ASEAN Industrial Relations: Is a Regional Framework Possible?

Maragtas S. V. Amante*

Abstract: Driven by the force of economic integration, it is desirable that industrial relations in ASEAN will have a common framework. There is strong consensus for the need to develop a regional framework, including fundamental principles to guide labour-management relations, wages and productivity, and the preparation of workers for changes arising out of regional economic integration and technological changes. A level playing field will provide ground rules for fair competition, to prevent a race to the bottom, and not pull each other down by lowering wages and ignoring internationally agreed labour standards which define decent work.

Regional integration is a goal of ASEAN, but there are various constraints and obstacles with the diversity in the political and social systems of the member countries. Globalization, and the goal of a free trade area stimulates the idea of integration, and without a regional framework, social marginalization, unrest and related problems are expected to worsen. Given its history, and current structure which emphasize consensus, a regional framework in ASEAN could only develop through lengthy discussions and sharing of best practices.

Introduction

Various historical and socio-economic circumstances shaped the diversity of industrial relations in ASEAN. Colonialism shaped the labour economies of most ASEAN countries, and in countries now in transition from command to market economies, labour laws are in place but there is low awareness, and limited capacity to enforce them.

There is strong consensus for the need to develop a regional framework, including fundamental principles to guide labour-management relations, wages and productivity, and the preparation of workers for changes arising out of regional economic integration and technological changes.

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* Professor, School of Labour and Industrial Relations (SOLAIR) University of the Philippines, Diliman, Quezon City. Telefax: +632 920 77 17
Emails: maragtas@up.edu.ph Or: maragtas2001@yahoo.com

Without a regional framework, there are concerns that globalisation, and regional integration will marginalise further vulnerable sectors in the region as capital, production facilities, and finished goods and services move more rapidly from one market to another, within and outside the region.

Discussions and exchange of information are ongoing, and it is expected that the required political will among the region's leaders will emerge to put in place a regional framework for industrial relations within this decade. Government officials, employers and trade unions need to develop competencies, expertise and skills in industrial relations. Assistance and cooperation are needed to strengthen the national systems of industrial relations in the region, including the development of arbitration and conciliation mechanisms, labour courts, and stronger capacity to enforce labour laws.

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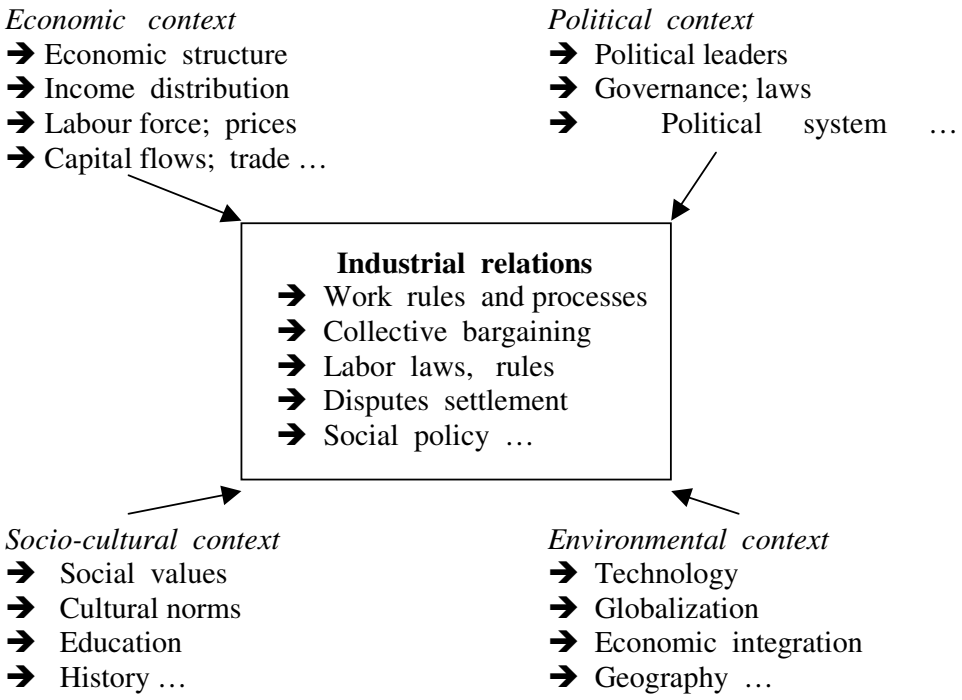
A framework of industrial relations

Industrial relations (IR) concern the processes and results of the employment relationship at the level of the workplace, the industry and society as a whole (Dunlop 1958). *Figure 1* provides a simple guide to the idea of industrial relations as part of the social system. It is important to consider the context of the work rules and processes, which comprise the core of the employment relationship -- socio-cultural, economic, political and environmental.

Definitions of IR vary on the approach, emphasis, perspective or motives, and academic background of a person (social science, management, law, etc.); and most likely, also on one's position and perspective in the social and power structure. There are unitarist, pluralist, and Marxist perspectives, which emphasize specific approaches such as tripartism, corporatism, job regulation, or workers control in industrial relations. *Human resource management* interfaces heavily with the core ideas of industrial relations in a strategic, integrated and managerial approach to people at the workplace, to influence workers' attitudes and achieve profits.

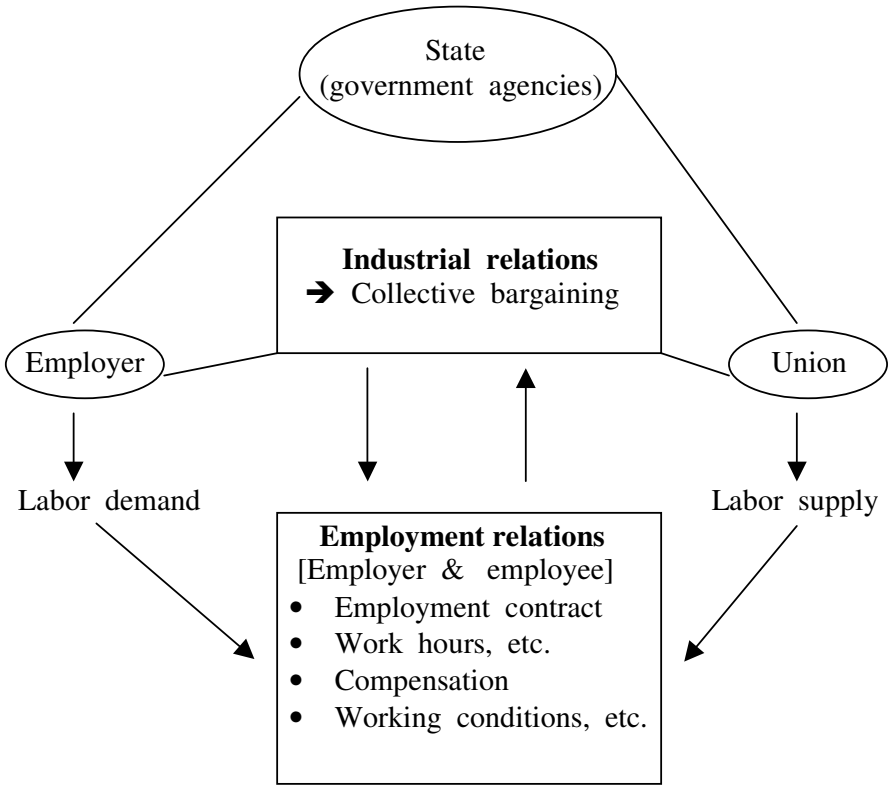
Figure 1. **Industrial relations and the social system**



Employee relations in contrast, is perceived to reflect the development of more diverse employment patterns -- those found in the non-manufacturing service sector, which involve non-manual, office employees, females, part time, contractuals, etc.. When there is no union, employment relations prevail. The employment relationship between employer and employees has two parts: market relations, and managerial relations (Edwards 2003.

Managerial relations involve the process(es) of determining work rules: who will do which tasks, which decides changes in these tasks, and the penalties for failure to do obligations.

Figure 2. **Industrial relations and the employment relationship**



The links between industrial relations, employment relations and the labour market are emphasized in *Figure 2.* The employment relationship is a function of the market, mainly determined by labour demand (on the side of the employers), and the response of the employees through their labour supply decisions. The results of collective bargaining between employers and workers (through the union) may or may not cover all aspects of the employment relationship. Without unions, there is no collective bargaining, and employment relations prevail. Job and pay practices in unionised establishments may however influence employment relations. The role of the state is constrained by the strength of the bargaining relationship between employers and unions. With weak unions, which is often the case in developing countries, the state has scope for a stronger role, and is expected to intervene by providing protection to workers. If both the unions and the employers are strong, the government has no cause for strong intervention.

Ratification of core ILO conventions

Eight ILO Conventions have been identified by the ILO's Governing Body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member States. These rights are a precondition for all the others in that they provide for the necessary means to strive freely for the improvement of individual and collective conditions of work. Numerous studies in the ILO indicate that a failure to respect labour standards carries specific and measurable costs to national economies, harms economic development, and violates the rights of working people throughout the region. The 8 core conventions are:

Freedom of association

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Abolition of forced labour

3. Forced Labour Convention, 1930 (No. 29)
4. Abolition of Forced Labour Convention, 1957 (No. 105)

Equality

5. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
6. Equal Remuneration Convention, 1951 (No. 100)

Elimination of child labour

7. Minimum Age Convention, 1973 (No. 138)
8. Worst Forms of Child Labour Convention, 1999 (No. 182)

Most ASEAN countries had ratified the core conventions of the ILO on labour standards which implies that fundamental legislation and implementing mechanisms have been enacted. Effective ratification however depends upon the capacity to devote resources to implement the observance of core labour standards. Ratification also depends upon the circumstances of the relevant government instrumentality mandated to ratify international commitments.

Box 1 is the latest record [as of 15 October 2003] on the ratification of ILO core conventions by the ASEAN countries. Cambodia and the Philippines ratified 7 conventions; Malaysia 5 conventions; Vietnam, 3 conventions; Myanmar, 2 conventions; and Lao PDR, 1 out of 8 core conventions. Brunei Darussalam has observer status, and is not yet a full fledge member of the ILO. By way of comparison, Japan ratified 6 core conventions; the Republic of Korea, 4 conventions; China, 3 conventions; and the USA, 2 core conventions out of 8.

Among the ASEAN countries, Indonesia has ratified all 8 of the core ILO conventions, together with other 85 states , which have done so. While the basic framework remained, changes to labour legislation and regulations have accumulated, stimulated by the upheavals in Indonesia's political situation. Indonesia ratified the remaining four of the core ILO conventions in 1999 and 2000 in quick succession. The country faced a huge challenge on properly implementing the conventions, and the resources that are required to do so.

Box 1. Core ILO standards ratified by ASEAN countries, and date of ratification

	1. Abolition of Forced Labour		2. Freedom of Association	
	Con. 29	**Con. 105**	**Con. 87**	**Con. 98**
Cambodia	24/02/1969	23/08/1999	23/08/1999	23/08/1999
Indonesia	12/06/1950	07/06/1999	09/06/1998	15/07/1957
Lao PDR	23/01/1964			
Malaysia	11/11/1957	Denounced		05/06/1961
Myanmar	04/03/1955		04/03/1955	
Philippines		17/11/1960	29/12/1953	29/12/1953
Thailand	26/02/1969	02/12/1969		
Singapore	25/10/1965	Denounced		25/10/1965
Vietnam				
Compare with:				
Japan	21/11/1932		14/06/1965	20/10/1953
Republic of Korea				
China				
USA		25/09/1991		

	3. Prohibition of discrimination in employment		4. Effective elimination of child labour	
	Con. 100	**Con. 111**	**Con. 138**	**Con. 182**
Cambodia	23/08/1999	23/08/1999	23/08/1999	
Indonesia	11/08/1958	07/06/1999	07/06/1999	23/03/2000
Lao PDR				
Malaysia	09/09/1997		09/09/1997	10/11/2000
Myanmar				
Philippines	29/12/1953	17/11/1960	04/06/1998	28/11/2000
Thailand	08/02/1999			16/02/2001
Singapore	30/05/2002			14/06/2001
Vietnam	07/10/1997	07/10/1997	24/06/2003	19/12/2000
Compare with:				
Japan	24/08/1967		05/06/2000	18/06/2001
Republic of Korea	08/12/1997	04/12/1998	28/01/1999	29/03/2001
China	02/11/1990		28/04/1999	08/08/2002
USA				02/12/1999

Note: Brunei Darussalam has observer status, prior to full country membership in the ILO.

Source: <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-ratif8conv.cfm?Lang=EN> [Accessed 15 October 2003]

Fundamental legislation in industrial relations

In almost all of the ASEAN countries, basic laws on industrial relations have been introduced in the 1950s or earlier (Sharma 1996; Deery and Mitchell 1999). With the exception of Thailand, these labour laws had their origin in the rule of the colonial authorities -- Great Britain in the case of Myanmar, Malaysia, Singapore and Brunei; The Netherlands in the case of Indonesia; France in the case of Laos, Cambodia and Vietnam; and the United States in the case of the Philippines -- in the context of controlling labour unrest as nationalism flourished and the cold war started between the Soviet Union and the East Bloc, versus the United States and the western powers.

Box 2 provides a summary of the labour and trade union laws which form the fundamental framework of industrial relations in the ASEAN countries. The discussion below is a summary of the situation in each ASEAN country, presenting a contrast between the older ASEAN members (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand – the BIMPST group) and the relatively new ones (Cambodia, Myanmar, Laos and Vietnam – the CLMV group). It could be observed that there are continuing changes in trade union and labour laws in many of the ASEAN countries, with the most recent change enacted in 2003 in Indonesia.

Box 2 Fundamental framework of industrial relations: freedom of association and unions

	B I M P S T
Brunei Darussalam	Trade union Act (1961) registers and controls trade unions. Labour Act (1955) provides for a Commissioner of Labour. Brunei Oilfield Workers Union is the only active union.

Indonesia	Act Number 13 (2003) provided a new law on industrial relations. Law No. 21 (2000) provided for the right to unionise. Rapid rise of unions, with multiple unions in one enterprise. There are now 74 trade union associations.
Malaysia	Industrial Relations Act (1967) (Act 177), provided rules and regulations between employers and trade unions, including disputes settlement. About 10 percent of workforce is unionised.
Philippines	Presidential Decree 442 (Philippine Labour Code) enacted in 1975. About 12 percent of the workforce is unionised.
Singapore	Industrial Relations Act (1960). About 14 percent unionised.
Thailand	The Labour Relations Act (1975) and subsequent laws and guidelines provide for workers rights, and employers prerogatives. The Labour Protection Act (BE 2541, 1998) provided important labour standards.

	C L M V
Cambodia	Enacted Labour Laws in 1997. Approx. 1 percent of labour force is unionised. There are 408 unions with 11 federations. Union must have support of 50 percent + 1 majority of the bargaining unit, to be recognised for a term of 2 years. Public sector employees could form associations, but not unions.
Lao PDR	1990 revisions in labour laws provided for unions to be organised in enterprises with 10 or more workers.
Myanmar	Myanmar ratified ILO conventions on freedom of association in 1955. The basic rights of citizens including freedom of association will be included in the new constitution. In the meantime, there are no trade unions as such, legally organised by the workers.
Vietnam	The roles and functions of the trade unions are stipulated in the Union Law 1990 and Labour Code 1994. These two legislations also affirm the freedom of Vietnam's workers to join trade unions. 18 national industrial unions, and 61 provincial federations; 58,619 trade unions at the grassroots as of 2002.

Source: Country reports, 8 - 9 July 2003 Regional IR Policy Workshop, Kuala Lumpur

By the 1970s, Cambodia, Lao PDR, Myanmar and Vietnam (CLMV) ventured into central planning and socialism, and labour relations were subordinated to the state. In the 1990s, the CLMV reopened their economies, and re-established laws on labour relations in part to respond to the need to regulate the labour market in the period of transition.

In contrast, the older members of ASEAN had several decades of experience on the fundamental framework of labour-management relations, with clear precedents on decisions on labour disputes accumulated through the years. Labour laws had their roots in the 1950s at the start of the cold war, designed to control labour unrest and communist agitation, and in the transition from colonial rule to national independence. A common theme in labour law reform is the need to respond to changing needs in the 21st century, such as demands for labour market flexibility as a consequence of globalisation.

Common ambiguities and loopholes exist in the fundamental framework of industrial relations. Labour laws provide for the right to organise and bargain collectively, but workers observed to be covered by collective bargaining agreements are very few. Labour laws prohibit discrimination on the basis of gender, political beliefs or other basis, but the implementing rules are unclear and ambiguous on the sanctions. Labour laws are also unclear on the status of union shop stewards and their election; due to lack of training on their expected role, stewards are unable to contribute effectively to the improvement of working conditions and the processing of disputes at the workplace.

Although the right to strike is enshrined in the labour laws, and the law protects workers from reprisals due to strike action, there are examples of workers being forced out of employment as a result. There is a need to encourage the exhaustion of alternatives through mediation, conciliation, dialogue, and negotiations before concerted action is carried out. The availability of authoritative third parties for mediation, either outside or

inside government and the development of mediation and negotiation skills is expressed very clearly as a need by many ASEAN countries.

Specific country variations are provided in the next sections.

Brunei Darussalam has a population of 340,000 people; and 73 percent of private sector workers are from foreign countries. Brunei Darussalam is not a member of the ILO, but has observer status. A *Trade Union Act of 1961* regulates industrial relations. Another law, the *Labour Act of 1955* provided for a Commissioner of Labour with powers to inspect workplaces and examine employment contracts for violations. Currently, there are three registered trade unions: the Brunei Oilfield Workers Union (established in 1962); the Government Junior Officers Union (established in 1963); and the Royal Brunei Customs Department Union (established in 1972). The Brunei Oilfield Workers Union is the only active union, with Brunei Shell Petroleum as the employer, but membership declined from 1,736 in 1987 to 1,100 in 2000. Work stoppages took place twice in Brunei Darussalam in 2001, when workers in the garment factories "took the law into their own hands". In the absence of unions, the Labour Department is responsible for handling all kinds of disputes between employers and employees. Relations between employers and employees in the private sector are "generally good", and most disputes are settled amicably. [1]

Indonesia had a new industrial relations law, *Act No. 13 (2003)* which among others provided rules for the recognition of the most representative union in an enterprise; decentralised industrial relations; and regulated the outsourcing of work. Law No. 21 (2000) provided for right to unionise, which resulted in rapid rise of unions. There are now 72 federations of trade unions, and it is still increasing. Multiple unions in one enterprise presented the problem of determining the most representative organisation in the workplace. In general, there is still lack of awareness about the most recent law on industrial relations.

In *Malaysia*, the Industrial Relations Act of 1967 provides that a trade

[1] Country report of Brunei Darussalam, 8-9 July 2003, page 2 - 3.

union is recognised if it represents the majority (50 percent or more) of the bargaining unit. There are 595 unions registered as of 2002, with 76 claims for recognition; there are 807,802 union members. Strikes are allowed in essential services under certain procedures. Management prerogatives are excluded from negotiations. About 10 percent of the Malaysian workforce is unionised.

The *Philippines* enacted a Labour Code, through Presidential Decree 442 in 1975, when President Ferdinand Marcos ruled by decree under martial law. Debates and discussions have been ongoing in the past several years towards labour law reforms, which are now under consideration in the legislature. There are 179 federations and labour centres, and 10,082 independent unions in the private sector, and 1,094 public sector unions; about 12 percent of the wage/salary workers are unionised. Public sector unions could have a "collective negotiation agreement" that cover issues other than pay, since compensation is set by Congress.

Among the recommendations [2] pending for legislation concerns the use of grievance machineries as a mechanism for dispute settlement. Conciliation, mediation and the encouragement of best-offer arrangements are promoted as first-level government interventions in labour disputes.

Proposed legislation also simplifies the rules on the organisation and recognition of unions, to avoid costly restraints. Other forms of workers' organisations are also recognised as collective bargaining units. The registration of trade unions by the Department of Labour and Employment is a ministerial function. Disputes concerning recognition or certification of unions for collective bargaining are considered administrative procedures, without judicial interventions.

The power of the Secretary of Labour on disputes concerning national

[2] House Bill No. 6031, "An Act Establishing the New Labour Code of the Philippines", filed with the 12th congress. The bill consolidates proposed amendments on labour laws, and has passed committee deliberations as of 15 October 2003.

interest will be limited to essential services, as defined by the ILO. The amendments also promote the development of industry wide organisations and collective bargaining, rather than unions being organised on a general basis.

In 1960, *Singapore* enacted an Industrial Relations Act. The law provided for a balance of the rights and responsibilities of both employers and trade unions. The Act establishes an orderly system of collective bargaining, conciliation and arbitration to resolve disputes so that industrial action or strikes could be avoided. About 14 percent of the workforce in Singapore is unionised.

In *Thailand*, the Labour Relations Act (1975) and subsequent laws and guidelines provide for workers rights, and employers prerogatives. Section 45 of Thailand's Constitution (1997) guarantees the right to organise and join unions. The Labour Protection Act (BE 2541, 1998) provided important labour standards in wage determination, working hours, severance pay, women and children, among others.

The *CLMV countries* had in place fundamental laws on industrial relations which cover trade union activity, disputes settlement, and employment. The main problem concerns limited resources and know-how of officials, which constrain the effective implementation of labour laws. The country reports from the CLMV also recognise other common problems and issues. The enforcement of procedures to recognise trade union rights by the government is inadequate, due to lack of resources, experience and skills of officials, trade union leaders and employers in resolving disputes. As a consequence, tripartism do not operate properly, as expected. For example, a country report observed that an official in the ministry of labour accepted the registration of one union that requires workers to obtain permission before they can withdraw their membership. Both junior and senior level labour officials are poorly motivated, and needs a nurturing environment to promote their professional development.

In *Cambodia,* " …. employers seem to have a negative reaction when

workers form a union. Some employers believe that unions only go against them. Some unions initiate unlawful action, without following procedures. A small number of union leaders use the right to special protection from dismissal to interfere in the enterprise. Union leaders spend working time to do union affairs, without agreement from the employer". [3]

In *Lao PDR,* the substance of some articles of labour law was modified and improved in 1994-95 "in order to meet the requirements of economic growth, thus making the substance of the said law more strict and comprehensive". Labour law has been acknowledged as a social rule, with various decrees and regulations on labour management relations. There is a need for assistance to build and develop the country's capacity in its industrial relations. In 1991 the first labour law was issued and entered into force, which is one of 18 laws of the government aimed at promoting and serving better climate for local and foreign investment, together with the Decree on the implementation of labour law. By 1994 -1995, the substance of some articles of the labour law was modified and improved in order to meet the economic growth, thus making the substance of the said law more strict and comprehensive. The fact that there is no labour court at this moment in Lao PDR indicates an important area for assistance, and sharing of experience with other countries.

In *Myanmar*, the Department of Labour of the Ministry of Labour is responsible for industrial relations. Labour officers in the 78 Township Labour Offices are responsible for industrial relations within their jurisdiction.

The Department of Labour advocates fair labour practice by the employers and the granting of the rights of workers under the various labour laws and regulations for the maintenance of industrial peace and the promotion of productivity. It encourages employers to look into the grievances and complaints of workers and resolve them through dialogue and negotiations. The workers on their part are encouraged to resolve their grievances and demands through negotiations with employers rather than disrupting production through industrial actions.

[3] Country report of Cambodia, 6-8 July 2003 workshop, p. iv.

There are no workers' organisations, which mean there is no machinery for collective agreements on wages and other terms and conditions of employment at the Industry or National level. In fact there has been no practice of collective bargaining at the Industry or National level during the post-independence period. Most agreements between workers and employers relating to wages and rights and other terms and conditions of employment were at the level of the enterprise.

The ASEAN Labour Ministers meeting in 2002 "… noted with satisfaction the information provided by the Myanmar Labour Minister on the progress made towards the elimination of forced labour in consistent co-operation with the ILO. The ASEAN Labour Ministers accordingly welcomed the agreement between the Government of the Union of Myanmar and the ILO on the appointment of an ILO Liaison Officer not later than June 2002, which is a major step forward in the process of dialogue and co-operation between Myanmar and the ILO. In view of this positive and constructive gesture of the Myanmar Government directed towards further promotion of co-operation with the ILO, the ASEAN Labour Ministers called upon the ILO to consider removing the measures taken against Myanmar by the ILO."

In *Vietnam*, recent amendments to the Labour Code had the aim of promoting sound industrial relations. The revised Labour Code had provisions " …to create a level playing field for stakeholders of industrial relations. " There were also provisions in the reform of labour administration, to improve the efficiency and effectiveness of the State in labour and employment. There were also provisions to empower the partners in decision-making, and their accountability.

There has been significant progress in the promotion of freedom of association, tripartite consultation, and gender issues. Both employers and trade union representatives had extensive participation in the discussions towards the development of labour policy. Vietnam's chamber of

commerce has a significant role in raising the level of awareness of the employers with respect to industrial relations.

Vietnam's Labour Code was amended in February 2002, under three (3) themes: (a) Supplemental provisions to create a level playing field for all partners in industrial relations; (b) Reforms in the labour administrative system and increasing the effectiveness and efficiency of labour administration; and (c) Decentralisation of labour and employment.

The number of disputes and strikes in Vietnam has seen an upward trend in recent years. Even with a complete legal framework for dispute settlement, both labour and management tends to ask for government's intervention to settle labour disputes. The capacity of reconciliation committees and arbitration councils is not strong enough to deal with the current issues. In this connection, Vietnam's Ordinance on Labour Dispute and Strike Settlement is undergoing further amendments by year 2003.

Right to negotiations and collective bargaining

In *Brunei Darussalam*, only one the Brunei Oilfield Workers Union BOWU) is active. The employer, Brunei Shell Petroleum, recognises the union as the sole negotiating body with respect to salaries, hours of work, and other terms and conditions of employment for administrative and technical employees. Foreign workers have a significant presence in Brunei Darussalam's economy, but it is the country's policy to employ as many locals as possible in the private sector. It is the state's policy 'to enhance employer –employee relations, so as to avoid any dispute or disagreement that may affect not only the business performance, but also the image of the country'.

Act 13 (2000) in *Indonesia* provided the procedures to recognise the union for negotiations towards a collective agreement within the enterprise. Rights and obligations, including wages are set out under a Working

Agreement (WA), Company Regulation (CR), and Collective Labour Agreements (CLAs). There is a need for more awareness, and training for both officials, employers and unions on the process of negotiations and collective bargaining.

In *Malaysia*, there were 222 collective bargaining agreements in the private sector, mostly in manufacturing. These agreements covered a total of 44,216 workers in 2002. The industrial relations law regulates collective bargaining. Employers are required to respond to collective bargaining proposals within 14 days otherwise, the Director General for Industrial Relations could step in "to assist". Unions and employers could obtain advice from third parties, but they are prohibited to represent the parties to a dispute during conciliation proceedings. Officials of the national unions could assist their local unions during collective negotiations. In the public sector, the National Joint Councils serve as machineries to negotiate terms and conditions of employment.

Collective bargaining in the *Philippines* is on a downward trend: from 3,106 agreements in 1998 to 2,700 in 2002; covering 551,000 workers in 1998 down to 528,000 workers in 2002. Collective agreements are mostly in manufacturing. A 'collective bargaining unit' may cover different groups of employees in different locations within one enterprise. Employers must respond to collective bargaining proposals within 10 days. In case of disputes, the National Conciliation and Mediation Board may assist in its settlement. Lawyers, advisers consultants and academicians may support or advise bargaining unions and employers, but they cannot participate in the negotiations.

In case of multiple unions in an enterprise, the law provides that majority of the workers should designate or select an exclusive representative union for collective bargaining.

Employees in the public sector have the freedom to organise unions and negotiate, but are limited to certain terms and conditions of employment. Salaries, allowances, and items, which require an appropriation of public funds, are fixed by congress, and are not subject for collective negotiations. Issues ,

which involve the exercise of management prerogative, such as appointments and promotions, are not subject to negotiations in the public sector.

In *Singapore,* the following factors contributed to industrial peace and labour-management cooperation: a favourable legal framework provided by the Industrial Relations Act which provided not only for collective bargaining but also for conciliation and arbitration. If collective bargaining at the enterprise level fails to reach an agreement, either party could refer their disputes to the Commissioner for Labour, for conciliation. Should conciliation fail, the dispute is referred to the Industrial Arbitration Court. Most disputes are settled amicably at the enterprise level; very few required arbitration.

The recent economic downturn due to the SARS outbreak in *Thailand* led to large unemployment. Workers afraid of dismissals or termination of employment submitted excessive demands to employers, as a form of self-defense. Labour disputes concern demands for higher wages and benefits, and threats of closures of businesses. Most disputes , which arose out of the crisis in 1999-2000, were settled. In businesses , which survived, workers gained more understanding of the situation and provided greater cooperation to employers. A conciliatory attitude between workers and employers prevailed.

CLMV countries

Information concerning negotiations towards collective bargaining in the CLMV countries show the need for more development. In *Cambodia*, only a small number of collective agreements are officially registered. These agreements are short -- they mention only what has been provided by law. The agreements do not provide more advantages to workers, beyond what the law provides. Most collective agreements are initiated by employers, and do not provide better benefits to workers.

In the *Lao PDR*, the revisions of labour laws in 1990 provided that unions could be organised in enterprises with 10 or more workers. In 1991 the first labour law was issued and entered into force, which is one of 18 laws of the government aimed at promoting and serving better climate for local and foreign investment, together with the Decree on the implementation of labour law. In enterprises with no trade unions, workers representatives were selected. These representatives were responsible "for promoting training and mobilisation of workers, with respect to discipline, and work performance" among others.

The absence of unions means that collective bargaining is not present in *Myanmar*.

Box 3 Right to negotiations and collective bargaining

	B I M P S T
Brunei Darussalam	Only one union, the Brunei Oilfield Workers Union (BOWU) has an agreement with its employer, Brunei Shell Petroleum.
Indonesia	Act 13 (2000) provides procedures for union recognition towards collective bargaining with employer; need for more awareness and training about negotiations and bargaining.
Malaysia	Collective bargaining in private sector: 222 agreements mostly in manufacturing; cover a total of 44,216 workers in 2002.
Philippines	Collective bargaining on a downward trend: from 3,106 agreements in 1998 to 2,700 in 2002; covering 551,000 workers in 1998 down to 528,000 workers in 2002.
Singapore	Favourable legal framework, pragmatic unionism, and enlightened management contributed to harmonious industrial relations.
Thailand	Economic crisis in 1999-2000 resulted in a more conciliatory, cooperative attitude between workers and employers.
	C L M V
Cambodia	Small number of agreements registered. Most provisions do not go beyond what is provided by law for the workers.

Lao PDR	Negotiations and collective bargaining under development. Government ensures that employers and workers mutually benefit.
Myanmar	Absence of unions and collective bargaining.
Vietnam	In 2002, collective agreements were signed in 80 percent of state-owned enterprises, 50 percent in enterprises with foreign investments, and 20 percent in non-state enterprises.

Source: Country reports, 8 - 9 July 2003 Regional IR Policy Workshop

In *Vietnam,* collective bargaining is provided in the 1992 Constitution, and the Labour Code of 2001. There are regulations for collective agreements to be negotiated between trade unions and employers, from the central to local levels. Negotiations and agreements could also cover workers in state offices and organisations. In 2002, collective agreements were signed in 80 percent of state-owned enterprises, 50 percent in enterprises with foreign investments, and 20 percent in non-state enterprises. There are problems in the enforcement of collective agreements. Ten percent of workers had verbal contracts. In 2002, the contracts covered 90 percent of workers in state-owned enterprises; 80 percent of workers in foreign-owned firms; and 40 percent of workers in private enterprises.

Conclusions

Given the diversity among ASEAN countries, industrial relations would assume various shapes and forms, which require different approaches to derive useful results. Respect for such diversity is a crucial element in any regional approach, based on a desirable model of industrial relations chosen by ASEAN stakeholders, based on their needs and temperament. Continuous dialogue and learning sessions would however lead to cornerstones of a regional framework, and a unified approach to common concerns. Driven by the force of economic integration, it is desirable that industrial relations in ASEAN will have a common framework. A level playing field will provide ground rules for fair competition, preventing a race

to the bottom, and not pulling each other down by lowering wages and ignoring internationally agreed labour standards which define decent work.

ASEAN industrial relations should move forward along with economic integration -- the costs of not doing so would be heavy, and inaction would contribute to social, political and economic instability, and undermine, if not defeat the very purpose of ASEAN economic integration. A regional approach is necessary, to maximize the benefits of learning from both positive and negative experience in ASEAN. The scope of social dialogue would not simply involve labour disputes, but the whole range of economic and social policy. To this end, capacity of the social partners to undertake and use the mechanisms and tools of social dialogue must be improved.

A key element in the protection of workers is their ability to collectively represent their views vis-à-vis management, and in some cases, governments. It is through the existence and exercise of this action that workers possess a method of forcing key issues or problems into recognition, discussion and resolution. Trade unions exist to achieve these purposes. Procedures for the recognition of trade unions consolidate the legitimacy of these organisations, and hence their potential for the expression of these rights in the workplace. The existence of these procedures alone does not imply that workers and employers are able to exercise their rights, and resolve disputes effectively. Much depends on the willingness, knowledge and skills of trade union leaders, employers and government officials in processing and resolving issues in industrial relations with an element of trust and good faith.

On the other hand, there must be a balance between the needs of enterprises for stable labour relations, and the exercise of workers rights, particularly the right to strike. The role of the state to provide the correct balance or compromise is crucial, without too much intervention and dominance in favour of one party or sector.

Basic or fundamental systems of national industrial relations would be at the core of the regional framework and the emerging structure of ASEAN IR. The regional framework could not supplant or erase the fundamental framework

in the member countries of ASEAN. Rather, there is economic pressure towards harmonisation of such key aspects of industrial relations such as compliance with well established and globally agreed decent work standards, i.e. guarantees of freedom of association, the rights to organize and bargain collectively, non-discrimination in employment, minimum age of employment (eradication of child labour), and the like. The ASEAN regional framework should reinforce and strengthen multilateral standards agreed with the ILO. A regional framework of ASEAN industrial relations should be a source of innovation and improvement in existing processes and mechanisms to resolve labour management disputes, or problems which involve employment relations. In the regional discussions, it is clearly the need to deal with globalisation which stimulate the exchange of ideas towards a regional framework. While the ASEAN is basically a forum for exchange of ideas and experience, and joint action involving all ten member countries is not feasible, there are options for bilateral, 3-way, or 4 way cooperation depending on the need and urgency, and the issues for discussion and resolution.

Regional integration is a goal of ASEAN, but there are various constraints and obstacles with the diversity in the political and social systems of the member countries. Globalization, and the goal of a free trade area stimulates the idea of integration, and without a regional framework, social marginalization, unrest and related problems are expected to worsen.
Given its history, and current structure which emphasize consensus, a regional framework in ASEAN could only develop through lengthy discussions and sharing of best practices. Unlike the European Union, there is no ASEAN parliament which could provide the forum for directives or legislation.

Elites in the current national socio-political systems will decide an acceptable regional framework, at their own pace; an appropriate forum may discuss and provide a breakthrough. It is also possible that another regional socio-economic crisis would force national elites to strengthen regional coordination and facilitate the creation of a more viable structure to put flesh and bones to a framework of industrial relations, and other social dimensions.

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