance, which is generally characterized as an institutionalized form of policy-making by public and private players. A body of literature demonstrates the diversity and fragmentation of regional methods. In general, this research can be divided into two major categories: approaches that are more legal and political science focused, looking primarily at inter-state, intergovernmental processes, and formalized institutional dynamics; and approaches that are more sociologically motivated, focusing on the role of non-state and civil society actors in addition to informal relations.

In the first perspective, assessments have contrasted the emergence of regional refugee regimes with the expansion of free movement regimes connected to regional integration frameworks. A. Geddes et al. emphasize the variety of understandings and representations of the causes and impacts of migration by taking a more interpretative approach and basing their analyses on case studies from various world locations [2; 3]. S. Lavenex connecting with the institutionalist literature on regime complexity tracks the institutionalization of free movement, migration restriction, refugee, and migrant rights policies in various world areas, comparing their extent, legalization, and integration. Sociologists and other researchers with an interest in how non-state entities affect the process and style of governance have suggested an alternative viewpoint [4]. Understanding the complex and perhaps less obvious dynamics of policymaking (and its politics) in regional settings requires an understanding of this perspective. Contrarily, research on migration governance “from below” highlights the contributions made by members of civil society, such as labor unions, and their global networks in delivering regional responses, either independently or in

¹ Gurria, A. Coronavirus (COVID-19): Joint actions to win the war // OECD : [site]. 2020. URL: <https://www.oecd.org/about/secretary-general/Coronavirus-COVID-19-Joint-actions-to-win-the-war.pdf> (accessed on 18.03.2023).

conjunction with state-led initiatives [5].

The impact of these policies on regional migration policies and institutions overseas, as well as how regional institutions influence the implementation of transregional externalization policies, are, however, rarely discussed in this emerging field of research. A few studies have looked at how international organizations might support regional initiatives, in part by acting as state funders' agents. As a result, the authors propose an analytical framework for studying regional migration governance that centers on the interplays between governance levels focusing on the relationship between regions, and multilateral institutions through two cases of study (the EU and ASEAN) on their approach to the issue of migration during the COVID-19 pandemic. To achieve research objectives, in this paper, the authors use basic research methodologies in social sciences, and international relations to analyze the policies of the EU and ASEAN and evaluate them based on the data and statistics collected from official documents of the EU, the ASEAN, Frontex, Eurostat, etc.

Results

The subsequent wave of regional initiatives focused on efforts to integrate the economy so that employees and other residents could move around more easily. Since the 1980s in particular, cooperation on refugee protection has increased, resulting in the spread of both formal, legally binding regional agreements and informal procedures. Since the 1990s, new regional cooperation efforts through so-called Regional Consultation Processes (RCPs) have adopted a securitarian orientation and prioritized the prevention of irregular migration as well as the fight against human trafficking and smuggling. This agenda has gained a lot of traction in the European Union, but it has also extended internationally thanks to RCPs. These unofficial intergovernmental networks have developed largely independently of other regional migratory entities (including ASEAN), and they are more strongly influenced by major destination nations that are located inside or outside the area. This is demonstrated by the International Organization for Migration (IOM)'s leadership in RCPs, an organization that is project-based and receives the majority of its financing from the EU [3]. Although all of these initiatives are categorized as "top-down," or state-led governance, there are significant differences in their level of formalization, the legality of their provisions, the existence or absence of enforcement procedures, or their integration into larger political contexts with institutionalized decision-making processes [4].

EU is unique in that its legal system and constitutional structure have supranational elements that add a layer of top-down regionalism to the more common forms of intergovernmental collaboration. A significant shift from the human rights focus of the pre-existing Council of Europe and its Human Rights Convention to issues of economic mobility and, starting in the mid-1980s, the concerted fight against irregular migration and the development of a common asylum policy has occurred with the centralization of intra-European migration policy cooperation in the EU. Through the concurrent constitutionalization of human rights in European nations, the early years' human rights focus was preserved. It then reemerged in the context of more economically oriented cooperation within the European Union with the expansion of social, economic, and political rights for intra-EU migrants, culminating in the concept of EU citizenship in the 1992 Maastricht Treaty. The regional cooperation on immigration from third-country nationals has been dominated by a restrictive stance in contrast to this liberal, rights-based internal mobility strategy. While EU nations have kept their national immigration policies, they

have sought regional collaboration, especially to regain control over the unauthorized entry of foreign persons in the wake of the EU's decision to eliminate internal border controls. In the context of state-led regional integration, the EU is therefore representative of the dialectic dynamics of intra-regional opening and inter-regional closing. This emphasis has coincided with the creation of a comprehensive external migration policy agenda, which currently has a significant external influence on regionalization processes involving nations that are thought to be prospective sending and transit nations for migrants traveling to Europe.

Asia is the region with the least formalized but most contested “from above” cooperation [6]. Migration was not discussed in the ASEAN founding treaty from 1967 when it came to regional economic integration. Its 1995 Framework Agreement on Services (AFAS), which was later revised in the 2012 Agreement on Movement of Natural Persons, contained a few limited provisions on labor mobility. The temporary movement of highly trained professionals is made easier by these measures, which are supported by some Mutual Recognition Arrangements and connected to business and investment flows. However, ASEAN laws only apply to a relatively small portion of the region's intended, largely unregulated migrant movements, and implementation has remained subpar [7]. This is in line with the “ASEAN way,” an express voluntarist system of government that Southeast Asian countries embrace.

Along with this agenda for restricted mobility, ASEAN leaders also adopted the “Protection and Promotion of the Rights of Migrant Workers” Declaration in 2007 [8]. Ten years later, this declaration underwent revisions to become the “ASEAN Consensus on The Protection and Promotion of The Rights of Migrant Workers” in 2017. The Consensus goes further than the Declaration because it calls for the development of an action plan, whereas the Declaration just made basic requests of governments. This is a divergence from ASEAN's typical lack of monitoring systems, and it is related to both Philippine government involvement and active lobbying by migrant groups “from below” [6]. However, it should be highlighted that the Consensus only applies to migrant workers who are lawfully resident, making it significantly more limited than the UN Migrant Workers Convention of 1990 and excluding the vast majority of illegal migrants in the area [5].

Discussion

The approach of the EU on migration issues

In terms of migration policies, it can be summed up that the EU is in charge of establishing the requirements for entry and residence, determining the number of people from outside the EU who come for employment, and battling illegal immigration, i.e., urging member states to take steps to prevent and curtail it.

The year 2019 brought an entirely new difficulty that only compounded the governance crisis – COVID-19. Although the migrant issue afflicted some EU countries more than others, the COVID-19 pandemic affected the entire world. The worry of disease spread that countries demonstrated towards European neighboring countries was exacerbated by the prospect of illegal migrants from third countries (considered as virus spreaders), resulting in ever more restrictive migration laws. Some were related to migration controls; for example, Italy has passed a decree/guideline regarding access to relief or international

protection by blocking their ports to people rescued at sea².

The COVID-19 outbreak appeared to significantly reduce the amount of regular and irregular migration to the EU. The number of irregular border crossings detected on Europe's main migrant routes plummeted by 85% from the previous month in April 2020, to roughly 900, the lowest figure since Frontex began collecting border data in 2009. The European Commission's assessment on asylum and illegal border crossings confirmed the pandemic's influence on migration to the EU in the first ten months of 2020 – The EU as a whole saw a 33% decline in asylum applications year on year and a 6-year low in irregular border crossings³. However, following a significant decline around April 2020, the overall number of arrivals was believed to continue rising.

Regarding residence permits and entry conditions, the pandemic affected the entry conditions and the issuance of residence permits by EU member states both at their missions abroad and on the territory. On the territory, member states began to introduce restrictions on services related to direct immigration. To ensure continuity, even during office closures, services were maintained using the post office, electronic means, or using online systems. In some Member states, pre-existing online systems continued to be used.

Regarding assistance in alleviating the impact of the pandemic on migrants, for migrants already in the EU, measures were put in place to ensure that those affected by travel restrictions or restrictions on immigration services do not fall into disrepair. In the EU member states, these measures included automatic renewal of the residence permit, acceptance of stay, removal of the obligation to leave, and/or suspension/extension of the procedure period. In some cases, these measures remained effective as of late December 2020. Several countries outside the EU were making similar efforts to ensure that migrants did not fall into disrepair, such as in the United States, where as of March 2020, requests to extend their stay online were able to be made in a timely manner to alleviate the effects of COVID-19.

For migrant workers affected by the pandemic, many Member states and Norway reported that key support for the unemployed and employers also applied to migrants during the pandemic. In addition, some flexibility in minimum income requirements for eligibility/protection against residence permit withdrawal was reported. Most EU member states reported that healthcare related to COVID-19 was available to all migrants, at the expense of public health insurance or social security and/or from the State's public health fund. For migrants with frequent reductions or loss of income, the basic rules of access to universal health care remained in place, allowing access to universal health care in most reporting member states.

Regarding the needs of the labor markets, to prevent the spread of COVID-19, most EU member states have imposed restrictions on the reception of migrants. Continued admission is reasonable for essential career areas, particularly healthcare, agriculture, and transportation. Some countries similarly identified health and, in most cases, agriculture/food security as essential sectors, as well as supporting critical infrastructure in some cases fit. To address labor shortages, especially in seasonal activities, a number of EU member states took measures to facilitate labor market access for third-country nationals who had

² Tondo, L. Italy declares own ports 'unsafe' to stop migrants arriving // The Guardian : [site]. 08.04.2020. URL: <https://www.theguardian.com/world/2020/apr/08/italy-declares-own-ports-unsafe-to-stop-migrants-disembarking> (accessed on 18.03.2023).

³ Situation at EU external borders in April – Detections lowest since 2009 // Frontex : [site]. 12.05.2020. URL: <https://frontex.europa.eu/media-centre/news/news-release/situation-at-eu-external-borders-in-april-detections-lowest-since-2009-mJESUv> (accessed on 18.03.2023).

already had employment on the territory. The regularization of third-country nationals employed in certain key sectors was permitted under limited circumstances.

With regard to contingency planning for 2021, a number of EU Member states reported the adequacy of the usual tools for meeting labor needs, e.g. quotas, or measures adopted implemented earlier in 2020, to meet the demand for seasonal workers, including exemptions from travel restrictions. Member states also reported the importance of using similar tools to meet labor needs in other key sectors, in particular health care, with some reporting on other key sectors. More specific measures related to the ongoing labor demand for healthcare workers.

On the other hand, temporary shutdown of the external border and border controls along some internal borders have had immediate consequences on access to protection for human rights: some member states have outright banned access to asylum seekers (Cyprus, Greece, Hungary), closed their arrival centers (Belgium), declared their ports “unsafe,” or suspended the processing of asylum applications in the wake of the emergency (France, Spain), while others have declared their ports “unsafe” (Italy, Malta). Another human rights-based approach was taken by member states farther from the main entry points along the external border (Germany, Sweden allowed access to their territories for new asylum seekers, Luxemburg extended the status for applicants during their procedures, and Portugal treated them as regular migrants for the purposes of access to services).

This draws attention to some of the disparities that exist in the Common European Asylum System (CEAS), such as the unequal constraints that the Dublin III commitments place on various member states. The EU’s approach to the COVID-19 outbreak also brought up a human rights issue: individuals seeking refuge and illegal immigrants who are currently on EU territory (whether in detention centers or awaiting legal action abroad). Migrants now find themselves homeless and penniless as a result of the closure of some receiving facilities and processes. In addition, despite responsibilities under EU legislation, the circumstances in the receiving facilities that stayed open have not been regarded acceptable, not even by members of the European Parliament during the COVID-19 pandemic.

This was problematic because this showed how the EU falls short of upholding equality in its human rights obligations when it came to citizens of third countries, especially those who are protected by international law, during the pandemic. Beyond the ongoing issues with the CEAS’s implementation, EU migration policy has shown to be far more resilient in terms of its outward (and primary) emphasis. It has promised to give both nearby and far-off neighbors swift financial help. Owing to the externalization of EU migration policies, such financial assistance has increasingly come under migration management rather than foreign aid since the 2015 migration policy crisis. Furthermore, it has offered an opportunity to improve the EU’s external representation under the newly established “Team Europe” banner, resolving certain previously identified internal discrepancies in the common immigration policy.

The approach of ASEAN on migration issues

Despite the fact that ASEAN leaders spoke passionately about mutual commerce and investment at nearly every summit, they said little about another significant regional flow: migration. Foreign direct investment, international merchandise trade, macroeconomics, international commerce in services and transportation, and the labor sector remain their core emphasis. Concerning migration policies, ASEAN formulates its commitment to assisting migration policy under the context of ‘protection and migration policy. Nevertheless, the major focus remains on the migratory labor force [9]. Other types of migration, such as

the pandemic and irregular movement or forced migration, receive little attention. They generally disregarded far greater movements of individuals who cross state lines on a daily basis, frequently in quest of a better life. Migration is considered a significant political dimension in the area, with a distinct division between nations that predominantly supply migrant labor force, such as Cambodia, Indonesia, Myanmar, the Philippines, and Viet Nam, and those that receive it, such as Thailand, Malaysia, and Singapore. This region was also confronted with the issue of Rohingya refugees [10]. Nonetheless, ASEAN's external contact, the EU, may have a response to COVID-19. In a more narrative pledge, ASEAN vowed to continue to take concerted action and coordinate policy with its allies in the fight against the COVID-19 pandemic. The ASEAN-EU Ministerial Video Conference on COVID-19 was held on March 20, 2020, with both sides agreeing to increase cooperation within ASEAN-led frameworks as well as with external partners to resolve COVID-19 comprehensively, taking into account the country's various levels of health system development⁴.

Each ASEAN nation had a distinct strategy for dealing with COVID-19. Singapore and Thailand looked to have more developed health systems and more disciplined populations. Malaysia focused on security measures and limitations on mobility, particularly for immigrants. To combat COVID-19, the Philippines imposed a lockdown and employed severe repressive measures. Due to its size and early processing delays, Indonesia even had the possibility to ignore it, forcing it to implement divisive measures. Viet Nam historically served as a point of reference as a nation with good experience managing COVID-19 without significantly increasing the number of victims. Brunei, Laos, and Myanmar's restrictions on having unrestricted access to information also proved to be a barrier.

The COVID-19 pandemic presented challenges faced by migrant workers in the region, as they often lacked access to health services and were not covered by policies and regulations. With concern about the impact of COVID-19 on ASEAN workers including migrant workers, many national and international organizations were considering the impacts/challenges of the pandemic and how to respond. Getting a clear image of the regional roadmap for addressing COVID-19 based on correct data and information was another issue for ASEAN.

On May 14, 2020, the Special ASEAN Labor Ministers' Online Conference on Responding to the Impact of the COVID-19 pandemic on migrant workers and employment, was held with the participation of 10 ASEAN member states, the ASEAN Secretariat, and the International Labor Organization (ILO). The conference is an initiative of Indonesia as the Vice President of the ASEAN Labor Ministerial Conference, in the context of the COVID pandemic not only affecting economic sectors, but posing challenges to employment. and livelihoods of the people of ASEAN. At the conference, the Ministers shared information on each country's social support policies and programs to respond to the impact of the COVID-19 pandemic on employees, especially related issues. issues related to wages/income, employment, safety, and health. At the same time, the Ministers also shared recommendations for ASEAN's common responses on the impact of COVID-19 on labor and employment. Thanks to the consensus and high commitment of the countries, the Joint Statement of the ASEAN Labor Ministers on Responding to the Impacts of the COVID-19 Pandemic was adopted at the meeting. The Declaration emphasized the need to make joint efforts to advance labor and employment policies in the face of the potential adverse effects of future pandemics, economic crises, or natural disasters. Accordingly, the ASEAN

⁴ Co-Chairs' Press Statement ASEAN-EU Ministerial Video Conference on the Coronavirus Disease 2019 // ASEAN : [site]. 20.03.2020. URL: <https://asean.org/asean2020/wp-content/uploads/2021/03/37.-ASEANEU-Video-Conference-CoChairs-Press-Statement-1.pdf> (accessed on 18.03.2023).

Labor Ministers would cooperate in the following tasks: providing timely livelihood and health support to all workers, especially those with low incomes and workers in high-risk industries; ensuring that workers who were laid off were compensated by the employer, or receive social benefits; providing appropriate support to migrant workers in the ASEAN region; sharing best practices and lessons among member states on measures to help at-risk workers and employers improve their resilience.

On October 19, 2022, the 15th ASEAN Forum on Migrant Labour (AFML) “Resumption of Labour Migration and Regional Cooperation” held in Cambodia, supported the implementation of the ASEAN Consensus on Protection and Promotion of the Rights of Migrant Workers, ASEAN Comprehensive Recovery Framework and Joint Statement of the ASEAN Labour Ministers on Response to the Impact of COVID-19 on Labour and Employment. The Forum took into account the ILO Fundamental Principles and Rights at Work. The 15th AFML acknowledged actions taken by the ASEAN member states to follow up the recommendations of the 13th and 14th AFML. The 15th AFML recommended the following actions and cooperation to support the resumption of labor migration as the economies and employment in ASEAN member states are recovering while taking into account the different contexts of ASEAN member states.

Human rights is one of the principles put forward as an effort to reform the ASEAN (ASEAN Reform). The acceptance of human rights concepts in the ASEAN Charter (ASEAN Charter), despite their incompleteness, serves as evidence of the transformation. A number of organizations and legal documents, including the ASEAN Declaration of Promotion and Protection of the Rights of Migrant Workers, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, and the ASEAN Convention Against Torture have institutionalized the development of human rights principles. These organizations include the ASEAN Intergovernmental Commission of Human Rights, the ASEAN Commission of Women and Children, and the ASEAN Commission of Migrant Workers.

Despite the fact that the ASEAN framework contains a number of human rights protection mechanisms and instruments (particularly for migrant workers), no official statement of this mechanism has been issued to address the case of vulnerability faced by migrant workers during the COVID-19 crisis in ASEAN. Hence, there must be a significant motivation for ASEAN to adopt a COVID-19 Handling Protocol based on ASEAN’s Protection of Migrant Workers and Refugees’ Human Rights.

Conclusion

According to the research results, as the EU has made certain achievements in the process of regional integration in the field of justice and home affairs, it has more methodical specific measures and approaches to migration and immigration issues than ASEAN since ASEAN regional connectivity is not as strong as the EU. Both regional institutions have a long history of dealing with migration difficulties due to migration to and from different parts of the world. Region-level responses might be different as the EU possesses more tools than ASEAN.

The study also sheds light on that the EU and ASEAN take a positive approach to migration concerns, but that policy implementation is a challenge and a problem, in part because implementation depends on cooperation between organizations and member states. A number of solutions are expected to be carried out and work for regional migration governance, and it would be beneficial for regional institutions to collaborate more to share examples of best practices. We would like to emphasize this at the end of our study since

it is important to strengthen cooperation between countries and multilateral institutions related to migration issues, especially during a crisis such as the COVID-19 pandemic.

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РЕГИОНАЛЬНОЕ УПРАВЛЕНИЕ МИГРАЦИЕЙ: ПОДХОДЫ ЕС И АСЕАН ВО ВРЕМЯ ПАНДЕМИИ COVID-19

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Аннотация. Проблемы миграции существовали на протяжении всей истории человечества. Они обостряются, когда общество сталкивается с новыми вызовами, такими как пандемия. Если миграция не регулируется законодательством, политикой и практикой в соответствии с нормами права и международными нормами, она может повлечь целый ряд социальных и экономических проблем: жестокое обращение с мигрантами и их эксплуатацию на месте работы, отказ в социальной защите, нарушение социальной сплоченности, распад семей, снижение производительности труда и утрату возможностей для развития. Современный подход к проблемам миграции в силу своей важности и комплексности, невозможности сведения только к государственному уровню должен включать в себя также анализ принципов деятельности международных организаций. В настоящей статье приводятся теоретические оценки динамики регионального управления миграцией, взаимодействия между странами и региональными объединениями. Целью исследования является изучение роли и практического значения деятельности двух типичных региональных объединений: ЕС и АСЕАН в управлении миграцией, новых изменений в их политике и практике во время пандемии COVID-19.

Ключевые слова: миграция; региональное управление; пандемия COVID-19; ЕС; АСЕАН.

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